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WORKING PAPER

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NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Brexit Preparedness seminar on Citizens' Rights - Council Working Party Art. 50 on 24 September 2019 (slides)

Delegations will find attached the slides of the abovementioned seminar presented by the Commission during the Working Party Article 50 on 24 September 2019.



Brexit Preparedness seminar on citizens

Council Working Party
(Article 50 Format)
24 September 2019

I. Introduction by the Chair

II. Citizens' Rights in relation to the UK withdrawal from the Union without an agreement

- A. Residence rights: State of play on the situation in the UK and in the EU27
 - 1) State of play on the situation in the UK: The EU Settlement Scheme (EUSS)
 - 2) State of play on the situation in the EU27
- B. Visa issuance, travelling and tourism
- C. Voting rights
- D. Recognition of professional qualifications

III. Social Security Coordination in relation to the UK withdrawal from the Union without an agreement

- A. Healthcare (including technical arrangements and data exchange issues)
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IV. Closing remarks by the Chair

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The EU Settlement Scheme (EUSS)

A process to register EU, EEA and Swiss nationals living in the UK

- Assigns Settled (5 years or more) or Pre-Settled Status (under 5 years).
- Application is free.
- Opened 29 March 2019 (testing phase August 2018-March 2019).
- Applicants need only show residence + that they have not committed serious crimes.
- In 2018, there were an estimated 3.35 million people with EU, EEA or Swiss nationality living in the UK. This excludes Irish nationals, who can apply but usually do not have to.
- The EUSS prefers applicants to scan their identity documents using the 'EU Exit: ID Document Check' application (currently available only for Android devices). In the event that someone cannot scan their documents digitally, they can do so for a fee at one of 77 document scanning centres.

State of play - issues

- Numbers – 1,151,000 applications concluded; 62.4% received Settled Status, 37.1% received Pre-Settled Status, 0.5% had “other outcomes”.
- Percentage of those receiving Pre-Settled Status increasing.
- No physical document.
- In the event of No Deal – lack of clarity.
- Vulnerable applicants – Home Office has provided £9M to 57 organisations, only a partial success; Situation of EC Representation; National Administrations.
- Refusal – criminality?
- Discrimination – second “Windrush”?

Ongoing actions

EU level

Action taken by EC Representation

- Immigration advice support;
- Regular meetings with Home Office, EU Embassies and stakeholder groups;
- Social Media;
- Information campaign.

Citizens' rights in the UK in a no-deal scenario

EU27 citizens residing in UK before withdrawal:

Generally, same as in deal scenario: **EU settlement scheme**, apply by 31 December 2020.

Changes announced by UK government:

- keep out and deport more EU citizens who committed crimes;
- remove blue EU customs channel (requiring travellers to make a de facto customs declaration);
- no more right for post-withdrawal arrivals to permanent residence under retained free movement law;
- no more rights for UK nationals who move to the EU after withdrawal to return with their family members without meeting UK family immigration rules;
- introduce blue UK passports;
- phase out accepting national ID cards (date to be specified) and insist on passports.

Citizens' rights in the UK in a no-deal scenario

EU27 citizens arriving after withdrawal:

Until 31 December 2020, EU citizens can live, study, work and access benefits and services as they do now.

European temporary leave to remain (Euro TLR):

- Transitional scheme until new points-based immigration system in January 2021.
- Apply by 31.12.2020; free of charge; online process; identity, security and criminality checks.
- If successful: 36 months' leave to remain from the date it is granted.
- Euro TLR time may accrue towards the qualifying period for indefinite leave to remain.

Proof of status:

- until 31.12.2020: digital status, passport or national identity card.
- after 31.12.2020 digital status AND passport or national identity card.
- Checks, for example, when applying for a new job, tenancy or bank account.
- Crucial: proof of date of arrival; arrivals increasingly ask for passport stamps.

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Status of UK nationals residing in EU27 on Brexit day: national contingency measures

Residence rights: national contingency measures

- Overview on Brexit Preparedness website (last update 21 Aug 2019);
- Please notify regularly any changes;
- Outreach to citizens.

Status of UK nationals residing in EU27 on Brexit day: long term resident status

Long term resident status

- EU versus national long term status.
- Specific questions from Member States:
 - permitted periods of absences (criteria under Directive 2003/109 stricter than under 2004/38);
 - periods of residence covered by «NATO Status of Forces Agreement» or as a diplomat or similar constellations.

