



## European Affairs Committee

### Uncorrected oral evidence: Citizens' rights

Tuesday 25 May 2021

5 pm

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Members present: The Earl of Kinnoull (The Chair); Baroness Couttie; Lord Faulkner of Worcester; Lord Foulkes of Cumnock; Lord Hannay of Chiswick; Lord Jay of Ewelme; Baroness Jolly; Lord Lamont of Lerwick; Lord Liddle; Lord Purvis of Tweed; Viscount Trenchard; Lord Tugendhat; Lord Wood of Anfield.

Evidence Session No. 2

Virtual Proceeding

Questions 9 - 16

### Witnesses

**I:** Jane Golding, Co-Chair, British in Europe; Sue Wilson, Chair, Bremain in Spain; Dr Michaela Benson, Reader in Sociology, Goldsmiths, University of London.

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## Examination of witnesses

Jane Golding, Sue Wilson and Dr Michaela Benson.

**Q9 The Chair:** Welcome back. This is the second panel in this afternoon's virtual House of Lords meeting of the European Affairs Committee. This is a public evidence session. Welcome to our witnesses, Jane Golding, Sue Wilson and Michaela Benson. As a public evidence session, a transcript will be taken and will be sent to you. We would be grateful if you could check it and advise us of any corrections that need to be made. Thank you very much for taking the time to come along this afternoon.

We have only an hour and there are quite a few question areas that the committee is keen to ask you about, so I should be very grateful if you would be succinct in your answers—that applies to questioners as well—so that we can get through everything. For the benefit of those watching, a lead member of the committee will ask a question about a particular area. There may be one or two supplementals on that question when it is asked, and I hope there will be one or two supplementals right at the end of our hour today.

When you speak for the first time, perhaps you could introduce yourselves very briefly. We know exactly who you are, but those watching will not. I think that would be an important thing for them. Perhaps I could go straight in and ask you to give an overview of how you feel the implementation of the citizens' rights provisions in the Withdrawal Agreement is progressing in EU member states.

**Jane Golding:** Thank you very much indeed for the invitation to speak today. I am the co-chair of British in Europe, as well as the chair of its Germany country group, British in Germany. British in Europe is the largest coalition of UK citizens in the EU. We have country groups across most of the EU and represent about 1.2 million British citizens in the EU, 75% to 80% of whom are of working age or younger.

To give you an overview of how we see implementation progressing to date, I will start by quickly explaining that there are two different systems in place across the EU. Thirteen countries across the EU have gone for the constitutive system, which means that status is dependent on an application, and 14 have gone for a declaratory system, which means that status derives directly from the Withdrawal Agreement if the conditions are complied with, but a citizen may apply for a residence card as proof of that status. There is no hard deadline in declaratory countries.

Most of the systems opened up in the autumn and towards the end of last year; some started earlier, but most began towards the end of last year. Implementation is progressing better than expected in some countries—for example, in France where the system seems to be working very well—and less well in other countries such as Italy and Portugal, which are declaratory countries. We have hard deadlines in the constitutive countries and some of those are coming up very rapidly in five countries: France, Luxembourg, Latvia, Malta and the Netherlands. The other eight

countries have extended the deadline to September and then the end of 2021—December 2021.

We see challenges sometimes in declaratory countries, interestingly enough, particularly where there are large numbers of UK citizens in EU populations and where implementation is decentralised. Examples are Germany, Spain and Italy. In Germany, implementation is the competence of the regions; national government can simply issue guidance, and there are about 400 different foreigners' offices across the country.

A general theme in many countries is the length of time it is taking to process applications—of course, Covid is playing a part there—and for either residence cards in declaratory countries or residence permits in constitutive countries to be issued. It is rising in declaratory countries such as Portugal where our latest information is that so far no cards have been issued. In Italy, which is declaratory, it has been slow, but in constitutive countries such as Denmark, where implementation generally is going quite well, the issue of cards is slow. We are also seeing that even in EEA countries such as Norway.

A good example is the Netherlands, which started earlier than many other countries. It contacted all UK citizens in the Netherlands directly by letter and has a deadline of June. In that country we now think there are only about 3,000 citizens left to reach, and the Government are planning a communication campaign to reach them.

**The Chair:** If you have some of that data in written format, we would be very happy to accept it as evidence. Can I turn to Sue?

**Sue Wilson:** In Spain, we have a declaratory system. Spain was one of the first countries to hit the ground running, so it has been up and running for some time, but the numbers in Spain are much larger. We have a bigger population, and a bigger population of vulnerable older citizens as well, so there have been a lot of delays. I recently applied for my own residency. I started to look for an application back in October and obtained my new identity card only in May. That is a fairly typical example of some of the delays that are causing problems.

**The Chair:** Thank you very much indeed. Michaela?

**Dr Michaela Benson:** Thank you very much for inviting me to speak today. I am a reader in sociology at Goldsmiths and I come to this with a research hat on. Over the past four years, I ran a project that was all about Brexit and what it meant for British citizens in the EU. It was funded by UK in a Changing Europe. More recently, I have taken on a role as co-lead of a new research project that is all about the impacts of Brexit on migration between the UK and EU in both directions. We have just started doing that.

