



THE SELECT COMMITTEE ON THE EUROPEAN UNION

Justice Sub-Committee

Corrected oral evidence: Brexit: Acquired Rights

Tuesday 25 October 2016

10.45 am

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Members present: Lord Cromwell (The Chairman); Baroness Hughes of Stretford; Lord Judd; Earl of Kinnoull; Baroness Ludford; Baroness Neuberger; Baroness Newlove; Lord Oates; Lord Richard.

Evidence Session No. 3

Heard in Public

Questions 17 - 26

Witnesses

I: Her Excellency Sylvie Bermann, the Ambassador of France; Sylvaine Carta-Le Vert, Consul-General of France to London.

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Examination of witnesses

Her Excellency Sylvie Bermann and Sylvaine Carta-Le Vert.

The Chairman: Good morning. Thank you both very much for coming to speak to us today. We are very grateful for the time you have allocated to seeing us, and I am aware that you need to get away at 11.30 am sharp, so we will endeavour to keep to that.

I will ask you in a moment to introduce yourselves briefly for the record. If you want to make any initial statement, please do so. Before you do that, there are a few housekeeping points. This session is open to the public. A webcast of it goes out live and will be subsequently accessible on the parliamentary website. A verbatim transcript of your evidence will be taken and will also be available on the parliamentary website. You will be sent a copy of that in a few days' time to check for accuracy, to make any corrections and so forth. Clearly, if you could turn that around quickly, that would be helpful to all of us.

Finally, if after the session there are any issues you want to clarify or amplify, or any additional points you would like to make, please feel free to submit additional material in writing and we will be happy to include it in your evidence.

Having galloped through that, may I ask each of you to introduce yourself and to make any initial statement if you have one? If you do not, we will proceed to the questions.

Her Excellency Sylvie Bermann: I am Sylvie Bermann, French ambassador to the UK. I arrived here two years ago. I will make an initial statement, but perhaps Sylvaine Carta-Le Vert should introduce herself first.

Sylvaine Carta-Le Vert: I am Sylvaine Carta-Le Vert, the French consul-general in London. I arrived a year ago.

Her Excellency Sylvie Bermann: Thank you, Lord Chairman. I am happy to be here to answer your far-reaching questions. Some deal with the negotiating positions of our countries and, much as I value the need to foster clarity on the issue of acquired rights, which is very pressing for hundreds of thousands of people across Europe, I will not be in a position to go very far. I shall begin by underlining four points that encapsulate the challenges of these questions from France's point of view.

First, from the many contacts I have had in the past three months with British Ministers and high-ranking officials, I gather that the Government fully appreciate the importance of giving certainty to EU nationals. They also have a clear sense of the contribution that EU nationals make to Britain's economy, to the vibrant cultural life of many of its cities and to the life of its communities.

Secondly, the existence of large and diverse expatriate communities in our two countries is a unique testimony to the unparalleled bond between them. I recently attended the celebration of the 950th anniversary of the Battle of Hastings in Battle. Down the centuries, France and England have fought time and again all over the world, to the point of knowing each other intimately, with respect and even love. For more than a century now, they have looked to the future together to maintain global peace, because our long rivalry, which has given both our countries their historic dates, heroes and places of memory, has ended in fraternal understanding and widespread human, economic and cultural links. The 300,000 or so French nationals in the UK, and a similar number of British nationals in France, are a strength for our two countries—not only a legacy of our long-standing relationship but an invaluable asset for its future. We must not neglect that.

Thirdly, the issues at stake are complex because, from a legal point of view, we are looking very much at a blank page. According to some legal specialists, neither European law nor—contrary to what many said during the campaign—the Vienna Convention on the Law of Treaties 1969 answers the question of EU nationals' acquired rights. The ECHR of course offers protection in the area of private and family life. These issues are also complex because a lot is at stake—not only the rights of residents but social rights and co-operation and co-ordination between social security systems, the right to set up and run a business, and the opportunity for family reunification, among other things.

Lastly, I must tell you that the French community in the UK is worried and has a lot of questions. It is worried because of the great uncertainty about its future in the UK; its members have invested a lot in this country, both personally and professionally. It is also worried, because in the aftermath of the referendum some French nationals were subjected to negative or aggressive language. I have received testimonies in this regard, as have my colleagues. They were not used to this sort of abuse in a country where many of them have lived for decades and which they regarded as a success story in terms of dynamism and respect for others. Some of them now view Britain in a different way and are ready to change their plans in the short term. Some of them told me that before 23 June they felt like Londoners and now they feel like foreigners, which is different. Many express a sense of sadness and are waiting for answers.

