

# A go-to guide if your staff are working in Europe (including Switzerland) now and into 2021



If your organisation will have staff working in Europe (including Switzerland), this is a “must-read” for you.

With the end of free movement kicking in at 11pm on 31 December 2020, many organisations are considering the impact on workers who are working in Europe and Switzerland. As strands of our new UK immigration points-based system are live now, organisations are considering the best way to manage their workforces in the UK and overseas. Like the UK, EU countries and Switzerland have put in place new measures for UK staff based in their jurisdiction.

We’ve put together a go-to guide for you with contributions from leading lawyers.

Whether you’re a UK company with British employees based in Europe, a UK individual living and working in an EU country or Switzerland, or a British “frontier worker” who commutes across European borders for work, here’s what you need to know before 31 December 2020.

Part 2 will be released in January 2021 with more in-depth information, including on short-term remote working.

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## Austria



**Petra Pardatscher** studied business law at the Vienna University of Economics and Business and is a lawyer and partner at the law firm Oberhammer Rechtsanwälte GmbH.

The team at Oberhammer assists large international and local Austrian companies in obtaining work permits, residence permits and work visas and specialises in corporate immigration law, employment law and corporate law.

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- UK nationals who have been residing in Austria before 31 December 2020 will be required to obtain a new residence permit in 2021 (“Article 50 TEU” permit) with free access to the Austrian labour market.
- UK nationals who take up residence in Austria after 31 December 2020 will be treated as third country nationals regarding visa/residence and work permit requirements (exceptions apply to certain dependants taking up residence after 31 December 2020).
- The transition period is also crucial for the legal status of remote workers in Austria. Moreover, tax, social and health insurance requirements have to be checked in detail for remote workers.

## Belgium



**Massimo Maesen** is a Belgian immigration attorney and has over 10 years of experience in servicing both corporate and private clients in the immigration field in Belgium amongst other countries.

As a grandson of Italian immigrants and a Dutch grandmother, there was always a strong connection to immigration law. He will be listed as a Future Leader in the next Who’s Who Legal guide for corporate immigration.

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- UK nationals already residing and working in Belgium need to make sure they have obtained a residence card E (they will be invited to request an M card; and assess their eligibility for permanent residence or Belgian citizenship).
- UK frontier workers (with a Belgian employment contract) already working in Belgium before 31 December 2020 should make sure they obtain an annex 15 with the town hall competent for their place of work (they will receive a N card). They will be allowed to continue working in Belgium without a work authorisation being required after 31 December 2020.
- UK frontier workers (with UK employment contracts) already working in Belgium before 31 December 2020 are not considered beneficiaries of the Withdrawal Agreement and will require work authorisation to continue working after 31 December 2020.

## Croatia



**Tomislav Pedišić** is a partner in Vukmir & Associates law firm and head of the firm's immigration law practice. The practice was developed 15 years ago to satisfy the immigration requirements of its corporate clients but has

grown to be the market leader in providing this type of service, covering all aspects of immigration and naturalisation.

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- Croatian Parliament is expected to enact amendments to the Law on EEA Member States Citizens and Members of Their Families before 31 December 2020 to regulate the status of British citizens in Croatia after Brexit.
- We advise all British nationals to regulate their residence status in Croatia as soon as possible if they plan to reside in Croatia for more than 3 months. British nationals who reside in Croatia (e.g. based on the family reunification with Croatian citizens) before the transition period ends on 31 December 2020, will be able to stay in Croatia, i.e. they will keep their existing right of approved stay.
- Businesses can use the UK's VAT Mini One Stop Shop (MOSS) to declare sales of digital services to Croatian consumers made before 1 January 2021.

## Czech Republic



**Veronika Plešková** is an attorney, licensed to practice in the Czech Republic since April 2012. Veronika specialises in employment, immigration and corporate law. Her experience includes handling immigration

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- If you have been employing a UK citizen already based in the Czech Republic before the exit date, nothing would change for you after 31 December 2020. However, please make sure your employee has applied for issuance of a certificate of temporary residence or another residency document.
- The eligible individual can apply for the confirmation or other residency document at any time before or after the exit date. Needless to say the sooner the better.
- If you wish to hire a UK citizen with no provable residency history in the Czech Republic before 31 December 2020, you must consider them third-country nationals.

## Denmark



**Tommy Angermair** co-heads CLEMENS' employment, corporate immigration and data protection law practice. Tommy advises employers – mostly substantial multinational companies – on all aspects of both contentious

and non-contentious employment and corporate immigration law matters. He is generally recognised as one of the leading practitioners within both areas.

