



Client Alert
13 February 2019

Government Order fixes the rights of UK nationals continuing to stay in France after 29 March 2019 in case of hard Brexit

Summary: The French government published an order which determines the right of UK nationals continuing to stay in France after the Brexit date of 29 March 2019, in the most probable event of no exit agreement being reached between the UK and the EU. Such UK nationals will be allowed three to twelve months to acquire permanent residency if they have been in France for 5 years or more on 30 March 2019, or acquire the appropriate permit to stay, if they have been in France on such day for less than 5 years.

Ordonnance n° 2019-76 of 6 February 2019 was published in the Journal Officiel on 7 February. The following are the principle terms affecting the immigration rights of UK nationals.

A transition period of 3 to 12 months

UK nationals continuing their stay and professional activities beyond the Brexit date may do so, as before such date, for a minimum period of three months from the Brexit date. A decree will be published which will set the final end date of the transition, which will be within 12 months of the Brexit date. Beyond this final end date, the UK nationals must be in possession of the appropriate permits covering their stay and professional activities in France (Article 1 of the Order).

Presence of less than 5 years

UK nationals having resided for less than 5 years as of the Brexit date will have to apply for the various permits to stay, according to their status (student, employee, temporary worker, posted worker, independent professional, unemployment beneficiary, family member, long-term visitor etc.). Such permits, when allowing work, will not be conditioned to labour market tests (Article 2).

Presence of 5 years or more

UK nationals having resided for 5 years or more in France as of the Brexit date, will be entitled to the Residency Card, with 10 year validity (Article 3).

UK national practicing law in France

UK nationals who exercise the profession of lawyer ("avocat") in France, based on their EU rights, may continue to do for a period of 12 months from the Brexit date. Such lawyers may benefit from the disposition of the Article 89 of the law of 31 December 1971 (Article 13).

Article 89 of the law of 31 December 1971 facilitates the registration of foreign lawyers with a French bar association after showing that they "effectively and regularly practiced French law on [French] national territory for a period of at least 3 years". Such activity needs to be demonstrated to the French bar association with which the foreign lawyer wishes to register. If over the three year period, the practice of French law was for a lesser period, the bar association will have the discretion to determine if the foreign lawyer has the capability of practicing French law.

Subsidiaries of law firms formed under UK law, and registered with a French bar association, on the Brexit date, may continue to pursue their activity in France beyond such date, even if no lawyer registered under a UK qualification is still practicing within such structure. No new structure under UK law may be created in France after the Brexit date (Article 16).

Reciprocity required

The Order states that the preferential treatment provided for UK national can be suspended by a State Council decree, after three months of the Brexit date, if the French government observes that the UK government has not taken equivalent dispositions [towards French nationals] (Article 19).

Other areas

The ten page order is quite dense. It touches on many areas (such as recognition of professional qualifications, cross-border service provision, welfare, health coverage, jobs reserved for French and EU nationals...) on which we will welcome your questions. A decree to implement this order will soon be published.

For more information, please contact our Firm through your regular contact or: cabinet@karlwaheed.fr

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