

Written evidence submitted by British in Europe (EEE0021)

European Scrutiny Committee EES inquiry

British in Europe submission

British in Europe (“BiE”) is grateful for this opportunity to comment on the introduction of the European Union’s Entry/Exit system (EES), along with the associated EU European Travel Information and Authorisation System (ETIAS) and the on-going roll out of the UK Electronic Travel Authorisation system (ETA). **BiE** was set up as a coalition of grassroots citizens’ organisations or groups established in different EEA countries and Switzerland, and as the largest grouping of UK citizens in the EU. The groups represent UK citizens living and working in EEA countries and Switzerland. BiE was founded in early 2017 to give UK citizens living, working and studying across the EU a voice in the Brexit negotiations.

The principal concern for **BiE** and the country groups in the coalition is to ensure that UK citizens living in the EU covered by the Withdrawal Agreement (“WA”) are not impeded when travelling to and from their country of residence (from the UK and elsewhere outside the EU) and when they transit through other EU countries. Individuals legally resident in the EU such as WA beneficiaries will not be subject to EES nor ETIAS. It is an imperative that border officials recognise such individuals as having similar rights to citizens of the countries in which they are legally resident when they enter and exit the country, and are fully conversant with the documentation they provide to confirm such status. By the same token, it is a further imperative that representatives of the travel companies, which have responsibility for checking documents, understand fully what rights such documents confer and ensure that holders are treated in the same way as EU citizens for the purpose of both EES and ETIAS.

Moreover, there needs to be consideration of the fact that WA beneficiaries in 14 EU countries with a declaratory system do not have to make a compulsory application to obtain WA status (in contrast to the system in the UK), and nor are they obliged to apply for a residence card as evidence of their status, since that status derives directly from the WA if they fulfil the relevant conditions. Those 14 countries include two of the countries with the largest populations of UK WA beneficiaries: Spain and Germany. We do not have up to date aggregate figures for current take-up of residence cards across the fourteen EU member states that are implementing the WA through a declaratory system but the last such figures that we had at the end of 2021 showed that take-up was low. Since EES and ETIAS are essentially document-based schemes, there needs to be awareness raising in country to ensure that people do apply for a residence card so that they have clear proof of their WA status to facilitate ease of travel. However, the two groups mentioned above (border officials and travel company representatives) also need to be aware of the position in declaratory countries and that a WA beneficiary without a residence card may nonetheless be legally resident in that country and, under the WA, legally entitled to enter and exit on production of a passport and other proof that they are legally resident.

We are concerned that there will be teething problems (a view shared by ABTA’s Director of Public Affairs with this committee last November). We are in complete agreement with Mr

Petherbridge that the EU Governments and the UK Government should increase the political prioritisation given to smooth implementation of the three programmes. In particular, there needs to be a comprehensive communication initiative aimed at both citizens of the UK and the EU explaining the requirements of the three programmes, with an emphasis on UK citizens living in the EU and EU citizens living in the UK. Efforts by the industry to complement this will be welcome. There should also be a focus on the industry individuals who will have responsibility for checking documents (eg at airports). And the EU has an obligation to ensure that border officials are fully conversant with the documents proving EU residence.

To that end, EU Member States must ensure that all necessary notifications are made under Annex 22 of the Schengen handbook (Practical Handbook for Border Guards), which sets out all residence permits issued by EU Member States, including WA residence cards, and are kept up to date. There should also be continued awareness of Annex 43 for as long as it still applies in the case of e.g. of WA family member cards in a small number of EU Member States.

BiE made some of these points to both UK Government and EU Commission officials at the last meeting of the WA Specialised Committee on citizens' rights in December 2023 and outside of that forum have engaged with both the FCDO and the EU Commission on these issues in the last years.

We are aware that there is regular engagement between the UK and the EU on these issues and that the Commission also has technical meetings with the UK on this topic. We are also aware that the Commission is engaging and meeting with EU Member States in relation to the approach to be taken as regards WA beneficiaries, including the need for information campaigns around the importance of holding a WA residence card to facilitate travel. There remains, of course, the question that we raised above about those in declaratory countries who do have legal residence, and have not applied for a card evidencing that status, as regards how their status will be checked at EU borders following the introduction of the EEA and ETIAS systems.

We are mindful of border issues occurring at the end of the transition period following the UK's departure from the EU. This coincided, of course, with the first Christmas/new year of the Covid pandemic. Whilst Covid requirements were, to put it mildly, exceptional, and traveller numbers were depleted due to the pandemic, we nevertheless saw chaos at a number of airports, principally due to a lack of clear guidance and communication between officials and the airlines. The consequences ranged from unwarranted inconvenience to severe distress, including serious financial implications and, in some cases, even the incorrect application of criminal provisions, for the individuals concerned.

One final point that needs addressing is the position of individuals with dual UK and EU citizenship. On the face of it, and subject to mode of travel and type of booking (eg one-way cf return tickets), it would be possible for a UK citizen to enter the UK using their UK

passport and return home to their EU country of residence using an EU passport. This would obviate the need for either ETA or ETIAS. There does need to be clear guidance aimed at such individuals to avoid the possibility of confusion and potential liability, and to ensure that they are aware of how they navigate the system, and at which points in the journey they need to show which passport.

British in Europe

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