

IS MY DREAM TO WORK ACROSS EUROPE AND RETIRE IN SPAIN GONE FOREVER?

For UK citizens living in the EU, the right to travel or undertake so-called 'onward migration' was a hot topic during the negotiations after the Brexit referendum. In the end, the Withdrawal Agreement does not secure any special EU mobility rights for UK citizens who were residents in an EU member state before Brexit. While M-Card holders enjoy a wide range of protections in Belgium, they do not have any privileged rights regarding travel and onward migration to other EU countries.

Therefore, despite their hugely different status and rights within Belgium, holders of the following residency/work permits will all be entitled to similar mobility rights within the EU as soon as they leave Belgium:

- **M-card**
- **Single Permit**
- **Belgian residence card as a family member of a Belgian or EU citizen**
- **Another type of Belgian residence permit**

Indeed, since all UK citizens moving around Europe will be considered third-country nationals, you will generally have the same EU mobility rights as all other non-EU citizens whether you are resident in an EU country or not. This means that all UK citizens, even those still living in the UK, face the same situation in issues spanning from short-term travel to a long-term residence.

In practice, we can divide these issues into four main categories according to the length and purpose of the travel/migration. We will address these situations in turn:

1. **Tourism and holidays**
2. **Business trips and short work assignments**
3. **Long-term relocation for employment**
4. **Relocation for retirement**

Note: In this article, we refer to specific EU member states for each situation, but you should always understand this as concrete examples of a general principle. The fundamental takeaway is that UK citizens will be treated as third-country nationals by all EU countries and that rules for travel and migration will depend on a mix of European and national rules for each destination.

What should I consider before going on holiday to Greece or Portugal this summer?

As a UK citizen resident in an EU country – Belgium – you are allowed to travel to other EU countries based on your valid UK passport. Your Belgian residence card alone is not a travel document. You are not required to obtain an entry visa or to carry any additional documentation, besides your Belgian residence card. It is nevertheless recommended to have health insurance covering travel outside Belgium and/or a European Health Insurance Card (EHIC) from your Belgian health insurer.

Your visits outside Belgium, to all and any countries in the Schengen Area*, are limited to a maximum of 90 days in any 180-day period. (Note that this entitlement is irrespective of the reason for travelling, including business, tourism, family visits, etc). You can spend an additional 90 days in each of the EU countries which do not yet belong to the Schengen Area: Bulgaria, Cyprus, and Romania. For trips to Ireland, there is no restriction, as the Common Travel Area remains in place.

The EU has created a tool to help travellers keep track of the days of their Schengen days allowance. The tool is designed to be for demonstrative purposes only and does not grant the traveller any protection against overstay liability. When travelling inside the Schengen Area, there are generally no border checks or entry/exit stamps that would permit a traveller to calculate days on the go. Travellers are therefore encouraged to plan carefully and calculate Schengen days for their travel ahead of time.

If detected, any overstay in the Schengen Area can be sanctioned with punishments such as fines or re-entry bans. Factors like the duration of the overstay or any repeated violations will be considered by border authorities when imposing sanctions.

Will I be subject to ETIAS and the upcoming Entry/Exit system?

These are external border management tools, so they do not apply to UK citizens residing in Belgium when they get a train to France or fly to Poland. The EES will apply to all non-EU citizens when they cross the external border of the EU, including UK citizens travelling to/from the UK. UK citizens with a Belgian residency card will not need to use ETIAS. However, both new tools will be relevant to UK citizens living in the UK and visiting EU countries for leisure, business or family visits.

The Entry/Exit System (EES) will be a fully automated IT system registering visa-required and visa-exempt visitors who travel to and from the EU. However, only biometric passport holders will be subject to automatic checks. Regular passport holders will be subject to manual checks by border guards (which can be lengthier). The EES is expected to be fully operational in 2024, but the exact timeline is pending confirmation by the EU authorities. Keep an eye on this website for more information.

A much bigger change will be the launch of the European Travel Information and Authorization System (ETIAS). This will be a travel authorisation system – much like ESTA in the USA – which visa-exempt citizens (such as UK citizens) will be required to obtain prior to entering the Schengen Area and Bulgaria, Cyprus, or Romania. ETIAS is expected to be fully implemented in 2024, but the exact date is yet to be announced. Keep an eye on this website for more information.

What if my employer sends me on a short-term assignment to a customer site in Italy?

This is possible, but keep in mind the limited duration of stay in the Schengen Area (90 days in any 180-day period). You and your employer should consider the following factors, many of which differ from country to country:

- **Assess the nature of the business activities you will be conducting.** If such activities go beyond what is considered a “business trip” by the destination country, you will need to obtain additional work authorisation in the country prior to travel. The distinction between business trips and work assignments is not always clearly defined by legislation, and it differs between EU countries. This can lead to uncertainty, so for more clarity, it is recommended to consult with an immigration expert.
- **Even where a work authorisation is not required, your employer may still need to notify local authorities** of your presence on their territory – for instance, by filing notifications with the Labour Authorities.
- Lastly, as a rule, if you intend to spend **longer than three consecutive months** in an EU country outside Belgium, you may require a residence permit in that country. Please be aware that long-term absences from Belgium may also impact the validity of your Belgian permit.

I found a new employer in Germany and want to relocate. What do I need to consider?

You are allowed to move to another EU country and start working there. However, to do so, you must comply with the immigration processes of the destination country. The appropriate immigration route must be identified on a case-by-case basis, in the function of your personal situation and the rules of the destination country.

In some cases, if you are a highly skilled individual, you may qualify for an EU Blue Card Permit. This means you must meet a certain salary threshold and have an academic background, or, in some cases, significant work experience in your field. Once it is established that you meet these eligibility criteria, your employer can sponsor a work and residence permit application for you.

The application process consists of gathering a series of personal documents (employment contracts, diplomas, medical certificates, police clearance certificates, etc.,) and employer documents, which must be submitted for evaluation to the relevant authorities. In this example, these would be the German authorities at the relevant German diplomatic post in Belgium. Processing times can take up to several months (depending on the country of destination), and you cannot start working in Germany until the relevant authorisations are obtained.

Once again, be aware that long-term absences from Belgium will impact the validity of your Belgian permit. M-Card holders should remember that regaining the special protections of this status once it has lapsed is only possible in specific circumstances related to family reunification.

What about Ireland? Do I need a work permit to work there?

The UK and Ireland have agreed to maintain their Common Travel Area (CTA). This allows UK and Irish citizens the right to move freely and reside in their respective jurisdictions. This also includes the right to work and study without additional authorisations.

I am close to retirement and considering retiring in Spain. Is that possible?

Retiring elsewhere in the EU is possible but not an automatic right. Taking Spain as an example, you may be required to obtain a Spanish visa or residence permit specific to non-EU citizens with passive income: such as pension. (Please note that not all EU countries have such visas/permits, so you will need to assess your options carefully). If you are an M-card holder, the Withdrawal Agreement protects your rights to cumulate the periods of work completed in the UK or other EU Member States to calculate your pension allowance. You may also request to receive your pension on a Spanish bank account.

***Schengen Area countries:** Austria, Belgium, Czech Republic, Croatia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, and Switzerland.