In addition to what Jane and Sue have already said, my expertise comes from the work I have done mostly with British citizens living in France

where, as Jane has already mentioned, there is a constitutive system in place. Like the UK, France has the deadline of 30 June. Quite a lot of the issues that we have already heard about from our colleagues who work with EU citizens in the UK are similarly at stake in the case of British citizens living in the EU.

There has been some good progress. On the surface, the number of British citizens living in France who appear to have registered through the system and made their application looks quite healthy. The latest statistics I was able to find publicly were published in the *Télégramme*, and show that 125,000 British citizens in France have applied for their new residence status.

The problem I would like to draw attention to, and which I will probably return to at various points this afternoon, is that that looks healthy on the surface, but we are really struggling with baseline statistics about the actual number of British citizens who live in France. France is quite idiosyncratic in lots of ways because, like the UK, it did not have a system for registering British citizens, or other EU citizens, prior to Brexit. In addition, none of the access to rights was contingent on people actually demonstrating their residence, so there was no way of measuring them. The statistics we have are from the census. There are some problems with how census data in France is generated, which mean that there is likely to be significant underestimation.

I draw attention to the fact that we have statistics about the number of people who have applied, but we have problems in establishing what proportion of the overall population that might constitute, so we cannot really tell what progress is being made. That is also the case in some other countries to a greater or lesser extent, but the underestimation in France is likely to be significantly higher than in quite a lot of other countries for those reasons.

The other thing about implementation is that there was always going to be a challenge related to the so-called hidden populations of British citizens living in the EU. These are people who are likely to be more vulnerable: people with mental capacity problems, disabilities or long-term health problems, and children in care. We do not know how many British children are being looked after in EU member states because member states do not disaggregate by nationality. That is a bit of a problem, and something to bear in mind.

The anxiety, uncertainty and confusion that I think both Jane and Sue have already indicated is taking place in a context where there has been anxiety, uncertainty and confusion ever since the day after the referendum. We have to bring all of those things together.

**The Chair:** Thank you very much indeed.

Q10 **Lord Lamont of Lerwick:** Could you tell the Committee whether you think the EU is in any danger of not fulfilling its obligations under the Withdrawal Agreement? In a letter to Mr Šefčovič, Michael Gove rather

suggested that, because of short application windows and complex procedures. It would be good to have your comments on that. Could you also comment on whether you think the EU is doing enough to communicate the necessary information about the procedures to be followed? Perhaps we could start with Jane, and then Sue and Michaela.

**Jane Golding:** I will start by answering the first point. We do not see that there will be problems of breaches in implementation generally. We do not see that as a risk, but we expect that there may be specific instances in relation to specific aspects.

We think that a number of EU member states are likely to be at risk of breaching the information requirements under the Withdrawal Agreement—Article 37—due to the amount of information they have put out so far. France and Italy are two countries where we would have concerns, as is Luxembourg. I think that is because the bar has to be very high in this situation, particularly for constitutive countries with hard deadlines, because these are people who were legally resident under EU law until the end of 2020 and they are now having rights removed from them, and it is all happening during a pandemic. Where there is a particularly high bar, there is an obligation to inform through awareness-raising campaigns in national and local media, particularly in constitutive countries, and we are not always seeing that.

Could you remind me of the other part of your question, please, Lord Lamont?

**Lord Lamont of Lerwick:** Whether they are doing enough to communicate the necessary information.

**Jane Golding:** I think I partly answered that in my previous response. The communication obligations under Article 37 are on each member state, rather than the EU or the European Commission. The European Commission has put out a lot of information online. What we are seeing in member states is that, where they are putting out good information, it tends to be online rather than through national and local media, for example, so it is easier to reach people who are digital, and less easy to reach people who are more vulnerable or are not so digitally literate. The bulk of the information going out is online, and some countries do it better than others. I mentioned the Netherlands, which has sent out letters directly to every British citizen living in the country, although there are about 40,000.

**Sue Wilson:** I apologise. I completely forgot to introduce myself when the first question was asked. I am chair of Bremain in Spain, which is a campaign group looking at citizens' rights across Spain.

With regard to your question, Lord Lamont, I reiterate what Jane has just said. The only concern is about communication. That seems to me the only area where there is a risk of breaching any obligations. Most of the communications that come out from Spain are online. Most of them, thankfully, are in English, but they are not exclusively in English. It is all

available to people who have access to the internet, but there are very vulnerable groups that do not have access and are not getting that information. The main area of concern is communication.

**Dr Michaela Benson:** In the case of France, there are some real areas of concern about the information requirements that Jane and Sue have already laid out. I reiterate that I do not think there is any risk of France breaching its obligations in respect of implementation just around the information requirements.

