



The free movement of workers is one of the pillars of the European Union giving every citizen of an EU-member State the right to job hunt in another EU-member State, to work in that country without work permit and work card, to live in that country whilst working and to be guaranteed the same treatment as citizens of the EU-member State when it comes to work conditions, work circumstances and all other social and fiscal benefits.

In the draft withdrawal agreement this right is guaranteed so European employees can work in the United Kingdom and British employees can work in the EU.

Given the current precarious situation concerning the agreement on the Brexit-deal, chances are real that the right to free movement will have to be abandoned. A problem will arise as to the rights and duties of the British and EU citizens that, up to that point, benefitted from EU law.

In case of a no-deal scenario there will be no talk of a transition period. An abrupt end of the free movement of workers will be inevitable. The United Kingdom will no longer be an EU-member, but a proper “third country”.

This will undoubtedly have an impact on posted employees and foreign employees that work permanently in Belgium or the United Kingdom.

## **THE POSTED EMPLOYEES**

### *British Employees working in Belgium*

In case of a no-deal scenario the United Kingdom will become a “third country”. The EU directive 96/71/EG on posted employees states that companies that have

their registered seat in a third country cannot benefit from a more favorable treatment than the companies with registered seats in an EU-member State when it comes to applicable work conditions. The Belgian Statute of 5 March 2002, the Posted Workers and Social Documentation Act, will remain applicable in case of a secondment from the UK to Belgium. Therefore in practice nothing changes.

### *Belgians working in the UK*

In this hypothesis the EU directive 96/71/EG on posted employees will obviously no longer apply, since the UK has become a third country. It will have to be investigated to what extent a possibility will exist to post employees from European companies in the UK and under what conditions. UK law will then apply.

## **EMPLOYEES STATIONED ABROAD PERMANENTLY**

### *British Employees working in Belgium*

This situation envisions a British employee working permanently in Belgium for a foreign employer.

In case of a no-deal scenario the Rome I regulation on the law applicable to contractual obligations will apply in Belgium, unchanged. Even when the parties to the agreement have chosen the application of UK Law, the Rome I regulation will have bearing and will have to be applied by the Belgian Labour Courts.

### *Belgians working in the UK*

In case of a no-deal scenario no transition period will take place. The Rome I regulation will, as of March 30<sup>th</sup> 2019, no longer be in force in the UK.

In that hypothesis it will have to be investigated which work conditions are in force in the UK, under UK Law.

MVVP can assist you and/or your company as to the consequences of the Brexit on your employment and/or that of your employees. MVVP can fall back on a wide network and contacts with UK Lawyers.



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