



EUROPEAN COMMISSION

## MEMO

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# **Questions and Answers – the rights of EU27 and UK citizens post-Brexit, as outlined in the Joint Report from the Negotiators of the European Union and the United Kingdom Government**

This document provides information on the common understanding reached on the rights of EU27 and UK citizens' post-Brexit as set out in the Joint Report from the negotiators of the European Union and the United Kingdom Government on progress during phase 1 of negotiations under Article 50 TEU on the United Kingdom's orderly withdrawal from the European Union. Should the European Council (Article 50) consider on 15 December that sufficient progress has been made in the negotiations, the Withdrawal Agreement based on Article 50 of the Treaty on European Union – on which citizens will base their rights – should be drafted on the basis of the Joint Report and the outcome of the negotiations on other separation issues. This present document interprets the Joint Report for information purposes only and should not be understood as the final text of the Withdrawal Agreement.<sup>1</sup>

## **Personal scope**

### **Who will be covered by the Withdrawal Agreement?**

EU citizens must be lawfully residing in the host state on the date of the UK's withdrawal, in accordance with EU law on free movement of EU citizens.

The conditions of residence are the same as those under current EU law. Decisions for obtaining the status under the Withdrawal Agreement will be made with the objective criteria established therein (*i.e. no discretion*), and on the basis of the exact same conditions set out in the Free Movement Directive (*Articles 6 and 7 confer a right of residence for up to five years on those who work or have sufficient financial resources and sickness insurance*), *Articles 16 – 18 confer a right of permanent residence on those who have resided legally for five years*).

The Withdrawal Agreement does not require physical presence in the host state on the date of the UK's withdrawal – temporary absences that do not affect the right of residence are accepted.

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<sup>1</sup> [https://ec.europa.eu/commission/publications/joint-report-negotiators-european-union-and-united-kingdom-government-progress-during-phase-1-negotiations-under-article-50-teu-united-kingdoms-orderly-withdrawal-european-union\\_en](https://ec.europa.eu/commission/publications/joint-report-negotiators-european-union-and-united-kingdom-government-progress-during-phase-1-negotiations-under-article-50-teu-united-kingdoms-orderly-withdrawal-european-union_en)



## **I arrived in the UK two years ago and work in a local hospital. Can I stay after the UK leaves the EU?**

Yes. The agreement provides that you will be able to stay in the UK if you continue to work (or if you stop involuntarily working in accordance with Article 7(3) of the Free Movement Directive). Your residence rights in the UK will not be affected by Brexit: you will keep your residence under the conditions of EU free movement law as if it still applied, although you will need to make an application to the UK authorities for status. Once you have accumulated five years of legal residence in the UK, you will be able to apply for your residence status in the UK to be upgraded to a permanent one that offers more rights and better protection.

## **I am British living and working in Luxembourg. Do I have to keep working to retain my rights there?**

The Joint Report protects those EU citizens who were residing in a Member State other than that of their nationality in accordance with the conditions which EU free movement law attaches to the right of residence. In essence, EU citizens meet these conditions if they:

- are workers or self-employed;
- have sufficient resources and sickness insurance;
- are family members of some other EU citizen who meets these conditions; or
- have already acquired right of permanent residence (*that is no longer subject to any conditions*).

It is possible to switch between these categories. You will keep your rights as long as you meet the conditions for at least one category.

## **I have resided in the UK since 2005 and acquired a permanent residence document there. Will something change for me post-Brexit?**

You will have to apply for a new permanent status under UK law (called special status) but, as you have already obtained a permanent residence document in the UK under existing EU free movement law, the administrative procedure will be very light-touch and you will just have to present an ID, declare any criminal convictions and show that you continue to reside in the UK. Your new UK residence document will be issued free of charge.



**I am a UK citizen. Two years ago, I arrived in Germany to work in construction. Unfortunately, I recently had an accident at work and I am permanently incapacitated. I hope I will not have to leave post-Brexit!**

You won't. Those who had to stop working as a result of permanent incapacity to work caused by an accident at work obtain a right of permanent residence under EU free movement law. That right will be retained after Brexit.

**Will those EU citizens arriving in the UK looking for a job several months before Brexit be protected in any way?**

Yes. EU citizens looking for jobs in the UK at the Brexit date will be allowed to stay, like today, for six months after their arrival (*maybe a little bit longer if they have a genuine chance of being hired soon*). Once the allowed period of job-seeking is over, they will have to leave unless they really have found a job or have sufficient financial resources to support themselves.