There has been very little publicity by the Ministry of the Interior. The website that contains the information about the registration process is incredibly basic, even though it is available in French and English, and it does not provide the appropriate technical information to people who will be applying. Further, there is no public guidance to individual prefectures about how they might make decisions around, for example, reasonable grounds for late applications. In France, the local prefectures are quite significant in the process.

Any physical meetings that might have been planned would have been postponed or cancelled due to Covid restrictions. Those would have been the opportunity for some outreach to the most vulnerable within the British community in France. Even so, there are questions about whether they would have been able to access them. A lot of information is available online, but that does not account for people who have digital exclusion issues, whether because they do not have the internet or because they cannot use it. That is also important.

**Lord Lamont of Lerwick:** Jane, you are probably the best one to answer this follow-up question. We heard in the previous session about the importance of EU citizens in the UK getting a piece of paper, and not just a digital right to remain in the UK. In how many countries in the EU do people get a piece of paper, as opposed to just digital consent to remain in the country?

**Jane Golding:** There is one biometric card. A model card was agreed on and decided on by an EC decision in February 2020. Every single British citizen in the EU who applies either for a residence permit or for a residence card to prove their status in declaratory countries will receive a physical biometric card.

**Lord Lamont of Lerwick:** Thank you. That is very helpful.

Q11 **Lord Jay of Ewelme:** We have talked a bit about the role of individual member states. Can you say a bit about what you see as the role of the Commission? Is the role of the Commission just to monitor what member states are doing, or is it to encourage member states to behave in a more effective way? What is its role?

**Jane Golding:** It has both roles. It should be monitoring. Obviously, in the EU the European Commission is the monitoring body. There are some slight problems with that because it is not an independent monitoring body, but it should be monitoring what member states are doing.

At the same time, it should be persuading them to implement effectively. This is an area of mixed competence. EU member states see it as their area of competence. However, the Commission has been having regular meetings with member states to discuss implementation and get updates on it, and talking persuasively to them in order to improve implementation where it is not working as well. It is a two-sided role.

**Lord Jay of Ewelme:** You said it should be, but is it?

**Jane Golding:** The Commission?

**Lord Jay of Ewelme:** Yes.

**Jane Golding:** It is. In our engagement with the Commission, which is very regular, we feed in particularly systemic issues that we see and it certainly takes them up. We know that it discusses them with member states and we certainly see the results of that. It can always do more and do better.

The Specialised Committee on Citizens' Rights also deals with issues of that sort in the context of the Withdrawal Agreement. We feed in issues to that specialised committee and are heard by it, which is quite unusual for a civil society organisation.

**Lord Jay of Ewelme:** That is very helpful. Thank you. Michaela Benson, do you want to add to that?

**Dr Michaela Benson:** I do not have anything to add; I confirm exactly what Jane said.

**Lord Jay of Ewelme:** Sue, do you have anything to add?

**Sue Wilson:** Jane has covered everything. I do not think there is anything I can usefully add.

**Lord Jay of Ewelme:** That is very helpful.

Q12 **Lord Wood of Anfield:** Good afternoon. My question is for Jane and Michaela and is about the countries using the constitutive system you talked about, in particular the five countries that have deadlines at the end of June by which UK citizens have to apply to secure their rights. You talked about this a little bit in your opening remarks, but can you say a bit more about how concerned you are about the risk of UK citizens missing the deadline, particularly in France and the Netherlands where the numbers will be particularly significant?

Michaela, you have written about the number of Brits in the EU who are undetected. I think you suggested there could be twice as many as currently thought. Are the people who are more likely to miss the deadline British citizens who have been under the radar, as it were, up to now, or are you concerned about a random mix of different categories of UK citizens? Could Jane and then Michaela respond to that?

**Jane Golding:** I will address the five countries that have the June deadline, which is coming up fast. The other deadlines are not until September or December. Michaela has already given some information about France, so I will leave it to her to add anything further if she feels she needs to, but I have the same sort of data as her.

Overall, as regards those five countries, we will not have a very clear idea of the numbers who could potentially fail to apply for their status until we see the third implementing report from the Specialised Committee on Citizens' Rights, which is due out any day. The last report we saw in December and did not give a good idea of the numbers who had applied so far and the numbers who had been processed.

I mentioned the Netherlands already, where citizens were contacted directly by letter. Our understanding is that, of 30,000 to 40,000, only about 3,000 are left to reach, and the Government will be communicating with them again. In Luxembourg, we understand that out of about 6,000 citizens there are still about 600 to be reached. It is a smaller number, but it is still 10%. We do not have any information on how the Government will reach them. The two other countries are Malta and Latvia, and we will have to wait to see the third implementing report to see what the numbers are there.

**Dr Michaela Benson:** I will pick up on France again. As I said before, France is slightly unusual even among constitutive systems because of the fact that the statistics we had were drawn from census data and not registration data, which effectively means that there is not necessarily a good understanding of where those people are located in France. The census data does not include communes that have fewer than 10,000 people, so that means that in smaller areas there might also be some issues.

