

Do you have student children studying in another country where they do not yet have residency, or have friends who do? If so, this could be important information for you and them.

For a small number of students, mostly in their first year of study abroad but who are studying online from home due to COVID-19, the end of the transition period could pose potential problems.

NOTE: BiE has had clear indications from the UK authorities through publicly available information about the position of EU students studying remotely at a UK university and the problems that may arise. We do not yet have similar clear, confirmed information from the EU about UK students studying remotely at a university that is not in their host state. The information below is thus provided to inform your own decisions, but **we recommend that you also take advice from the university and the authorities in the country where your child is studying.**

Check at a glance if you are affected and read on for the detail.

	Nationality		Residency		University			RECOMMENDATION
	UK	EU	UK	MS1	UK	MS1	MS2	
1		X			X			Read below - Action may be needed before 31.12.20 to secure your rights
2	X			X		X		No action needed
3	X			X			X	Read below - Action may be needed before 31.12.20 to secure your rights
4	X			X	X			No action needed

Key: MS1 – EU Member State 1

MS2 – EU Member State 2 (different to 1)

THE DETAIL

A) The UK position re EU students studying remotely at a UK university

The UK has confirmed that if an EU national student is taking a course at a UK university but due to COVID-19 is studying remotely at home during the first term rather than in the UK, they will not benefit from Withdrawal Agreement status and will need to apply for a student visa if they do not go physically to the UK to study until after the end of the transition period (31.12.20). They will need to apply under the new UK points system, which [opened for students on 5 October](#).

B) The EU position re UK students studying remotely at an EU university, which is not in their host state

We raised this with the European Commission in a meeting as we know that many of you living in an EU country have UK national children who are enrolled in universities in a different member state but who haven't yet physically taken up residence there because of COVID-19 and are currently

studying remotely from home. If they don't apply for residence as a student in their country of study before the end of the transition period (31.12.20), there is a risk that they too may have to apply for a student visa as a third country national when they do move there to continue their studies.

The Commission is aware of and is considering this issue, but doesn't yet have a definitive response and could give us no timeline for this. In trying to establish the position in the different scenarios below, all we can go on is the available legal provisions and communications: the Withdrawal Agreement, plus the EC directive on which it is based, plus the EC Guidance Note on the Withdrawal Agreement and relevant EU case law.

STUDYING IN ANOTHER COUNTRY - THE DIFFERENT SCENARIOS

1) EU citizens studying in the UK who do not hold British nationality

e.g. Jutta is a German national studying at a London university

If Jutta already moved to the UK, applied for and has been granted settled status (after living there for more than five years), she will be covered by the Withdrawal Agreement.

If she moved to the UK to study less than five years ago but left the UK earlier this year to return to Germany because of e.g. the pandemic and has been outside the UK for more than six months she needs to return to the UK before the end of this year and (re) apply for pre-settled status.

If Jutta has not yet moved to the UK because of COVID-19 and is currently studying remotely from home, she should go to the UK if possible and apply for pre-settled status as a student before the end of the transition period. She will then benefit from the Withdrawal Agreement. She can then return to Germany for up to six months a year without losing her residence status in the UK. If she does not do this, she will have to apply under UK immigration rules for a Student Visa. She will also lose valuable rights to change status under the Withdrawal Agreement after graduation and to look for and take up work in the UK without needing a work permit. The application for settled status is online and cannot be done from outside the UK.

2) EU-resident British national students studying in their host country

e.g. Laura lives in the Netherlands and is studying there

No issues: Laura will be covered by the Withdrawal Agreement providing she is resident in her host country, the Netherlands, before 31 December 2020.

3) EU-resident British national students studying in a second EU country

e.g. Emma lives in Spain and is studying at a university in the Netherlands

If Emma has already moved to the Netherlands, applied for residence and spent or will spend more than six months there this calendar year under current EU rules, she will be covered by the Withdrawal Agreement.

If Emma has already moved and registered in the Netherlands but has spent or will spend more than six months outside the Netherlands this calendar year, she needs to check the position with the authorities in the Netherlands. **She may need to move to the Netherlands again** and re-register as

spending more than six months outside the Netherlands will lead to loss of ordinary residence status and so she may not be covered by the Withdrawal Agreement.

If Emma has not yet moved to the Netherlands because of COVID-19 and is currently studying remotely from home in Spain, she needs to check the position with the authorities in the Netherlands. The same problem could potentially arise as for Jutta and EU students in the UK: **i.e. that she will not be covered by the Withdrawal Agreement unless she goes to the Netherlands and applies for residence as a student under current EU rules before the end of the transition period (31.12.20).** She can then return to Spain, her host country, for up to six months a year without losing her residence status in the Netherlands. If she does not do this, she may have to apply for a Student Visa as a third country national in the Netherlands. At the same time, she will want to make sure that she can show residence in Spain before 31.12.20. Otherwise, she faces losing valuable rights under the Withdrawal Agreement to change status after graduation, and to look for and take up work without needing a work permit, in the Netherlands or in Spain.

4) EU-resident British national students studying in the UK

e.g. Lewis lives in the Netherlands but is studying at a UK university

There are no issues for Lewis even if he is currently studying remotely from home, as he has the right to live in the UK both before and after the transition period.

FURTHER READING

British in Europe has issued [several guides on the Withdrawal Agreement](#), in particular see the ones on Residency Rights.

For more information on UK Settled Status, see the [Government site](#).

British in Europe
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