**Brexit – stay of British citizens after the transition period**

**From the beginning of 2021, citizens of the United Kingdom and their family members living in Poland will be able to submit applications for new residence permits. These new documents will confirm the use of rights of the beneficiary of the Withdrawal Agreement when crossing the borders and during the stay in Poland.**

United Kingdom has left the European Union at midnight on 31 January 2020 pursuant to the Withdrawal Agreement. This document contains provisions regulating the rules of stay of British citizens in Poland, establishing the transitional period lasting until 31 December 2020. During this period, the rules of stay and work of British citizens and their family members in Poland remain unchanged.

**End of the transition period**

After the end of the transition period, from 1 January 2021, the United Kingdom citizens and their family members will, as a general rule, have the right to stay in Poland under the current conditions, if:

– they exercised the right of residence in Poland in accordance with EU law before the end of the transition period (this also applies to the United Kingdom citizens who entered Poland after the Brexit date and before the end of the transition period);

– they still live in Poland.

A declaratory system will be used for issuing residence permits to beneficiaries of the Withdrawal Agreement. The legal stay in Poland will not be conditioned by any obligation to obtain a new status or a residence permit. However, persons eligible for the right of residence on this basis will be entitled to obtain (under the conditions set out in Directive 2004/38/EC) a residence document stating that it has been issued in accordance with the Withdrawal Agreement.

Taking into account practical considerations, **it is recommended that all beneficiaries of the Withdrawal Agreement obtain new residence permits**. Holding such permits will facilitate the use of the rights of the beneficiary of the Withdrawal Agreement when crossing the borders and during stay on the territory of Poland.

**New residence documents**

Residence permits[[1]](#endnote-1) issued to the United Kingdom citizens and their family members until the end of the transition period will remain valid for the period for which they were issued, **but no longer than until** **31 December 2021.**

Permanent residence permits (previously known as settlement permits) granted to the United Kingdom citizens under the Act on Foreigners also remain valid (indefinitely).

**From 1 January 2021**, beneficiaries of the Withdrawal Agreement will be able to submit applications for a new residence permit to voivodeship offices (competent for the place of stay)[[2]](#endnote-2). The documents will contain an annotation referring to the Withdrawal Agreement: “Article 50 TEU, Article 18 para. 4 of the Withdrawal Agreement”.

Proceedings in matters of the right of residence or the right of permanent residence of British citizens and their family members initiated and not completed before the end of the transition period will continue after the end of this period. These proceedings will also result in issuing new documents to the beneficiaries of the Withdrawal Agreement. However, to obtain such documents, the applicant will have to provide their fingerprints.

After the end of the transition period, beneficiaries of the Withdrawal Agreement will be able to use the following residence permits entitling them to travel within the Schengen area without a visa:

I. issued before the end of the transition period (these documents will remain valid for the period for which they were issued, but not longer than until 31 December 2021):

– document confirming the right of permanent residence;

– residence card of a family member of an EU citizen;

– permanent residence card of a family member of an EU citizen.

II. issued after the end of the transition period:

– certificate of submission of an application for obtaining a residence permit for the beneficiary of the Withdrawal Agreement, valid for 1 year;

– certificate of registration of residence (in case of a British citizen in the case of having the right of residence; it will not apply to a certificate of registration of residence of a frontier worker);

– document confirming the right of permanent residence (in case of a British citizen with the right of permanent residence);

– residence card (in case of a family member who is not a British citizen and holds a residence permit);

– permanent residence card (in case of a family member who is not a British citizen and holds a permanent residence permit).

**Submission of applications**

The application for obtaining a residence permit (including an application for registration of stay) will have to be submitted in person, at the voivodeship office competent for the place of stay.

The following forms for the given procedure dedicated to the beneficiaries of the Withdrawal Agreement will apply:

– **application for obtaining a new residence permit, containing an annotation referring to the Withdrawal Agreement** **(the “replacement” of the document held)** (i.e. application for obtaining a new certificate of registration of residence, obtaining a new document confirming the right of permanent residence, obtaining a new residence card (for a family member who is not a United Kingdom citizen) and obtaining a new permanent residence card (for a family member who is not a United Kingdom citizen) – if the United Kingdom citizen or their family member has been provided with a residence permit for EU citizens or family members of EU citizens until the end of the transition period. **The application must be submitted after 1 January 2021, by 31 December 2021 at the latest**;

– **application for registration of residence** (and obtaining a certificate of registration of residence), **obtaining a document confirming the right of permanent residence, a residence card** (for a family member who is not a British citizen) and **a permanent residence card** (for a family member who is not a British citizen) – if the citizen of Great Britain or a member of their family has not been provided with the residence permit for EU citizens or family members of EU citizens by the end of the transition period, or have not submitted an application by the end of the transition period. **The application must be submitted as soon as possible after 1 January 2021.**

The submission of the application will require the presence of a minor United Kingdom citizen or a member of their family, who is at least 6 years old by the date of application. It will also include taking fingerprints.

In particularly justified cases, including due to the health condition of a United Kingdom citizen or their family member, the requirement to appear in person may be waived.

In the course of procedures for obtaining residence permits for beneficiaries of the Withdrawal Agreement, starting from 1 January 2021, a certificate of submission of the application will be issued with a validity of 1 year and the possibility of obtaining another such certificate. Certificates will be issued for applications submitted by 31 December 2021.