I have concerns about the fact that the application window is coming to an end at the end of June and about who might fall between the gaps. We were already seeing in advance of the new registration system being opened that what was being uncovered was a population of quite vulnerable people who were already falling between the gaps, and would not necessarily have been in a situation where they would be judged as lawfully resident in France under freedom of movement regulations. A couple of such cases were brought forward.

Because we do not have statistics about how many people have applied, it is difficult to say whether or not that deadline is appropriate in France. We do not have a baseline against which to judge it. It is getting really close; we are now at the end of May, and by this time next month France will want the majority of people to be reached. In a context where it is clear that there are communication problems in France with the hard-to-reach populations, it is getting a bit late even to design a communication programme that might be intended to target people who as yet are not showing up in the system.

There has been a huge amount of confusion in France about who actually needs to apply for the new residence cards. From that point of view, there is a real issue that needs to be addressed. We need the statistics so that we can see where we are, even though, as I have said, there are problems with the statistics. I hope that helps to provide a bit more information.

None of these statistics will count the hard-to-reach populations; they will not be able to include homeless populations, looked-after children and anyone living under the radar, which is a good way of putting it. There are people who have been living their lives in France and have not had to be particularly bothered about making themselves known to the authorities, because they have been able to live quite easily without doing so. That is a real issue.

**Lord Wood of Anfield:** Do we have any sense of whether there will be grounds for late applications in countries such as France if people miss the deadline, or is that the sort of thing on which we will expect details after the deadline has already passed?

**Jane Golding:** I can give the legal answer, if that helps. The legal answer is that the reasonable grounds for late application provisions in the Withdrawal Agreement apply to all constitutive countries, not just the UK. That is why the UK is applying that rule under Article 18.1(d) of the Withdrawal Agreement. All constitutive countries with hard deadlines will apply the provision relating to reasonable grounds, but we do not yet know what the reasonable grounds are. I will leave Michaela to talk about what they might be in France.

**Dr Michaela Benson:** I do not have any details about exactly what they might be, but it points to the fact that in a situation where there are intermediaries making decisions about reasonable grounds, they need to be provided with some guidance about what those would be. As yet, that guidance has not been issued.

An important thing to bear in mind is that guidance needs to be given; otherwise, similarly to what happened to British citizens before the requirement for a new residence status started to come out in France, individual prefectures will make up their own grounds to judge things as reasonable, in an effort to try to help and make sense of the system, but also because they have not been given the guidance required from a central source.

**The Chair:** That is a particularly helpful supplemental. Thank you very much indeed.

Q13 **Lord Tugendhat:** Could I direct my question first to Sue? Could she explain to us some of the issues facing British citizens in countries where there is no hard application deadline, such as Spain?

**Sue Wilson:** In Spain, the population currently is about 380,000. It is the largest population in the EU of British citizens. The figure has gone up by 90,000 over the last five years. In 2020 alone, it went up by 20,000,

so lots more people are becoming registered, but we do not know what the real numbers are. A long-standing issue in Spain is that nobody has ever really known the true number of Brits living there; it has always been assumed to be two or three times the official number, so in theory it is up to 1 million people.

Across the EU, pensioners make up 20% of the population; in Spain it has always been higher, and until recently it was 25%. The latest figure is 37%, so we have a particularly large percentage of a vulnerable group of people. Although there is no hard deadline in Spain for registration for residency, there is a hard deadline for driving licence exchange. One of the issues here is that people do not have to apply by a certain date to get residency, but if they do not have residency by 30 June, there are knock-on effects. They cannot apply for a Spanish driving licence without taking a test, which would be an issue for those who do not have Spanish language skills because the test is in Spanish.

There is also a knock-on effect, in that people relying on S1 health cover, or wanting to apply for it, cannot register that cover with the Spanish authorities, so, without their residency, they cannot get free healthcare. That is a particular concern for people with pre-existing conditions who require lots of medications. In some cases, they are thousands of pounds out of pocket because they have to pay for it themselves while they wait to get residency. Although there is no deadline as long as you can prove that you were legally resident before the end of transition, many people are unable to do that, or thought they could but then found that they cannot. There are issues with severe delays because Spain had one of the strictest Covid lockdowns, and that has had a big impact on the ability to process an increasingly large and unexpected number of applications.

**Lord Tugendhat:** Did I hear you correctly? Has the population of Brits in Spain increased significantly since the referendum?

**Sue Wilson:** Yes, by 90,000.

**Lord Tugendhat:** Good gracious.

**Sue Wilson:** That is not to say that 90,000 people have moved to Spain since the referendum, but that 90,000 more people have registered themselves as legally resident.

**Lord Tugendhat:** I believe that Spain does not allow dual nationality, so if you take out Spanish nationality you have to give up your British nationality, or whatever it was beforehand. Does that pose particular problems in Spain that are not found elsewhere?

