

Citizens' Rights online outreach event, 23 September 2021

Panellists:

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Prisca Merz - Foreign, Commonwealth & Development Office (FCDO)

Eva Pflieger - Bundesministerium für Inneres (BMI)

Manfred Pörtl - Bundesministerium für Soziales, Gesundheit, Pflege und Konsumentenschutz (Social Ministry)

Andrew Tate - Foreign, Commonwealth & Development Office (FCDO)

Introduction from British Embassy Vienna:

The embassy welcomed participants and gave a brief update on residency, labour market access and healthcare for UK nationals living in Austria. The key points were:

- All UK nationals need to apply for an Article 50 card before 31 December 2021 to stay in Austria and should apply now.
- 62% of UK nationals in Austria had applied by the end of July 2021.
- The embassy is working hard to reach as many people as possible, but we need your help: please speak to other UK nationals and let them know they need to apply.
- If you intend to drive in Austria and have not yet exchanged your UK driving licence for an Austrian one, you need to do so now.
- Only 2 regions have not yet confirmed that UK nationals in scope of the Withdrawal Agreement will be treated as equal to EU nationals when buying property. We expect their confirmation shortly.

The floor was then opened to questions.

- 1) Are British citizens covered by the Withdrawal Agreement limited to the Austrian labour market? If so, are there any efforts being made to allow these individuals to work in the EEA freely as before Brexit? Being restricted to the Austrian market really stumps career development options.**

FCDO: the Withdrawal Agreement protects the rights of UK nationals in the EU country where they were living before the end of 2020. The right to onward movement or the right to continue to move freely to other member states was not covered by the Withdrawal Agreement. This means that if a UK national covered under the Withdrawal Agreement in Austria wishes to move to another EU Member State to live/work, the UK national would need to check and follow the immigration rules in that EU Member State.

- 2) I applied for my Article 50 card in January and was given the application certificate, but have still not received the Article 50 card. Is there any way I can chase this up? I've tried contacting MA35 with no luck. I might be leaving Austria next month but hope to be back next year to work - will I need to have received the card in order to do this?**

BMI: if you have applied for residency in Austria and you have the documentation to confirm your application, you can use this to travel. MA35 have provided the following e-mail address to follow up on the progress of your Article 50 card:

anliegen@ma35.wien.gv.at

Please include the following information:

- put your individual case number in the subject line of the e-mail (please note: the individual case number can be found on the document confirming your application);
- first name, surname;
- date of birth

Please note: for UK nationals granted long-term residence status in Austria, the UK national can be out of/away from Austria for up to 5 years without it affecting your immigration status.

Otherwise, UK nationals who do not have long-term residency can only be out of Austria for 6 months (in special circumstance such as illness, pregnancy, study this can be extended to 12 months).

- 3) **My question is similar. I live in France and have a French article 50 card but I am aware that I am not allowed freedom of movement to work in Austria. Prior to Brexit I worked as a part-time ski instructor in St Anton. My ski school has stated that I would have to become an Austrian resident to continue working. There does not seem to be a system for British 'saisonnaires'. Are any steps being taken to rectify this? Ironically, I pass the points test as I have an Austrian sports instructor qualification and have worked 8 years in Austria.**

BMI: *if a UK national wants to work seasonally in Austria, you will need to apply for an employment permit/visa. There is no special visa for UK nationals. You will be treated like any other Third Country Nationals (TCNs). Your employer should get in touch with the AMS for a work permit and then you can apply for a visa type D.*

FCDO: *Ski qualifications received in Austria before Brexit will be recognised by the Austrian ski authorities.*

- 4) **Firstly – thank you for organizing this session! On the ‘Living in Austria’ website it states that “If UK citizens with a Legitimationskarte get an Article 50 Card your status will be changed to ‘limited privileges and immunities’”. The privileges and immunities of IAEA (and other UN Organisations in Vienna) staff (‘officials’) are enshrined in the Host Government agreement signed by the Austrian Government – and, apart from some exemptions for ‘Austrian Nationals’ and ‘locally recruited’ staff – there is no mention of residency or other ‘nationalities’. I know that the GOV.UK webpage it says to contact our HR department – but I would like to hear the explanation from the UK Embassy and the Austrian Ministry as to the legal basis for the statement that “If UK citizens with a Legitimationskarte get an Article 50 Card your status will be changed to ‘limited privileges and immunities’”. Any information about which P & I will be reduced would also be appreciated. Thanks.**

BMI: *The question is best answered by the Austrian Ministry of Foreign Affairs, due to the legislation that outlines diplomatic privilege in Austria.*

FCDO: *The Austrian MFA have told us that it is possible to hold the Article 50 Card and legitimation card at the same time. If you do so, you will have the same privileges and immunities as an Austrian national in the same role.*

Note: For the legal basis, see

<https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20009822&FassungVom=2021-04-30&ShowPrintPreview=True>

- 5) **I have not yet applied for the card and am self-employed here in Austria. Is there a minimum income threshold for the Article 50 card?**

BMI: there is no income requirement, applicants would just need to prove that they are self-employed.

