

# Committee on the Future Relationship with the European Union

## Oral evidence: Progress of the negotiations on the UK's Future Relationship with the EU, HC 203

Tuesday 30 June 2020

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Members present: Hilary Benn (Chair); Joanna Cherry; Sally-Ann Hart; Dr Rupa Huq; Nigel Mills; Matt Vickers; Dr Philippa Whitford.

Questions 471 - 514

### Witnesses

**I:** Jane Golding, Co-Chair, British in Europe, and Co-Chair, British in Germany; Kalba Meadows, British in Europe Steering Committee, and Co-Founder, France Rights; Michael Harris, British in Europe Steering Committee, and Co-Chair of EuroCitizens in Spain.

### Examination of witnesses

Witnesses: Jane Golding, Kalba Meadows and Michael Harris.

Q471 **Chair:** Good morning, and welcome to today's meeting of the Committee on the Future Relationship with the European Union. May I begin by asking our three witnesses to introduce themselves for the record?

**Jane Golding:** Hello. I am Jane Golding, co-chair of British in Europe, which is the coalition of UK citizens' groups across the EU. I am also the co-founder of British in Germany, the national group in Germany of British in Europe.

**Michael Harris:** My name is Michael Harris and I am a member of the steering group of British in Europe. I am also the founder of EuroCitizens, a citizens' rights group based around Madrid.

**Kalba Meadows:** Good morning. I am also a member of the steering group of British in Europe, and co-founder of France Rights, which is a



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citizens' rights platform and core member of British in Europe, dealing solely with information and advocacy on citizens' rights in France.

Q472 **Chair:** On behalf of the Committee, may I thank the three of you very warmly for giving up your time to give evidence to the Committee on this extremely important topic? As you know, this Committee and its predecessor have long taken an interest in the rights of British citizens abroad.

I will kick off with a question that I would like all of you to give a brief answer to. The European Commission has described the rights laid down in the withdrawal agreement as broadly the same as those under free movement. Do you agree? If not, in what respects are they not broadly the same, and what would be the consequences for you and your fellow Brits living and working in Europe?

**Jane Golding:** They are broadly the same only in the host country where we are living now. That means we will keep most of the rights that we currently have in the country where we live now, but we will not have any EU-wide rights of free movement, for example, or EU-wide recognition of our qualifications. There are no rights in the withdrawal agreement dealing with cross-border working. Bear in mind that third-country nationals who obtain the equivalent status of long-term residence in the EU have mobility rights. We have no mobility rights, and this is a key concern for our members. Contrary to some of the stereotypes, 80% of our members are of working age or younger, and they are a very mobile population. This is the No. 1 concern of our members across Europe: whether they will be able to continue to work across the EU.

**Kalba Meadows:** I would certainly echo that. In France, we have a very large number of people whose livelihood is based on working in different countries—people with small businesses, people who are employed—and an awful lot of them face losing their livelihoods. It is not just a question of rights on a piece of paper, but something that affects real lives. There are other things lost too; by way of an example, the right to bring a future spouse and other rights of family reunification in the future are lost. All of these will affect people's lives on a day-to-day basis.

**Michael Harris:** There is the stereotype of the Briton who lives in Spain. There are a lot of retired people in Spain who will not be affected by the need to go to work or to provide cross-border services, but around 60% of Britons in Spain are of working age or below. That affects people who are working as well as young people. I would like to point out that young Britons in the EU are going to be most affected by this: their ability to go and study in another country and their ability to move in order to work. That is something that we are particularly worried about.

Q473 **Chair:** As we know, when this issue was put to the EU side in the first phase of the negotiations around the withdrawal agreement, they said that free movement for work purposes is a future relationship issue, not a citizens' rights issue. Do you have any confidence at all that the problems



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you have identified may be addressed in the negotiations that are taking place at the moment? Have you had any indication or feedback from either the UK Government or the Commission negotiators that they understand the point you are making and are seeking to resolve it?

**Jane Golding:** To date, no, we have not had any indication from either side that this topic is being discussed in any detail as part of the future negotiations. It really is a question of the level of ambition on mobility rights that the UK seeks in the future negotiations. We have seen the draft agreements that both sides have put out and, for the moment, these areas are not covered. We have also seen the Government's proposed new immigration plans, which would not cover these rights. The European Parliament adopted a resolution a couple of weeks ago, which made very clear that the European Parliament would like to see a higher level of ambition as far as mobility rights are concerned between the UK and the EU.

Q474 **Chair:** The practical effect for the Brits who are working and who currently rely on being able to practise their profession by moving between different member states is going to be very considerable, I presume.

**Michael Harris:** Yes. I would like to point out that, two years ago, when we last gave oral evidence, Mr Whittingdale asked us why we should get freedom of movement within Europe but not his constituents in the UK. One thing is interesting to talk about here: we have been exercising our rights as EU citizens for a long time. We are also within the single market but without the rights of the single market. UK citizens will be outside the single market but they will be within their own market, with the opportunities that that will give them. There is a distinction, in that UK citizens in the EU will be more affected than UK citizens who live in Britain and have not exercised their rights.

Q475 **Chair:** These are rights that you have had for a long time and which are going to be taken away, unless something is resolved. Is that the case?

**Kalba Meadows:** They are rights that we relied on when we first used our freedom of movement right to move to our host countries. If I can come back to your specific question about the practical effects, I can say that we are already seeing instances of people being refused interviews for jobs because those jobs require the freedom to travel across the EU. We are not even at the end of transition yet and there are already real, live instances of people's lives and livelihoods being affected. That will only increase. So many jobs rely on mobility because of the single market.

Q476 **Chair:** As an organisation, have you taken any legal advice? Is there any potential legal remedy or case that might be brought when it comes to the implementation of the withdrawal agreement? You have just described a very significant change in the ability of Brits who have been practising their free movement rights in pursuit of their profession for a



long time. To have that taken away is a very significant change.

**Jane Golding:** We have been looking at this for the last three and a half years as an organisation. It is a question of when the right time would be to test this, and at what level, either at European Court level or in national jurisdictions. We have been considering it. British citizens in the EU who have moved permanently and used their free movement rights have activated those free movement rights, and under case law they would, arguably, have a stronger case of legitimate expectation on which to rely.

Q477 **Chair:** Would the forum in which to take such a case be the national court of a member state in respect of the rights in that country or, as you alluded to, the European Court of Justice, or could it be both?