**Sue Wilson:** It would apply to other countries. I believe the Netherlands is another that does not allow dual citizenship. One of the issues is in relation to future employment. If you are a Spanish citizen, you might find it difficult or impossible, if you were to want to move back to the UK in future, to get work. You would be another EU citizen wanting to get a visa. There are implications, but we hope that perhaps the Spanish will

look at this again. Recently, just a few months ago, for the first time they achieved a dual citizenship agreement with France. We hope that might be the first step to Spain perhaps looking at this more favourably in the future.

**Lord Tugendhat:** I was just going to ask you about that, so thank you. Could I turn to Jane and Michaela and ask whether British citizens in other EU countries face similar problems on dual nationality? We have just heard about the Netherlands. Are there any other countries where it is an issue?

**Jane Golding:** I can talk about Germany and Austria. I am sitting in Berlin in Germany. Germany has exactly the same issue, except that we were given a grace period to apply for dual citizenship until the end of transition, but from this year it is no longer possible to apply for dual citizenship. As for all of those who got in before, there are now estimated to be between 45,000 and 50,000 dual British-German citizens in Germany. Austria has a similar rule against dual citizenship and it has not given a grace period, as Germany did.

**Lord Tugendhat:** I know somebody who has recently acquired Austrian citizenship. Their grandfather was a victim of persecution and perhaps that put them in a different category, but I know a British citizen who has acquired Austrian nationality without giving up their UK passport.

**Jane Golding:** Yes, there are always exceptions. In Germany as well, you can argue the case post transition and you may be able to hold more than one citizenship, but previously it was automatic with your EU citizenship.

**Dr Michaela Benson:** To add to what Jane and Sue have already said, there is a variety of different rules across the EU because decisions about dual nationality are within domestic legislation, not EU legislation.

One of the issues we have been identifying in relation to those who have dual citizenship is the fact that they do not show up in statistics. If you are a British citizen who holds dual citizenship with another EU member state, you are not counted as a British citizen in those statistics; you will be counted, in Jane's case, as a German citizen. You might be asking why that matters. It matters quite simply because having naturalised status as an EU citizen is not a replacement for your rights under the EU withdrawal Act.

We have also identified that in a lot of cases it is not clear what people should do in order to demonstrate their multiple statuses. A lot of British people who live in France became French citizens far in advance of any idea about what the registration process would be. There was a massive surge in British people applying for French citizenship, because France permits dual citizenship, aside from anything else. A lot of those people probably will not be in a position to apply for the new status, even though they are still eligible under the terms of the Withdrawal Agreement and

some of the provisions it allows for. There are some issues. It is not a solution to the challenges of the removal of status through Brexit.

**The Chair:** This has unearthed some very interesting points. I regret that time is marching on, and we must move to some other subject areas.

Q14 **Viscount Trenchard:** I would like to go a bit further into the question of how UK citizens in EU member states prove their status under the Withdrawal Agreement to relevant authorities, and in what circumstances they will need to prove their status. I understand that there are two systems—the constitutive and the declaratory—but it seems to me that there is not much difference in practice whichever system a country has, because, if you have a declaratory system, the February decision of the European Commission still requires countries to issue a document stating people’s rights under the Withdrawal Agreement. If you have a pre-existing right to remain, it is nothing to do with the Withdrawal Agreement. It seems to me that proving your status is quite complicated. Could I start with Jane?

**Jane Golding:** I do not think it is that difficult to prove one’s status once one has the physical biometric card. As I mentioned, there is a standard format card across the EU that will apply whether you are applying for a residence permit because you are applying for status, or whether you are applying in a declaratory system simply to have proof of that status. In either case, it is the same format of document. Once you have that card, you have a physical document in your hand with which you can prove your status, however you have acquired it—whether you have had to apply for it or it simply derives directly from the Withdrawal Agreement. You will need that document to prove your residence rights and employment rights and when you are engaging with the health authorities, and for social security benefits, et cetera, and obviously when you are travelling. Without the card, it is far more difficult to move across borders.

It has been a problem in some declaratory countries. I mentioned at the beginning that processing is slow and cards are being issued quite slowly. That has meant that in some declaratory countries, where there is misunderstanding by officials of different authorities as to whether it is optional or obligatory to have a residence card in that country, we have seen some issues since January. People have not been given access to benefits and they have had problems with employment, and even with rental or mortgage applications. Those were solved fairly quickly in Germany, and recently in Greece, but we are still seeing some of those problems in Italy and Portugal.

**Viscount Trenchard:** Michaela, could you perhaps comment on one of the points Jane just raised about travelling? My experience when travelling in the EU is that there are no borders; you just drive across. In practice, for a British resident of Spain, what problem will he or she have in just driving into France?

**Dr Michaela Benson:** Sue might be better placed to respond to the specific case of moving from Spain to France. We already know that from the beginning of this year British citizens, normally travelling by plane, were being stopped at borders trying to enter the EU and were turned away. Part of that was to do with the fact that they were no longer EU citizens, so had no rights of entry necessarily. This is also in the context of the lockdown during the pandemic. The experience of a borderless Europe is one that British citizens have been very familiar with, but I do not know how much longer that will last.