**I live in London but commute to Paris for work. Will I be able to continue working in France after Brexit?**

Yes. The deal also protects frontier workers. You will be able to continue working in Paris while residing in London.

**I arrived in the UK two years ago but did not find a job. I am currently out of money. Will I be able to stay on post-Brexit?**

The Joint Report protects those EU citizens who were residing in a Member State other than that of their nationality in accordance with the conditions which EU free movement law attaches to the right of residence. In essence, EU citizens meet these conditions if they:

- are workers or self-employed;
- have sufficient resources and sickness insurance;
- are family members of some other EU citizen who meets these conditions; or
- have already acquired right of permanent residence (*that is no longer subject to any conditions*).

Those EU citizens who do not meet these conditions at Brexit will have no legal entitlement to stay in the UK and their situation will depend on whether the UK authorities decide to treat them more favourably than required by the deal. For example, the UK authorities have indicated that they will not ask people who have sufficient resources, including students, for evidence of comprehensive sickness insurance.



**I arrived in the UK many years ago to join my British wife. She is disabled and I care for her and assist her. I think that my residence in the UK is legal but I am concerned whether I will be able to get any protection after Brexit under the Withdrawal Agreement.**

Only those EU citizens who were residing in the UK at the time of Brexit in accordance with the conditions which EU free movement law attaches to the right of residence are guaranteed to be protected by the Withdrawal Agreement.

EU citizens who do reside in the UK under domestic laws (*family members of British nationals*) but do not meet the EU free movement law conditions will be able to stay under these domestic laws that are not affected by Brexit.

**The UK's agreement to waive the comprehensive sickness insurance requirement is unilateral and non-binding. What is its worth?**

We seek to protect the rights as they stand under current EU law, nothing more, nothing less.

The comprehensive sickness insurance is clearly a requirement for lawful residence of self-sufficient persons as set out in Article 7(1)(b) of the Free Movement Directive. The UK has indicated that they will apply neither the comprehensive sickness insurance condition, nor the "*genuine work test*" in the application for the status.<sup>2</sup>

EU 27 Member States are, as under current EU law, free to do the same (Article 37 of Directive 2004/38/EC).

**I am British and my dad works in Portugal. I live with him and go to a local school. Will I be allowed to stay in Portugal?**

Yes, you will be able to stay. The deal makes sure that all family members, irrespective of whether they are EU citizens or not, who were lawfully residing with an EU citizen in the UK or the EU27 at the date of the UK's withdrawal can stay under the same conditions that existed before Brexit.

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<sup>2</sup> See point 11 of the UK's technical note of 8 November on admin procedures, available at <https://www.gov.uk/government/publications/citizens-rights-administrative-procedures-in-the-uk/technical-note-citizens-rights-administrative-procedures-in-the-uk>.



**I am a Korean spouse. I came to the UK four years ago to live with my EU husband but the marriage hit a rough patch recently. I want to file for divorce but I am afraid what it will mean for my right of residence post-Brexit.**

The Joint Report replicates EU free movement law that, under certain conditions, already protects non-EU spouses who divorce from an EU citizen. You meet those conditions. Once your divorce becomes final, you will nevertheless need to show the UK authorities that you meet the conditions which EU law on free movement attaches to the right of residence as if you were an EU citizen yourself. Once you accumulate five years of continuous lawful residence, you will be able to apply for a permanent status in the UK.

**Years ago, I came to the UK to work, relying on my Czech nationality. Recently, I have naturalised. As a dual Czech/British national, what will my status be?**

Your British nationality gives you an unconditional right of residence in the UK. Since your naturalisation, your residence in the UK is no longer under the Free Movement Directive. Your Czech nationality, on the other hand, ensures that you continue to be covered by the withdrawal agreement. You will therefore be able to rely on the *agreement for example, family reunion rights*.

**I am British and I live with my family in Italy. I understand that my right to stay in Italy will be protected – but what about my right to return to the UK with my family?**

The deal protects the rights of those who have made use of their free movement and live in a state other than that of their nationality. It does not protect those who reside in the state of their nationality, regardless of whether they have returned home before Brexit or after Brexit. Their rights will be subject to relevant domestic rules.



