

Edito

Dear readers,

The vote on the Britain's membership of the European Union is approaching and Europe holds its breath. British nationals working as EU officials and agents also have concerns regarding the consequences of a Brexit on their position. This special issue of The Offici@l, developed in partnership with Mr. Arnaud Gillard regarding family law issues, is intended to provide some answers pending the outcome of the vote on June 23th.

We wish you an interesting reading,

DALDEWOLF team

FOCUS

BREXIT's consequences on British officials

Several British officials working for are worried about their situation, both professional and private, in the event of a BREXIT.

This being an unprecedented event, its consequences are completely unknown, since they should be negotiated between the government of the United Kingdom and the European Union (a union of 27 member states without the United Kingdom) once the decision to leave the EU has been ratified by the British authorities.

A. Therefore, as regards the European civil law, it needs to be seen whether the EU authorities on the one hand and the British ones on the other would decide to keep, in the form of treaties, the regulations that currently apply to the United Kingdom in its capacity as a EU Member State (a rather particular situation, due to the possibility of the UK to opt-in or opt-out depending on the subject).

B. Regarding the tax advantages offered by the Protocol on the privileges and immunities of the European Union (PPI), namely the fact that an official continues, *among other things*, to be regarded as a tax resident of the country of recruitment even if he or she lives in Belgium or elsewhere in the European Union, it is also still to be seen what the competent authorities will decide in case of a BREXIT.

Indeed, there is a technical solution to maintaining British staff in employment, since the Staff Regulation provides that an official must be a citizen of an EU Member State at the time of recruitment, which is the case of already employed officials. However, article 49 of the Staff regulations provides that an official may be required to resign if he is not a national of one of the EU Member States anymore. This is a political decision. Another issue to be solved is whether the EU authorities will keep in service all the officials of all grades and categories coming from a country which is no longer a Member State.

In conclusion, the situation remains today one big question mark as to the consequences of a BREXIT, besides the fact that it casts doubt on the very principle which a UK's exit is based on.

It is therefore almost impossible to predict anything at this stage.

FAQ

«Security clearance» (security accreditation granted by the government of the country of origin after a «screening» of the official's life, behaviour, political sympathies as well as his/her family and friends-with differences depending on the country). Should another citizenship be required, will a «security clearance» by the new country be necessary?

Given that the issuance of security accreditations depends in the first place on the security authority of the country of whom the official concerned is a citizen and that accreditation procedures may vary from one EU Member State to the other, a change in citizenship would imply a new accreditation application to be introduced to the security authority of the country from which the official has obtained his/her citizenship.

What happens when an official has dual citizenship?

Officials who have dual citizenship may choose one or the other, except when their main place of residence is fixed in the country of one of the two citizenships (in short, someone who has British and Italian citizenship in Belgium may claim one of the two citizenships; someone who has British and Belgian citizenship in Belgium is considered only as a Belgian citizen).

What are the necessary criteria to apply for the Belgian citizenship?

In the case of the EU official, three main hypotheses can be considered, according to his/her family situation and the duration of his/her legal stay in Belgium (considered as the main place of residence where the EU official is registered). The following criteria should be met:

	1) British official who has been legally staying in Belgium for at least 5 years	2) British official who has been legally staying in Belgium for at least 5 years AND who is married to a Belgian citizen or has a Belgian child	3) British official who has been legally staying in Belgium for at least 10 years
Knowledge of French, Dutch or German (the Belgian national languages)	✓	✓	✓
Proof of his/her social integration in the country (Belgian certificate of secondary education or higher education degree, work experience for a Belgian employer, integration path, etc.)	✓	✓	
Participation in the country's economic life (468 working days OR 1,5 years of paid social security contribution in the previous 5 years)	✓		
Proof of his/her participation in the host community's life (member of a district's association or a sports club, professional activity or trainings in Belgium, etc.)			✓

What are the chances for those EU officials that are married to someone who has a different citizenship?

British officials whose spouses have a different citizenship may apply for the same citizenship of their spouse, if they do not possess it already according to their spouses' country applicable legislation.

Application of articles 42c or 50 of the Staff regulations: « Leave / retirement in the interest of the service... » ?

The scope of Articles 42 c and 50 of the EU Staff Regulations is rather restrictive and only covers very specific situations which do not directly concern the case of a Member State exit from the EU.

If case of Brexit, it is more likely that the EU Institutions will provide the legal framework on the impact of Brexit on British officials by adopting a new regulation that is independent of the EU Staff Regulations. The European Court of Justice has already recognized the validity of such regulations governing the permanent termination of EU civil servants service, in particular on the occasion of the accession of new Member States.