Status of UK nationals residing in EU27 on Brexit day: **temporary documentation and permits**

- Many Member States plan to recognise certificates issued under Directive 2004/38/EC as residence permits for a certain period.
- **Notifications (under Article 39 Schengen Borders Code) must be sent to Commission in time.**
- By now a vast majority of Member States have submitted their respective notifications.
- A corresponding update of Annex 22 to the Schengen Handbook will be published on 31 October.
- All Member States that have not yet submitted their notifications are asked to do so as a matter of urgency.

Background and reference information

Commission factsheets/announcements

https://ec.europa.eu/unitedkingdom/services/your-rights_en

<https://www.eurights.uk/your-rights>

- *[Overview](#) of national measures on UK nationals' residence rights in the EU27 (updateable in case of developments)*
- *[Factsheet](#) (March 2019): The rights of UK nationals living in the EU in the event of "no deal"*
- *[Factsheet](#) (March 2019): The rights of EU citizens living in the UK in the event of "no deal"*
 - Factsheets available [in other languages](#)

UK publications

- <https://www.gov.uk/government/publications/no-deal-immigration-arrangements-for-eu-citizens-moving-to-the-uk-after-brexit>
- <https://www.gov.uk/government/publications/policy-paper-on-citizens-rights-in-the-event-of-a-no-deal-brexit>

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Visa, travelling and tourism: short stay visas

Short stay visas

- UK nationals will be visa-free for short stays (less than 90 days).
- Visa exemption is provided by Regulation 2019/592, which will become applicable once EU law ceases to apply to the UK.
- All entry requirements under the Schengen Borders Code for third-country nationals apply and can be checked at the border (e.g., means of subsistence, purpose of travel, will to return).
- Member States have been requested to notify if they will exempt from the visa requirement:
 - schools pupils residing in the UK who are nationals of a visa-required country;
 - recognised refugees and stateless persons residing in the UK.
- And if they will require visas for:
 - UK nationals carrying out a paid activity during their stays;
 - UK holders of diplomatic, service/official or special passports.

Visa, travelling and tourism: airport transit visa

Airport transit visas

- Nationals of certain third countries (not UK nationals) need an airport transit visa (ATV) to connect between two non-Schengen flights at a Schengen airport.
- A valid visa or residence permit issued by a Member State exempts the holder from the ATV requirement.
- No-deal → UK documents will no longer exempt the holder from the ATV requirement.
- Example: Nigerian national residing in the UK travels London-Frankfurt-Lagos. In case of a no-deal Brexit, an ATV will be required, issued by the German embassy in London.
- Brexit preparedness notice on traveling includes a section on ATV.

Visa, travelling and tourism: visas for Third-Country National family members of UK nationals

- Practical consequence = **increase** of the number of visa applications to the EU27 Member State consulates in the UK.
- **Before the withdrawal date:**
 - *Visas already issued* in accordance with Directive 2004/38 remain valid after withdrawal.
 - *For on-going visa applications* for a stay ending after 31 October 2019, supporting documents may be required to prove that the TCN entry conditions will be fulfilled.
 - The visa fee shall be waived.
- **As from the withdrawal date:** non-EU family members of UK nationals will need to fulfil TCN entry conditions:
 - At visa application: **additional supporting documents** and **visa fee** will be requested.
 - At the border, **additional supporting documents** may be requested.
 - The general conditions for authorised short stays apply (maximum stay of 90 days within any 180 days).

Background and reference information

- [Brexit preparedness notice](#) on travelling published on 22 July 2019
- [Factsheet](#) (March 2019): Travelling between the UK and the EU in the event of “no deal”
 - *Factsheets available [in other languages](#)*
- [Regulation \(EU\) 2019/592](#) of the European Parliament and of the Council of 10 April 2019 amending Regulation (EU) 2018/1806 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement, as regards the withdrawal of the United Kingdom from the Union
- Brexit contingency Communications
 - [COM\(2018\) 880 final](#)
 - [COM\(2019\) 394 final](#)

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Brexit and electoral rights

- Until Brexit date
 - UK nationals enjoy fully their rights under Union law.
- After Brexit date
 - UK nationals become third country nationals and no longer derive a right under Union law to vote and stand as candidates in local and European elections.
 - Member States are competent to determine whether and under what conditions third country nationals may participate in local and European elections.
 - A number of Member States have provisions in place which will allow third country nationals to vote in local and municipal elections.

