



GMS Flash Alert

Immigration Edition

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Austria – National Assembly Passes Law Concerning U.K. Nationals if No-Deal Brexit

On February 27, the Austrian National Assembly approved a law including special rules regarding the treatment of U.K. citizens residing in Austria in the event of a “no-deal Brexit.”¹

The law aims to address the rights and opportunities that concern U.K. citizens as well as their third-country family members residing in Austria, and provide for a “transition period” that would start on March 30, 2019, during which these individuals could avail themselves of these rights and opportunities (which we describe in brief detail below in this *GMS Flash Alert*).

Now approved by the National Assembly, the law is expected to be approved by the second chamber of the Austrian parliament. Please note, it will only come into force in the event of a no-deal Brexit.

WHY THIS MATTERS

After Brexit, U.K. citizens are no longer European Union (EU) citizens and thus can no longer claim residence in an EU or European Economic Area (EEA) member state on the basis of the EU treaty. As a result, they would be subject to rules and conditions similar to those required for third-country citizens in Austria and the rest of the EU. The measures of the Austrian government should help address many of the uncertainties and concerns in respect of U.K. citizens living and working in Austria in the event of a no-deal Brexit and aim to help clarify and assure their rights following March 29, 2019.

Some Brief Details of the Law Relating to Immigration

The Brexit Accompanying Law (“Brexit-Begleitgesetz 2019”) will include special rules to deal with U.K. nationals who regularly reside in Austria on the date of the U.K.’s withdrawal from the EU (effective March 29, 2019, unless postponed).

The special rules are as follows:

1. Following a no-deal Brexit, a six-month transition period starts, during which U.K. citizens can apply for a national residence/work permit to continue legally residing and working in Austria.
2. U.K. citizens as well as their third-country family members residing in Austria for a period of less than five years will be given simplified access (e.g., no proof of German language skills required, etc.) to apply for a Red-White-Red Card Plus².
3. U.K. citizens and their third-country family members (non-EU) residing in Austria for more than five years, who meet the general criteria of the Austrian Settlement and Residence Act ("NAG"),³ would qualify to apply for a national residence permit (*Daueraufenthalt-EU*).

Next Steps

As the Brexit Accompanying Act was approved by the National Assembly, it still has to pass the Upper House of parliament in a further step. As noted above, the Brexit Accompanying Act will only come into force in the event that the U.K. leaves the EU without a deal.

We will keep readers informed of important further developments.

FOOTNOTES:

- 1 See text, status, and related documentation of [Brexit-Begleitgesetz 2019 – BreBeG 2019 \(491 d.B.\)](#)
- 2 The Red-White-Red Card Plus entitles third-country nationals to a fixed-term residence and unlimited labour market access (as a self-employed or an employed individual, not limited to a specific employer).
- 3 For access to the NAG, see the [Allgemeine Voraussetzungen für die Erteilung von Aufenthaltstiteln website](#).

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