**Jane Golding:** It could be both. As we have seen, there are a number of cases going before the European courts at the moment about the issue of whether British citizens automatically lose their EU citizenship as a result of the UK's exit from the EU. There will be similar cases. The problem is that bringing a case before the general European court as an individual against a measure of general application is quite difficult, because you have to be able to show direct and individual concern.

**Chair:** That is extremely helpful. Thank you.

Q478 **Matt Vickers:** Is it clear how many UK citizens are in the EU and how many are likely to be able to secure their rights? Do you expect the number of UK citizens in the EU to increase or decrease before the deadline for registration?

**Jane Golding:** It is quite difficult to estimate the number of UK citizens in the EU. There are various sources of statistics. The United Nations<sup>1</sup> has put together a figure, which is usually relied on, of 1.2 million British citizens in the EU. The ONS has put together figures too, although the latest ones took out British citizens based in Ireland. That figure is around 900,000. There are then national figures in each EU member state, which are probably more reliable because they are based on numbers of people registered. As you know, in most EU member states, British citizens have to register as EU citizens.

Your second question is interesting. Will there be more British citizens in the EU? Will the numbers go up? A new study is being carried out at the moment by Oxford in Berlin and the WZB, looking at figures across the EU26. They base their figures on a mixture of OECD statistics and national statistics. The preliminary results of that study include the finding of a 30% rise in emigration from the UK to the EU26 since 2015. They also found a 500% increase in naturalisations increase across the EU; those were particularly high in Germany, with an increase of more

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<sup>1</sup> "The witness originally said World Bank but issued a correction later to say she was referring to United Nations figures."



than 2,000%. Since 2016, 31,600 British people have become British-Germans, with a further 10,000 to 15,000 likely in 2020.

**Kalba Meadows:** Picking up on the point about potentially increasing British populations, we are seeing at the grassroots level an enormous increase in the number of people asking questions about how to move, how to register and what the procedure is. It has exponentially increased this year, particularly since no deal was on the table. This year and now, we are seeing huge numbers of people in groups across the countries, including France, Greece, Portugal, Spain, Germany, Sweden and Finland—it is a phenomenon that we are seeing right across the board. In some cases, it is people who already have homes in those countries and are looking to change their residence from the UK to the country where they already spend part of their time. I do not know whether I would go so far as to say that it is an exodus from the UK, but it is a very clear movement out of the UK.

**Michael Harris:** Spain is the country with the largest number of resident UK citizens. The figures vary: the Spanish Government's statistical organisation says 250,000; the ONS says 300,000. What is clear is that there are a lot of unregistered Britons living here. In theory, there is an obligation to register but there are a lot of people who spend more than six months a year here. They are one of the groups that we are most worried about in terms of guaranteeing or achieving rights after the end of transition. It is the same in Portugal too, where British in Portugal mentioned 30,000 unregistered Britons. It is very difficult to quantify because there are people who are under the radar and just do not figure in the statistics.

Q479 **Nigel Mills:** Good morning. I want to ask about how people are able to evidence that they are UK nationals who are entitled to live in their chosen EU country, rather than just a UK national who has turned up on holiday. There is an idea for an EU-wide document or ID card for that. Do you have any thoughts on the proposals for that EU-wide document? Are there any weaknesses or anything that you would like to see added to it?

**Kalba Meadows:** In February, the European Commission published an implementation document, which suggested the format of an EU-wide physical biometric document that would evidence the rights of people covered under the withdrawal agreement. We very much welcome the fact that a physical document will be made available. That is hugely important for people, so they have recognisable rights and can easily demonstrate that they are covered under the withdrawal agreement for accessing services, travel, employment and every other reason under the sun.

There is one issue with the format of that proposed document, which is that it does not make a distinction between those who have permanent residence rights and those who have ordinary or temporary residence rights. In the EU, people acquire permanent residence rights when they have lived legally in their host countries for five years. At that point, the



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conditions that they had to meet in order to be legally resident fall away, and they are then able to live condition-free. It is a very important change point for people.

Without evidence that somebody is legally resident on a permanent residence basis, there are going to be difficulties for them, because so many things across the board rely on having a permanent residence right. We feel it is very important that the document shows not only that somebody has rights under the withdrawal agreement but that, if they have them, they have permanent residence rights under the agreement.

**Michael Harris:** There is an issue here that we in Spain have been raising with the Spanish Government and that British in Europe has been raising with the Commission: the element of people who potentially have the option of having other statuses. The ID card is for third-country nationals protected by the withdrawal agreement, so all Britons should be protected by that. But there are also thousands of Britons, particularly in our group, who are family members of an EU citizen. They are in a bit of a cleft stick here because there are two statuses, and we want to find out what is going to happen. Will they have to opt for one or the other, in which case they could lose their rights under the withdrawal agreement? The other option is if they want to get long-term EU residence, which has more mobility rights. The issue of conflicting statuses is relevant to third-country national status under the withdrawal agreement.

**Jane Golding:** I wanted to comment on another group that needs documentation. I was talking about the number of people taking citizenship of other countries. Dual citizens are also covered by the withdrawal agreement and have rights under it, in addition to the rights they have as citizens of the host country where they are living. For example, you may have taken German citizenship but your qualifications will still be British, and there are rights under the withdrawal agreement for recognition of those. There are also family reunification rights, which are probably more favourable than national or ordinary EU third-country national rights. It is not clear how dual citizens will be able to document those rights, because it does not really make sense for them to be applying for a residence card, given that they already have residence rights based on their citizenship.

Q480 **Nigel Mills:** Are all EU countries agreeing to issue this EU-wide document in that format or are some deciding they want to use their own national style and refusing to do the Europe-wide one?

**Jane Golding:** They are all agreeing, because it is an implementing decision at EU level and it applies across the board. The only option that they have is what they write on the document and whether they indicate the distinction between permanent or ordinary residence.

Q481 **Nigel Mills:** While I am asking about how well it has been implemented across the EU, are there any countries that are being particularly slow at implementing the withdrawal agreement rights that we should be



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concerned about or are they all progressing well to achieve it by the end of the year? Does anybody have any information on where might be worst or best performing?

**Kalba Meadows:** The first thing to say is that, across the EU, things are very much further behind than they are in the UK. In many countries, implementation has not begun—in fact, there are only three EU countries where implementation has begun. We are looking at a very different scenario.