## **Family members**

### **I live and work in the UK with my partner. We plan to have a baby soon. Should we accelerate our plans and have the baby before Brexit?**

You do not need to rush. The deal makes sure that children born to EU families residing in the UK before or after Brexit will be able to stay. In some situations, UK law awards British citizenship to such children, in addition to the nationality the child may have through their parents.

### **I live in the UK with my EU spouse. I was issued with an EU residence card. Can I stay post-Brexit?**

Yes, you can stay. The deal protects all those family members who have lawfully resided with an EU citizen in the UK before Brexit. They will be allowed to stay but will have to apply for a new UK status (special status) and a new UK residence document.

### **I live in the UK with the child I adopted. Will we be able to stay together?**

Yes, you will be able to stay together. The Joint Report protects all those family members who have lawfully resided with an EU citizen in the UK before Brexit. Adopted children are treated in the same way as biological children.

### **Several years ago, I applied to the UK authorities to be able to join my EU cousin living in Edinburgh because I was materially dependent on her. The UK authorities accepted that and issued me with an EU residence card. What will happen to me?**

You can stay. The Joint Report protects all those family members who have lawfully resided with an EU citizen in the UK before Brexit. They will be allowed to stay but will have to apply for a new UK status (special status) and a new UK residence document.

### **I am the registered partner of an EU citizen residing in the UK. I plan to join him there but I can do it only in four years because of existing work commitments in my country. Will I be able to join him even after Brexit?**

Yes. The deal protects partners who were in such a partnership with an EU citizen on Brexit day but were not residing with that partner in the UK – exactly the same way as spouses. You will be able to join your EU partner in the UK, provided that you remain his or her registered partner at the point you seek to come to the UK.



**I am the nephew of an EU citizen residing in the UK. I plan to join him there but I can do it only in four years because of existing study commitments in my country. Will I be able to join him even after Brexit?**

No. The deal does not protect extended family members of EU citizens (*except those in durable partnerships*) who were related to an EU citizen on the date of the UK's withdrawal but were not residing with their relative on that date. If you decide to join your relative after Brexit, you will be subject to UK immigration law.

**I live and study in Cardiff. My wife lives abroad, together with our little baby. They would like to join me once the studies are over and I have found a job. Will they be able to do so after Brexit or had they better hurry?**

They will be able to join you after Brexit. The deal protects not only those close family members who have lawfully resided with an EU citizen in the UK before Brexit, but also those close family members who were related to an EU citizen on Brexit but were not residing in the UK. They will be able to join you after Brexit, provided you remain married at the point your wife seeks to come to the UK.

**I live and work in the UK. I am single but, hopefully, one day I will marry. Realistically, it will be after Brexit. Will my future spouse be able to join me in the UK? What about if we have a baby?**

No. The deal does not protect those who will marry an EU citizen after Brexit. Any such future spouse will have to comply with the UK immigration rules.<sup>3</sup> Any future child will be able to join an EU citizen resident in the UK before Brexit if that parent has legal custody of the child.

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<sup>3</sup> This important matter should be dealt with in the second phase of the negotiations. See here: [https://ec.europa.eu/commission/publications/communication-commission-european-council-article-50-state-progress-negotiations-united-kingdom-under-article-50-treaty-european-union\\_en](https://ec.europa.eu/commission/publications/communication-commission-european-council-article-50-state-progress-negotiations-united-kingdom-under-article-50-treaty-european-union_en)



## **Residence rights**

**I study in the UK at university. If all goes well, my studies will finish in 2020. Will I be able to stay in the UK and look for a job there?**

Yes. You will be able to stay in the UK after Brexit, as now, as a student or for example as a jobseeker or worker. After five years of residence you will be able to apply for a new permanent status under UK law (*called special status*). EU citizens resident in the UK before Brexit will continue to be able to 'switch' between different categories of activity. In other words, students will be able to start working (*and become workers*), workers will be able to retire (*and become self-sufficient persons*), self-sufficient persons will be able to start studying and so on.

**I am British and have worked in the Netherlands since 1995. I plan to retire in 2023. I am looking for advice on whether I will be able to stay after my retirement.**

Yes. As somebody who has worked for at least five years, you have already obtained a right of permanent residence in the Netherlands that is no longer subject to any conditions (*such as that you have to continue working*).