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- All British citizens and their family members residing in Denmark before 1 January 2021 must apply for a new residence document before 1 January 2022, even those with permanent residence rights in Denmark. Existing rights regarding residence, work etc. are maintained while the application is being processed. Any
- residence documents that have been issued in accordance with the EU rules on free movement will continue to be valid until a new document is issued.
- Applications for residence documents are to be submitted to the Agency for International Recruitment and Integration (SIRI). The new residence document serves as proof that the holder has a right of residence under the Withdrawal Agreement. SIRI will issue the new residence documents without fees or other costs for the applicant. Until the new residence document is issued, it is recommended to bring existing residence documents issued under EU-rules (“EU-registreringsbevis”/“EU-opholdskort”) when travelling to and from Denmark for the purpose of border checks.
- As of January 2021, UK nationals not residing in Denmark on 31 December 2020 will be considered third country nationals. They are required to apply for a residence and work permit to work in Denmark to the same extent as other non-EU/EEA member state nationals.

## Finland



**Jani Syrjänen** advises international and domestic clients in all employment law and pension & benefits related questions including also occupational safety, discrimination and business

immigration matters. Jani has extensive experience in litigating employment law matters; negotiating and drafting top management agreements, company policies and procedures; as well as advising employers confronting a wide range of employment law issues including inter alia, outsourcing, reorganisations and redundancies. Jani heads Borenium's Employment team.

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- If a British national has arrived in Finland before 31 December 2020 and wants to continue to reside in Finland after that day, the registration under EU citizenship should be changed to residence under the Withdrawal Agreement by 30 September 2021.
- If the British national arrives in Finland after 31 December 2020, a residence permit is usually required.
- As of 1 January 2021, it is possible for the British national to reside in Finland at most 90 days during the period of 180 days without a visa or residence permit. Other days spent in the Schengen area are included in the quota.

## France



**Stephane Coulaux** has been a Member of the Paris Bar since 1997. He is a Graduate of University of Paris and University of Kent, Canterbury.

Stephane works on Corporate immigration and international regulatory matters and is a member of the National Representative for France of the Immigration Committee of the International Bar Association. He regularly appears as a speaker on panels for the IBA, the American Immigration Lawyers Association (AILA), ABIL, the German Bar Association and CILS, on various topics related to corporate immigration issues. Stephane is recognised as one of the leading French business lawyers by *Who's Who Legal and Leaders League - Décideurs Juridiques*.

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- Every British national living in France by 31 December 2020 should apply for residence status based on the Withdrawal Agreement, even if already holding a French residence permit. The online platform for this process is already active. Employers should conduct right to work/stay checks to ensure compliance by the prescribed deadline.
- As of 1 January 2021, non-EU staff of a UK-Based company should no longer be eligible to the Van der Elst route (a visa without work permit based on the free provision of services within the EU for EU companies) and may be subject to standard French immigration rules.
- Projects of business mobility in France of British nationals will be impacted by the end of the free movement principle. Employers should take in consideration new processing time to get appropriate authorisations (visas and/or work permits). For any long stay (i.e. of more than 90 days), the need for passports valid for a minimum of 6 months should be also anticipated.

## Germany



**Dieter Kohlfürst** was born in London and is founding partner of the Law Firm Kohlfürst & Färber based in Hausham, south of Munich, Germany.

He has been practicing as an attorney in Germany for more than 20 years and is specialised in German corporate immigration, employment and citizenship law.

Dieter has extensive experience in providing a full range of immigration services for Germany to individual clients and multinational corporations from numerous industries. This includes strategic advice on immigration compliance as well as business and family immigration to Germany.

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- Even with a no-deal Brexit, continued residence of British nationals in Germany - who are entitled to freedom of movement and reside in Germany on 31 December 2020 - is guaranteed by law from 1 January 2021 onwards.
- British nationals based in Germany before 31 December have until 30 June 2021 to notify their local Foreigners Authority of their stay in Germany and apply to receive a new residence document called residence document GB.
- All British nationals entering Germany after 1 January 2021 will be considered as third country nationals according to German immigration law and require a residence permit including work authorisation, either for stays in Germany of more than 90 days or if they perform work activities.



## Ireland



**Alicia Compton**, partner, Employment & Benefits unit, leads the William Fry corporate immigration team.

William Fry support clients in and outside Ireland on all corporate immigration aspects of their operations in Ireland, most commonly: employment permits and visas, residency permissions, short and long term assignments and family reunification rights.

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- The Common Travel Area will continue to allow UK nationals to freely travel to live and work in Ireland as they have done prior to 31 December 2020.
- The Irish immigration system in place for non-EEA nationals will generally not be impacted. EEA nationals will not be impacted, they may continue to rely on EU free movement rights to work and live in Ireland.
- Non-EEA family members of UK nationals will no longer be entitled to rely on EU Treaty Rights when accompanying a UK family member to live and work in Ireland. A new system will be implemented in Ireland from 1 January 2021 for these non-EEA family members. Details of this system are not yet available but are due to be published in early 2021.

