



Home Office

The Lord Murray of Blidworth
Parliamentary Under
Secretary of State

Home Office
2 Marsham Street
SW1P 4DF

Rt Hon Dame Diana Johnson MP
Chair, Home Affairs Select Committee
House of Commons
London
SW1P 4DF

15 February 2023

Dear Dame Diana,

I am writing to update you on the Government's decision on whether to proceed with an appeal against the High Court judgment in judicial review proceedings brought by the Independent Monitoring Authority for the Citizens' Rights Agreements (IMA) in relation to the EU Settlement Scheme (EUSS). This follows the commitment to do so given by the Immigration Minister in Parliament on 20 January.¹

In its judgment of 21 December 2022,² the High Court found that the Withdrawal Agreement residence right of an individual with pre-settled status under the EUSS (five years' limited leave to enter or remain) does not expire for failure to make a second application to the EUSS, and that an individual with pre-settled status acquires the right of permanent residence under the Withdrawal Agreement automatically once the conditions for it are met – a second application is not required to obtain it.

The High Court granted permission to appeal the judgment to the Court of Appeal. While it is open to the Government to pursue the appeal, we have decided after careful consideration to inform the court that we do not wish to do so. We consider it to be in the best interests of all concerned, both EU citizens living in the UK and UK nationals living in the EU, to bring this issue to a conclusion rather than prolong legal debate and the associated continuing uncertainty for individuals and stakeholders.

EU citizens who have made their home here are our friends and neighbours whom we have always wanted to stay, and the EUSS has successfully enabled them to do so, with more than 5.5 million people obtaining status under the EUSS by 30 September 2022.³ The pre-settled status granted to applicants to the EUSS during its test phases,

¹ Column 725 [EU Settlement Scheme - Hansard - UK Parliament](#)

² [High Court Judgment Template \(ima-citizensrights.org.uk\)](#)

³ [EU Settlement Scheme statistics - GOV.UK \(www.gov.uk\)](#)

from August 2018, who have yet to apply again to the EUSS for settled status (indefinite leave to enter or remain), is due to start to expire from August this year. Ahead of that, it is important to provide clarity and certainty to individuals about their status in the UK – in particular, the approximately 2.2 million holders of pre-settled status, as of 30 September 2022 – and about any steps they need to take in respect of the right of permanent residence.

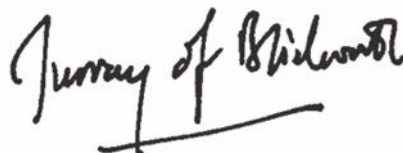
It was always our intention to avoid a scenario in which otherwise law-abiding pre-settled status holders might become immigration offenders for lack of a further application, by reminding them to apply for settled status, by streamlining the process for doing so as far as possible and by taking a pragmatic and flexible approach to late applicants. The implementation of the High Court judgment is thus consistent with our long-standing policy intent, albeit approaching the matter from a different angle, and based on an interpretation of the Withdrawal Agreement which conflicts with the approach the UK set out as early as 2017 and understood that it had agreed with the EU before the establishment of the EUSS.

The Government is now engaged in work to implement the judgment so that it continues to be easy for citizens, government departments and third parties, such as employers and landlords, to evidence or check rights in practice. To achieve this, we will take steps to amend the digital status of those with pre-settled status under the EUSS to clarify that their right to stay does not expire after five years and to ensure that they can continue to use their digital status to evidence their Withdrawal Agreement rights. I will provide Parliament with further detail on our approach to implementing the judgment before the first grants of pre-settled status expire in August.

In the meantime, the High Court judgment is clear that holders of pre-settled status can still be encouraged to apply for settled status under the EUSS, which provides secure evidence of their right to reside in the UK indefinitely. As of 30 September 2022, nearly 438,000 people had already done so. It is free, with a range of help and support available to those who need it. Therefore, the Government will continue to promote the EUSS and to encourage pre-settled status holders to apply for settled status as soon as they are eligible.

A copy of this letter will be placed in the Libraries of both Houses.

Yours sincerely,

A handwritten signature in black ink, reading 'Murray of Blidworth'. The signature is written in a cursive, flowing style with a long horizontal line extending from the bottom of the 'w'.

The Lord Murray of Blidworth
Parliamentary Under Secretary of State