- 6) **As I'm sure you are aware, Covid has hit some families' finances badly this year. There have been a number of comments from British in Austria members that they have not applied for their Article 50 card yet because of financial circumstances. Can the panel offer any specific advice around this area particularly minimum income/savings levels?**

BMI: If any member of the family (parent) is employed, every family member can rely on the status as family member. Income levels will not be looked at by the Austrian Immigration authorities. In this situation, the whole family (including children under 21 years old) will be covered. Under the Withdrawal Agreement there is no minimum income level required.

UK nationals who have lost their job because of COVID-19 will need to show that they are actively searching for employment.

Proof will be needed to show that they are actively looking for work. For example: proof that they are registered with the Austrian Labour Market service (AMS), proof that they can show a long employment history, proof that they are actively applying for jobs now. In this situation, there is no income requirement.

- 7) **A friend asked me to ask on his behalf about what steps he has to take with a 5 year Art 50 EUV card if he is going to be out of the country for a few months to ensure that his residence isn't considered to be interrupted. Does he need to contact his Bezirkshauptmannschaft in Lower Austria about this or fill in a form or similar? Or have some kind of proof that he has not been away for more than 6 months.**

BMI: There is no form and the UK national would not need to get in touch with the local office beforehand. However, it is important to be able to document how long you have been away from Austria. For example, you can use stamps in your passport as proof, save plane tickets, save travel itinerary.

Although not directly linked to the residency application process, if a UK national is registered locally at a particular address in Austria and will be away from Austria for a longer time, UK nationals should inform the local Gemeinde that you are away/not living at this address during this period. Then re-register on return to Austria.

- 8) **I've been in the UK looking after my father who was a in a Covid risk group and had a series of heart attacks (I needed to drive him to appointments etc as his driving licence was revoked) so I've not been able to return to Austria for over 12 months. Will I have any difficulties at the border? On the driving licence issue I do not need a licence for Austria, can I keep my UK licence while being resident in Austria? And finally my partner is taking Austrian citizenship - it**

has been confirmed, she just has to renounce her own citizenship. Do I need the Article 50 card or would it be better to explore other options?

BMI: *As you have been out of the country for 12 months and assuming that you haven't yet had the opportunity to apply for the Art.50 card, you can enter into Austria visa free due to the 90/180 rule. Depending on your individual circumstances the Austrian immigration authorities will then need to consider in more detail, whether you are entitled to residency under the Withdrawal Agreement.*

Once your partner has Austrian citizenship, assuming that you are married or in a registered partnership, you could consider applying for a residence permit as a family member. During the 90/180 visa free stay, you can apply within Austria for this spousal permit. Please note if you don't have a residence permit at the end of your visa free stay, you must leave the country.

FCDO: *On driving licences, if a UK national is living overseas, you cannot renew a UK driving licence whilst living outside of the UK. However, UK driving licences can be used overseas when visiting an EU country.*

If a UK national has a UK driving licence, on moving to Austria the driving licence must be exchanged within 6 months.

You can find more detail in the [Living in Austria guide](#).

- 9) HR employee here - would like to follow up on the privileges rather than the immunity (On the 'Living in Austria' site it says contact your HR). We advertise things such as tax free cars, commissary privileges etc. for international staff. These benefits are enshrined in a separate law. After your contact with the ministry is this also something that they are looking to revoke for British citizens or is it mainly about immunity?**

FCDO: *different international organisations have different agreements with the Austrian MFA, therefore we advise you to contact the Austrian MFA directly.*

- 10) I have been issued a 5 year Article 50 card but at the interview I was told that I would receive a 10 year card because I had applied for the Daueraufenthalt für EU-Bürger last year but it was not processed. This may be a clerical error but I am unable to get through to the MA 35 by phone or email in Vienna. I have been emailing. I have emailed the anliegen@ma35.wien.gv.at email address already earlier in the week (as I just found this address) but have only received an automated message so far. Do you have any idea how long I should need to wait for a reply? Please ignore this question if already answered.**

BMI: *the Austrian Ministry of the Interior suggested that you should give MA35 14 days to reply. It was correct that you should have received an automated message confirming that your e-mail had been received but due to the volume of UK residency related questions, it is taking MA35 time to reply to each e-mail.*

- 11) I obtained a 5 year Article 50 card recently, as I live and work here, and I got my 17 year old child a 'family' Article 50 card. If I am no longer here in Austria in 5 years time, will my child be allowed renew their Article 50 card by themselves (if they have been here for the whole 5 years)?**

BMI: Yes, the change in your child's status (for example, to a residence based on being a student or worker) will be protected by the WA - long term residence status can be obtained as long as the child continues to fulfil the necessary criteria, as set out before the UK left the EU. You don't need to be in Austria for your child to obtain residency status as an adult.

