



Foreign &
Commonwealth
Office

King Charles Street
London SW1A 2AH

Secretary of State

22 February 2020

The Rt Hon the Lord Morris of Aberavon KG QC
Chairman, EU Justice Sub-Committee
House of Lords
London
SW1A 0PW

Dear Lord Morris.

Thank you for your letter of 11 February regarding UK Nationals living in the EU. I am replying as the Secretary of State responsible for this policy area.

Protecting the rights of both UK Nationals living in the EU and EU citizens living in the UK is an absolute priority for our government. As you note, the EU Settlement Scheme is running well, and we are providing certainty to EU citizens who have made their lives in the UK. While we welcome the steps that EU Member States have already taken to protect UK Nationals in their countries, we continue to urge Member States to guarantee UK Nationals' rights in the same way that we have done for EU citizens, and to communicate the full details of their plans as soon as possible.

Member States can choose to implement the citizens' rights provisions of the Withdrawal Agreement through a constitutive system or a declaratory system. Under a constitutive system, individuals in scope of the Withdrawal Agreement must apply for a residence status in domestic law in order to enjoy their rights. Under a declaratory system, individuals in scope automatically become beneficiaries of the rights provided. On our current understanding, twelve Member States will adopt a constitutive system: Austria, Bulgaria, Croatia, Cyprus, Finland, France, Greece, Latvia, Lithuania, Malta, the Netherlands, and Romania. Eleven Member States will adopt a declaratory system: Belgium, Czech Republic, Estonia, Hungary, Italy, Luxembourg, Poland, Portugal, Slovakia, Slovenia and Spain. Denmark, Germany and Sweden have yet to confirm their approach¹.

The exact process through which UK Nationals can secure their residence rights will vary by Member State. In many cases, Member States have not yet announced their detailed plans. We are pressing these Member States to clarify and communicate their plans as soon as possible. The Withdrawal Agreement is clear that all processes must be smooth, transparent and simple, and that the window for applications must

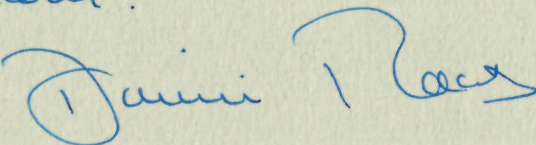
¹ UK citizens do not need a visa or residency permit to live, work or study in Ireland. Under the Common Travel Area, UK and Irish citizens can live and work freely in each other's countries and travel freely between them.

be open until at least six months beyond the end of the transition period. Noting the Committee's particular interest in France, Germany, Italy, the Netherlands and Spain, the Annex sets out in more detail our understanding of the processes in those countries. The overall picture is continually evolving, and we will keep the committee updated.

We stand ready to further support Member States' communication campaigns to UK Nationals through our own ongoing communication and outreach. As you have noted, we have also launched the UK Nationals Support Fund of up to £3m to support UK Nationals living in EU and EFTA countries who may struggle to complete their residence or registration applications. We are currently finalising grant agreements with third-party implementing organisations, and expect to be able to announce further details shortly.

EU social security coordination rules, including for reciprocal healthcare, will continue to apply in full to UK Nationals in the EU, and to EU citizens in the UK, beyond the transition period, for as long as individuals remain in scope of the Withdrawal Agreement. We will continue to aggregate social security contributions, pay an uprated UK State Pension, and export relevant benefits. On reciprocal healthcare, including European Health Insurance Card rights, where the UK or a Member State is responsible for the healthcare of those within scope of the social security coordination part of the Withdrawal Agreement, such individuals will be entitled to cover for as long as they remain in scope. Our Embassies will remain vigilant to ensure that any issues around implementation are addressed.

We will continue to engage with the EU Commission and Member States to ensure the timely, robust and effective implementation of the citizens' rights provisions of the Withdrawal Agreement. We encourage UK Nationals living in the EU to subscribe to their relevant 'Living in Guide' on gov.uk for regularly updated information on the actions they need to take to secure their rights.

