

European Scrutiny Committee

House of Commons, London, SW1A 0AA

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From: Sir William Cash MP

15 October 2020

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Regulation strengthening the security of identity cards and residence documents (Council document 8175/18) (ESC number 39646)

Thank you for your [letter of 21 September 2020](#) responding to questions raised by our predecessor Committee on a proposed Regulation (adopted in June 2019) seeking to strengthen the security of identity cards and residence documents used by EU citizens and their non-EU family members to move more easily within the EU/EEA. As you acknowledge, there has been a “considerable delay” in providing the information requested. We expect Ministers to make good on the Government’s commitment to support effective and timely scrutiny of EU law and policy during the post-exit transition period and trust that there will be no further delays within your Department.

We have no further questions to raise on the Regulation itself (which you may therefore consider cleared from scrutiny), but would welcome your views on two related matters: (i) the operation of post-transition border procedures to distinguish between “qualifying” EU citizens entitled to use their national identity cards to travel to and from the UK and those requiring a passport; and (ii) the respective positions of the UK Government and the Government of Gibraltar on reports that Gibraltar may wish to participate in the internal border-free Schengen area after transition.

While the Government has made clear that the free movement of EU citizens and UK nationals within the EU/EEA will end on 31 December 2020, qualifying EU citizens who are within the scope of the citizens’ rights provisions set out in Part Two of the EU/UK Withdrawal Agreement will be able to use their national identity cards to travel to and from the UK at least until the end of 2025, and

potentially longer if (as we assume the EU intends) the new safety standards introduced by the Regulation keep in step with ICAO biometric standards. This will not necessarily be the case for non-qualifying EU citizens. Do you anticipate that it will be necessary to have procedures in place at the UK border from 1 January 2021 to distinguish between EU citizens entitled to enter the UK on production of an identity card and those required to produce a passport?

Our predecessor Committee expressed an interest in the likely impact of the (then proposed) Regulation on border crossings between Spain and Gibraltar. You explain that the Regulation will apply from 2 August 2021, after the end of the post-exit transition period on 31 December 2020, and so will not take effect in the UK or in Gibraltar. You add that the legal regime which will apply at the Spain/Gibraltar border from 1 January 2021 is under negotiation and that the Government of Gibraltar “will seek the best possible border crossing solution” given the importance of this border crossing point for the Gibraltar economy. You will doubtless be aware of press reports suggesting that one solution mooted by Spain is for Gibraltar to join the internal border-free Schengen area.¹ Whilst this would remove one source of potential disruption at the border between Spain and Gibraltar, it would also risk creating new obstacles to movement between the UK and Gibraltar. We would welcome further information on the respective positions of the UK Government and the Government of Gibraltar on both the feasibility and desirability of Gibraltar seeking to participate in the Schengen free movement area.

We look forward to receiving the information requested within 10 working days.

I am copying this letter to the Chair (Rt Hon Yvette Cooper MP) and Clerk (Elizabeth Hunt) of the Home Affairs Committee; the Chair (Rt Hon Hilary Benn MP) and Clerk (Gordon Clarke) of the Committee on the Future Relationship with the European Union; the Chair (Tom Tugendhat MP) and Clerk (Chris Shaw) of the Foreign Affairs Committee; the Chair (the Earl of Kinnoull) and Clerk (Stuart Stoner) of the Lords European Union Committee; Alex Bernal of your Department; and Les Saunders and Donald Harris in the Cabinet Office.

CHAIR

¹ See the [Politico report on 15 September 2020](#) (*Spain pushes for Gibraltar to join Schengen area after Brexit transition ends*), the [schengenvisainfonews](#) website on 15 September 2020 (*Spain wants Gibraltar to become part of the Schengen zone*), and the [etias.info](#) website (*Could Gibraltar join Schengen after Brexit?*)