One of the countries where implementation has begun is Italy, which is a declaratory country. I am not sure whether the Committee understands the difference between two systems that member states can implement, but there is a declaratory system, which mirrors exactly what happens now in relation to EU citizens, and their rights are simply conferred under the law. Their rights are conferred by the withdrawal agreement and they do not have to do any procedures or comply with any administration in order to have those rights. Alternatively, under the withdrawal agreement, member states can choose a constitutive system, which is rather different. That requires an application to be made by each person for a new status and rights that go with it. Without an application in a constitutive system, there are no rights.

Right now, 13 countries have chosen a constitutive system, and 14 have chosen a declaratory system. Unfortunately, there is still no public list available of which countries have chosen what. We know some, because they have made public statements, but at this very late stage, with six months to go to the end of transition, we still do not have a complete public list. Already, you can see that there are difficulties because some countries, such as Greece, do not know publicly what system they are even going to be operating.

Three countries have begun implementation: Malta has suspended because of covid, and the Netherlands and Italy are proceeding. Two of those are constitutive. Some other countries have legislation in place but have not begun implementing. Many other countries do not even have legislation in place. Some have draft legislation, which has not yet been finalised.

Other than the ones that are already implementing, we have no start dates planned until October. I can talk about France because it is quite a pertinent example of where things are. France is going to be constitutive. It is going to operate via an online application system for all 150,000 to 200,000—or possibly even more—residents in France. It is a particularly difficult country because, since 2002, it has not required EU citizens to register. As things stand at the moment, fewer than 20% of British nationals living in France already have a residence card, so it is very much starting at zero and it is a very big task. It is going to be an online system. Having made the application online, applications will then be farmed out to departmental registration offices, of which there are more than 100. It is going to take some time.



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The system was due to open on 1 July, which is tomorrow. On Friday night just past, a decision was taken by the French Government that it needed to postpone the launch of the system for three months, until October. It was a very late postponement decision, of which nothing was really known in advance. We now have a new date of 1 October, which is a very short time before the end of the transition period, and only nine months now in France to complete applications for, potentially, 200,000 people or more. That is not atypical.

**Q482 Nigel Mills:** Should the European Commission be doing more to monitor progress and perhaps put some stick about to encourage speedier progress on these things? We are always told that it is a binding treaty that the UK and the EU signed last year, so these rights ought to be in place by 1 January.

**Michael Harris:** In Spain, everything was going fine until the lockdown in February. We had a couple of meetings with the Spanish Government, which told us that it was a declaratory system with no legal obligation, but just confirming status. Since then, everything has gone haywire. We had a very severe lockdown, and things are beginning to move only now. The Spanish Government have said that they will be announcing information about the third-country national ID card protected under the withdrawal agreement next month, and we hope to have another meeting with them. Everything has been on ice. There are two issues here. One is that transition is just disappearing and slipping away, so time is of the essence, as you say; people's anxiety levels are also very high.

One final thing is that being in a declaratory country such as Spain does not mean that everything is plain sailing. There is no legal deadline or cliff beyond which you become illegal, but in practice you will need to demonstrate your new status after 31 December in order to travel in and out of the Schengen zone, and in Spain to access services et cetera. To get this documentation, you have to go through the system. Britons in Spain will no longer be in the more benevolent EU regime; they will be under the third-country regime, which is slower, more cumbersome and more difficult. We will worry about that, because there could be people who cannot demonstrate that they have rights under the withdrawal agreement and who might be affected.

**Jane Golding:** I just wanted to add something about Germany, which is the country with the third largest population. Draft legislation was published during the crisis. There is no doubt, as Michael and Kalba have said, that the crisis has affected the speed with which countries have brought out their draft legislation and started to implement it. No deal was ruled out only at the end of last year, before which EU countries were dealing with no-deal contingency plans. They then had to get going at the beginning of the year on implementing the withdrawal agreement. In Germany, we do not have a timescale yet but we are expecting that the draft legislation will be adopted over the summer and that implementation will not start before September.



**Q483 Nigel Mills:** As far as the three of you are aware, there are no particular countries that we should be concerned about being miles behind. It sounds like all the ones you have talked about have some sort of plan in place, perhaps except Greece. Are there any others that we should be watching out for?

**Kalba Meadows:** It is very early to say because so little implementation has yet begun. We do not yet have the experience to know how the systems are going to work in each country. It is an important point that it is not enough just to have the rights on paper; it is the processes by which those rights are implemented that are important in real life. You may have the rights on paper but, especially in a constitutive country, unless you can demonstrate that you have those rights, you may as well not have them.

**Jane Golding:** I wanted to add one last point. We would like to emphasise again how important it is to have a publicly confirmed list of which countries are constitutive. Those are the countries where we have most concern because there is a deadline of June 2021. Two of those countries that have chosen a constitutive system—Sweden and Finland—have already decided to extend the deadline to the end of September, and their draft legislation provides for that. It is not adopted yet but they have already set that out in the draft legislation. We are pushing hard with our contacts in the UK Government and in the Commission to have a publicly confirmed list, so that our members know exactly what they need to do: whether they need to apply and get a decision, or whether they are in a declaratory system, where they simply have to register and apply for a residence card.

**Q484 Dr Whitford:** Starting with Jane, you have referenced that the UK is further ahead with preparation for EU citizens living here. For those with an unbroken employment record, that seems to be working relatively smoothly. What I am seeing as an MP—and other people will have the same—is that if people have gaps in their employment, they have to produce a lot of different evidence. Of course, they were never expecting to go through this, so it is often things that are quite difficult to find. It seems to affect those with caring responsibilities, the majority of whom still, in 2020, are women. Are you having the same issues in European countries of having to scabble around and find whole batches of evidence? Is there anything that the UK Government can do to try to ease that?

**Jane Golding:** Thanks for the question. A problem we face at the moment is that, because we are quite a long way behind with implementation, we anticipate that you would see the same sort of issues and the same sort of need to come up with a large pile of documentation to prove your rights, but as most countries have not yet started implementing, we cannot confirm how much of a problem that will be. We would like to know how the conditions are going to be applied to everybody, because the conditions that you have to fulfil under the withdrawal agreement are inspired by the 2004 EU directive on free



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movement. You have to show that you are employed or self-employed, that you have sufficient resources and health insurance, or that you are a student with sufficient resources and health insurance.