Local elections – Bilateral agreements

Member State	Agreement	Local elections (right to vote and stand as a candidate)
Spain	Signed in January	Yes
Luxembourg	Signed in June	Yes
Portugal	Signed in June	Yes
Slovakia	Negotiating	
Lithuania	Negotiating	
Poland	Negotiating	

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Lawyers – Key sectoral issues

- Individual lawyers, their right to practice and Law firms.
- As from 1 November 2019, the two Lawyers Directives will not apply to UK lawyers (of whatever nationality) when exercising their profession in the EU27 under their home country title, either individually or through the establishment of law firms.
- Individual Member States' laws and policies will define the extent to which those lawyers and law firms may continue, and under what conditions and limitations, to provide services in their respective territories.

Lawyers - State-of-play

Contingency/Preparedness actions taken until now by:

- A number of bars and lawyers' associations have published relevant notices and position papers;
- A number of Member States have adopted specific measures on UK lawyers and Law Firms;
- The Commission published a Brexit preparedness notice on professional qualifications on 21 June 2018 and organised an EU27 technical experts seminar on 15 February 2019, which included aspects on lawyers.

Background and reference information

[Brexit preparedness notice](#) on professional qualifications of 21 June 2018

Preparedness notices available [in other languages](#)

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Social security coordination in relation to the UK in a no-deal scenario: overview (1)

Coordination rules will no longer apply to the UK, impacting on:

- Aggregation of periods of insurance, work or residence;
- Assimilation of facts and events;
- Non-discrimination;
- Exportation of benefits;
- Healthcare coverage.

Social security coordination in relation to the UK in a no-deal scenario: overview (2)

- Periods before Brexit, EU level:
 - Contingency Regulation (2019/500) addresses aggregation, assimilation, equal treatment;
 - EC services Guidance note addresses exportation of old-age benefits, finalisation of ongoing treatment and pending/new claims (e.g. reimbursement).
- For periods after Brexit, national law applies.

Healthcare coverage of UK nationals resident in the EU27

- UK nationals resident in an EU27 country become third country nationals and the conditions for access to healthcare that apply to them are defined by national law.
- Member States can, if they so choose, continue to give access to resident UK nationals as they did before Brexit (see table of national measures).
- The UK can no longer issue, as of withdrawal, S1 and S2 documents that apply in the EU27.
- S1 and S2 that are valid on the withdrawal date, will become invalid.

Healthcare coverage of EU nationals resident in the UK

- Healthcare coverage in the UK is linked to residence status, since the NHS operates a residence-based healthcare system.
- According to information published by the NHS, most NHS services are free of charge to people who are ordinarily resident in the UK, and are not dependent on nationality.
- “Ordinarily resident” means living in the UK on a lawful and non-temporary basis.
- Emergency treatment is provided free to anyone under any circumstances.

Administrative/technical arrangements with the UK

- They should be:
 - unilateral and descriptive;
 - via exchange of letters on administrative level;
 - concluded post-Brexit;
 - aimed only at giving effect to the contingency measures (e.g. administrative cooperation).
- The unilateral nature is key, should, in the future, an EU-wide solution be sought.

Data Exchange

- With respect to transfers of personal data to the UK, the Guidance note points to different tools available under Chapter V of the GDPR.
- For example, under Article 49(d) and recital 112 of the GDPR, transfers of personal data may take place in specific situations when necessary for important reasons of public interest, such as international data exchanges between services competent for social security matters.

Background and reference information

- [*Regulation \(EU\) 2019/500*](#) of the European Parliament and of the Council of 25 March 2019 establishing contingency measures in the field of social security coordination following the withdrawal of the United Kingdom from the Union
- [*Overview table*](#) of national measures in the area of social security coordination (updateable in case of developments)
- [*Factsheet*](#) (April 2019): A 'no-deal' Brexit: Securing citizens' residence and social security rights
- [*Factsheet*](#) (March 2019): The rights of UK nationals living in the EU in the event of "no deal"
- [*Factsheet*](#) (March 2019): The rights of EU citizens living in the UK in the event of "no deal"
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