**I live in the UK with my mum who works as an engineer. I go to school but I hope to open my own shop and sell flowers. Will I be able to stay and start working once I have finished school?**

Yes. You will not only be able to stay in the UK, but you will also keep all the options EU free movement law currently confers on EU citizens. You will be able to work, study, run a business or stay at home and care for your family members.

**I arrived in the UK two years ago to study. Last year I studied in Italy on Erasmus+ for five months and then returned to my UK university. I hope this move has no negative impact on my residence in the UK!**

It will have no impact on your rights in the UK. Once you have completed five years of continuous residence in the UK (*including pre- and post-Brexit periods of residence*), you will be able to apply for a new permanent status (special status) in the UK. Today's EU free movement law says that periods of absence of less than six months in a year do not affect continuity of residence. These safeguards are included in the Joint Report as well.



**I arrived in the UK three years ago and have been self-employed since. Will I be able to get permanent residence there and, if so, under what conditions?**

Once you have completed five years of legal residence in the UK (*including pre- and post-Brexit periods of residence*), you will be able to apply for a new permanent status in the UK.

The deal protects those EU citizens who were residing in a Member State other than that of their nationality in accordance with the conditions which EU free movement law attaches to the right of residence. In essence, residence of EU citizens is legal if they:

- are workers or self-employed;
- have sufficient resources and sickness insurance; or
- are family members of an EU citizen who meets these conditions.

Once you have five years of continuous and legal residence, you will be able to apply for a new permanent status (special status) in the UK and you will be issued with a new UK residence document. The UK authorities have indicated that they will not ask people who have sufficient resources, including students, for evidence of comprehensive sickness insurance.

**I am British and have lived in Austria with my parents for nine years. They both work. Do I have any residence rights in Austria post-Brexit?**

Yes. As somebody who has lived in an EU Member State for at least five years, you have already obtained a right of permanent residence that is no longer subject to any conditions (*such as that you have to continue being a family member*). This right will be preserved under the Joint Report.

**I have permanent residence in the UK where I was born and raised. My university studies are well underway and I already have a great job offer in Slovakia. They are offering me a three-year contract but I am afraid that if I leave the UK I will not be able to return. Please, dispel my doubts!**

Given the exceptional circumstances of Brexit, the deal prevents the new UK permanent residence status (*special status*) from lapsing in case of absences of less than five continuous years. Once you have applied for and obtained that status from the UK authorities you will be able to leave the UK for up to five years and then return without that status lapsing.



**I have been living and working in the UK for 15 years. I hope that I will be able to remain in the UK after Brexit. Could you please reassure me that I will be able to keep my rights and entitlements indefinitely?**

The deal makes it clear that there is no 'expiry date' by which rights expire. All those protected under the Withdrawal Agreement will keep their rights and entitlement for life.

However, the Agreement provides that some rights may lapse in certain circumstances. For example, the new UK permanent residence status (*special status*) lapses if a person is absent from the host state for a continuous period exceeding five years.

**It is not fair that UK nationals will be land locked in the EU country where they resided on the date of the UK's withdrawal as the Joint Report does not include the right to intra-EU mobility after Brexit.**

It is fair to say that UK citizens are unlikely to be "landlocked", although the extent to which they will be able to work, establish a business, study, claim benefits or get health care outside their host state has yet to be decided. Even if the final withdrawal agreement does not include a right of free movement across the EU 27 for UK citizens in the EU, there is detailed EU legislation dealing with rights of third country nationals to move within the EU.

**I reside permanently in the UK. I am in receipt of a social assistance benefit. I guess I will be able to stay in the UK after Brexit but will I still get the benefit I need?**

Yes. All EU citizens resident in the UK who qualify for a new UK status after Brexit will keep their right of residence and of equal treatment. This means that where they were entitled to a benefit, entitlement or advantage before Brexit, they will continue to enjoy the same treatment.

**I am an EU citizen studying at a university in the UK. Will I have to pay higher tuition fee after Brexit? Will I have access to student loans?**

All EU citizens resident in the UK who qualify for a new UK status after Brexit will keep their right of residence and of equal treatment.

For students who started their studies in the UK before Brexit, this means that they will continue to pay the same tuition fees as British citizens and be eligible for tuition fee loans. As regards access to maintenance aid for studies, such as student grants or student loans, EU students in the scope of the Withdrawal Agreement will continue to enjoy the same rules as they enjoy today. These entitlements will be subject to any future domestic policy changes which apply to UK nationals.