Now I will try to answer your questions.

Q17 The Chairman: Thank you very much indeed for covering in such a short space of time not only nearly 1,000 years of history but the very live current issues. You have just told us that there are about 300,000 French citizens currently in the UK. Does one or both of you have the answer to the supplementary question: how many of those have acquired permanent right of residence here under EU law?

Her Excellency Sylvie Bermann: It is very difficult to know. They are EU citizens, so they can come and go without informing the embassy or

the consulate. It is not necessary for them to inform us, so it is difficult to give these figures.

The Chairman: Entirely understood.

Her Excellency Sylvie Bermann: But as I say, a lot of them came to this country 20 or even 30 years ago. They have bought homes and so on. It was not a question for them.

The Chairman: This is an issue we have come across before. Freedom means that the statistics are not being gathered and there is a tension in that.

Her Excellency Sylvie Bermann: Yes, absolutely. Even the figure of 300,000 is an estimate, because it is very difficult to tell. Some 128,000 are registered at the consulate, but frankly if you are a French person coming to London, you do not have to register.

The Chairman: That is understood. Thank you

Q18 **Earl of Kinnoull:** Thank you, Your Excellency, for that opening remark. I see that you have noted the importance of having "a clear sense of the contribution to the British economy life and cultural life", and I must say that I wholeheartedly agree with that. Could you give us a little more colour in terms of what the 300,000 people from France are doing in the UK? Which areas of the economy and cultural life are they making a sizeable contribution to?

Her Excellency Sylvie Bermann: It is very balanced, first, because Paris is close to London, so we have perhaps half of the community who are highly qualified. A lot of them are working in the City in investment banking, insurance and financial services. They are also working in the universities, and of course we have a large number of students. Others are employees working in restaurants and in fact in all kinds of jobs. The former Mayor of London used to joke about it, saying that London was the fourth French city. It is not the fourth but it may be the sixth, and it is perceived as such. There is a large French community in South Kensington, for instance, and those people really felt at home here and tried to find any kind of job.

Earl of Kinnoull: Thank you for that. Just to clarify something you said, you think that possibly half of the people are in some way connected to the City of London.

Her Excellency Sylvie Bermann: No, not that half of them are connected to the City. We also have lawyers and so on. Many are highly qualified, with others working in research. Not all of them work in the City, but there are many of them because we have good mathematicians in France and I know that they are appreciated in the City. The figures as I understand them are around 8,000 or 10,000 working directly in the City, but as I have said, people are working in universities, insurance companies and so on. Moreover, all our big companies are represented here and they employ a lot of people. You will know about EDF, for

example, because of Hinkley Point. You also have Veolia and RATP Dev London, which operate red buses in this country, along with many other companies in the UK. It is a very rich and diversified community.

Q19 Lord Oates: Could you give us an estimate of the number of UK nationals exercising their right to live, work and study in France?

Her Excellency Sylvie Bermann: The figures are an estimate. The British embassy suggests that there may be 300,000 or 400,000 people. Again it is difficult to know, because again they do not have to register; they are EU citizens. They can acquire homes very easily, so we do not know. I think that the figures are more or less similar, even if from a sociological point of view it may be a different community.

Lord Oates: I assume that there are probably similar problems with the statistics, but is there any estimate of the numbers who have acquired rights under EU law?

Her Excellency Sylvie Bermann: I have no idea because I am not sure about those bureaucratic processes. People want to go to France and buy a house. Many of them are in Normandy, around Paris or in the south-west, in fact in many different places. Some of them have also become municipal or local councillors and they participate in the political and local life of the country. However, we do not have those figures.

The Chairman: Thank you. Perhaps we could move away from this rather scanty access to the statistics for the reasons that you have quite rightly outlined and get on to the real and more substantive issues that underlie this.

Q20 Baroness Neuberger: You have already said quite a lot, Your Excellency, about the reactions of some of your nationals to what has gone on post the Brexit vote. Can you give us a little more colour about the sort of concerns that French people have communicated to the embassy? You have said that some of them used to feel like Londoners but they now feel like foreigners. Can you give some particular examples of why they are feeling that life has become harder in some way?