We want to know whether member states are going to continue to apply the conditions in the same way as they did to us as EU citizens, or whether, retrospectively, we might be subject to stricter application. That, of course, will also affect the groups that you were talking about. Maybe Kalba could also come in and say something about this point in relation to France.

**Kalba Meadows:** I can certainly speak to France, but it is also a valid point to make that, under the 2004 directive, there is a very wide variety across the EU27 countries as to exactly what levels of documentation they ask for, and how strictly they test the conditions for legal residence. For example, France, for those who apply for a residence card, requires an enormous amount of documentation. A couple of years ago, I applied for a permanent residence card and I had to produce quite a hefty file of well over 30 documents; in addition, many that were UK-based had to be translated. I had quite a large file; every one of those documents was needed and every one was requested.

It varies a lot. Sweden and Finland also have hefty documentation requirements. Other countries take things much more on trust. For example, if somebody is economically inactive and lives on their own resources, some countries will accept on trust that they have not made a claim on the state social security system. In France, you have to prove your income and that it is durable, sustainable and a safe income; and if you are applying retrospectively for permanent residence, as I did, you have to prove that for a five-year period. There is a huge variety and, although it is far too early to know how states are going to implement the withdrawal agreement, I would be very surprised if we did not see a similar variety across different states.

It is not just a variety across states; we also see variety within states. A number of member states, including France, devolve the processing of an application claim or a registration claim to individual local authorities. We have 101 in France; in Italy, I think it is devolved to 6,000 different local authorities. You get a huge potential for differences in policies towards processing. There is also an issue there because, where it is devolved to that level, staff never become truly proficient. They do not have very many cases to deal with, so they do not develop expertise. That can lead to errors and to differences in the way claims are processed.

Q485 **Dr Whitford:** Here, The3million, representing EU citizens in the UK, was pushing for a declaratory system, which at least means that everyone who is already settled here is legally protected, but you have also touched on the need to prove that. What would you see as the ideal: a declaratory system, but with a registration? There has been a lot of discussion in the UK, as you referred to earlier, about the need to have



something that proves you have the right to remain permanently.

**Jane Golding:** The system that has been put in place in Germany under the draft legislation is a declaratory system, but with, as under the 2004 free movement directive, a compulsory registration component. You must register, and you may then apply and receive your card. Your rights are still derived from the treaty, so your rights do not depend on the decision of the authorities, but you do have to register.

**Dr Whitford:** My husband is German, so I know it quite well, and you have to register in Germany anyway.

**Kalba Meadows:** To give you a straight answer to your straight question, a declaratory system is a preferable system and we were advocating it throughout the negotiation period. Unfortunately, when the UK chose to opt for a constitutive system, it was inevitable that certain member states would follow suit. As you know, the current system is declaratory and we all have rights under that current system. It would have been a far preferable system for all of us. Reapplying or applying for a new status is a huge source of anxiety for people, as you know from the UK, in all constitutive countries.

Q486 **Dr Whitford:** Should the UK and the Commission have hammered out harder in the central discussions to aim for the least disruptive, as in a declaratory system but with registration, so that you definitely have the proof? We do not want another Windrush right across Europe due to lack of documentation. Should there have been more work at that point to get something that would be agreed right across the EU and in the UK?

**Kalba Meadows:** In the UK, there was always a misunderstanding about a declaratory system. It is the case in certain member states too. It was believed that, under a declaratory system, you cannot request people to register or hold a residence card. As Jane has just explained, that is not the case, in fact, but it was a misunderstanding that maybe informed the UK's choice of a constitutive system.

Q487 **Dr Whitford:** In Italy, people without that are going to struggle to access healthcare because we will have left the European health insurance card system. Is there a lot of anxiety among UK citizens in Europe about accessing these kinds of services after the transition?

**Kalba Meadows:** This is why it is so incredibly important to have a physical document. Under the withdrawal agreement, only constitutive systems have to provide a document. The declaratory system is an afterthought in the withdrawal agreement. It simply says that people whose rights have been confirmed under the withdrawal agreement, under a declaratory system, may apply for the document, but it does not make it compulsory to issue one. It is going to be very important for people to make that application for a document. That is happening at the moment in Italy, which has begun implementation under a declaratory system. People are being invited to request a certificate to show that they are covered under the withdrawal agreement. It is crucial.



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**Michael Harris:** It is the same here. The situation is that, legally, you will not have to do it but, practically, you will if you want to live in the country, access services and come in and out of the country.

We have talked about variety within countries, which is particularly important in Spain because, as you know, there are autonomous regions and, within the autonomous regions, there are town councils. There is an awful lot of difference. In terms of current requirements, some provinces seem to be stricter than others, and we need to really monitor that when implementation begins in Spain.

Finally, there are bottlenecks in Spain. The population is not spread evenly around the country. It is a very large country but there are huge concentrations in two provinces: Alicante on the east coast, and Malaga in the south, with the Costa del Sol. They are going to be the hotspots in terms of implementation and the ones that we are most worried about.

**Jane Golding:** I would echo what both Kalba and Michael have said about the importance of documentation in both systems, constitutive and declaratory.

You also mentioned health services. UK citizens living in the EU who are covered by the withdrawal agreement are also covered by the part of the withdrawal agreement that continues the co-ordinated social-security system for that group of people, as well as EU citizens in the UK, so they will still have access to health services. Those who are not in the local national system—S1s, for example—will still have access to EHICs.

Q488 **Joanna Cherry:** I am particularly interested in the plight of those British citizens who spend a large part of the year in an EU country—for example, Spain or France—but are not resident there. Michael, your evidence refers to the large number of people who spend several months of the year in Spain at present, and the rest of the year in the United Kingdom, many of whom may not have registered with the Spanish authorities because they do not really consider themselves resident there. What are their options if they cannot or choose not to secure protection under the withdrawal agreement in Spain?

**Michael Harris:** It depends on the future relationship and what kind of mobility is offered. The most likely thing is to have visa-free travel but to have the Schengen limit, which is 90 days out of 180 days. That is going to happen. I would encourage those people spending up to six months a year in Spain to register, in order to get healthcare and to meet their fiscal obligations. Under EU law, after living for three months in a country, you should register. People should register if they want to spend that amount of time in Spain.

