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NEWSLETTER

UK CITIZENS RIGHT'S OF RESIDENCE IN PORTUGAL AFTER BREXIT

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SUMMARY

On January 31st of 2020, the United Kingdom (UK) officially left the European Union (EU), being no longer a Member State, being established a transition period until the 31st December 2021.



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THE LEGAL FRAMEWORK

On January 31st of 2020, the United Kingdom (UK) officially left the European Union (EU), being no longer a Member State. With the country's exit began, on February 1st of 2020, a transition period was foreseen in the celebrated Withdrawal Agreement.

This transition period ended on December 31st of 2020, being assured during this period that the previously existing rights of citizens, consumers, companies, investors, students, and researchers, either within the EU and the UK.

An immediately effect of the UK exit from the EU is that it is no longer represented within the EU's institutions, bodies, offices, and agencies, no longer being able to participate in the decision-making process.

Being the right of any European citizen and their families to live, work or study in any Member State a fundamental right of the EU, one of the main concerns during the Withdrawal Agreement negotiations was to secure such rights and also protecting the life choices made based on the free movement principle.

In this sense, it is important to understand how, in practice, will the Brexit affect or not in the future the possibility of UK nationals to live, study or work within the EU, specifically, in the Portuguese case.

CITIZENS WHO ALREADY HAVE A CERTIFICATE OF PERMANENT RESIDENCY IN PORTUGAL

UK nationals or their relatives already holding a certificate of permanent residency in Portugal as an EU citizen, will benefit from a right of residency in the same terms as before Brexit, being subject to the respective rights and obligations to which they were already subject to. Hence, in this case it is not necessary to proceed with any action to maintain the residency right.

Nevertheless, should the permanent residency certificate expire, it is necessary to renew it at the Immigration and Borders Service (SEF), by submitting the adequate documents to prove that, even after the end of its validity, the Portuguese residency was maintained.

Additionally, the relatives of the UK nationals should also submit a supporting proof of the family bond.

CITIZENS WHO DO NOT YET HAVE A PERMANENT RESIDENCY CERTIFICATE IN PORTUGAL

The individuals who already live in Portugal and are duly registered as EU citizens, having obtained the correspondent certificate, can still request at SEF the issuing of a permanent residency certificate, once completed the 5 year-period of legal residency in Portugal. Until the completion of such period, as well as after obtaining the permanent residency certificate, all the citizens' rights regarding residency in Portugal will maintain.

Once completing the 5 year-period, or if the citizen already lives in Portugal for more than 5 years, the permanent residency certificate should be requested at SEF, proving for this purpose the necessary period of legal residency in Portugal.

In order to complete the full right of residency in Portugal citizens with an EU certificate should register their residency before SEF and exchange the EU certificate for a residency authorization.

CITIZENS WHO WISH TO CHANGE THEIR RESIDENCY TO PORTUGAL AFTER THE TRANSITION PERIOD

The individuals who wish to change their residency to Portugal after the transition period will now have to go through a Visa/ Residency authorization process.

The usual procedure is to request a visa at the Portuguese consulate in the country of residence in order to be able to travel to Portugal and, once in Portugal, to request a residency authorization.

TAX IMPLICATIONS – TAX REPRESENTATION IN PORTUGAL

It was approved, by Dispatch no. 514/2020.XXI, a regime applicable to UK residents for the mandatory appointment of a tax representative in Portugal. Taking into consideration this regime:

- Individuals and companies, who are registered before the Portuguese Tax authorities with an UK address need to indicate a tax representative until 30 June 2021, with no penalties.
- Individuals and companies who wish to change their address to UK need to proceed with the appointment of a tax representative under the general terms, i.e.,



right after changing their tax residency to the UK.

CONCLUSIONS

On January 31st of 2020 the UK left the EU, not continuing to be one of its members. With such decision a transition period began, as foreseen in the Withdrawal Agreement.

Such transition period ended last December 31st of 2020, being all the preexisting residency rights and obligations foreseen maintained and applicable to all UK nationals already living in Portugal or that arrived in Portugal until the end of 2020.

Individuals that arrived or will arrive after the end of the transition period will have to go through a Visa/ Residency authorization process.

Lisbon, 26th of february of 2021

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