

CLIENT ALERT

Brexit - U.K. Nationals Working in Belgium: Status after March 29, 2019

Feb.06.2019

In less than two months, the United Kingdom may no longer be part of the European Union. Despite that, it is still unclear to what extent U.K. nationals will be able to continue to work in Belgium as they do now. So what can and should you do regarding your U.K. employees or contractors?

Scenario 1 – the main elements of the draft *Withdrawal Agreement* are adopted

In this case, U.K. nationals should encounter no problems in continuing to reside and work in Belgium, provided they are legally resident in Belgium today. The following rules will apply:

- EU law will remain applicable until December 31, 2020 (the implementation period).
- Even after this, there will be no change to work and residency rights (they will be 'subject to the conditions applicable prior to 2021').
- After residing in Belgium for 5 years (starting either before or after the implementation period), they can obtain permanent resident status.

As importantly, the administrative burden should be manageable. The intention of the Belgian State is to reach out to U.K. nationals holding Belgian residency cards to initiate the process of updating those cards. In practice, the various Belgian communes are likely to contact these U.K. nationals during the implementation inviting them to visit the commune and update their residency cards.

Scenario 2 – No-deal

While employers cannot guarantee that a '*no-deal scenario*' will have no impact on the work and residency rights of their employees and contractors, they can reassure them that there is a good chance that they will be able to continue to work in Belgium after March 29, at least for the time being.

In principle, a no-deal scenario would deprive all U.K. nationals of their freedom of movement within the EU from March 29, 2019. In principle, U.K. nationals working in Belgium and their employers would require access to a work permit (or, for the self-employed, a professional card).

However, the Belgian government is preparing legislation allowing U.K. nationals lawfully residing in Belgium on March 30, 2019 to continue to live and work in Belgium, at least temporarily. This legislation is currently with of the Council of State for review and advice. We believe that it will be adopted very quickly if it becomes clear that no Withdrawal Agreement will be entered into.

At present, the Belgian authorities are not accepting applications for work permits (or professional cards) for U.K. nationals. So, for the time being therefore, U.K. nationals (and their employers) can only wait and see – and ensure that their residency cards are up to date.

Conclusions

In any likely scenario, the **key action point** is for *all U.K. nationals to make sure they have a valid residency card*. Only those with a valid residency card will be contacted by the communes in a Withdrawal Agreement scenario or benefit from any new legislation in a no deal scenario.

Otherwise, our Labor & Employment team is closely following any development and will keep you posted. Our team is at your disposal to answer any questions you may have.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

Emmanuel Plasschaert

Partner – Brussels

Phone: +32.2.282.4084

Email: eplasschaert@crowell.com

Evelien Jamaels

Counsel – Brussels

Phone: +32.2.214.2814

Email: ejamaels@crowell.com