**Competence of the Court of Justice of the European Union will expire in eight years. Does it mean that my rights will expire as well post-Brexit?**

Your rights have no expiry date (*but they may lapse in certain circumstances, for example a long absence from the host state*).

While the ability of UK courts to ask the Court of Justice for its interpretation of the Withdrawal Agreement is envisaged to be limited to eight years, it will be long enough to ensure that the Court of Justice can rule on the most significant issues.

Other aspects of the Withdrawal Agreement are not limited in time, such as the direct effect of the Withdrawal Agreement that should prevail over incompatible national legislation or measures and that UK courts have to take into account jurisprudence of the Court of Justice.

**I note that the criteria for residence will be based on concepts of EU free movement law, as interpreted by the Court of Justice of the European Union but I believe that the UK has not correctly enacted EU free movement law so they use wrong interpretation.**

The Joint Report is clear: where the criteria for residence are based on concepts of EU free movement law, they must be interpreted in line with decisions given by the Court of Justice of the European Union at the point of withdrawal. Where the UK relies on an incorrect interpretation of the concepts of EU law that conflicts with such a decision, it is the Court of Justice interpretation that must ultimately prevail. In addition, UK courts must have due regard to the interpretations of the Court of Justice of the European Union after withdrawal.



## **Criminality & abuse**

**I have lived and worked in the UK for 11 years. A couple of years ago I was convicted of a criminal offence and sentenced to a five-month term of imprisonment. Will this imprisonment affect my rights?**

Criminal conduct may have consequences for the right of residence, be it under today's EU free movement law or under the Withdrawal Agreement. For criminality committed before Brexit, the current rules of the Free Movement Directive will apply (*Chapter VI*).

All decisions affecting the right of residence taken on grounds of criminality committed before Brexit will have to be taken on a strict case-by-case basis and only those offenders whose personal conduct represents a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society can be removed.

**What will happen to EU citizens allowed to stay in the UK under the Withdrawal Agreement who commit a serious crime?**

Any criminality committed after Brexit will be subject to national law. In the UK, this means that those who commit a crime which leads to a sentence of imprisonment of 12 months or more will be considered for deportation. They will have the right to appeal against such a decision and have an independent court review their case.

**I am worried that many will try to cheat their way in by pretending to be covered by the Withdrawal Agreement. What safeguards will the authorities have?**

All the current safeguards which Member States have at their disposal under EU free movement law to guard against abuse and fraud will be replicated under the Withdrawal Agreement. States will be able to adopt the necessary measures to refuse, terminate or withdraw any right conferred by the Withdrawal Agreement in the case of abuse of rights or fraud, such as marriages of convenience. Any such measure will have to be proportionate and will be subject to judicial redress.

**Will decisions of the UK authorities based on abuse of rights rules result in loss of the appeal rights?**

Abuse or fraud can result in loss of residence but never in loss of appeal rights. Today, the host Member State can restrict free movement rights of those EU citizens who are proven to be abusing EU law (*such as marriages of convenience*). Once abuse or fraud is proven by national authorities, the affected person has full appeal rights, including the right to stay while the appeal is pending.



**The Joint Report says that the UK authorities will be able to carry out systematic criminality and security checks on all applicants for a new status in the UK. Is this possible?**

Yes. The context of Brexit is a very special one, because the UK authorities will need to take a fundamental decision whether the persons, who will cease to become a privileged citizen from the UK perspective, should have a protected residence status in the UK for the rest of their lives.

In that context, it is appropriate for the UK to establish a new procedure for those seeking to obtain that new status in the UK. This new procedure will nevertheless reflect the current rules of EU free movement law. This means that the UK will be able after Brexit to remove those EU offenders who committed their offences before Brexit only where they would be able to remove them now.



## **Administrative procedures**

### **We are hearing a lot about the UK special status. Will it apply to EU citizens after Brexit and what will it mean?**

All EU citizens and their family members residing in the UK will have to apply for UK special status after Brexit. While the special status will be under UK law, the conditions on which citizens will obtain and lose it will not be stricter than those laid down in today's EU free movement law for obtaining or losing the right of permanent residence. This means that:

- a) all persons who would qualify for permanent residence under EU free movement law will be able to qualify for the UK special status;
- b) the UK authorities are free to grant special status also to those who would not qualify for permanent residence under EU free movement law;
- c) nobody who would not qualify to lose their permanent residence under EU free movement law will lose the UK special status;
- d) EU citizens and their family members will be granted a right to be absent for up to five years from the UK without losing their UK special status; and
- e) the UK authorities can decide not to withdraw special status from those who have been absent for more than five years.

