



No-deal Brexit means trouble for Brits living in the EU

by Camino Mortera-Martinez

If the UK leaves the EU without a deal, Brits living in EU countries will face a number of hurdles to securing residence. And some will be worse off than others.

While there is a vigorous debate about the possible impact of a no-deal Brexit on trade, an equally pressing question has yet to command the same attention: what happens to the rights of the approximately 1.3 million British migrants living across the EU if the UK leaves the bloc without a withdrawal agreement?

The thrice-rejected exit deal negotiated by Theresa May provided for a transition period of 21 months (until December 2020) during which EU free movement rights would remain virtually unchanged for British citizens living in Europe, including those arriving up to the end of the transition. After that, Britain and the EU were supposed to have found, or at least be on the way to finding, a new arrangement for regulating migration across the channel. The transition period was designed to give people living and working abroad (or planning to do so) a degree of certainty, while allowing time for the British government and the EU to come to an agreement about their future relationship. But this certainty has come to an end with new British Prime Minister Boris Johnson's pledge to leave the EU 'do or die' on October 31st. The risk of a no deal exit has never been higher.

No withdrawal agreement means no transition period: if there is no deal, UK citizens living in the EU will become third-country nationals on November 1st. From then on, what happens to them will depend on the country they live in: once the UK walks away from the EU without an insurance policy, migration laws will be decided by each member-state.

Brits living in some countries will be better off than others. For example, Ireland and Malta have already said they will continue to allow British citizens to live and work under roughly the same conditions that they enjoy now after a no-deal Brexit. But other countries have said that UK nationals will enjoy those rights only for a limited period, after which they will be treated like other third-country nationals. In Belgium, Cyprus and Spain this grace period will extend until December 2020, but in France, Sweden and the Netherlands it will end after a year. In Austria and Germany it will last just six months.

All EU countries have said that they will only grant British citizens rights if the UK reciprocates; and EU citizens have had a hard time proving their settled status in Britain – where they have

hitherto not had to register as residents and where the new system allowing them to apply for residency has been plagued with problems. Subject to any issues of reciprocity, UK citizens who have lived in EU countries for several years should be less affected by a no-deal exit, but more recent arrivals will face differing degrees of bureaucracy.

Most EU countries have announced that they will allow UK citizens to continue living and working in their countries if they have been resident for at least five years by Brexit day. Many have also said they will make securing settled status easier for British citizens who have resided in the country for less than five years, if they can prove they have been living there lawfully for a reasonable period. To gain permanent residence, British citizens will need to produce evidence of their lawful status. This should be quite straightforward for those residing in countries where registration of EU citizens is mandatory, like Germany or Belgium. But it will prove more complicated for Britons living in France, for example, where there is no obligation to register.

Even in EU member-states where registration exists, British citizens will face new obstacles in a no-deal scenario. Some countries may demand additional requirements to grant residence permits, like proof of a clean criminal record (Austria) or language tests (Lithuania). Those who have been residing in EU-27 countries for less than five years will face even higher hurdles: British citizens may be asked to pass integration tests similar to those applied to non-EU citizens. Some countries' rules will be harder to navigate than others: for example, Sweden only issues *personnummer* (a personal identification number needed for everything from paying taxes to borrowing books at public libraries) to foreigners who have been in work for at least a year.

Three categories of British citizen will be particularly hard-hit by a no-deal Brexit. First, those with low or unstable incomes will find it much harder to prove they have the means to support themselves and thus be allowed to stay in an EU member-state (EU free movement rules require EU citizens to have 'sufficient resources', but member-states have tougher thresholds for non-EU nationals).

Second, British citizens who work in two or more EU countries, especially those providing services, will struggle to continue their activities. Free movement of services is already patchy within the EU, and promises to become more complex between the UK and the EU-27 after Brexit. This

category includes not only consultants and lawyers, but also musicians and sportsmen.

Third, it will become much more difficult for non-EU family members of British citizens living in the EU to join or stay with them, as they will need to comply with more stringent national requirements as opposed to the rather lenient EU rules that apply now. Less conventional families, like same-sex or unmarried couples, will have it hardest: currently, EU citizens in same-sex partnerships are protected by EU rules even in member-states that do not recognise them. If the UK crashes out without a deal, British same-sex couples will no longer be recognised in countries like Romania or Latvia, while unmarried partnerships will not be recognised in Poland or Bulgaria.

“Three categories of British citizens will be particularly hard-hit: those with low incomes; service providers; and unconventional families.”

Many British citizens have tried to escape these problems by applying for citizenship elsewhere in the EU. But this has also not proved easy: in Spain, home to over 300,000 British citizens, the law requires Britons to give up their UK passport if they want to become Spanish citizens. And Belgium, where many long-term British EU officials have tried to obtain Belgian nationality, is wary of handing out passports because this could reduce the number of EU positions allotted to Belgian-born citizens, by virtue of nationality quotas.

Johnson's gamble is that the EU will blink first if the UK looks serious about leaving without a deal. But, as so often, he is misreading the continent. EU countries now assume that no deal is the most likely outcome. That is unnerving news for British citizens living, or hoping to live, in Europe. Johnson and the EU-27 have said that they will respect the rights of those already in place at least for the coming months. But what will happen to Brits moving to the EU after the grace period is over and to those with less conventional jobs and lifestyles is anyone's guess. A lot will depend on how much goodwill the parties manage to build – but goodwill seems in short supply.

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