I would like to pick up on something Jane said. As she very clearly outlined, lots of people will need to be able to recognise the new biometric cards and what they permit. We know from previous research, not necessarily in the case of EU citizens but in other communities required to demonstrate their rights, such as people who have particular forms of immigration status, that a lot relies on intermediaries being able to recognise these things. This could range from a landlord to government officials. We hope that government officials would be well placed to recognise this, but we can imagine that the standard landlord, who might not have specialist knowledge of complex residence regimes and new situations, would decide to err on the side of caution in that respect. That could have quite a lot of implications for people.

What I am pointing to is that there might need to be some additional communication work to make sure that all intermediaries are aware of new statuses and what the new documentation actually is and what it permits.

**Viscount Trenchard:** Sue, do you have any additional comments? In particular, I understand that the Spanish Government say that you do not need the TIE and you can continue to exist and live with the NIE. Is that realistic?

**Sue Wilson:** Both documents, whether you have a previous residency green document with an NIE number on it or the TIE, are recognised and confer the same Withdrawal Agreement rights, but only the TIE card says so. When travelling, only the TIE card can prove to another EU country that you have Withdrawal Agreement rights. Even though there is no official requirement for anybody with the existing documentation to upgrade to the TIE, there is certainly a strong recommendation from the Spanish Government to do so.

When applications for residency first started, the authorities were encouraging only people who did not have residency to apply for the TIE initially, because everybody else already had some documentation to prove their residency rights. A lot of the people now in the queue are those who wish to switch from the old document to the new one because they are being strongly recommended to do so and it will make travel that much easier.

**The Chair:** Thank you very much indeed for another very interesting set of answers.

**Q15 Lord Foulkes of Cumnock:** The first part of my question has been dealt with by Michaela, who said that the most vulnerable people in this scheme were the homeless, looked-after children and people living under the radar, and Sue added pensioners in Spain. I would have thought it would be pensioners everywhere and those digitally excluded as well.

I will come to the second part of the question. There might be other categories; if there are, could you add them? What support is available for British citizens living in all the countries, and how could that support be improved? What suggestions should we make as a committee?

**Dr Michaela Benson:** The obvious thing to say about this is that the UK national support fund was rolled out by the Government, and I understand that it has been extended. I am sure Jane and Sue will pick up on that. I think the concerns about it are to do with its geographical distribution, as in which countries it covers and which it does not. Understandably, there is quite a lot of coverage in France and Spain, but that means some other countries do not necessarily have the coverage that might be necessary, particularly for those vulnerable populations.

Outside government support, in some of the larger British communities there are long-standing local community groups, charities and organisations that for a long time have particularly supported elderly British people. They are there. I do not know how much support has been extended to them to help with that over this period.

**Lord Foulkes of Cumnock:** In Spain, there are a lot of older people, as you said, Sue. How are the very old helped, and those who may be digitally excluded?

**Sue Wilson:** I do not think they are getting as much help as is needed. There are three groups operating in Spain, and they are doing an excellent job in the areas where they work, but not all Brits in Spain live on the costas, and they do not all live in large conurbations. Unless you happen to be in one of the areas covered by the groups, the only contact you might have, or that would be possible, with any of the organisations is via the internet. That is exactly the problem we have raised several times already.

Before coming here today, I spoke to all of the groups to discuss vulnerable groups. One of the things they said very clearly is that there has been a sharp increase in the number of people who are deemed not to fall within the WA provisions. There are people who will not qualify for residency. Even if they heard the messages and are making an effort, they will not meet the criteria. Some of those people have lived in Spain for decades; they have no connection to the UK any more; they have no family in the UK; they do not want to go back and have no desire to go back. They will become undocumented migrants. That is one area where support is very definitely needed. I do not know what that support will look like, because it does not seem to be discussed as much as it should be.

**Lord Foulkes of Cumnock:** Jane, what about other countries? What is

the support like there?

**Jane Golding:** We have all mentioned the UK national support fund that the UK Government put in place. Initially, £3 million was allocated to it, but it covers only 12 countries. Of those, it covers only two constitutive countries, which are obviously those with deadlines where probably the help is most needed. France at least is covered, but that means that 15 other countries are not covered by the support.

The support has just been extended for a year, but its geographical coverage is patchy. It is only 12 countries and does not cover all regions of those countries. It covers Germany, France and Spain, but not all regions in those countries. It would be very useful if the committee could ask the Government to provide some sort of report concerning the activities of the UKNSF groups so we can get a better idea of how it is working across the EU.

**Lord Foulkes of Cumnock:** That is a helpful suggestion. The figure for just France is 148,300, but I do not believe that. There must be that many in the Dordogne alone, before you go anywhere else. Are there lots and lots of people over there who are not identified? Do they have cartes de séjour and therefore are quite happy? Why have they got lost?