12) Do I need to apply for my 5 year residency card renewal before my 5 year residency card runs out?

BMI: Yes - it is very important that you apply for renewal of the 5 year residency card, before the 5 year card runs out. **Set multiple reminders because you will not receive a reminder from the local authorities.**

Please note: at this time, as most applicants will have been in Austria for 5 years, if they meet the necessary criteria they can apply for a long term residence card which is valid for 10 years.

Due to the Withdrawal Agreement, if a UK national was living in Austria before Brexit, the years living in Austrian as an EU citizen will also count towards the 5 years of legal residence in Austria.

13) We have owned a property / holiday home in Austria for over 10 years. I am now in process of retiring and it was always our intention to split our time equally between Austria and UK. Can we apply for Article 50 card or will we simply have to rely upon visas. Is there any best advice? What are health requirements? Will this have any effect on our property ownership?

BMI: If you had worked in the UK and only been in Austria on holiday visits, then the Withdrawal Agreement (and the Article 50 card) will not protect you because the Withdrawal Agreement is about protecting past life choices. Therefore you can utilise the Austria visa free entry and remain in Austria on the 90/180 rule or you can apply for the Visa type D, allowing you to remain in Austria for up to 6 months.

However, if you had already lived in Austria before 31 December 2020, you can apply for residency and apply for the Art.50 card.

Social Ministry: There are no health requirements affecting property ownership in Austria.

14) I have a comment for the Embassy in relation to the questions about freedom of movement across EU borders. Several months ago I noted that there had been 5m applications by EU citizens for the UK article 50 card but only 275,000 UK applications across the EU for individual country equivalents. This is a massive disparity and it seems unfair that so many EU citizens were welcomed by UK but freedom of movement for UK citizens in the EU was not negotiated. This leaves UK citizens in the EU feeling betrayed.

FCDO: During negotiations on the UK's exit from the European Union, the UK government pushed for freedom of movement to be part of the Withdrawal Agreement but this was rejected by the EU.

Please note the number of UK applications across the EU is now closer to 1 million.

15) I have already got my 10 year Article 50 card... relatively straight forward and arrived in 3 weeks from start of application. However they wanted to charge me until I asked them to check as I had the previous EU certificate and had been told it was free. When picking it up they reminded me that I will need to return to their office in 10 years to renew the card (and the 10 years after that ...) My question is: Will I need to pay the charge in 10 years time or is the renewal also free?

BMI: *These rules fall under the Austrian Ministry of Finance. The BMI will check with the Finance Ministry.*

16) I have my EU50 card and if I have to work overseas regularly and it totals around seven months or so within one year, does this jeopardize my residency here? If so, can I do anything to mitigate? My wife is an AT citizen. Thanks!

BMI: *If your Article 50 card has been issued for 10 years, your residency will not be affected.*

If you have an Article 50 card and it is only valid for 5 years, you will need to be in Austria for 6 months per year, calculated on a rolling basis. This is also the case if your residency is based on being a family member of your wife, who is Austrian.

FCDO: *In addition, please ensure that you have the right permit for the activities you plan to undertake in other EU countries. For example, UK citizens have the right to visa free travel for 90/180 in another Schengen country and this covers travel for tourism or some business activities like attending conferences. However, other business-linked activities will require a residency or work permit in the EU member state where you have travelled. You will need to check these rules directly with the EU MS where you will work. Our [travel](#) advice and [this page on gov.uk](#) are good places to start looking.*

If you regularly commute to another EU country or FTA country, you might also fall under the classification of a frontier worker. There are special arrangements in place for frontier workers. See our [Living in Austria guide](#) for further information.

17) If I move province will this affect my renewal procedure for the Art 50 EUV? For example I got my 10 year card in Vienna. What happens if I move to Lower Austria (if they let me buy a property!) or another province?

BMI: *If you have your Article 50 card you can move within Austria and buy property. When the time comes to renew your Article 50 card in 10 years' time, you will need to make the renewal application in the Bezirkshauptmannschaft or Magistrat wherever you are living.*

If you are in the process of applying for your Article 50 card and decide to move, you will need to inform the local immigration authorities of both 1) where you have moved from and 2) moved to. This will enable them to transfer your application.

