

Exit of the United Kingdom from the EU and its Impact on the Employment of British Citizens in the Czech Republic and Social Security of People Moving between the Czech Republic and the United Kingdom

In April this year, the EU agreed with the United Kingdom (UK) to postpone the withdrawal until the end of October 2019. Regardless of whether or not the British Parliament ratifies the Withdrawal Agreement (i.e. the Agreement on the conditions of the UK's withdrawal from the EU), the Czech Republic is prepared to ensure the rights of the Czech and UK citizens concerned in the event of so-called "hard Brexit". In either case, the Czech Republic is prepared to preserve the rights of the concerned citizens of the UK and the Czech Republic. In particular, it will temporarily ensure that UK citizens can stay in the Czech Republic and continue to work. Similarly, citizens of the Czech Republic do not have to worry about the loss of social security entitlements due to their previous employment in the United Kingdom.

In view of the uncertain outcome of the UK Brexit from the EU and the smooth protection of the rights of the persons concerned, some preliminary actions are necessary, in particular:

- **Due to Brexit UK citizens will become third-country nationals. We therefore recommend to those who qualify for permanent residence in the Czech Republic that they should apply for it. By acquiring permanent residence in the Czech Republic, the citizens of the UK will have a comparable position with the citizens of the Czech Republic, in particular with respect to their position on the labour market and social security entitlements related to residence.**
- **Third-country nationals, in this case UK citizens, who move within the EU, can benefit from the protection provided by the European rules on the protection of the social entitlements of migrants under defined conditions (Regulation No. 1231/2010 of the European Parliament and the Council). If UK citizens residing in the Czech Republic after Brexit have a connection to an EU member state (because they formerly worked in that country, their family members live there, etc.), it is necessary that they inform the respective Czech institution to address this issue in a decision making process while solving their social security entitlements (the UK citizen's participation in insurance or requests for benefits).**

More details on the UK Brexit scenarios:

A. Situation in case of Withdrawal Agreement approval

In the period immediately after October 31, 2019 there will be no changes. The Agreement creates a transition period **until the end of 2020** during which the access to the labour market and social security will proceed in the same way as if the UK was still a member of the EU.

UK citizens who start working in the Czech Republic from January 1, 2021, will require an employment permit in the same way as any other citizens of third countries.

As for social security, from January 1, 2021, only the rights related to the period when the UK was a member of the EU shall be protected - i.e. the persons who have been living in an EU country will be allowed to have the protection of their rights but new cases and claims for benefits after December 31, 2020 shall be governed only by the national regulations of the Czech Republic. During the transition period the future relationship agreement between the EU and the United Kingdom is supposed to be concluded which would include the protection of social entitlements. However, it is now premature to speculate on the content of such an agreement.

B. Situation in the case of Brexit without Withdrawal Agreement

UK citizens and family members access to the labour market

The UK citizens and family members, whose employment under the Czech Labour Code commenced at the latest on the day immediately before the date of withdrawal of the UK from the EU (i.e. the day immediately preceding the date of entry into force of ***Act No. 74/2019 Coll. on the regulation of certain relations in connection with the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union***) shall have the possibility to continue to work in the Czech Republic without any work permit till the end of 2020. Consequently, by 31 December, 2020 at the latest, they will be obliged to obtain the relevant work permit (employee card, blue card, and employee internal transfer card, work permit) in order to be allowed to continue to work after December 31, 2020.

Those UK citizens and their family members who will be interested in **starting to work in the Czech Republic after Brexit**, will have to comply with the Employment Act, i.e. **they will have to obtain work permit authorization for the performance of work in the Czech Republic** (employee card, blue card, employee transfer card, work permit). Only those who fall into one of the categories of foreigners mentioned in Section 98 and 98a of the Employment Act (e.g. foreigners with permanent residence) shall have free access to the labour market.

The work permit shall be issued by the Labour Office of the Czech Republic. Other types of authorization are issued by the Ministry of the Interior.

Information on the procedure of a foreigner when obtaining a work permit in the Czech Republic:
http://portal.mpsv.cz/sz/zahr_zam/zz_zamest_cizincu/zz_zamest_ciz.

<https://www.mvcr.cz/clanek/sluzby-pro-verejnost-informace-pro-cizince-informace-pro-cizince.aspx>

Preservation of social security entitlements

Considering that it is currently unclear how the communication with the UK authorities will be carried out in assessing entitlement to individual benefits from the Czech social system, it is advisable to keep all records of employment, in particular, the overviews of all periods of insurance issued by the local institutions, or other similar documents (e.g. PD U1 document which contains data all periods of insurance and it is issued for unemployment benefit purposes).