Unlike under current EU free movement law, all EU citizens and their family members residing in the UK will be required to obtain special status – or temporary leave while they accrue the five years' residence required to qualify for it – as the legal basis for their continued residence in the UK. The status – *and the UK residence document issued to attest that status* – will be constitutive of their right of residence.

### **Will having the UK special status mean that EU citizens will be losing current rights?**

All the conditions for obtaining the UK special status will be at least as generous as those laid down in today's EU free movement law for obtaining right of permanent residence. There will be no discretion for the UK authorities to refuse an application on grounds not allowed under current EU rules. Nobody entitled to protection will be left behind.

The conditions for losing the UK special status will be, on one hand, more beneficial compared to those in today's EU free movement law as EU citizens and their family members will be given an option to leave the UK for five years without losing their special status (*current rules provide only for two years*). On the other hand, as now, EU citizens can lose their special status if they commit a crime in the UK. Where the crime takes place after withdrawal, the decision on such loss will be taken in accordance with UK national law and all the constraints coming from international law instruments applicable in the UK.



## **What will prevent the UK authorities from modifying their laws on special status in the future?**

The Withdrawal Agreement will make it very clear that once granted to individual citizens, it will not be possible to withdraw the UK special status from individual EU citizens on grounds other than those expressly allowed in the Withdrawal Agreement. Rights under the Withdrawal Agreement will be binding under international law and EU citizens will be able to directly rely on their rights under the Withdrawal Agreement in the UK. The UK will legislate, so that citizens' rights under the Withdrawal Agreement are incorporated into UK domestic law.

The UK legislation enacting EU citizens' rights provided for in the Withdrawal Agreement will prevail over other UK legislation. This means that UK laws cannot 'accidentally' take away rights protected by the Withdrawal Agreement. If the UK Parliament decides in the future to repeal the legislation giving effect to EU citizens' rights in UK law, this repeal would violate the Withdrawal Agreement, and would trigger consequences of this violation in accordance with the rules of the Withdrawal Agreement itself and international law.

## **What will the independent national authority do in the UK?**

In the UK, the implementation and application of the citizens' right part of the Withdrawal Agreement will be monitored by an independent national authority; its scope and functions, including its role in acting on citizens' complaints, will be discussed between the parties in the next phase of the negotiations and reflected in the Withdrawal Agreement. There should be regular exchange of information between the UK Government and the Commission. In order to add real value for citizens, the Commission considers that this independent authority should be in particular enabled to receive complaints by citizens who consider that their rights under the Withdrawal Agreement have been breached and to conduct inquiries holding public authorities to account.

## **Looking at today's application of EU free movement law in the UK, I am concerned that the new system is not going to work in practice.**

The UK has provided detailed information on the steps they will take to deliver on the deal. It will all be specified in the Withdrawal Agreement.

To offer concrete safeguards to citizens, we have made sure that all the procedural safeguards of the Free Movement Directive will apply. This means the right to appeal any decision restricting residence rights. It also means that the citizen in question maintains all rights under the Withdrawal Agreement, until a final decision has been taken, i.e. including final judicial decision after an appeal procedure.



**I am eligible for permanent residence in the UK but I did not bother applying for a document certifying permanent residence. Should I do it before Brexit?**

You do not need such a document in order to have a right of permanent residence in the UK before Brexit. However, it may be useful to apply for it even now, if you want to apply for British citizenship before the new special status scheme is available, or you want to sponsor your non-EU partner's visa application under the UK's domestic Immigration Rules. If you simply want to confirm your right to reside in the UK after withdrawal, the UK authorities advise you to wait for the new special status scheme, which they expect to open before the end of 2018.

**As an EU citizen residing in the UK, I do not have to apply for a residence document now. Will I be obliged to do so after Brexit? And why?**

Unlike today, all EU citizens and their family members residing in the UK will be required to obtain the special status under UK law as the legal basis for their continued residence in the UK. The status – *and the UK residence document issued to attest that status* – will be constitutive of their right of residence. With the new document, you will be able to prove your immigration status not only to the UK authorities or police, but also employers, banks, landlords or anyone else.

