

Brexit

On 31 January 2020 the United Kingdom of Great Britain and Northern Ireland ceased to be a member of the European Union based on the Withdrawal Agreement which entered into force on 1 February 2020.

<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:L:2020:029:FULL&from=CS>

In the Withdrawal Agreement the European Union and the United Kingdom as parties to the Agreement have undertaken to guarantee to citizens of the other party and their family members that all rights they had possessed before the United Kingdom left EU would be preserved. The Agreement guarantees to persons specified in the personal scope of the Agreement preservation of rights related to **residence, access to the labour market and rights related to social security**, providing that certain conditions are met.

The Agreement has determined a so-called **transition period** lasting from 1 February 2020 to 31 December 2020 (Article 126 of the Agreement) during which EU legislation continues to apply and all resulting rights and obligations are maintained.

The Withdrawal Agreement lays down two periods of time with different EU law application:

- **1. Until the end of the transition period**, i.e. until 31 December 2020 during which the contracting parties apply EU law.
- **2. Period from 1 January 2021** when free movement of persons (workers) stops to apply but all residence, labour and social security rights which were granted before the end of the transition period remain.

Persons whom the Withdrawal Agreement does not apply to

The Agreement does not guarantee residence rights, access to the labour market and social security rights to Slovak citizens in the United Kingdom who leave for the territory of the of the United Kingdom after 31 December 2020 (such persons do not fall within the scope of the Agreement). Such persons are subject to the new **Immigration System of the United Kingdom**.

Similarly, United Kingdom nationals who do not fall within the scope of the Agreement and come to the Slovak territory after 31 December 2020 will not be considered nationals of third countries.

PRESERVATION OF RESIDENCE RIGHTS, ACCESS TO THE LABOUR MARKET AND SOCIAL SECURITY RIGHTS

The information stated below applies exclusively to persons falling under the personal scope of the Agreement.

Residence rights

Under Article 13 of the Agreement EU citizens or United Kingdom nationals have the right to preservation of the right to reside in the host state.

Article 18 (1) of the Agreement enables EU Member States and the United Kingdom to request that citizens of the other contracting party and their family members who are present on its territory and wish to stay in such country apply for a "new residence status" and for a new document certifying such status. In the United Kingdom it is mandatory to apply for a new residence status (settled status).

Preservation of residence rights and issuance of a residence document in SR

The Slovak government has decided to introduce a **declaratory system** laying down that the rights of United Kingdom nationals and their family members are based on the Agreement, irrespective of the fact if the United Kingdom nationals and their family members are registered in SR in the transition period or not.

The Withdrawal Agreement will apply to all United Kingdom nationals and their family members who legally reside in the Slovak Republic before the end of the transition period and they will be allowed to exercise their current rights in Slovakia in the same extent as until now. They may also use preferential rules related to lifelong family reunification. Their family members may move to the Slovak Republic to join them at any moment in the future, if such relationship existed before the end of the transition period. If such family members are subject to the visa obligation, they will be exempt from any visa charges.

Description of steps to be taken **before 30 June 2021** in order to preserve and acquire residence rights and documents for all United Kingdom nationals and their family members living in Slovakia before the end of the transition period may be found on the website of the Ministry of Interior of the SR.

<http://www.minv.sk/?information-on-the-stay-in-the-territory-of-the-slovak-republic-in-connection-with-the-withdrawal-of-the-united-kingdom-of-great-britain-and-northern-ireland-from-the-european-union-brexit>

<https://www.gov.uk/guidance/living-in-slovakia>

Frontier workers – The United Kingdom citizens/their family members who do not reside in the territory of the Slovak Republic but perform cross-border employment before the end of the transitional period, will be able to do so as before, i.e. as EU citizens, without need for work permit. The Slovak Republic will not require temporary residence from such persons for the purposes of employment or any other document.

If you are interested in issuing a document identifying the cross-border workers' rights, you may request such a document at the competent department of the Foreign Police of the Police Force from 01. 01. 2021.

For more information, please see the website of the Ministry of Interior of the SR: <http://www.minv.sk/?information-on-the-stay-in-the-territory-of-the-slovak-republic-in-connection-with-the-withdrawal-of-the-united-kingdom-of-great-britain-and-northern-ireland-from-the-european-union-brexit>

Residence rights resulting from the Withdrawal Agreement apply only to one member state. It is not possible to request residence rights in one EU Member State based on residence in any other EU Member State.