Her Excellency Sylvie Bermann: Because they have overheard very unpleasant remarks on the Tube or elsewhere. You cannot compare that with the Poles, of course, because there is less aggression, but they feel uneasy and uncomfortable and so they report it to me, although I am not the only one to receive such reports. Apart from that, some of them, in particular those who have arrived recently, do not know whether they should buy a house. They also do not know what to do about their children. For the time being, if you are an EU citizen you are part of our law more than if you are a Chinese or an Indian citizen. It is very difficult for them to decide whether or not to become, say, a university student, which of course is a major concern. Also, some companies with French people working in them say that their employees are asking those kinds of questions. The point is that they feel less welcome than they were before, and they feel great uncertainty about their future life.

Baroness Neuberger: So presumably some are already thinking about leaving. Have you heard that?

Her Excellency Sylvie Bermann: Yes.

The Chairman: May I ask a supplementary to that? I am sure that you are following the debate here, where the words “bargaining chips” are being used quite a lot. What message do you feel able to give French people about their rights in the current context?

Her Excellency Sylvie Bermann: First, they are asking the consulate-general a lot of questions. They wonder if they should apply for British citizenship or for other kinds of document. Mostly I tell them that for the time being, of course, Article 50 has not been triggered and no agreements have been made. We will know only at the end of the negotiations. Because it will be based on reciprocity and because there are a lot of British nationals all over Europe, I think that the 27 and the British Government will take that into consideration in the negotiations. I do not think they should be too worried, but at the same time we of course report their concerns to the British authorities.

The Chairman: Given that the British authorities have been pressed on this quite a lot and are clearly not moving from expressing the view that, “We think it will be OK, but we are not going to declare that unilaterally”, do you feel that the UK Government could realistically do any more to give reassurance to your nationals?

Her Excellency Sylvie Bermann: It is very difficult, because we all know that that will be part of the negotiations. We appreciate the reassurances given by Members of Parliament, including from the House of Lords, as well as assurances given by the Mayor of London. All that is very important, but of course it will be part of the negotiations, so there cannot be any absolute certainty. But it is good to hear about that. It is also important, even if French nationals are less targeted than others, that you are doing something about hate crimes and making it very clear that they are not acceptable in this country.

Q21 **Lord Judd:** May I first say that I am very sad indeed that your citizens are encountering these changed attitudes? I am happy to be part of a family that loves France. Could you spell out which rights currently enjoyed by French people living here under EU legislation you most want to see preserved, and which of these are the most important? Do you think that anyone of good faith had any reason to suppose that, following the legislation of the Maastricht treaty, their place in the country in which they were residing was conditional and depended on that country continuing to be a member of the EU?

Her Excellency Sylvie Bermann: It is difficult to answer the question precisely. What is important for us, of course, is free movement. There will be negotiations and the British Government will have to make special proposals. Of course, what the French community here wants is the status quo. But we will see, and it does not depend on us; it will depend

on the British Government, on the conditions under which you leave the EU, and on the negotiations. It is very difficult to answer the question precisely.

Lord Judd: We as parliamentarians are inexcusably forbidden from knowing too much about these negotiations, which is a terrible situation. From the French point of view, are any salient points emerging from the negotiations that give grounds for concern?

Her Excellency Sylvie Bermann: As you know, the French Government's position is very clear: we do not want to enter into any pre-negotiations before the triggering of Article 50. We consider the British to be the demandeur for that; we are waiting for their proposals.

You have seen in Bratislava that the 27 have taken positions on the protection of European citizens, security, jobs, growth and so on, but for the time being we are not in a position to say what we want from the UK, because the UK is the demandeur for that. So we will react after that. I know this is very frustrating for you, but I cannot answer further than that.

Lord Judd: May I say that it certainly is?

Q22 **Baroness Hughes of Stretford:** Good morning. I, too, very much regret the position we are in here. To follow on from the point you have just reached, the UK Government's position is not to reveal at this stage any of the demands that they might have in relation to rights they might confer on EU citizens here and reciprocal rights for UK citizens abroad. None the less, can you give us any insight into the position your Government might be willing to adopt in a general sense, without specifics? As you rightly say, we are not clear about the specifics. For instance, is it likely that the French Government would adopt a position of exact reciprocity in relation to rights to that adopted by the UK Government? If the UK Government said no to free movement, would the French Government be likely to say the same for UK citizens in France? Would you expect what your Government will allow for UK citizens in France to mirror what the UK Government put forward for French citizens in the UK? Is that the general direction?

