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BRUSSELS
COMMISSIONER
FOR EUROPE
YOU'VE GOT YOUR MCARD. WHAT NEXT?

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WITH YOU **TODAY**



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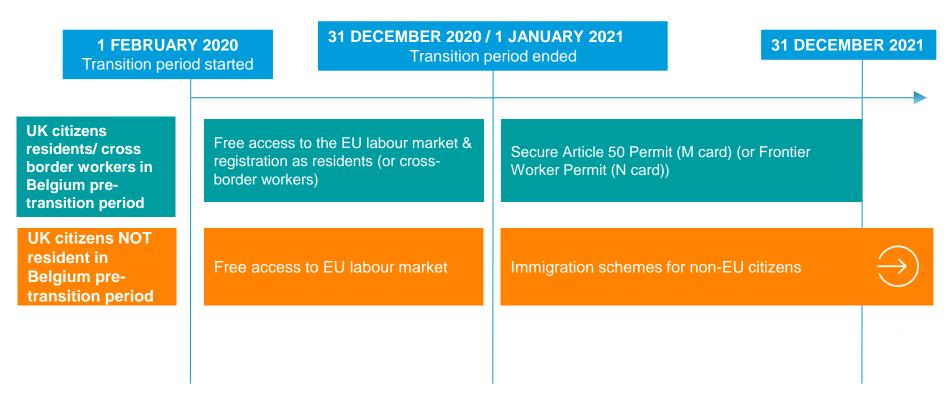
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AGENDA

- ► Introduction & Background
- ► Residence and work rights
- ► Family reunification
- ► Social security coverage
- ► Right to absence and return
- ► Permanent residence
- ▶ Belgian citizenship
- ▶ What mobility rights do I have outside Belgium?
- ► Q&A

Introduction & Background

BREXIT: TWO GROUPS OF UK CITIZENS IN BELGIUM







EU FREEDOM OF MOVEMENT

VS WITHDRAWAL AGREEMENT PROTECTION

- Protection granted by Withdrawal Agreement (WA) inspired by EU Freedom of Movement
- However, main differences:
 - Scope: Protected rights limited to the EU country of residence (Belgium)
 - Outside Belgium non-EU citizen regime is applicable (Schengen rules/national immigration rules – with few exceptions)
 - Family reunification: only if family relationship existed before the end of the transition period on 31 December 2020 (exception children born/adopted after this date in or outside Belgium).
 - Loss of status: once lost, the Withdrawal Agreement status cannot be re-obtained

Example: Due to a long absence, a UK citizen loses his right of residence in Belgium. He cannot re-apply for an M card (will be subject to non-EU citizens regime).

BELGIAN M/N CARDS

BACKGROUND AND ORIGIN

- Article 50 of the Treaty on European Union (TEU) states that "Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements".
- Belgium (Constitutive System):
 - Article 50 Residence Card = M Card
 - M card (5 years) eligibility: UK citizens legally residing in Belgium less than 5 years before the end of the transition period (including those arriving during the transition period)
 - M card (10 years) eligibility: UK citizens legally residing in Belgium more than 5 years before the end of the transition period
 - Article 50 Frontier Worker Card = N Card











NOTE: M//N-Cards specific to UK citizens and family members protected by the WA



M-CARD APPLICATION

- Deadline for application: December 31, 2021
- Late applications?
 - Demonstrate reasonable grounds for not meeting the deadline
 - Specific arrangements for certain family members
- Still awaiting decision?
 - Annex 56
 - Check with Town Hall
- ► Refusal?
 - Appeal Council for Alien Law Litigation (CALL) 30 days
 - Annex 35 (temporary residence document)

Residence and work rights



RESIDENCE RIGHTS

- Unlimited right of residence, under certain conditions:
- Ensure you continue to fall into one of the following categories:
 - Employed, self-employed or a student; or
 - Can demonstrate sufficient means of subsistence and have health insurance; or
 - Family member of someone who meets these conditions.
- Can switch between categories No need to inform authorities
 - E.g. if unemployed fall back on category adequate means + health insurance
 - Red flag: applying for social assistance



RIGHT TO WORK

- Employment: unlimited acces to the Belgian labour market
- ► Self-employment: no autorisation needed

Family reunification

FAMILY REUNIFICATION

- Specific more beneficial rules for family members of M-card holders
- Can apply for M-card as a family member even <u>after end of the application period on 31 December 2021</u>, provided family tie existed pre-transition period:
 - spouse
 - registered partner
 - partner with whom the M-card holder has a durable relationship
 - descendants under 21 years of age or, if older, dependent on the M-card holder
 - ascendants (parents, grandparents, etc.) dependent on the M-card holder
 - parents of a minor child, holder of an M-card

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Social Security



- Work in Belgium = in principle subject to Belgian social security
- Exception: if temporarily posted to Belgium can remain subject to UK social security

Local employee or self-employed person

Pensions

- Verify requirements for each ountry (UK and BE) separately
- Pension benefits calculated based upon the actual social insurance periods in each country + totalization
- Place where you settle for retirement no impact

Health care

- Mandatory registration with Belgian health insurance fund (mutuelle)
- No waiting period

Local employee or self-employed person

▶ Unemployment

- Entitled to unemployment benefits in Belgium if legal residence in Belgium + fulfil certain conditions
- M-card = legal residence Switch in category (worker to sufficient resources)

► Family allowances (child benefits)

- Mandatory registration with family benefits fund
- In principle entitled to family allowance for eligible children (dependent on their age and status at charge)
- If moved to Belgium on or before 31 December 2020 and dependent children live in the UK, may be entitled to family benefits as if they were living in Belgium