## Italy



**Marco Mazzeschi** is an Italian lawyer with more than 30 years experience. He is the founder of Mazzeschi Srl, the leading Italian firm specialising in corporate immigration and citizenship law. He is admitted to Milan and

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- UK citizens living in Italy who have never registered with the local Register Office should register with the Anagrafe (Register Office) of the municipality where they live as soon as possible before the end of the Transition Period (31 December 2020).
- UK citizens living in Italy and already registered with the local Register Office should contact the Anagrafe (Register Office) of the municipality (Comune) to apply for *Attestazione di Iscrizione Anagrafica*. This is the document attesting UK citizens' right to reside in Italy for a period longer than 3 months.
- UK citizens registered in Italy before 31 December in possession of *Attestazione di Iscrizione Anagrafica* have the right to continue residing and working in Italy beyond the end of the transition period.

## Malta



**Dr Jean Philippe Chetcuti** is a private client lawyer to HNW individuals, international families and family businesses. He specialises in residency & citizenship law, international tax, trust & estate planning, family

office structuring, family business governance and international asset protection.

Central to his role as managing partner of CCLEX, Jean-Philippe feels that continuous client contact and thought leadership remain central in keeping the firm focused on the opportunities and challenges faced by clients in the real world.

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- UK nationals relocating to Malta in 2021 for employment purposes will be required to apply for a work permit.
- UK nationals already in Malta before 31 December 2020 should apply for a new residence permit by 30 June 2021.
- Every time a Maltese company or individual imports from, or exports to, the United Kingdom they will need to (at least) complete a customs declaration. If an agreement is not reached tariffs and quotas may be introduced.

## Netherlands



**Bram van Melle** is a partner of Everaert Immigration Lawyers, a full service immigration firm in Amsterdam. He co-heads its corporate immigration practice group and publishes and teaches regularly on topics of (corporate)

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- Frontier workers can still apply (online) for a document to be able to keep the right to work in the Netherlands beyond 31 December 2020. Make sure to apply for UK frontier status for employees before 31 December.
- Employees being sent to live and work in the Netherlands may still rely on the Withdrawal Agreement if they enter the Netherlands before 31 December. They would need to prove that they take up main residence here (apply for Town Hall registration, sign a lease etc.).
- If a UK worker already entered the Netherlands before 31 December, their family members may still rely on the Withdrawal Agreement for a right to join them up until June 2021.



## Poland



A name partner at PCS, **Karolina Schiffter** is a valued expert in the field of immigration law and employee relocations, with more than twelve years of experience in handling employment law cases. She has built one of the largest

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- Polish regulations about formalities for UK nationals are still in development as of December 2020.
- UK nationals should register their stay in Poland before end of 2021.
- Lack of registration documents will not automatically abolish the right to work in Poland in 2021.

## Spain



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- Under the Withdrawal Agreement, UK nationals residing in Spain prior to 31 December 2020 continue to have the right to live and work here. Those who hold a EU registration certificate (proving their residence in Spain) can apply for a residence card confirming this right. While not mandatory, applying for the card is highly recommended to ease administrative burdens in future.
- UK nationals based in Spain who do not hold EU registration certificates must apply within the next 3 months counting from date of entry in Spain for a residence document according to the Withdrawal Agreement – it will take 3 months – and can then apply for the residence card.
- Under the Withdrawal Agreement, non-EU dependents of UK nationals do maintain the same rights from an immigration perspective as EU nationals, as well as the right to live and work in Spain. These third-country nationals can take the same steps to apply for residence cards, as described above.

## Sweden



**Jonas Lindblad** is a Counsel in Vinge's Employment and Benefits Group. With more than 15 years of professional experience, he represents Swedish and international clients in the full spectrum of employment and

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- British citizens living in Sweden at the end of the transition period, 31 December 2020, need to apply for new 'residence status', in accordance with the Withdrawal Agreement, to be able to continue living and working in Sweden. Anyone who is granted residence status will have the right to live and work in Sweden on broadly the same basis as an EU citizen. Applications must be submitted to the Swedish Migration Agency by the end of September 2021 at the latest.
- Only British citizens living in Sweden under EU free movement rules need to apply. British citizens who have a Swedish residence permit have the right to live in Sweden and therefore do not need to apply for residence status.
- As for British citizens working in Sweden but living in another country (e.g. Denmark), such "frontier workers" will be able to continue working in Sweden after the end of the transition period. Frontier workers will have the right to receive a document certifying their status as frontier workers. In contrast to British citizens who live in Sweden, there is no time limit for when frontier workers must turn in the application for this certificate.

## Switzerland



**Nina Perch-Nielsen** studied law at the Universities of Zürich as well as Copenhagen and completed her Master of Law degree in Zürich, where she was also admitted to the Bar in 2004. After having spent time assisting Swiss

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- From 1 January 2021, UK nationals will no longer be EU nationals, thus in terms of immigration to Switzerland, some changes need to be considered.
- The UK and Switzerland have agreed to continue the process of online registration for assignees who need to work in Switzerland for max. 90 days per calendar year for the next two years.
- For local hires in Switzerland, UK nationals will require prior work permit approvals – though no visas – to enter Switzerland with the purpose of work and residence.



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