Her Excellency Sylvie Bermann: The French Government have not taken a position on that so far and I cannot prejudge their position. Plus, we will have elections next year. Also, negotiations will not be between the UK and France but between the UK and the 27, so we will try to have a common position.

Baroness Hughes of Stretford: But I presume the French Government would take a leading role in articulating and shaping the position of the other 26. Do you think that might be a reasonable position for the other 26 to take? That position is: we will go only so far as regards UK citizens as you—the UK—are prepared to go for EU citizens in this country. Do you think that kind of quid pro quo is likely to be the position?

Her Excellency Sylvie Bermann: Again, I cannot say precisely. Of course, the negotiations will be based on reciprocity but whether it will be absolute reciprocity, I cannot say.

The Chairman: Of course, somebody has to do something for somebody else to reciprocate. It is the old question of who will start the dancing.

Her Excellency Sylvie Bermann: But again, that is the UK. We wanted the UK to remain in the EU, so this has been a surprise and we are saddened by it, but we now have to draw the consequences. The British are the first to ask something and to have proposals.

The Chairman: Understood. Thank you for your answer.

Her Excellency Sylvie Bermann: I am sorry to repeat it all the time.

The Chairman: Do not worry; we are not letting you off that easily. We want to draw on your depth of experience of working with the EU.

Q23 **Lord Richard:** May I start by saying that, in my experience, the French diplomatic service is extraordinarily efficient, particularly in looking at the possibilities that might be coming down the road. I find it very difficult, therefore, to believe that the French have not already worked out at least an approach to many of these issues.

How do you see the negotiations going? How do you see acquired rights being dealt with in negotiations between Britain and the rest of the EU? Do you want a general safeguarding clause or do you want to look at individual rights? How do you see the technicalities?

Her Excellency Sylvie Bermann: You said that we are very efficient and we started to have an approach, but British civil servants are also excellent. For the time being, there is no position. It is not that the French are hiding their position; so far they do not have a position. There are some hints, but nothing formal, so it is difficult to answer a very hypothetical question.

Lord Richard: It is fairly hypothetical but not totally. Acquired rights will be on the table in negotiations. You said that and the Government have been repeating it ad nauseam. This issue will have to be dealt with in negotiations. I am just interested in how you see the form of the negotiations.

Her Excellency Sylvie Bermann: I think the negotiations will be very complex and very difficult. We have been very clear that the four freedoms are indivisible. We heard from the British Government that the most important point is curbing immigration, so that will have consequences. That is all I can say for the time being.

Lord Richard: That is about as illuminating as many statements by the British Government.

The Chairman: That is reciprocity.

Her Excellency Sylvie Bermann: Absolutely. You mentioned a quid pro quo. When we have a clear position from the British Government, we will answer clearly.

The Chairman: We are back to who will start the dancing, I think. I have a question on that, if I may push you a little further. Would it make sense for this to be clarified? It is an issue for all member states that is particularly highlighted by the Brexit situation. Obviously Brexit is quite a new experience, but in your experience of process is this something where there will be a number of issues—this perhaps being the top one—that will be cleared very early in the negotiations to get them dealt with to move on to issues of greater conflict, or will everything remain on the table until the last day?

Her Excellency Sylvie Bermann: My experience is that nothing is agreed until everything is agreed, so probably it will not be solved in the beginning. There may be some political reassurances, but I think that everything will be decided at the end. That is my feeling. I do not yet know how they will negotiate but that is how it works usually.

The Chairman: I am grateful for the benefit of your experience. As an optimist, I was hoping that we might start with goodwill in clearing this because I think we all want to do the same thing. It is just that somebody has to do it first. But let us see, and you are far more experienced than I am in this issue so thank you for your reply. Moving back on to legal ground, Baroness Ludford, did you want to put this question?

Q24 **Baroness Ludford:** Would France wish to see the UK adopt legislation granting all lawfully resident French nationals in the UK a permanent right to reside once the UK leaves the EU? Perhaps you could home in particularly on the people who have been here for at least five years. We have obviously heard a lot of reference since June to people who, if they have been lawfully resident for five years, acquire a permanent right of residence—that is, of course, with the rider “under EU law”. This came up yesterday in Questions in the Lords. Are you seeking something specific on the status in UK domestic law of people in that category, or have even less than five years? Let us just think of the people who have had five years.

Her Excellency Sylvie Bermann: I think the French community would appreciate having that permanent right of residence, of course. It will be important.