Q489 **Joanna Cherry:** What about people who have a second home in Spain and who are toing and froing? They might go over for a couple of months in the spring before coming back and returning later in the summer. I will come to Kalba in a moment about people in France with these



arrangements. If matters rest with just the Schengen arrangement, which you have described, where people can stay for up to 90 days in any 180-day period, do you see any problems arising for British citizens who want to go backwards and forwards in the way that I have described and are accustomed to doing so, if matters just rest with the Schengen visa?

**Michael Harris:** Things will change. This is something that we have found. At the beginning of 2017, we realised that we would no longer be EU citizens but third-country nationals. In Spain, the EU directive of three months has not been enforced, so people have been able to come and go as they like. That will change, so there will be that limit. Of course, if there is no trade deal, there is the danger that Britons will need to have a visa as well, which is another problem.

Q490 **Joanna Cherry:** What issues arise if somebody has to apply for a visa? Say there is no deal and matters rest with the 90 days in 180 Schengen arrangement. If somebody wants to go for longer than 90 days, they will have to get a visa, won't they?

**Michael Harris:** It could be that they need a visa anyway. If there is no free trade deal, there could be no visa-free travel.

Q491 **Joanna Cherry:** Let us look at the situation where you have to apply for a visa. As I understand it, you have to evidence that you have insurance and a certain amount of monthly income, and prove that. You also may have to go through an interview process. Is that right?

**Michael Harris:** I do not know that.

Q492 **Joanna Cherry:** Kalba is putting her hand up. I wonder if I could come to you, Kalba, because quite a large number of British people spend part of the year in France. Is that correct?

**Kalba Meadows:** It is correct.

Q493 **Joanna Cherry:** Are you able to put any figure on the number of British people who spend part of the year in France?

**Kalba Meadows:** The quick answer to that is no. Figures are very difficult to come by for second-homers. I can give you an example for my region of Occitanie, where it is reckoned that just over 14,000 second homes are owned by British people. It is not a particularly high proportion of second homes—it is something like 5%—because very many French people own second homes but it is a considerable number. Because of the proximity of the UK and France, it has traditionally been a very popular place for second homes.

Q494 **Joanna Cherry:** Correct me if I am wrong, but some British people who have bought second homes in France are not necessarily wealthy as we would understand it. They may be people who have pooled a small inheritance to buy a property and done it up, and are living off a pension. I am interested in this sort of people. Do these people exist?



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**Kalba Meadows:** Yes, they do, because property has, for a long time, been much cheaper in France. Many of those people are now seriously considering whether to become resident and to spend rather more than six months a year, because that is their first option. Many who would spend, for example, five months in France and seven months in the UK are now considering whether to change that and to spend seven months in France and apply for residence under the withdrawal agreement. To do that, they would need to be resident here by the end of the transition period. I can imagine that, right now, many conversations are going on in the homes of people who have second homes. That is their first option.

Q495 **Joanna Cherry:** What are their other options?

**Kalba Meadows:** Their second option is to accept the 90/180-day rule, which does not necessarily mean they get to spend 90 days out of 180 in their second home because, if they want to travel elsewhere in the Schengen area, for work or pleasure, that comes out of their 90-day allocation. It may be that they can spend less time in their second home.

Their third option is to apply for a long-stay visa, which is what you were talking about earlier. They would have to do that before each trip. They would have to apply to the consulate of the country where their second home is before they travel. It very often involves a physical journey, an interview, money and the need to show proof of travel, proof of how they can support themselves and, very often, proof of healthcare. It is onerous. It can be done and there are people who do it regularly. There are people who spend time every couple of years from Australia or the States, so it can be done.

These are issues to do with mobility and with free movement rights that British in Europe have been raising for the last three years. They also affect us, as people who have made permanent homes in our host countries and have lives, families and jobs that we stand to lose part of through losing our free movement rights.

Q496 **Joanna Cherry:** When you raise these issues with the British Government, what sort of purchase are you getting? I have constituents in the position that I have just described: people of modest means with a small second home in France, who are concerned that they will not be able to afford the travel insurance required for the visa that you have described, and that they will not be able to evidence the necessary income. I know that they have clubbed together with other MPs' constituents to lobby the Government on these issues, but my impression is that they are not getting very far and are not getting much purchase with the UK Government in trying to achieve a deal whereby there will be, for example, six months' visa-free travel. Are you able to help us with what purchase you have got when you have lobbied the British Government?

**Kalba Meadows:** To be clear here, our remit is to advocate for people who have exercised their free movement rights: people who are legally



resident in the EU. Our remit is not to lobby for people who have second homes, who have not left the UK and who have not exercised their own free movement rights. What purchase second-homers might get is completely contingent, as someone said earlier, on how ambitious the UK wants to be in looking at free movement and mobility rights under the future relationship. Right now, the situation for British people under the Schengen agreement, if the 90/180-day rule is what happens, is the same as for any other third country. It is a consequence, if you like, of becoming a third country instead of an EU member state.

Q497 **Joanna Cherry:** It is also a consequence that, if not addressed by the British Government in the negotiations with the EU, will rest as you have described.

**Kalba Meadows:** Indeed.

**Jane Golding:** I wanted to add to what Kalba said. As she has explained, we are a volunteer, grassroots group with limited resources. We have been lobbying on behalf of those who have moved permanently and who have residence rights. Of course, we fully understand all the difficulties of second-homers as well, but we have lobbied for this group of people with our limited resources. We have raised, over and over again, how important movement outside of our host country is for those of us in this population. We are like the canary in the coalmine: we are on the frontline because our rights were dealt with in the first phase. We are the people who have fully activated our free movement rights, moved and made lives in other countries, and we do not have continuing free movement across the EU outside of our host states.

Q498 **Joanna Cherry:** I am grateful to you for clarifying that. Everyone recognises the amazing work that you and others in British in Europe have done and the huge assistance that you have been to this Committee in understanding the problems that you and your members face. I suppose the issue that I am raising is about British people who are still toing and froing between Britain and the UK. In order to clarify the position of those people, we might want to speak to a specific campaign group that is set up for them, such as the 180-days visa-free campaign. Have you heard of them?

**Jane Golding:** We have heard mention of them in the press. They have not been in contact with us.

**Joanna Cherry:** The Committee may have had some correspondence from them but perhaps the Committee can pursue that at a later date.

