

LEGAL ALERT

PREPARING FOR A POSSIBLE HARD BREXIT

Portugal approves contingency measures for the event of the United Kingdom leaving the European Union without a deal

The great uncertainty surrounding Brexit since its [beginning](#) remains. The United Kingdom (UK) should have left the European Union (EU) on 29 March 2019, exactly two years after notifying its [decision to withdraw](#), in accordance with article 50 of the [TFEU](#). However, after the withdrawal agreement negotiated between the British Government and the Union was repeatedly [rejected by the British Parliament](#), the Government requested, and the European Council granted, a first extension of the deadline under Article 50, which would have expired last Friday, April 12, due to the continuing refusal of the House of Commons to approve the agreement.

Considering the dire consequences that would have resulted from a disorderly exit of the UK, the British Government requested a new extension, [which was granted by the European Council of last Wednesday](#) for a period of six additional months, until 31 October 2019. In the event of a deal being ratified by the British Parliament until then, withdrawal will occur on the first day of the month following ratification. Still, the European Council warned that in the event of the UK not having organized elections for the European Parliament, scheduled for May 23 to 26, as determined by EU law, and not having ratified the agreement until May 22, the extension will end on May 31, meaning that the following day, 1 June 2019, the UK will cease to be a Member State of the EU.

Since a no-deal Brexit cannot be excluded in the coming months, the EU and Member States have been adopting [several measures](#) to mitigate the negative effects of a no-deal exit scenario. In this context, last January, the Portuguese Government announced a [preparation and contingency plan](#) for an withdrawal of the UK from the EU, covering a number of measures to safeguard the interests of

citizens and companies. More recently, [Law no. 27-A/2019](#), of 28 March 2019, approved contingency measures to apply in the event of a withdrawal without a deal.

This note briefly analyses the main measures of Law no. 27-A/2019 safeguarding the interests of citizens, as well as the measures included in the Government's Preparation and Contingency Plan applicable to companies.

Law no. 27-A/2019

Rights of residence

The Law establishes that British nationals and their family members residing in Portugal at the time of the withdrawal of the UK continue, after the withdrawal, to be considered residents, being subject to the rights and obligations provided in [Law no. 37/2006](#), of 9 August 2006, the legal act regulating free movement and residence of EU citizens and their families in Portuguese territory. This status continues until 31 December 2020, the deadline for the submission of the request for the issuance of a residence title, request that can already be made.

British nationals and their family members that, at the time of withdrawal, have been residing in Portuguese territory in accordance with Union law, **for less than five years**, will be granted a temporary residence authorisation. Those having resided **for at least five years**, however, are entitled to a permanent residence authorisation or the status of long-term resident.

Electoral and political rights

The Law safeguards, until the term of office, current terms of British nationals that were elected for bodies of local authorities, a political right that is attributed by the Treaties to Union citizens residing outside of their Member State of origin.

The Law also provides of the *ex officio* deletion of the registration of British nationals in electoral census lists in the event of the withdrawal be confirmed until the 15th day prior to the elections to the European Parliament.

Higher education

The Law provides that British nationals and their family members enrolled in Portuguese universities prior to the United Kingdom's exit from the European Union, as well as those that enrol until 31

December 2020, will not be considered as international students until the end of the relevant study cycle.

Social security

Regarding the right to the benefits provided in [Regulation \(EC\) 883/2004](#), on the coordination of social security systems, invoked by a person having fulfilled the insurance period in the United Kingdom, the Law establishes that insurance periods fulfilled in a mandatory social security scheme in the UK are accounted for until the date of withdrawal and that the relevant periods and benefits are calculated pursuant to the applicable EU law rules.

Professional activities

The Act provides that British nationals authorized to practice, for a certain period, a professional activity maintain such right after withdrawal. As to the recognition of professional qualifications, British nationals that at time of withdrawal practice in Portugal a professional activity in accordance with the applicable law maintain the right to said recognition, in accordance with [Directive 2005/36/EC](#) on the recognition of professional qualifications.

These safeguards are also applicable to the requests for authorisation to practice a professional activity, as well as to the requests for recognition of a professional qualification submitted before withdrawal.

Health

The Law provides that British nationals residing in Portugal at the time of withdrawal continue to be beneficiaries of the Portuguese National Health Service. Additionally, British nationals staying temporarily in Portugal retain until 31 December 2020, on presentation of a valid passport and the payment of the fee applicable to Portuguese users, the right to receive healthcare services within the framework of the Portuguese NHS. In that case, the costs are borne by the Portuguese NHS and billed to the United Kingdom on the terms established under future negotiations.

The Act does not apply, however, to cases of “medical tourism”, that is cases where British nationals travel to Portugal with the objective of receiving medical treatment.

Driving licences

Finally, the Law establishes that British nationals and their family members must exchange their driving licences until 31 December 2020, a rule which derogates the deadline established under the Driving Code. Preparation and Contingency Plan for the withdrawal of the UK from the EU.

In its Preparation and Contingency Plan, the Government announced a set of measures in order to assist Portuguese companies to prepare for the withdrawal of the UK, including:

- Holding information sessions with businesses in sectors not yet covered by the Agency for Investment and External Commerce of Portugal (AICEP) seminars;
- Publishing informative pieces in the UK specialized press;
- The organization of a second high-profile economic forum in London;
- Setting up “Brexit Helpdesks” in AICEP Export Shops;
- Setting up a Contact Centre and AICEP’s Digital Service tool to provide support and clarification on implementing measures related to Brexit;
- Consultations with entrepreneurial, commercial and industrial associations.

The Government also plans several measures to attract investment and to promote Portugal in the British market, in particular the creation of “Brexit Helpdesks” in the existing one-stop legal registration offices (*Espaços Empresas*) in Portugal for UK companies wishing to relocate their headquarters or open subsidiaries in Portugal.

Finally, with regard to Tourism, Portugal is committed to ensuring the greatest possible stability in the travels of British tourists and to reinforcing the image of Portugal as a tourism destination in the UK, notably through information initiatives with British tourism operators and by creating information channels and online information services directed at British tourists.

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