

# **British multi-country residents affected by Brexit – Written evidence (CIT0003)**

## **Who are multi-country residents?**

A multi-country resident in Europe is a true product of Freedom of Movement.

They might spend 5 months in one country and 7 in another, or it could also be 4 months in each of three different countries or a similar combination. Typically, this would not be long continuous stays, and might involve frequent travel once a month or more between homes. Some people prefer one, long continuous stay before moving to their other home for the rest of the year; examples being seasonal workers and some retirees.

There are currently 1,100 members of our group (and around 4,500 in separately-run, but related groups for Spain, Cyprus, Italy and Greece). We believe this is a very small representative sample of a very much larger group.

If there are 2 million Brits living permanently in Europe it stands to reason that this group could easily exceed a million people or more, who are now stuck in a very confusing situation of limbo and face urgent choices. We understand (but cannot verify) that there are over 800,000 properties owned by British people in Spain alone, so this could amount to 1.6 million or more people affected.

Multi-country residents are a group of people who have largely been overlooked and left unprotected by the Withdrawal Agreement (WA). This could be by design, or could be as a result of an error or oversight due to the interplay between WA and standard tourist visa-waiver rules.

Many are also members of other UK-in-EU citizens' rights organisations (like British in Europe, British in Greece, British in Portugal, Brexpats in Spain, Bremain in Spain or Brexpats Hear Our Voice). However, the primary focus of those organisations is on those British people who live exclusively in one country. More recently, the scope of those organisations has tended to be defined as "British citizens covered by the WA".

So the purpose of this group is to advocate **for those British citizens living in Europe, who have a dual- or multi-country lifestyle and who are not covered by the WA** or who fall between the cracks in some way or another.

## **The multi-country lifestyle**

In recent years, thanks to EU citizenship, British people have been able to enjoy a dual life living and working between two countries in Europe (or more), having availed themselves of everything that Freedom of Movement (FOM) made possible. Multi-country residents are people with two or even three homes across Europe, which might be owned or even long-term rented.

It's easy to think of **second home dwellers** exclusively as wealthy individuals; but the reality can be quite different. With house prices in places like London becoming ever-higher, some younger people might choose to rent a flat in

London, while owning a larger home in the UK countryside, or abroad in another EU country. A second home for some, might simply be a modest one-bedroom apartment in Spain or Portugal. For a consultant who works across Europe, they might keep a flat long-term rented in a city where they have regular clients and use it for 3–4-week periods, returning to the UK or their home in another country in-between. Because they do not return to the UK at least once a week, they are not classed as frontier or cross-border workers, and therefore are not covered by those specific provisions in the withdrawal agreement.

Their partner may live in one country while they work in another. As a result of the pandemic and restrictions in travel for non-EU citizens, this kind of situation has been made especially difficult, and has involved temporary readjustments, which are now threatening people's precarious residency situations too as they approach 6 months of absence already.

Sometimes one partner of a couple might be full-year resident in an EU country (and covered by the WA) and the other only part-year resident due to work that keeps them largely in the UK (not covered by the WA).

The kind of people we refer to are: **freelancers, artists, authors, students, remote-workers, business owners, entrepreneurs, retirees spending winter or summer elsewhere, people on sabbaticals or periodic health-respite.** It also includes **seasonal workers** such as holiday reps and ski-guides as well as people you might choose to describe as **holiday-homers.** Some need work rights, but others could manage instead with just a generous 6-month-per-visit non-working visa-waiver, exactly like the UK offers its visitors from the EU/EEA/Switzerland.

These people might have chosen a multi-country life as their normal lifestyle, or they might be part way through a long, drawn-out moving process: someone who bought a holiday home for their young family 15 years ago, might now be using it on and off throughout the year, keeping a UK business ticking over remotely, or be running a European business from it and might ultimately intend to move permanently in the future to use their home for retirement, once commitments in the UK cease. It can be helpful to think of this kind of person as being part-way through a 20-year moving process, which they started in good faith, prior to Brexit, and this can represent a significant financial commitment for people with relatively modest incomes, who now face significant extra costs due to losing their EU citizenship. Second home use is a common way that people try-out life abroad, by spending half the year there over a few years before taking the plunge for good.

The kind of commitments that keep second-home dwellers in the UK (and unable to move to EU countries permanently before the end of the transition period) are aging parents with care needs, health issues, children at school or university and careers that require a physical presence for some of the time.

None of these people should lose out due to Brexit, when arrangements can so easily be made to ringfence their rights and protect their current way of life.

## **Pan-European workers/consultants**

Prior to Brexit, some multi-country residents worked anywhere in Europe and travelled to wherever their clients were. Film-makers are good examples of this, as are freelance business consultants. So even moving to their "EU home" before the end of the transition period doesn't help at all because the loss of EU citizenship results in loss of work rights in all but the host-country and country of citizenship. For these people, only those with entitlement to an Irish (or other) passport escape with their work and residency rights intact.

An interesting, yet perhaps rather shocking anecdote is that a British citizen could have lived and worked in a different EU country for each of the past 20 years and be in the UK on Brexit day, and be left with no rights whatsoever under the Withdrawal Agreement. That doesn't seem right.

## **A home in which they reside**

The thing all of these people have in common is that they consider their home abroad to be a genuine home and typically would consider themselves to be "anything but" a tourist. The definition of resident is, arguably, someone who "resides" in a place they call a home, whether that's for 1 day of the year or all 365.

Many are socially-integrated, speak the language and are valued members of local communities.