Q499 **Dr Huq:** Good morning, everyone. As we all know, coronavirus is the only story in town at the moment. I just wanted to ask how covid-19 travel restrictions might be affecting the physical ability of people to participate in processes around residence and citizenship. I understand that Germany has extended things until 31 December for dual citizenship. Is that right?



**Jane Golding:** That is right.

Q500 **Dr Huq:** Germany is kind of okay then. To Kalba and Michael, how has covid-19 affected the preparation and implementation of whatever system is going to be introduced in France and in Spain?

**Kalba Meadows:** In France, the delay that I talked about earlier in implementing the withdrawal agreement is a direct result of covid. As a result of covid, registration offices around the country have a three-month backlog in processing residence applications from third-country nationals. It was felt that, because of that, it would not be possible to do justice to a whole load of applications from a whole new group. Covid was directly responsible for the delay.

It has affected ordinary people's lives in many ways too. Many people who had gone to the UK on a visit have been kept in the UK. Some people spend time there with relatives or even to work, and have been unable to come back to France. That has led to concerns about, for example, whether they are going to have issues with continuous residence rules and whether they may be at risk of being away from the country for too long and losing their legal resident status. Because implementation has not been done in France, it has not yet affected them directly, but the delay is a major effect.

There have been economic effects on people too. Just as everywhere else, people have found that they have been unable to work or to carry on their businesses. They have seen their income reduced. Many have had to apply for grant aid or for help put in place by the French Government. There have been concerns about whether that would affect their residence status in the future, but they have been assured that it will not. That is one thing, but there is, without a doubt, a very hefty effect from covid in France.

Q501 **Dr Huq:** With the administrative offices being closed, is there a timescale for when they are going to reopen? You also said earlier that, with a federal system, it is uneven between regions. Can you tell us more about that?

**Kalba Meadows:** Implementation is due to begin on 1 October on the online platform. Everybody will apply on this online platform. After that, the online application form will be distributed to people's regional registration office, of which there are 101 altogether. Some of those offices are very busy, with very big immigrant and migration sections, and large numbers of British residents. We hope that the three-month delay will give them long enough to catch up a little and to clear the decks so that they are ready for implementation in October. We very much hope that there will not be a second delay but it is clearly worrying and we are concerned about it. The reaction from British people in France was quite overwhelming on Saturday morning, when it was announced. We spent two days fielding questions. I personally answered something like 250 questions on that day from concerned people.



Q502 **Dr Huq:** We hope there is not only no second delay but no second spike. Is there anything such as language testing? In the UK, we have citizenship tests, where they ask about the Royal Family and stuff. Is there anything equivalent?

**Kalba Meadows:** There are no language tests under the withdrawal agreement. They are not permitted under the withdrawal agreement, just as they are not for EU citizens. The issue with combined status is that, if somebody wants to apply for, let's say, third-country national long-term directive status, which is the status that has some very limited mobility rights, they may well be subject to language testing in most countries to obtain it. As yet, we do not have clarity on how or whether it will be possible to combine two statuses. There is no language testing. It is very much a mirror of what happens now for EU citizens.

**Dr Huq:** Michael, can you give us a perspective on Spain?

**Michael Harris:** As I said before, everything has been on ice from mid-March, when the lockdown came in. It was a particularly strict lockdown in Spain. In early June, the wheels of bureaucracy started to grind once more, although slowly. A lot of civil servants are working from home. There are appointments for residency and nationality, which are two very different tracks. There has been a big increase in the numbers of people going for Spanish nationality, even though you have to make a declaration that you renounce your British nationality.

There have been very big delays. For example, one of our members had an appointment in May, which was put off until January next year. There are delays for residency too. It is beginning to get back into action. Hopefully, when the Spanish Government announce the ID card for British people protected by the withdrawal agreement in July, things will start moving, but we do not really know. As I said before, there is not going to be a legal deadline, because we are a declaratory country, but we are worried about what is going to happen after 1 January in terms of documentation that people will have to travel and to prove things et cetera. That is still up in the air, and we hope to speak to the Spanish Government very soon about that.

**Jane Golding:** I wanted to give a quick clarification on that point about citizenship applications in Germany. You are right that we have the same issue that Michael raised about dual citizenship in Spain. In Germany, you can usually hold dual citizenship only if your other citizenship is an EU citizenship. British citizens will no longer have this automatic right post the end of transition. Germany decided unilaterally to extend the period until the end of transition, so people can still apply for citizenship and keep their British citizenship at the moment, but because of the covid crisis, citizenship and language tests have been cancelled; there are also backlogs for in-person appointments, which have been cancelled. There is a deadline to get this done and fulfil the conditions by the end of the year, so it is a real concern in Germany as well.



Q503 **Dr Huq:** Are they not Zoomifying them, as we are with this Committee?

**Jane Golding:** Here in Berlin, they are doing some of the work virtually. Again, we have a federal system here in Germany, so it depends on which Land you are talking about. In the Land of Berlin, we have one central foreigners office dealing with all the applications. In the biggest state in Germany, Nordrhein-Westfalen, where the largest population of British people live, there are 84 offices. Different offices have different ways of dealing with citizenship applications, so we see a similar pattern to that in France.

Q504 **Dr Huq:** British in Europe has called on member states to adopt a flexible and understanding approach to those who are unable to meet the strict conditions for residence as a result of covid-19. Have any member states said that time lost due to covid-19 is going to be formally factored in and taken into account? Presumably, there is nothing stopping any individual member state making that decision. Where there's a will, there's a way.

**Kalba Meadows:** France has not made any specific statements about any amendments to dates as a result of covid. We hope that it will and the point is being made to the Government that, especially given the recent delays, it would be appropriate.

Q505 **Dr Huq:** Do we know of any other member states, apart from the three that people here today are from?

**Jane Golding:** Both Finland and Sweden have decided to extend the deadline for applications until the end of September 2021. They are both constitutive countries, where you have to make an application and get a decision from the authorities in order to have your status.

**Dr Huq:** It is the progressive Nordic countries again.

**Michael Harris:** In Spain, it is all a bit slow, as I said, so we do not know.

**Dr Huq:** They are having a siesta.

**Michael Harris:** They are recovering from very heavy covid, particularly in Madrid. It has been really terrible. Here, we do not know, but we are confident that the Spanish Government will be generous. On the no deal preparations, which the Spanish Government were very quick on, producing a law very quickly, they gave a long grace period. They were pretty good on that, so we see no reason to suggest that that should not be the case.