**I am really afraid that the new administrative procedure the UK authorities are designing for EU citizens will be a nightmare. How has the EU protected my rights in the negotiations?**

The UK is designing a new scheme in which administrative procedures for applications for special status will be transparent, smooth and streamlined, so as to avoid any unnecessary administrative burdens. It will not replicate the current permanent residence procedures.

Application forms will be short, simple, user-friendly and adjusted to the context of the Withdrawal Agreement.

The Withdrawal Agreement will specify that the UK cannot require anything more than is strictly necessary and proportionate to determine whether the criteria for residence have been met. The Withdrawal Agreement will contain provisions that follow a similar approach to the provisions on evidential requirements in EU free movement law.



**I believe that the UK administrative immigration procedures are too cumbersome. Will there be some rules or safeguards to help me with the application?**

The UK authorities will work with applicants for the new UK special status to help them prove their eligibility for it and to avoid any errors or omissions that may impact on the decision on the application. The UK authorities will give applicants the opportunity to furnish supplementary evidence or remedy any deficiencies where it appears a simple omission has taken place. A principle of evidential flexibility will apply, enabling the UK authorities to exercise discretion in favour of the applicant where appropriate. The UK authorities will work with the applicants to help them prove their eligibility for the new UK special status. Disadvantaged applicants will be able to rely on assistance services of the sort that currently operate in the UK, for example in local libraries.

**I applied for an EU registration certificate in the UK two years ago. I compiled almost one hundred pages of documents to make sure that the UK authorities understood that I met the conditions. I do not want to have to undergo the same again. Will it be different this time?**

Yes. The UK's new system for special status will not require anything more than is strictly necessary and proportionate to determine whether the criteria for residence have been met. The Withdrawal Agreement will contain provisions that follow a similar approach to the provisions on evidential requirements in EU free movement law. At the same time, the UK authorities will seek to use evidence already available to them (*such as records on taxes paid on wages*) to reduce the evidence applicants will need to provide.

In other words, applicants will only have to provide the minimum evidence necessary to show that they qualify for the new UK special status (*for a worker this means an ID, proof that he or she has worked in the UK for five years in the past and proof that he or she continues to reside in the UK*) and nothing else.

**It is not clear to me which criteria the UK authorities will use to decide on the new status for resident EU citizens. Can you please explain?**

The criteria for EU citizens to obtain a new status in the UK will be no more stringent than those laid down today in EU free movement law. This will ensure that all EU citizens who would qualify for a right of residence under EU free movement law will qualify for a status in the UK and that EU citizens who would qualify for a right of permanent residence under EU free movement law will qualify for a permanent status in the UK.



## **What will be the deadline for EU citizens to apply for a new status in the UK?**

EU citizens and their family members will have at least two years to apply for a new status in the UK. During this time period and until their applications are decided, they will enjoy their current residence rights.

## **Will there be any safeguards for those who miss the deadline?**

The UK authorities will take a proportionate approach to those EU citizens and their family members who miss the deadline for application where there is a good reason. Those whose out-of-time applications are not accepted by the UK authorities will still be able to ask an independent UK court to look into the refusal.

## **Some immigration applications are very costly in the UK. How much will the UK authorities charge EU citizens and their family members applying for a new status after Brexit?**

New UK residence documents will be issued free of charge (*for those relying on a valid permanent residence document issued under EU free movement law before Brexit*) or for a charge not exceeding that imposed on nationals for the issuing of similar documents (*you can expect to pay no more than the charge that British citizens pay for passports: this stands at approximately £70 today*).

## **Today, EU citizens can appeal against decisions of the UK authorities. Will this right be protected after Brexit as well?**

Yes, this right is fully replicated by the Joint Report.

## **What will happen to those EU citizens whose applications for a new status are refused by the UK authorities? Will they be able to stay while their appeal is pending?**

EU citizens whose applications for a new UK status after Brexit are refused will be able to seek judicial redress against the refusal. They will keep their right of residence until the decision – *or appeal* – becomes final. As is currently the case under EU free movement law, the UK authorities will in exceptional cases be able to remove rejected applicants even before a final judgment has been handed down, but they must not prevent the individual from submitting his defence in person except in exceptional circumstances.