After being required to register as residents (with proof of income, employment and healthcare) in many EU countries after only 3 months, people are upset to learn that the WA reclassifies them as a tourist by failing to guarantee protection if absent for 6-months per year. A 9-month absence per year could so easily be allowed instead.

Wikipedia's definition of Ordinarily Resident Status confirms that it's quite possible to be "ordinarily resident" in more than one country at a time, something which often seems forgotten when we are talking about Citizens' Rights.

Those in this position call themselves **part-year residents** or part-year dwellers, as opposed to full-year residents.

The Withdrawal Agreement could easily be extended to protect these people (including people who have not yet registered because FOM rules mean they were never required to do so in the past and are currently still uncertain whether or not to do so.)

## **The problem**

The Withdrawal Agreement protects citizens present in their host countries before 31 Dec 2020, but effectively sets an arbitrary 6 months cumulative presence as the threshold for retaining an automatic right to protection. That is,

unless they have already achieved 5 years of continuous residency in the host country and therefore have permanent residency, which for a second-home owner, would be **extremely unlikely to ever happen.**

Prior to Brexit, second home owners could use their home for 0–6 months of the year in two ways, completely legally and paying all taxes in all countries where due:

1. Using Freedom of Movement (FOM) and keeping each individual “trip” to less than 90 days, if their host country imposed such a restriction. Even those staying all-winter would often go back to the UK at Christmas for a weekend or so keeping their trips under 90 days.
2. By registering as a resident after 90 days (if their host country required it), complying with any requirements for income/savings/employment and health insurance. Some of these residents were working too.

A British person who lives in an EU country (such as Spain, for example), every-year for 0-6 months of the year, and who was doing so prior to the end of the transition period, now has two choices:

1. Register (or retain their current registration) as a resident and hope the host country allows them to keep using their home freely, despite being absent for more than 6 months of the year, noting that the WA does not guarantee any protection. This choice, in some countries, can result in difficulties with driving licences if the host country has chosen not to match the same flexibility of recognition offered by the UK.

OR

2. Use their home as a tourist and comply with the requirement to be absent for specific periods in between visits (90 days in a rolling 180). That’s a problem for those who favour the winter months or the summer months in their host country. Being reclassified as a tourist also involves losing work rights and significantly inhibits travel to the other 25 Schengen countries because the 90/180 allowance (newly applicable to British citizens) is used up by the time they spend in their home. For someone who travels on business, or even fancies a week skiing in Switzerland, this means they cannot do so without loss of time in their Schengen home or without applying for a visa. In some countries, like Spain, there is no suitable visa. Applying for a visa every year can be an expensive and time-consuming process involving lawyers/agents, translations, police criminal record certificates and medical records as well as health insurance and meeting stringent income or savings requirements, while being prohibited from working or even earning passive income. You can be left without your passport for 3 months or more, whilst waiting for approval – something quite impractical for a frequent traveller like a multi-country resident.

So, part-year dwellers have been left completely at the mercy of their host country in terms of the rights they are allowed to keep and whether or not they can continue with their current lifestyle. We expect to see inconsistent approaches varying by country and region, with some countries waiting to see what the UK does in future before deciding what to do at the point citizens have to renew residency permits.

### **Only a British problem**

Due to the interplay between the Withdrawal Agreement and standard tourist arrangements, this is a problem that only really affects British Citizens. EU/EEA/Swiss citizens in the juxtaposed position (who have homes in the UK they want to use for 0-6 months of the year) are not affected because they can easily do that as a tourist on the UK's standard tourist rules. Although they do lose UK work rights. The problem is caused by the Schengen zone tourist rules not matching the UK's tourist rules (or from another perspective: the WA protection not kicking in after 3 months per year, which would match up with the tourist allowance)

### **"Third country rules" already have lots of exceptions**

The Wikipedia entry for "Visa Policy of the Schengen Area" highlights that certain third countries (Australia, Canada, Malaysia, New Zealand, Singapore and the United States) already enjoy improved access over and above the 90/180 day limits that UK tourists are now subject to, so it appears not to be true to say that UK citizens are now treated equally to all other third countries. It appears that third country nationals can stay for 180 days in some countries and others are allowed 90 days in each Schengen country.

### **In summary**

To resolve these issues, we would like to see:

1. The UK negotiate with the EU (or with individual member states) to extend Withdrawal Agreement protection to ALL citizens in each of their host countries, who can demonstrate that they ever before lawfully lived/worked/studied or retired in the UK/EU/EEA/Switzerland prior to 31 Dec 2020, whether that was for 1 day of the year or all 365 days. Ideally also to grant a life time right of return, so that their status cannot easily be lost. This measure would ensure that all UK citizens living in Europe are treated equally whether part-year or full-year resident.

AND

2. For the UK to approach individual member states, asking them to grant a 6 months per visit visa-waiver to UK passport holders for tourism and basic business purposes (over and above the standard Schengen visa-waiver) to match the tourist allowance offered by the UK. Alternatively, to agree the same 6-months-per-visit with the EU at Schengen-level (so

that someone could spend 6 months in France, leave and then immediately spend 6 months in Spain or Germany should they particularly need to do so). This measure would ensure that UK citizens enjoy the same rights after Brexit as EU/EEA/Swiss Citizens do in each other's countries.

Clearly, other changes that might eventually happen at some point in the future, such as restoring full Freedom of Movement of People, re-joining the Single Market/EEA, or even re-joining the EU would also resolve the issues described here.

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