Q506 **Sally-Ann Hart:** Good morning to our witnesses. I am going to look at the support for UK citizens in the EU, and the funding that has been given to facilitate settlement status. I am aware that funding has been in place since November 2018 for UK citizens in the European Union, and that there has been substantial funding for European Union citizens in the UK. What help have the UK Government provided to groups like yours to help



secure your rights?

**Michael Harris:** The answer is that they have given none to us as groups campaigning for citizens' rights. Money has been given to the UK Nationals Support Fund, which goes to groups that are working throughout Europe. In Spain, there are three: the International Organisation for Migration in Madrid, Murcia and Andalusia; the Asociación Babelia in Alicante; and Age Concern Spain in the north-east, in Catalonia and the Balearics. They are the groups that are being funded to help UK citizens to deal with registration. Age Concern in Catalonia and the Balearics already has a helpline going. We have not spoken to them but we have spoken to the other two groups.

Our representative in Alicante, Margaret Hales, is with the Babelia group today, visiting a foreigners' office with one of the people they are helping. There are four people from Babelia in Alicante, which is one of the hotspots, so that is very good news. Yesterday, I spoke to the people from the International Organisation for Migration in Madrid. They have one person in Madrid, one in Murcia and one in Andalusia. We are particularly worried about Andalusia, which is physically the same size as England. There are huge numbers of people in Malaga, the hotspot of the Costa del Sol. Who knows how many people there are? It is probably over 100,000 Britons, so that looks a bit worrying. We are very pleased that the Foreign Office has funded organisations. We will have to see how it goes. It is too early to tell how well they are doing and how well things are covered but, as I said before, the situation in Andalusia looks pretty worrying.

Q507 **Sally-Ann Hart:** Have UK citizens in Spain had any help at all from Spanish national or local government organisations?

**Michael Harris:** Nothing has started happening yet. The implementation of the withdrawal agreement has not started, because there is no ID card yet. At the moment, they are helping people to register as EU citizens first, so that the process is easier for them to get the third-country national ID card when it comes out, which, hopefully, will happen in July.

Q508 **Sally-Ann Hart:** I will move on to Kalba now on the same question. I know that the UK Government have given funding to local organisations that are contracted to give help to people in France. Other than the funding to organisations, have the UK Government provided any other help for you to secure your rights? Have you had help from the French Government at national or local level?

**Kalba Meadows:** No, there has been no funding other than what is given to the three support fund organisations operating in France, which I will say something about in a moment. No other funding has been given by either the UK or the French Government. Communications plans are not highly developed in France, so there has not yet been any robust communication between the French Government or the embassy and British citizens to advise them what to do. We still await that. In a



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country that does not currently require registration, that is incredibly important.

On the operation of the support fund in France, we have just three organisations. We have very unequal geographical coverage. Only Brittany, Normandy, Paris and Dordogne are covered, which represent a very small percentage. Some support is given to forces veterans through SSAFA, but, putting those together, the best possible scenario is that only 23% of British people living in France will have access to the support fund.

That raises some questions for us as to how the decisions to allocate the funds were taken, what criteria organisations were assessed on and their ability to provide the help. Only one of the organisations funded in France has any previous experience at all in citizens' rights; the other two are starting from zero. We have some concerns about the level of expertise that they can bring to the scenario. The rights under the withdrawal agreement are incredibly complicated, as we know from all the work that we have done on it, so we have concerns about getting it right.

Under a constitutive system, getting correct information to people is absolutely vital and can make the difference between them obtaining a residence status or not. If they were to fail to obtain a residence status through a lack of expertise in helping them through the process, that is a very worrying situation. There has to be robust monitoring of the operation of the funds throughout France and, indeed, throughout the EU where they have been allocated. This really needs to be done on an ongoing basis.

It is also worrying that only three or four of the countries—and I say three or four because we still do not have the definitive constitutive or declaratory list—that have received funding are constitutive countries. Whereas there is still a need in declaratory countries, the need is much greater in a constitutive country because of the need to apply for a new status. Because of the cliff edge that people face, no application means no status, and no status means no residence rights. It really is that crucial.

There are also questions for us about how those decisions were made, why, given that France has the second highest population of British people across the EU, only 23% are covered, and why there are such large geographical gaps. We will be looking for very robust monitoring to ensure that the organisations can come up with the goods.

They have a very limited remit, which is only to help people with an application form. It is a kind of hand-holding remit, if you like. Some of the biggest and most important questions will be about whether somebody is legally resident. These are legal immigration questions that are outside the remit of the funded organisations. Only one of them has a lawyer on board, so it begs the question of where people in marginal situations or with concerns about whether they are going to be able to



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meet the conditions can get that kind of advice. Remember that 80% of people in France have never applied for a residence card, so their ability to meet the conditions has never been tested. It is a new thing for them, hence the level of anxiety, which is huge: 50% of people who replied to a survey that we did very recently say they feel anxious, very anxious or crippled by the process that is to come.

**Jane Golding:** I will echo what both Kalba and Michael have said. There has been no funding to organisations like ours in Germany other than to the organisations that tendered under the UK Nationals Support Fund. There are two in Germany: the International Organisation for Migration, and SSAFA, the veterans' organisation. IOM covers 12 German states. SSAFA covers four, but its scope is to deal only with the issues of veterans rather than ordinary British citizens living in Germany. One of the four states in which SSAFA is active is Nordrhein-Westfalen, which is the largest German state and home to the largest British population, so there are concerns in terms of geographical and demographic scope in Germany as well.

In terms of the help that we have had otherwise, implementation has not started here in Germany either, although the draft legislation has been published. British in Germany has had extensive contacts with the embassy in Berlin, which has a very good citizens' rights officer in post, and extensive engagement and contacts with the German authorities. With the British embassy and German officials, we have run information evenings, even though at this stage implementation has not started, to keep British citizens up to date with the current status. Those we have done with the British embassy across Germany and, latterly, more and more with German officials. We had our first meeting with the Brexit lead negotiator for Germany back in 2017 and we have probably had 10 or 13 meetings in total since then, as well as with other ministries.

Q509 **Sally-Ann Hart:** Would you say that the German authorities have engaged UK citizens in Germany to try to facilitate their status in Germany?