It should also be remembered that, similarly to the rules applicable to EU citizens and their family members:

– a citizen of the United Kingdom who has not registered their stay or has not submitted an application in this matter by the end of the transition period should submit an application no later than on the day following the lapse of 3 months from the date of entry into the territory of Poland;

– a family member not being a citizen of the United Kingdom, who has not obtained a residence card of an EU citizen’s family member or has not submitted an application in this matter by the end of the transition period, should also submit an application no later than on the day following the lapse of 3 months from the date of entry into the territory of Poland;

– a family member not being a citizen of the United Kingdom, who has acquired the right of permanent residence, but has not obtained a permanent residence card of an EU citizen’s family member or has not submitted an application in this matter by the end of the transitional period, is obliged to apply for a permanent residence card.

Failure to comply with these obligations may result in the imposition of a fine.

**Who is entitled to the right of residence?**

The right of residence or the right of permanent residence of the beneficiaries of the Withdrawal Agreement on the territory of Poland will result directly from the Withdrawal Agreement and will also be regulated in Polish legislation.

Residence permits issued before the end of the transition period may constitute a significant proof of being a beneficiary of the Withdrawal Agreement, i.e. of having the right of residence or the right of permanent residence on the territory of Poland before the end of the transition period. The certificate of registration of the stay of a European Union citizen is not constitutive in nature, but is treated as evidence of having the right to stay on the territory of Poland. Therefore, a citizen of the United Kingdom who has not yet acquired the right of permanent residence, in order to secure their rights, should make sure that immediately before the end of the transition period they will have the right to stay on the territory of Poland in accordance with the rules applicable to citizens of the European Union.

A United Kingdom citizen is entitled to the right of residence for a period longer than 3 months if one of the following conditions is met[[3]](#endnote-3):

1. such citizen is an employee (performing work for an employer based in Poland) or a self-employed person working on the territory of Poland;

2. such citizen has sufficient financial resources to support themselves and their family members on the territory of Poland, so as not to be a burden for social assistance, and has adequate health insurance[[4]](#endnote-4);

3. such citizen is studying or undergoing vocational training in Poland and: has sufficient financial resources to support themselves and their family members on the territory of Poland, so as not to be a burden for social assistance, and has appropriate health insurance (as above);

4. such citizen is a spouse of a Polish citizen.

If a residence permit is not obtained before the end of the transition period, it will be possible to prove that the person is a beneficiary of the Withdrawal Agreement with any other acceptable evidence confirming the right of residence or the right of permanent residence in Poland before the end of the transition period.

The rules of stay on the territory of Polish regarding citizens of the United Kingdom and their family members who are beneficiaries of the Withdrawal Agreement will be similar to those applicable to EU citizens and their family members, subject to certain modifications resulting from the Withdrawal Agreement. The right of permanent residence will, as a rule, apply after 5 years of uninterrupted residence. Periods of legal stay or work before and after the end of the transition period will be included in the required period entitling to acquire the right of permanent residence.

**Frontier workers**

United Kingdom citizens holding the status of frontier workers (Article 9 let. b) of the Withdrawal Agreement) who, before 31 December 2020, will be performing work or conducting other gainful activity on their own behalf and for their own account on the territory of Poland without being subject to registration of stay (stays of up to 3 months), will be required to register their stay, if after the end of the transitional period, they will continue to perform their work or the said activity as frontier workers (without residing in Poland). Such registration must be made by 31 December 2021.

Contrary to the above-mentioned rules concerning citizens of the United Kingdom residing in Poland before the end of the transition period, including as employees, obtaining the status of a frontier worker on the basis of the Withdrawal Agreement will be conditional on the fulfilment of the obligation to register the stay as a frontier worker within the said period. As a result of registration of residence as a frontier worker, the United Kingdom citizen will obtain a residence registration certificate containing an annotation confirming the status of a frontier worker under the Withdrawal Agreement (“Article 50 TEU – frontier worker”).

Applying for registration of stay as a frontier worker will be possible from 1 January 2021.

**The rules of stay regarding the citizens of the United Kingdom who will come to Poland after 1 January 2021**

The British citizens and their family members who are not beneficiaries of the Withdrawal Agreement will be subject to the general rules of entry and stay on the territory of Poland relating to third-country nationals.

**Legal regulations**

Detailed rules on the procedures related to the right of residence and the right of permanent residence in Poland for citizens of the United Kingdom of Great Britain and Northern Ireland and their family members who are beneficiaries of the Withdrawal Agreement, after the end of the transitional period, are included in the draft act amending the Act on entering the territory of the Republic of Poland, residence and departure from this territory of nationals of Member States of the European Union and their family members and certain other laws (UC51).

1. certificates of registration of EU citizen residence, documents confirming the right of permanent residence, residence cards of an EU citizen’s family member and permanent residence cards of an EU citizen’s family member [↑](#endnote-ref-1)
2. issued in accordance with Regulation 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals, as amended by Regulation 2017/1954 [↑](#endnote-ref-2)
3. pursuant to Article 16 para. 1 of the Act of 14 July 2006 on entry into the territory of the Republic of Poland, stay and departure from this territory, of citizens of the Member States of the European Union and members of their families [↑](#endnote-ref-3)
4. is covered by universal health insurance or is a person entitled to healthcare services under the provisions on coordination within the meaning of Article 5 point 23 of the Act of 27 August 2004 on health care services financed from public funds (Journal of Laws of 2018, item 1510, as amended) or has private health insurance, covering all expenses that may arise during a stay in Poland in connection with the need for medical assistance or hospital treatment, in which the insurer undertakes to cover the costs of health services provided to the insured directly to the entity providing such services on the basis of the invoice issued by this entity [↑](#endnote-ref-4)