**I already have a document certifying permanent residence issued to me by the UK authorities last year. I sincerely hope that persons like me will be allowed to stay without any hassle.**

Yes. You will have to apply for a new permanent status in the UK (*special status*) but, as you have already obtained permanent residence in the UK under existing EU free movement law, the administrative procedure will be very light-touch and you will just have to present an ID, declare any criminal convictions and show that you continue to reside in the UK. Your new UK residence document will be issued free of charge.



## **Social security**

### **I am British and I work in Spain. I will soon reach my pension age. What will happen with my state pension rights after Brexit?**

Nothing will happen to your state pension and everything will be as now. You will be entitled to your pension under the same conditions as today, the amount will be calculated according to the same rule and you can even have it exported and uprated to another EU state should you decide to settle elsewhere.

### **I have retired and now receive a state pension from both the UK and Slovenia where I used to work before. Will something happen to my pension after Brexit?**

Nothing will happen to your pension. You will continue receiving a state pension both from the UK and Slovenia as you were receiving before.

### **In the past, I worked for 12 years in the UK. I have moved and now work in Austria. Once I retire (around 2035), what will happen with the periods of work – and insurance – in the UK and Austria?**

Your periods of work will still count and once you retire, you will receive your UK pension (*or, rather, its part corresponding to the 12 years of employment*) and your Austrian pension (*the part corresponding to the number of years you have worked in Austria*) under the same conditions that apply currently in the EU.

### **I worked all my life in the UK and have now retired in France. I am worried that my UK state pension will no longer be uprated after Brexit.**

The Joint Report makes it clear that all social security benefits, such as old age pension, will continue to be uprated in accordance with national rules.

### **Should I decide to leave the UK in the future, will I be able to take my social security benefits with me?**

If you are protected by the Withdrawal Agreement, all relevant social security benefits will continue to be exportable both to EU states and the UK, as they are under the current EU rules.

### **I live and work in the UK. Today, I am able to get healthcare in a local hospital without any hassle. Will this change?**

There will be no change after Brexit.



**After working all my life in Belgium, I have retired to live in the UK. Today, I am able to get healthcare in a local hospital without any hassle. Will this change?**

There will be no change after Brexit. Belgium will continue to reimburse the costs of your future healthcare, as it does today.

**I currently rely on my EHIC to ensure I can access healthcare when I am abroad. Will this still apply?**

If you are abroad on Brexit day, whether on a temporary stay or by virtue of residence, you will be covered by the EHIC scheme for as long as you continue to be in a cross-border situation.



## **Professional qualifications**

### **What are professional qualifications?**

Professional qualifications are qualifications that a person needs to possess by virtue of legislative, regulatory or administrative provisions in order to access or pursue a professional activity or group of professional activities. For instance, the use of a professional title (*for example, doctor, architect, lawyer*) is limited by legislative, regulatory or administrative provisions to holders of a given professional qualification constitutes a mode of pursuit. Professional qualifications can include diplomas, certificates and other evidence of formal qualifications, as well as attestations of competence and/or professional experience.

### **What happens today when a person moves from one Member State to another Member State with his or her qualifications?**

EU citizens have the right to pursue a profession, on an employed or self-employed basis, in a Member State other than the one in which they obtained their qualification. Member States are obliged to consider the qualifications obtained in other Member States; and in a few professions (*doctors, nurses, dental practitioners, veterinary surgeons, midwives, pharmacists and architects*) there is an automatic recognition system based on common minimum training conditions. The Member State where recognition is sought must issue a decision providing for the recognition of the qualifications in question or reject the application – such a decision is subject to appeal under national law.

This Union regime does not apply to applications made by non-EU nationals. Qualifications acquired in non-EU countries are covered by the Union regime only in the event that they have been assimilated to Union qualifications after three years of exercise in the Member State which first recognised them.

### **I am a British architect living and working in Estonia. Will I be able to continue to practise my profession?**

Yes. If you have had a professional qualification recognised in the country where you currently reside or, for frontier workers, where you work, you will be able to continue to rely on the recognition decision there for the purpose of carrying out your professional activities.

### **I have applied for recognition of my qualification. What will happen if I do not receive a decision before Brexit?**

If you have applied for recognition, before the specified date, to a competent authority of the Member State where you currently reside or, for frontier workers, where you work, the procedure for the recognition of those qualifications should be completed under the Union rules



applicable before the specified date. This should guarantee the smooth completion of the procedure and a positive outcome, so long as your request was justified.