18) Just wanted to ask if there has been any progress in UK regarding removal of the 15-year rule on voting rights (as promised in the government's election manifesto)? Thank you

FCDO: *The Bill to deliver on the Government's promise of 'votes for life' was introduced on 5 July and is currently moving through the Westminster parliament. Subject to the Bill securing the necessary Parliamentary approval, it is intended that these changes will come into effect in time for the next scheduled General Election in 2024.*

19) Explain basis of health insurance? What should British people be aware of?

Social Ministry: *In Austria the health insurance system is not based on residency but on income. The system is mainly based on being employed or self-employed but please note, as a pensioner you are always insured.*

If you work in Austria and have applied for the Article 50 card then the employer is obliged to register you. If self-employed, you must register yourself.

If a UK national has resided in Austria and is entitled to a pension, this is automatically done by the Austrian pension institute

If you reside in Austria but receive a UK pension and are entitled to benefits under the UK system, you complete the S1 form and will receive an Austrian health insurance card (e-card).

For social security and healthcare insurance, the Trade and Co-operation Agreement (TCA) has more or less copied EU Legislation. This applies to relations between Austria and the UK and includes aggregated insurance periods across all EEA member states, Switzerland and the UK.

20) A comment from my learning - as there are a few comments about silence from Austrian authorities when they are asked questions by email. I found very quickly that my emails in English were never answered by Austrian authorities, but my emails were responded to immediately when I wrote in Deutsch. 😊

The Austrian authorities explained that there is no rule in place that results in German emails being answered more swiftly than English. Both English and German questions will be answered but please do note that German is the official language of Austria.

21) Is there anything you can do if you have a job offer but the employer would like to see evidence that you have the right to reside, but you are still waiting for your Article 50 card?

BMI: *The Austrian Ministry of the Interior suggest that UK nationals who have been given a job offer, show the document confirming that an Article 50 card has been applied for. As it states on the BKA website, this document confirms that a UK national is being considered for residency and has the same rights under the WA as before the UK left the EU.*

22) As a pensioner, with a S1 in place, the requirement to have an adequate level of income/funds, does it matter where the funds are located? I.e AT or UK?

BMI: *It doesn't matter whether your money is in an Austrian or UK bank account. What matters is that you have access to bank account and can prove that you have adequate income/funds and can show where the money was acquired.*

23) When arriving into Vienna airport, can you use the EU passport gate with an Article 50 card plus a UK passport. Or do I have to use the All Passports?

BMI: *UK nationals should use the All Passports gate.*

24) My citizenship is UK my wife's is AT. We are considering moving to UK in the 10 - 15 year period. Is that possible? I hear that it might not be.

FCDO: *It is perfectly possible. If you move before 29 March 2022, your Austrian wife will be able to apply under the EU Settlement Scheme. For moves after March 2022, the UK's domestic immigration rules will apply. Please see [gov.uk](https://www.gov.uk) for [more information](#).*

25) I have also not been given Bescheinigung der Antragstellung. Was in Burgenland moved to Oberösterreich. If I ask for one will they provide one?

BMI: *All immigration offices across Austria had been instructed to provide applicants with a Bescheinigung der Antragstellung. If you haven't received the Article 50 card, please inform your new magistrate/Bezirkshauptmannschaft in Oberösterreich and let them know that you have already applied in Burgenland. You should then be provided with the necessary paperwork confirming your application.*

26) I recently got my passport stamped when leaving Vienna airport (even when showing an Legitimationscarte and Meldezettel) - should that have happened?

BMI: *Yes, legitimation card holders who are not EU citizens should have their passport stamped. Holders of all residency permits other than the Article 50 card should have their passports stamped. The only exemptions to this rule are for airline staff who are in transit or if you part of an official delegation visiting Austria at the request of the Austrian government and using a diplomatic passport.*

Note: this answer has been slightly updated from that given in the meeting, to clarify that Article 50 card holders should not have their passport stamped when entering or exiting Austria.

An incorrect passport stamp does not change the rights held by a UK national covered by the Withdrawal Agreement.

If a passport is incorrectly stamped, the stamp is considered null and void when accompanied by evidence of lawful residence. This evidence includes but is not limited to: a residence permit, certificate of application, frontier worker permit or other document that evidences residence in the EU prior to the end of the transition period (e.g. a utility bill with an EU address).

Some border authorities may annul incorrect stamps when presented with evidence of residence, but this is not required.

27) Any plans by Austrian authorities to contact people who have not applied, especially the large numbers in Vienna?

BMI: *This issue had been discussed extensively - use of Austrian government data for this purpose would breach Austrian data protection laws.*

FCDO: *The British Embassy in Vienna have also raised this question repeatedly with the Austrian government. In addition, we have run a number of outreach events and an extensive communications campaign to encourage UK nationals living in Austria to take action. Please help us by telling any British friends and family to get the card!*