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Previous position

- A British citizen could exercise Treaty rights as a worker or self-employed person in another EEA member state and a non-EEA national family member could qualify under European law on this basis
- The British citizen was not subject to any minima or maxima on how long the exercise of Treaty rights took place in that EEA member state.



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Revised position

The normal consideration process will not change, so the British citizen must still have been exercising Treaty rights, as either an employed or self-employed person, in another EEA member state.

However, the amendment to the EEA regulations includes regulation 9(2)(c), which imposes a duty on the British citizen to prove that they had **transferred the centre of their life** to the EEA member state in which they were exercising Treaty rights.



Transferral of the centre of life

Regulation 9(2)(c) imposes a duty on the British citizen to prove that they had transferred the centre of their life to another EEA member state.

Regulation 9(3) provides a list of factors that must be taken into account when considering whether the British citizen had transferred the centre of their life. This list includes:

- the period of residence in the EEA state as a worker or self-employed person
- the location of the British citizen's principal residence
- the degree of integration of the British citizen in the EEA state



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Transferral of the centre of life

Period of residence in the EEA state as a worker or self-employed person

Generally, the longer the British citizen has been exercising Treaty rights in another EEA member state, the more likely it is that they will have transferred the centre of their lives.

There is still **no minimum time period** that must be spent in the host member state and all cases must be assessed on their own merits.



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Transferral of the centre of life

Principal residence

The principal residence is the place and country where the British citizen's life is primarily based.

'Primarily' does **not** mean 'solely' – e.g. you cannot refuse if the British citizen returns to the UK regularly, so long as their principal residence is in another EEA member state.



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Transferral of the centre of life

The degree of integration of the British citizen in the EEA member state

There are many factors that may indicate the degree of integration, examples may include:

- Does the British citizen have any children born in the host member state? If so, are the children attending schools in the host member state?
- Does the British citizen have any other family members resident in the host member state?
- Has the British citizen immersed themselves into the life and culture of the host member state? For example, have they bought property there? Do they speak the language? Are they involved with the local community?



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Transferral of the centre of life

Consideration

The more factors there are present from the previous three slides, the more likely it will be that the British citizen has transferred the centre of their life to the host EEA member state.

If you are not satisfied that this criterion is met, the application can be refused under regulation 9(2)(c). Applications refused under this regulation will attract an in-country right of appeal under regulation 26.