

Withdrawal of the United Kingdom from the European Union (BREXIT)

On 29 March 2017, the United Kingdom (UK) announced its intention to leave the European Union (EU) in accordance with Article 50 of the EU Treaty, starting a period of two years, extended a first time until May 22 and a second time until October 31, 2019, for UK withdrawal from EU. Upon leaving the EU, the UK will become a third country. This change will have major consequences on the lives of citizens who work and/or reside in Portugal or the UK with regard to their social security rights.

At this time, there is a scenario of uncertainty regarding the date and conditions of the withdrawal of the UK from the EU.

Two scenarios are possible for leaving the UK from the EU:

I. With a Withdrawal Agreement

On 25 November 2018, the EU and the UK agreed on a Withdrawal Agreement, as provided for in Article 50 of the EU Treaty.

If the Withdrawal Agreement is ratified, the UK will leave the Union in an orderly manner in principle on 31 October 2019, and Union law will continue to apply, with some adaptations, in the UK and in relations between the UK and the EU Member States until 31 December 2020.

The Withdrawal Agreement safeguards the social security rights acquired or in course of being acquired until the end of the transitional period of citizens of the 27 EU Member States currently working / residing in the UK or having previously worked / resided in the UK and citizens of the EU who currently work / reside or have worked / resided in an EU Member State. Thus, until 31 December 2020, the European Regulations on coordination of social security systems (Regulations (EC) Nos 883/2004 and 987/2009) would continue to be applied by the UK and in relations between the UK and EU Member States.

As from 1 January 2021, an Agreement on the future relationship between the EU and the UK to be negotiated between the Parties would apply.

II. No Withdrawal Agreement (no-deal)

If the Withdrawal Agreement is not ratified, the UK will leave the Union in a disorderly manner, in principle on 31 October 2019, without any transitional period, meaning that Union law will cease to apply in the UK from that date, in particular the European Regulations on the coordination of social security systems, with consequences for the social security rights of EU and UK citizens who exercised their right of free movement within the EU when the UK was a Member State.

To limit these consequences as far as possible, both the EU and its Member States have adopted unilateral and transitional contingency measures.

At European level, Regulation (EU) 2019/500 was adopted, which provides that Member States shall continue to apply the Union principles of equal treatment, assimilation and aggregation laid down in

Regulations (EC) No 883/2004 and 987/2009 as regards persons covered, facts or events occurring and periods completed before the withdrawal of the UK from the EU.

Regulation (EU) 2019/500 does not cover facts and periods after withdrawal, nor does it cover the possibility of exporting cash benefits to the UK.

The Portuguese State, in order to meet citizens' legitimate expectations regarding their acquired or in course of being acquired social security rights arising from the exercise of their right of free movement while the UK was a Member State, thus guaranteeing them the widest possible protection, has also approved contingency measures in Law 27-A / 2019, of 28 March, and Decree-Law 147/2019, of 30 September, which cover not only situations prior to the UK withdrawal from the EU, but also after that date and until 31 December 2020.

Social security rights in case of no-deal

- Social security rights of UK citizens working in Portugal and members of their families

The situation of these citizens remains unchanged and there is no loss of any rights resulting from their status as workers registered in the Portuguese social security system, which guarantees equal treatment.

- Social security rights of UK citizens and Portuguese citizens who worked / resided in the UK prior to departure and currently work / reside in Portugal and their family members

Insurance periods completed under a compulsory UK social security scheme until 31 December 2020 will be taken into account for the purpose of entitlement to social security benefits in Portugal (aggregation), under the same terms as those laid down in the European Regulations on coordination of social security systems.

This means that whenever a certain minimum insurance period is required in Portugal to qualify for a social security benefit, the insurance periods completed in the UK until 31 December 2020 are aggregated to fulfill this condition.

As for the social security rights of these persons in the UK, they depend on the measures taken by the UK authorities.

- Payment of social security benefits to citizens resident in the UK or another EU Member State

In this case, each country applies its social security legislation.

Portuguese legislation provides for the payment of certain social security benefits outside the national territory (export), regardless of whether there is an agreement on social security with the country where the entitled person resides. This is the case for all pensions (old age, invalidity, survivors, and occupational diseases) and parental benefits. Thus, there is no change in the situation of citizens, whatever their nationality, residing in the UK or in another country, with those benefits continuing to be paid after the withdrawal of the UK from the EU on the same terms as they are today.

However, Portuguese legislation does not provide for the export of sickness benefits in cash, unemployment benefits and family benefits, so that such benefits will no longer be exported to the UK from the date of their departure from the EU.

However, those benefits that are being paid on the withdrawal date will continue to be provided as long as the respective conditions of entitlement are fulfilled for insured persons or family members residing in the UK.

In the opposite situation, i.e. in the case of citizens residing in Portugal who receive a UK social security benefit, they should ask for information in that country about the arrangements for payment of benefits abroad. However, according to the information that the UK has already provided, at least old age pensions will continue to be paid abroad (export).

Healthcare

Law No. 27-A / 2019 of March 28 also approved contingency measures in this area, ensuring that:

- UK citizens residing in Portugal on the date of the withdrawal of the UK from the EU remain beneficiaries of the National Health Service (NHS)
- Until 31 December 2020 UK citizens on a temporary stay in Portugal maintain the right to healthcare in NHS establishments and services by presenting a valid passport

For more information, please contact the [Ministry of Health](#).

This information will be completed and updated according to developments.

Useful links:

<https://www.portaldiplomatico.mne.gov.pt/politica-externa/brexit>

https://ec.europa.eu/info/brexit/brexit-preparedness/citizens-rights_en#socialsecurityentitlementsintheeu27

<https://www.gov.uk/brexit>