**Dr Michaela Benson:** It points to the issues I raised earlier. In France, the statistics were not drawn from registration information because there was none. They were drawn instead from census data. Jane and Sue have heard me talk about this ad infinitum over the last four years. It is likely to be a significant underestimation. Even if it was anywhere close to correct, that number, as in Spain, would have gone up dramatically in the last four years purely because people find themselves in a situation where suddenly they need to make themselves visible in ways they did not before.

It is clear that there is something specific about the broader bureaucratic context in France, which means that it was easier for people to escape notice. It is not that they were deliberately trying to evade anyone, or anything like that, but, because there was no need for them to be counted, they were not really counted. I point to the fact that this is not just down to individual member states. I find it quite surprising that the British Government do not have a real sense of which of their citizens live abroad and how many there are. It is surprising because we know that per capita the emigration rate from the UK is one of the highest in the world, yet we hardly ever talk about that when we talk about migration.

**Lord Foulkes of Cumnock:** I bet the French Government know how many French people live overseas because nearly all of them vote in elections, do they not? They certainly do in London.

**Dr Michaela Benson:** They have overseas constituencies.

**The Chair:** Thank you. We are running a bit late. I hope the witnesses are able to stay on, as we still have two main questions and then a

couple of supplementals.

**Q16 Lord Faulkner of Worcester:** I am one of those who would like to ask a supplementary question at the end. My main question is very short. It is about professional qualifications for UK citizens in the EU. As I understand it, if you have qualifications in, say, France, that is fine, they are recognised; but they are not transferable if you move to another member state. To what extent do the additional provisions on recognition of professional qualifications under the TCA improve on that? It strikes me that it is not very much, but maybe you can give me an answer.

**Jane Golding:** I would tend to agree with you. You are absolutely right that professional qualifications will be specifically recognised and grandfathered only in the host state, but not EU-wide. As a lawyer working in Germany, I could have my qualifications recognised in Germany but not outside, and it would be similar for a doctor working in Germany.

I do not think the TCA provisions help at all in the short or medium term. The TCA sets up a similar system to that under the EU trade agreement with Canada; it provides for the possibility of reaching agreements on specific qualifications on a case-by-case basis, but those agreements would have to be reached. As far as I can see, in the CETA arrangements there have been only two meetings of its mutual recognition of qualifications committee and so far, the only qualifications they have considered, or are discussing an agreement on, are those for architects. So, it sounds like a very long drawn-out process.

**Lord Faulkner of Worcester:** Thank you.

**The Chair:** That was indeed very short. Baroness Coultie's question has been largely covered. Therefore, I will move to the supplemental question list but come back to Baroness Coultie at the end of that list. We start with poor old Lord Tugendhat, whom I cut off at the knees earlier just as he was getting going. After that, we will go to Lord Faulkner and then Baroness Coultie.

**Lord Tugendhat:** Could I ask Sue particularly whether she and her group, and the unfortunate people caught up in this, have anything to learn from the Norwegians? I believe there is a very significant Scandinavian community in Spain, especially on the costas. In many ways, it is very similar in make-up to the British. That group of Scandinavians includes Norwegians as well as Danes and Swedes. Is there anything to be learned from the position of the Norwegians and how their affairs are regulated?

**Sue Wilson:** I am afraid I cannot comment on how the affairs of the Norwegians are conducted, but it is something I would be happy to find out about and come back to you at a later date, if that would be of interest.

**Lord Tugendhat:** It remains to be seen, but it might be, since there is a group of people similar in many ways to our people living in the EU, in

Spain. It may be that they have resolved some of the issues that are causing concern.

**The Chair:** We are very happy to accept written evidence, and it sounds as if that would be a very valuable area on which to gather evidence. Obviously, it has direct relevance.

**Lord Faulkner of Worcester:** This is a personal question for Michaela. I have a daughter who has lived in France for the whole of her married life, which is now about 28 years. She has three children who are dual French-British citizens and are entirely bilingual, which puts me to shame. She is a schoolteacher in the Sarthe region of France. She has been used to bringing parties of between 20 and 30 of her 15 and 16 year-old school students to Britain for visits and to soak up British culture. It strikes her that it is now almost impossible for her to make arrangements for a group of that size to come. Do you have any advice for me that I can pass on to her?

**Dr Michaela Benson:** I am not sure that I can immediately come up with advice about that. I would have to look into it and get back to you. I had not thought about that situation in advance of the meeting today. I am sorry I cannot provide anything more.

**Lord Faulkner of Worcester:** I am sorry I could not give you notice. Your evidence has been excellent this afternoon, and it was a question that occurred to me when you were answering earlier. I would love to hear from you later.

**Dr Michaela Benson:** Wonderful.

**The Chair:** Very good. In an unrehearsed way, I was going to ask Baroness Coughtie whether on reflection she has a question that she would like to pose.