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Posted worker

- UK citizens posted to Belgium pre-transition period (on or before 31 December 2020)
 - Possible to remain covered by UK social security for up to 5 years
 - UK employer should apply for an A1 Certificate (Certificate of Coverage) with HMRC

Pensions

- If subject to UK social security, you do not accumulate any pension entitlements in Belgium.
- Accumulate pension entitlements in the UK

Healthcare

- If subject to UK social security and residence in Belgium, entitled to health services in accordance with the Belgian health insurance system
- Apply for S1 form with HMRC, and register with health insurance fund in Belgium

Posted worker

Unemployment

If subject to UK social security, no Belgian unemployment benefits

► Family allowances (child benefits)

- If subject to UK social security, not entitled to family allowances in Belgium (even if children live in Belgium)
- Unless partner or spouse is covered by Belgian social security and 'opens' autonomous right to family allowances

Absence and return

ABSENCE AND RETURN

- Notification to town hall?
 - For absences longer than 3 months
 - Notification of departure (annex 18)
 - Notification of return within 15 days of arrival
- Allowed length of absence
 - Standard M-card: 1 year
 - If exceeding one year: return authorisation demonstrate main interests in Belgium discretionary
 - M-card permanent residence: 5 years
- ! Stricter rules for elegibility permanent residence and nationality

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Permanent Residence

M-CARD PERMANENT RESIDENCE

Eligibility

- 5 years continuous legal residence
- Periods before and after transition period
- Continuous legal residence not interrupted by:
 - absences not exceeding a total of 6 months a year
 - absences of a longer duration for compulsory military service
 - one absence of a maximum of 12 consecutive months for important reasons, such as pregnancy and childbirth; serious illness; study or vocational training; or a posting abroad.

Benefits

- M-card valid for 10 years
- Unconditional
- Absences of up to 5 years allowed

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Belgian Nationality

OBTAINING BELGIAN NATIONALITY



Adults with certain period of legal residence: Nationality declaration



Minors: automatically at birth or after declaration by parents

BELGIAN NATIONALITY DECLARATION

Legal residence requirement

- Continuous legal residence preceding the submission of your nationality application
 - Valid residence card
 - In some instances proof of application for a residence card (e.g. annex 56 pending application for an M-card)
 - Continuous
 - Maximum 6 months absence at a time
 - In total Maximum one-fifth of the duration required to acquire Belgian nationality
- Right of unlimited residence at the time of submitting the nationality application
 - M card
 - M card with permanent right of residence

Duration of legal residence determines category and requirements

What mobility rights do I have outside Belgium?

SHORT-TERM TRAVEL

TO OTHER EU COUNTRIES (SCHENGEN)

Type of travel Restrictions **Considerations** Tourism, family Restriction on length of stay in EU visits, attending Max 90 days in any 6-month period countries outside BE conferences, other leisure Restriction on **activities** and **length** Allowable business activities/remote work per of stay in EU countries outside BE **Business trips**; host country legislation and stay of max 90 days Remote work possible in few temporary remote in any 6-month period countries and limited circumstances work **Cross-border** Work in the host EU country remains possible Not possible with an M card, N card work (residence even outside EU is possible) needed

UK citizens - Exempted from Schengen C visa



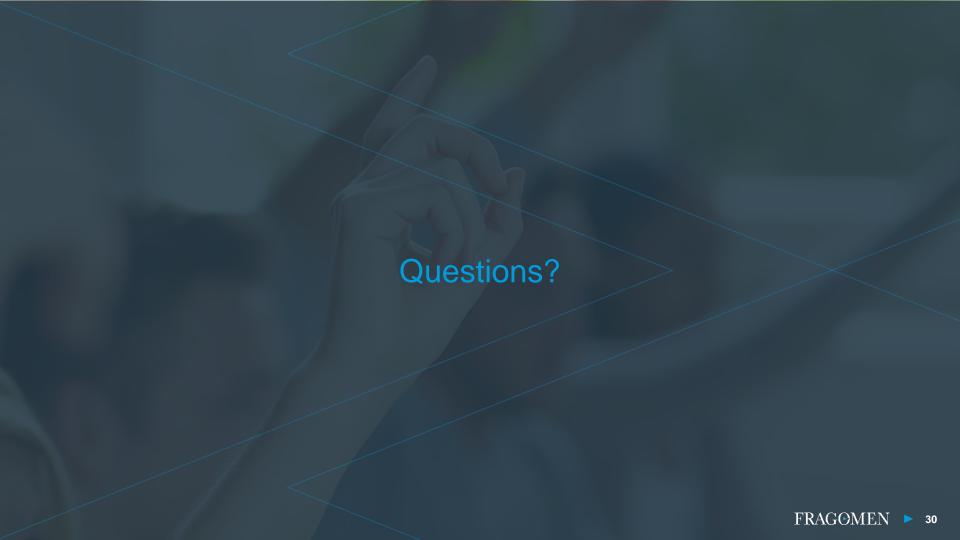


MOVING PERMANENTY

TO ANOTHER EU COUNTRY

- Possible under the immigration requirements of the destination country
- Same immigration avenues applicable to other non-EU citizens (such as US, Canadian, Australian citizens)
 - Economic migration: Highly Skilled Permits
 - Family reunification
 - Students/traineeship
 - Digital Nomad, etc.
- Application can be submitted at the relevant consular authorities in Belgium
- Document requirements
- Eligibility criteria must be met
- ✓ Processing times: several weeks/months depending on permit type and country

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Thank you

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