**Jane Golding:** Yes, I would say so, and not just at federal level but also at regional level. We have been asked to come to meetings at regional level as well.

Q510 **Sally-Ann Hart:** Following on from that, is the responsibility for informing UK nationals about what they need to do to secure their status on both the relevant EU authorities and on the British Government? Is that what you are saying, that you have had both?

**Jane Golding:** It is the FCO's remit to deal with UK citizens in the EU. We are part of their responsibility. They have responsibility for us, as well as where they have delegated this responsibility for informing or helping and supporting UK citizens to organisations under the UK Nationals Support Fund. As Kalba explained, that is for a very limited and restricted amount of hand-holding work, and it is not clear that the organisations



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are under an obligation to provide information. I would say that the FCO probably has primary responsibility, plus the organisations, and then member states also have responsibility to inform under the withdrawal agreement.

**Q511 Sally-Ann Hart:** I want to pick up on the organisations that tendered and contracted to give support to UK nationals. Kalba, you said that they did not necessarily have the expertise in the area of citizens' rights within the withdrawal agreement. What measures can be taken or proposals made to improve this?

**Kalba Meadows:** The most important thing will be monitoring. It will be important to get feedback from users. The organisations are set up to help people, so it will be very important to hear from them. It needs to be monitored on an ongoing basis by the FCO. There needs to be some more public clarity about exactly what their remit is. It is very difficult to complete an application form for a residence status without touching on the subject of whether somebody is legally resident.

The issues of legal residence are incredibly complicated under the withdrawal agreement. They are very often based on case law. To give you an example, British in Europe recently produced a series of six explainer articles on the withdrawal agreement, which are, as far as I am aware, the only simple-reading pieces of information on the withdrawal agreement that have been made available to British people living in Europe. We recently did another one covering the guidance note.

We are doing our best to inform people because of the complexity and the way in which, in constitutive countries especially, application and legal residence are so intertwined. That worries me personally, as an information person. We have seen people in France who have been refused residence cards under the current system. I personally know of two people in my neighbouring department who have been deported.

**Q512 Sally-Ann Hart:** UK nationals who have been deported?

**Kalba Meadows:** Yes, last year or the year before, because they did not meet the conditions for legal residence.

**Sally-Ann Hart:** Even when we were part of the European Union.

**Kalba Meadows:** Indeed.

**Sally-Ann Hart:** That is very interesting.

**Michael Harris:** I would just echo Kalba that what is needed is monitoring. I spoke to two people in IOM, qualified lawyers, and they said that they would be giving advice about status on the helpline.

The remit needs to be very clear. One of the big issues here is getting to the groups that need it most: communications getting to unregistered people who live on campsites on the coast, say, or older people who live right up in the hills. Communication is going to be very important in this



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country, which is a very big one, with people spread out, people living in the middle of nowhere, and people who are under the radar in lots of ways, apart from real cases of vulnerable people in care homes. It is going to be a very big job in Spain, and particularly in Andalusia, where the job is titanic.

**Jane Golding:** I would echo what Kalba and Michael have said. Monitoring is extremely important to make sure that the money is well spent. The withdrawal agreement is an extremely complex area. Kalba has referred to the explainers that we put out in January on the withdrawal agreement. She has probably spent about 70 hours putting those into a sort of Noddy guide, which would be easy to digest, and the lawyers on our steering team, of which I am one, had to then check all of that to make sure that it was legally correct. This is really complex legal advice that these organisations are going to be given, so it has to be monitored very carefully. The advice that is given will have huge repercussions on people's lives going forward and their legal status.

Q513 **Chair:** I am sure that the people who get the chance to read what you put together are immensely grateful for the effort you made. Can I ask about your request for observer status on the specialised committee on citizens' rights under the joint committee? What has happened to that request?

**Jane Golding:** I am happy to answer that. We put in a request to both Michael Gove on the UK side and Šefčovič on the EU side. I can update the written evidence that we gave because, since May, we have had answers from both sides. The EU answer was fairly non-committal; the UK answer slightly less so, but we have not got any further in achieving observer status. We have not been invited to meetings as yet, although the door does not seem to be entirely closed to this. We had a virtual meeting with the EU taskforce on the future relationship a week or so ago, and we made a pitch then to be invited to the next meeting.

Q514 **Chair:** It would be very helpful if you kept the Committee posted on how that progresses. As a final question from me, what is the one thing that you are most worried about not working or going wrong, which will have a really serious impact on British citizens currently living in other EU member states? What would you highlight from all the things you have mentioned today?

**Michael Harris:** The most worrying thing for us is a breakdown in relations between the EU and the UK, no trade deal at the end of the year, or if things get nasty. We tend to be political footballs. When tension has risen throughout the EU-UK negotiations, we have very much felt the heat of being in the middle and being political footballs. If the relationship between the UK and the EU is not effective or cordial, and if there is no future relationship, we are in danger of suffering. It is how people implement things that matters. We have the withdrawal agreement, which protects our basic rights, but it depends on how things go. We and a lot of our members are worried about what can happen



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politically. When things go wrong politically, citizens suffer. We have seen this for the last three years.

**Jane Golding:** I want to add to what Michael said. The key issue is that time is short, and it has been made shorter by the covid crisis. We went through three cliff edges last year. This year, we are again in a window between the covid crisis and what we expect to happen in the autumn, which is the member states and the UK again making no deal contingency plans. That is likely to have an impact on the amount of bandwidth on both sides for informing our members as well as getting on and implementing the withdrawal agreement.

**Kalba Meadows:** I will take up a very specific point, leading on from what Jane said about how the timing has been squeezed between no deal preparations and what now may become no deal preparations all over again. I have a lot of concerns, but if I had to pick one out it would be that, in constitutive countries, people failed to obtain residence status because a robust communication system had not been put in place to inform them that they needed to apply. That needs to be put in place now—it is no good waiting, because it is going to take many months to get through to everybody. I am not yet seeing sufficient evidence that that is happening across the EU; it varies from country to country.

**Chair:** That concludes this morning's session. On behalf of Committee members, may I express our profound thanks to all three of you, not only for the evidence you have given today but for the work you are clearly doing to try to represent and look after the interests of many British citizens who have made their lives in other EU countries? We wish you well with that. Thank you for coming virtually.