**Baroness Coughtie:** Just about everything I intended to ask was covered by Lord Foulkes. Perhaps I could ask whether you feel the UK Government are defending UK citizens when they have difficulties. We have the support fund that we have already talked about; we have talked about some of the communication issues. Do you feel that you have the backing of the UK Government both now and in the future if problems arise?

**Jane Golding:** A lot of officials are working very hard to defend our rights. We have regular meetings with them and we can raise issues with them and they feed them in. A problem at the moment is the relationship between the UK and the EU. I think levels of trust are quite bad at the moment, which makes it more difficult for them to have very constructive discussions on these issues.

There are always big concerns on the EU side about EU citizens in the UK and their issues. There are also some issues that we care about greatly as UK citizens in the EU on which the UK is taking a position in the UK for EU citizens that means it cannot always argue our case. Mobility rights

were absolutely essential for many of us. We are a very mobile population and many of us built our careers and our lives on those rights. That is one area where it is quite difficult for the UK to make representations on our behalf.

There are also questions, for example, about dual citizens and their rights under the Withdrawal Agreement. We are very keen for every EU member state to give us the option to prove our rights under the Withdrawal Agreement, because there are rights that we need to use under that agreement even if we are dual citizens—for example, family reunification and recognition of qualifications. But the UK is not allowing dual citizens to apply for settled status or some form of proof, and is going to casework those rights. We as UK citizens in the EU would like to have specific proof from the member states and host states where we are living, but that is not easy for the UK to push because it is not doing that itself. That gives you a bit of a flavour.

**Baroness Couttie:** Thank you very much. It does give me a flavour. Are there any examples from Spain or France that might give some colour to that?

**Dr Michaela Benson:** I can come in on the basis of the research that we did for the BrExpats project. We worked with about 600 people over the course of two years. The human face of this is an overwhelming feeling among the people who took part in the research that they were out of sight and out of mind of the UK Government, notwithstanding their recognition that individual officials and in some cases embassies were working very hard on their behalf, as Jane just said.

There is a real mismatch in a situation where the Government's integrated review is currently presenting British citizens living overseas as a source of soft power post Brexit. A lot of work will have to be done to rebuild confidence among that British population, particularly those living in the EU, that the Government will defend and represent their interests. There is repair work that needs to be attended to urgently if they really want those British citizens to be a source of soft power.

Over the past few weeks, there has been a lot in the newspapers to the effect, "Look what the EU is doing to British citizens. These people are experiencing prejudice because the EU is trying to hurt and harm us", and all of that. That is a really poor step. The mobilisation of the challenges that some British citizens are facing is quite disingenuous in a context where, as we have heard from some of our colleagues working with EU citizens in the UK, there are equally issues relating to implementation through the EUSS. That game of one-upmanship played out through the media does not seem a very grown-up way of approaching what are quite significant challenges that need to be addressed.

**Baroness Couttie:** Thank you. Sue, do you have anything to add?

**Sue Wilson:** I would like to add to that, and reiterate what Jane and Michaela said. We did a recent survey that included over 600 testimonies from our members. The concern at the top of the list was lack of confidence and trust in the British Government. It has to be said on the plus side that the British embassy in Madrid has been wonderful. The quality and regularity of the information and the openness and transparency have been fantastic. It has a fantastic relationship with the Spanish authorities and keeps us well updated.

The concern is about the UK Government. I have to echo what Michaela said about living in limbo. Many of these people have been worried about their status for five years. There was an element of relief with the Withdrawal Agreement. The TCA did not make much difference, but they feel as though they still cannot wholly trust what they have been promised. We have had broken promises in the past. They hear the rhetoric. Jane touched on the difficult relationships between the EU and the UK throughout the discussions. The kind of attitude we see there, magnified by the media, makes people still feel very nervous. Even where rights are protected by the Withdrawal Agreement, people do not completely trust them; they still think they could be taken away. That feeling of living in limbo persists. It is very hard to regain that trust, and I am not sure how we go about that.

To follow up a point Jane made about mobility, which is not something we have talked much about today, if you will allow me I would like to quote from the European Commission's Q&A on the TCA. The question was: "How easy will it be for professionals to travel between the EU and the UK under the Trade and Cooperation Agreement?" The answer was: "The UK has chosen no longer to allow the free movement of EU citizens to the UK. It also refused to include a chapter on mobility in the Agreement. These choices inevitably mean that business travel between the EU and the UK will no longer be as easy as it currently is". I am afraid to say that hurts. That will not go away with the TCA or the Withdrawal Agreement. We have to live with the consequences of Brexit, basically.

**Baroness Couttie:** That is very interesting. Thank you very much.

**The Chair:** Thank you, Jane, Sue and Michaela. It has been a fascinating session. I am afraid we have overrun, as you know, but it has been very valuable for us. I am grateful to our broadcasters for staying with us to the end. I hope that you will send in some written submissions, because we read a lot on our committee. We hope to be able to report in July on the state of affairs then. It has been a very helpful session today. With that, I declare the session closed.