1. **Health insurance** is under the authority of the Ministry of Health - information on Brexit http://www.mzcr.cz/Unie/obsah/brexit_3919_8.html

2. **Sickness insurance**

For UK citizens or persons with another connection to the UK affiliating to sickness insurance scheme in the Czech Republic nothing changes at the moment of Brexit; their participation in sickness and pension insurance scheme and any claims arising from such insurance shall continue to be fulfilled under the conditions set by law.

Any entitlements to sickness insurance benefits by insured persons who were for a certain period of time insured in the UK before October 31, 2019 shall be taken into account by the Czech institutions (practically this is only considered for persons requesting maternity benefit).

Example:

The insured person worked in the UK from January 1, 2015 to April 30, 2019, then she returned to the Czech Republic, where she began to work, became pregnant from May 1, 2019 and will start maternity benefit as of January 1, 2020. The period of sickness insurance acquired in the Czech Republic in the last 2 years reaches only 245 days, which in itself is not sufficient to qualify for this benefit. Therefore, the Czech institution will take into account employment / insurance periods in the United Kingdom in the last two years, but only those that were acquired before the United Kingdom's withdrawal from the EU. The decisive period in which the period of insurance is determined is from 1 January 2018 to 1 January 2020.

The qualifying period in the UK lasts from January 1, 2018 to April 30, 2019 (i.e. 485 days). 485 days (UK period) + 245 days (Czech period) exceeds the 270 days required by law and therefore entitlement to maternity benefits will arise in the Czech Republic.

3. **Pension insurance**

For UK citizens or persons with other ties to the UK participating in Czech pension insurance nothing changes at the moment of Brexit; their participation in pension insurance and any claims arising from such insurance shall continue to be fulfilled under the conditions set by law. Taking into account that, according to the Act on Organization and Implementation of Social Security, retirement benefits are provided abroad, the Czech Republic shall continue to pay pensions to the UK.

For the purpose of assessing the entitlement to pension insurance benefits from the Czech Republic, periods acquired in the UK before October 31, 2019 shall be taken into account. This process shall be followed also for applications submitted after this date.

Example:

A Czech citizen worked in the Czech Republic in the years 1976-2004, followed by work in the UK from 2004 to 2019, then worked for 1 year in the Czech Republic. To assess entitlement, the Czech institution takes into account the period of its pension insurance in the United Kingdom - 15 years, adds it to the Czech insurance period - a total of 44 years, which exceeds the minimum insurance period required for pension entitlement under Czech legislation. Subsequently, the Czech institution will calculate the Czech pension, which corresponds to 29 years of insurance acquired under Czech legislation. We believe that the United Kingdom will follow the same approach with regard to reciprocity, but this cannot be confirmed with certainty at present.

4. Unemployment benefits

For the purposes of assessing the entitlement to Czech unemployment benefit of the persons who had a certain period of insurance in the UK before October 31, 2019, the period in the UK shall also be taken into account by the Czech institution.

Example:

A Czech citizen worked in the UK from 2010 to 2019, returned to the Czech Republic, where he/she is employed from 1 July 2019, but will lose job by the end of November 2019. When assessing the entitlement to Czech unemployment benefit - the condition is 1 year of insurance earned by gainful activity in the last 2 years - the Labour Office will take into account 5 months of insurance completed by the last job in the Czech Republic (this alone is not enough) and also insurance period during the employment in the UK, thus enabling this condition to be met.

5. State social support benefits

If a British citizen (either within or outside the Czech Republic) or a Czech citizen living in the United Kingdom received state social support benefits before October 31, 2019, this benefit shall be retained and the payments shall continue even after Brexit.

Applications submitted after Brexit in cases involving the UK shall be solely considered under Czech national legislation which requires the fulfilment of residence conditions in the territory of the state for 365 days. The benefits are not paid abroad. For the UK citizens living in the Czech Republic, the period of residence in the Czech Republic before October 31, 2019 shall be taken into account and if necessary also periods of residence in the UK shall be taken into account (in respect of persons who were subject to Czech legislation or another member state at the time of Brexit).

6. Care allowance

If a British citizen (either within or outside the Czech Republic) or a Czech citizen living in the United Kingdom received care allowance before October 31, 2019, this benefit shall be retained and the payment shall continue even after Brexit. Applications of UK citizens submitted after Brexit shall be solely considered under the Czech national legislation which requires the fulfilment of residence conditions in the territory of the state and the benefits will not be paid abroad.

7. Material need benefits

As a condition of entitlement to these benefits, the citizens of other countries must have their permanent residence in the Czech Republic. The specific status only applies to EU citizens. Therefore, in the case of applications submitted after October 31, 2019, the UK citizens shall be required to prove their eligibility for such benefits by compliance with the permanent residence condition.