Employing persons authorised to reside in the Slovak Republic

Under Article 24 of the Withdrawal Agreement labour rights and conditions of persons who will be authorised to reside in the Slovak Republic based on the Withdrawal Agreement are preserved.

United Kingdom nationals employed in SR before the end of the transition period may continue working without a work permit, while they may terminate it and then conclude a new employment contract with a different employer without a work permit. Based on the Agreement, **United Kingdom** nationals with a residence status in SR may change their status in accordance with Article 17 of the Agreement, e.g. student, self-employed person and economically inactive person. **No persons who have been granted rights from the Withdrawal Agreement and who will change their status to 'worker', including after 31 December 2020, will not need a work permit.**

Under Article 22 of the Withdrawal Agreement, irrespective of nationality, the **family members of a United Kingdom national** have the right to be employed also after 1 January 2021, if they have the right of residence or the right of permanent residence in SR.

Frontier workers

United Kingdom nationals who started to perform work as frontier workers before the end of the transition period, not residing in SR, preserve the labour rights and conditions and the right to access to the labour market. The United Kingdom citizens/their family members who do not reside in the territory of the Slovak Republic but perform cross-border employment before the end of the transitional period, will be able to do so as before, i.e. as EU citizens, without need for work permit. The Slovak Republic will not require temporary residence from such persons for the purposes of employment or any other document.

If you are interested in issuing a document identifying the cross-border workers' rights, you may request such a document at the competent department of the Foreign Police of the Police Force from 01. 01. 2021.

United Kingdom nationals posted from the United Kingdom to perform work in SR/Slovak nationals posted from SR to perform work in the United Kingdom

Free movement of services, including posting of workers, is preserved until the end of the transition period. Workers from the United Kingdom may thus be posted to SR to perform work any time before the end of the transition period. Such workers may continue to be posted in SR also after 31 December 2020. Such procedure has been reciprocally agreed upon by the Minister of Labour, Social Affairs and Family of SR and the Minister of Labour of the United Kingdom in the form of unilateral declarations. That means that the above-mentioned procedure applies also to Slovak citizens posted to the United Kingdom to perform work.

Posting in SR needs to be performed without interruption and workers need to obtain residence rights before 31.12.2020 for the above-stated rights to be preserved. **We strongly recommend to United Kingdom nationals to arrange the relevant residence document and registration until 31.12.2020 in order to avoid any inconvenience.**

Workers – United Kingdom nationals – posted from the United Kingdom to SR to perform work after 31 December 2020 need to comply with conditions of the national legislation applicable to nationals of third countries and will have to apply for a work permit in accordance with the valid Act No 5/2004 Coll. on employment services, as amended.

Social security in accordance with Regulation No 883/2004 of EP and of the Council on the coordination of social security systems and with Regulation No 987/2009 of EP and of the Council (hereinafter referred to as "Coordination Regulations")

All granted rights and entitlements related to social security resulting from Coordination Regulations remain valid until the end of the transition period.

1. Full protection after 31 December 2020

All rights and entitlements resulting from Coordination Regulations remain and keep applying also after the end of the transition period, i.e. after 31 December 2020 for the following persons specified in the Withdrawal Agreement:

- Union citizens;
- United Kingdom nationals;
- nationals of Iceland, Liechtenstein, Norway and Switzerland;
- stateless persons and refugees;
- nationals of third countries, if subject to Coordination Regulations;
- family members and survivors of the above-stated persons.

Such categories of persons are basically covered by Coordination Regulations if at the end of the transition period they were in a frontier situation involving both the United Kingdom and one of the above-stated countries and remain in such situation "without interruption".

It includes the following **frontier situations at the end of the transition period**:

- In accordance with Coordination Regulations, the person is subject to UK/SR legislation (UK national is subject to Slovak legislation and citizen of SR is subject to UK legislation). It will include e.g. the following situations:
 - UK national working in SR/Slovak citizen working in UK;
 - Slovak citizen, beneficiary receiving pension from SR with habitual residence in UK and vice versa, i.e. UK national, beneficiary receiving pension from UK, with habitual residence in SR;
 - Slovak citizen working in UK who starts to receive maternity benefit provided by UK and temporarily returns to SR and gives birth to her child before 31 December 2020 (subject to UK legislation); after the end of her maternity leave she may return to work in UK and she will still be subject to the Withdrawal Agreement.
- Person has residence rights in SR/UK and is subject to legislation of the other contracting party (Slovak citizen in UK and vice versa), e.g.:
 - Slovak citizen residing in UK subject to Slovak legislation (e.g. Slovak national who has, with their family, habitual residence in UK, works in SR and returns to UK twice per month is subject to Slovak legislation);
 - UK national residing in SR subject to UK legislation (e.g. UK national who has, with their family, habitual residence in SR, works in UK and returns to SR twice per month is subject to UK legislation);
- Person Works in SR/UK and is subject to the legislation of the other party (Slovak citizen working in UK and insured in SR and vice versa), e.g.:
 - Slovak citizen performing work activity in SR and UK, subject to Slovak legislation;
 - Slovak citizen posted to UK whose posting finishes after the end of the transition period (subject to Slovak legislation)
- Other than the above-stated situation when a person used the residence right in UK/SR based on EU law and continues to be present in such country or maintains the residence right of the right to perform employment in such country, e.g.:
 - If Slovak citizen who studies in UK in 2020 (not residing in UK) is granted residence right in UK in accordance with the Withdrawal Agreement, Children of a Slovak citizen who has residence right in UK based on the Withdrawal Agreement, born after 31 December 2020, fall also under such full protection
 - UK National who had residence rights in SR at the end of the transition period in accordance with the Withdrawal Agreement has also social security protection.

"Without interruption"

Full social security protection applies only as long as the above-stated frontier situation continues without interruption.

It is not a case of interruption when:

- the category of the person has changed (student becomes worker, family member becomes dependant, etc.);
- there is transition between the above-stated situations (e.g. posted worker is employed in the state of posting);
- the change between individual situation happens in a short period of time (loss of employment – 1 month – new job).

2. Partial protection after the end of the transition period – after 31 December 2020

If a person does not meet the conditions for full protection under Article 30 of the Withdrawal Agreement, it is necessary to examine if there is a possibility to include such person in partial protection used by specific groups of persons (Article 32 of the Withdrawal Agreement):

- **Persons that are not or have ceased to be subject to Article 30 of the Withdrawal Agreement (full protection stopped to apply) and in the case of whom periods of time finished before as well as after the end of the transition period are considered for the purpose of addition of periods of insurance, employment, self-employment or residence for determining their entitlement to a benefit.**
 - It means that if persons have acquired the periods of insurance in accordance with the Withdrawal Agreement and with Coordination Regulations, **such periods of insurance will be considered in the future for the purposes of entitlement to social security benefits.** It is thus expressly stated that not only the periods acquired by the end of the transition period but, for persons whom this provision applies to, also such periods of time which they have acquired after the end of the transition period (future periods) will be added. Addition of periods will apply to all kinds of social security benefits such as pension and disability benefits, accident benefits, sickness benefits and unemployment benefits. At the same time, all rights and obligations determined based on such periods of time are maintained. It applies also to any subsequent entitlement to social security benefits.
 - *Example: If a Slovak citizen worked in Great Britain from 1 January 2005 to 1 January 2019, such periods of insurance will be assessed for the purposes of entitlement to pension in accordance with the Withdrawal Agreement.*
- **Persons who before the end of the transition period started to reside in the United Kingdom or in a different Member State and continue residing there also after termination of the transition period for the purposes of provision of urgent healthcare until the end of their residence.**
 - *Example: A Slovak citizen leaves to visit their family in the United Kingdom in late December for two weeks and breaks their leg on 4 January 2021. All necessary healthcare will be provided to the person in the United Kingdom.*
- **Persons who have left for the United Kingdom or a Member State before the end of the transition period in order to be provided planned healthcare, until the end of their residence, even after the end of the transition period.**
- **Persons receiving family benefits for family members in frontier situations the entitlement for which exists at the end of the transition period (e.g. a Slovak citizen has family members in the United Kingdom and vice versa). Entitlements to family benefits remain to be protected also after the end of the transition period, if conditions for receiving them are complied with.**
- **Family members as stated in the previous paragraph** may exercise their derived rights in accordance with Coordination Regulations, e.g. the right to healthcare.

As for exercising the entitlement to social security benefits as well as the system of cooperation of relevant institutions, the current rules remain to apply also after the end of the transition period. **The above-stated partial protection is not time-limited.**