Yours sincerely,


THE RT HON DOMINIC RAAB MP

Annex: Examples of Member State processes for UK Nationals to secure their residency rights under the Withdrawal Agreement

Note: The information below reflects our understanding as of February 2020. Some Member States have not yet finalised their plans. UK Nationals (UKNs) residing in the EU should visit their relevant 'Living in Guide' on gov.uk for regularly updated information on steps they should be taking to secure their residence rights.

France

France will adopt a constitutive system for UKNs, whereby individuals in scope of the Withdrawal Agreement (WA) must apply for a new residency status to have their rights protected. UKNs living in France have not previously been required to register their residency. France will use an online system to process applications for residency. The French authorities have stated that this system will begin accepting applications from July 2020. UKNs in scope of the WA will be issued with a physical document to evidence their status. Guidance on residency criteria will be issued by central government, and local prefectures will receive and assess the applications. The official French government website with information for UKNs is <https://brexit.gouv.fr/sites/brexit/accueil/vous-etes-britannique.html>.

Germany

Germany has not yet confirmed whether it will adopt a constitutive or declaratory system for UKNs, or when the system will open. Residency is a devolved competence in Germany, and over 600 'Foreigners' Authorities' have autonomy over the exact design of application processes. UKNs intending to stay in Germany for over three months are already required to register with their local registration office. The official German government website for resident UKNs is <https://www.bmi.bund.de/SharedDocs/kurzmeldungen/EN/2020/01/brexit.html>.

Italy

Italy will adopt a declaratory system for UKNs, whereby individuals in scope of the Withdrawal Agreement will automatically have their rights protected. Registration within three months of arrival is already compulsory for UKNs, although in practice some long-standing resident UKNs are not yet registered. The Italian authorities have announced that UKNs who are already registered will be able to request a new 'registration certificate' from their town hall to evidence their status under the WA. The Italian authorities have not yet confirmed whether it will be compulsory for UKNs to obtain this new document, or when the application window will open. UKNs arriving during the transition period, or who have not previously registered, will be required to register under the existing process first, and then request the new document. The official Italian government website for UKNs (in Italian) is <http://www.governo.it/it/approfondimento/brexit/12733>.

Netherlands

The Netherlands will adopt a constitutive system for UKNs, whereby individuals in scope of the WA will have to apply for a new residency status to secure their rights. UKNs are already required to register in the Netherlands if they intend to stay for more than three months, although in practice some long-standing resident UKNs may not yet be registered. The government has sent letters to all registered UKNs advising them that they will be invited to make an application online during the transition period. The online system has started accepting applications. To manage the number of applications, the system is using staggered application windows, with individuals who have lived in the Netherlands the longest invited to apply first. UKNs arriving during the transition period should register under the existing system, and will then be invited to apply online for their new residency status. The official Netherlands website for UKNs is [https://ind.nl/en/Pages/Brexit-\(UK-Withdrawal-Agreement\).aspx](https://ind.nl/en/Pages/Brexit-(UK-Withdrawal-Agreement).aspx).

Spain

Spain will adopt a declaratory system for UKNs, whereby individuals in scope of the Withdrawal Agreement will automatically have their rights protected. Registration within three months of arrival is already compulsory for UKNs, although in practice a significant number of resident UKNs have not yet registered. Spain has confirmed that existing residency certificates will remain valid documents, though the Spanish authorities will encourage all UKNs to obtain a new biometric document, called a Foreigners Identity Card. This document will state that the owner is covered by the WA, and is intended to facilitate future administrative procedures. The Spanish authorities have not yet confirmed the details of when and how UKNs can apply for this document. Residency is a central government competency in Spain, although in practice administration varies across different regions. The Spanish government official website for UKNs is <https://www.lamoncloa.gob.es/lang/en/brexit/howtoprepare/Paginas/190108residence.aspx>.