Baroness Ludford: There is some discussion about a cut-off point. Do you think that at least those who have been here for five years can be dealt with cleanly?

Her Excellency Sylvie Bermann: But for the time being, this is the law and it would probably be easier to do that. We will see afterwards whether it is domestic law. Of course, to have this permanent right of residence would be appreciated.

Baroness Ludford: If I may ask one more supplementary, have you heard from any French nationals who have sought to translate that right into UK domestic law by seeking permanent residence or indefinite leave to remain under UK law so that they have a UK status?

Her Excellency Sylvie Bermann: Some might have done that, but it is very difficult to know because it is their choice. It is their appreciation of the situation. Since anyway there will be two years before the end of the negotiations, or even more than that, people may consider it but have not taken any decision yet.

Q25 **Lord Oates:** Given that the UK Government have said that they want to protect the status of EU nationals in the UK as long as the status of British nationals in the EU is protected, given that you have implied that reciprocity would be the basis of negotiations, given the evidence that we have been given by other EU ambassadors to similar effect, and given that any delay in sorting this out is very unsettling and causing uncertainty to millions of EU citizens in Britain and British nationals across Europe, if the British Government made a very explicit statement, is there not some way in which the EU 27 could take this off the table at an early stage, because it is so destabilising to everybody's citizens? Do you think there is some prospect of that?

Her Excellency Sylvie Bermann: I do not know. I cannot answer that question, because again it will be part of the negotiations and the way in which they want to deal with it. I am sorry to repeat that all the time, but it is for the UK Government not only to trigger Article 50 but to make proposals to which we will react. For the time being, the concern of France and the 26 is to strengthen the EU. We are not going to make any proposal regarding Brexit and it is not necessary. We will wait for the British proposals.

The Chairman: I think that is clear. We have already spoken about the efficiency of the French diplomatic and civil service. I am conscious that we have got through a lot of ground in quite a short time and I want to give you this chance. Is there something that we have missed or that you would like to land with us, which we have not asked you about? Are there some issues that you would like to take the opportunity to express or to ask us about, come to that?

Her Excellency Sylvie Bermann: There is something, which I think is a bit bureaucratic. Those people who are seeking some rights of citizenship, or other kinds of papers, have to give up their passport—the original—and afterwards they wait for weeks or months. If that can be accelerated, it would be a good idea. You may consider that most of the time the EU or the French are bureaucratic, but this time perhaps you could help. I think that it is the responsibility of the Home Office, but it would be good to give only a copy of the passport so that people can continue to travel and do their business.

The Chairman: Thank you very much. I am sure the Home Office will be listening acutely to this.

Q26 **Lord Judd:** We have been approaching this rather in constitutional or negotiating terms. The French people and the British people will face an awful lot of big issues in the years ahead. Would you agree on behalf of the French Government, if you are able to, that in a whole range of activities—climate change, terrorism, international crime and the rest—it will be absolutely essential as our priority to have continuing close working relationships between France and Britain, not least perhaps on defence?

Her Excellency Sylvie Bermann: You are absolutely right. That is very clear on the part of our Governments and it will continue to be so. I think that we are the closest allies in the EU. We are facing common challenges. You mentioned climate change, EU-wide crime, counterterrorism and so on—terrorists do not respect borders. We will continue to have the closest collaboration on defence issues and, as you know, we have a joint force of about 10,000 people. That force participated in the Griffin Strike exercise, which I attended. There are a lot of projects between France and the UK on security issues. Of course, I mentioned our close co-operation on counterterrorism, which is very efficient, and there is intelligence-sharing. Of course we will continue with that; it is very dear to our hearts. This will not impact bilateral relations. You are right, and I am glad to be able to say that too.

The only thing is this. It is clear that we will continue to share intelligence, but there are terrorists elsewhere in Europe—in Belgium and in other places. So it is very useful to have access to the PNR, access to Europol, which is led by a very efficient British gentleman, and access to the SIS II and all those European instruments, apart from straight bilateral co-operation.

The Chairman: Thank you very much. I am conscious of your need to get away and, with one eye on the clock, we will wind it up there. Unless there is anything further that you or your colleague wish to add, we thank you very much indeed for your time. It has been very interesting to hear what you have to say and I appreciate the difficulty of giving specific answers to many of the questions. I suspect that that is a problem in its own right. Thank you very much indeed for coming and giving us your testimony.

Her Excellency Sylvie Bermann: Thank you Lord Chairman, and thank you to you all.