

British in Europe – Written evidence (CIT0011)

Background

- The main provisions on citizens' rights were already agreed in the Withdrawal Agreement ("WA") which entered into force on 1 February 2020. However, the Trade and Cooperation Agreement makes explicit reference to the WA as a standalone agreement and reaffirms the parties' obligations to implement the WA, including on citizens' rights in Part Two of the WA.
- EU Member States could choose between two systems to implement the citizens' rights part of the WA in relation to UK citizens in the EU ("UKinEU"):
 - a) The 'constitutive' system. 13 countries have decided to implement a similar system to that in the UK whereby the citizen's rights depend on a successful application to and a positive decision of the national authorities i.e. the rights are granted on application. In these countries, as in the UK, there is a hard deadline and failure to apply within that deadline could mean that the citizen loses their rights/has no legal status.
 - b) The 'declaratory' system. 14 countries have decided to implement a similar system to that applied to EU citizens, where the new residence status will be held automatically where the conditions of the WA are fulfilled but people can register for a residence card as proof of that status. In these countries, there is no hard deadline, although some have provided for a soft registration deadline.
- We set out an overview of the situation in the main body of this evidence, and the annexes which follow contain a more detailed account of the situation in particular countries. We include annexes for certain constitutive countries, including France and the Netherlands, and for declaratory countries on Spain, Germany and Italy.

What the Withdrawal Agreement covers

The WA covers the following non-exhaustive list of rights but only in the country where the British citizen is currently resident (the "host state"):

- Residence rights (subject to similar conditions to those applying to EU citizens)
- Family reunification (broadly similar to the rights of EU citizens but save for future children only where the relationship existed at 31.12.20)
- Rights to work (as employed or self-employed)
- Right to equal treatment
- Right to continued recognition of professional qualifications that have received a specific recognition decision
- Continued right to benefit from social security and healthcare coordination (subject to similar conditions applying to EU citizens)

What the Withdrawal Agreement does not cover

- None of the above rights apply outside of the country of residence or host state.
- There are thus **no EU mobility provisions** in the WA for UKinEU.
- **The recognition of professional qualifications only applies in the host state** and depends upon proper implementation by local/regional/national regulators e.g. British Doctor whose qualifications are recognised in Germany will only have that recognition grandfathered in Germany – nowhere else in the EU.

- **The mobility and MRPQs provisions in the TCA are extremely limited and, in the case of MRPQs no more than aspirational. They will apply outside of the host state to UKinEU with WA rights in the same way as they apply to UK citizens who have never left the UK.** For example, a British caterer in France whose livelihood before Brexit depended on the ability to work on short-term contracts at short notice across the EU will be in no better position than a UK caterer who has only ever worked in the UK. The same will apply to a British computer games designer in Berlin who was historically able to be sent on short term projects without work visas or burdensome paperwork by their employer.

Implementation to date

- **General.** The WA broadly mirrors the rights that EU citizens have when they move to another EU country and, not surprisingly, some of the implementation issues that we are seeing mirror the implementation problems faced by EU citizens in relation to residence, work and rights to have qualifications recognised. Implementation has also shown that the distinction between constitutive and declaratory countries is blurred, and some declaratory countries appear to be applying more conditions than constitutive countries.
- **Hard deadlines in constitutive countries.** These are fast approaching. Five countries, France, Luxembourg, Latvia, Malta and the Netherlands, originally set the same deadline as the UK: 30 June 2021; on 31 May, the Netherlands extended its deadline until 1 October. France has the second largest UKinEU population in the EU. We are concerned that neither the UK government's communications nor those by EU countries currently emphasise the urgency of this deadline sufficiently and that people will fall between the cracks. We do not currently have clear information on the numbers who have not yet registered in all countries¹.

The other eight constitutive countries have extended their deadline either to 30 September 2021 (Finland and Sweden) or 31 December 2021 (Austria, Belgium, Denmark, Hungary, Romania and Slovenia). Similar issues arise in relation to their deadlines as they draw closer.

A key issue after the deadline in constitutive countries will be the treatment of late applications and levels of tolerance applied.

- **Soft deadlines in declaratory countries.** Certain declaratory countries e.g. Germany have introduced soft deadlines by which UKinEU are to notify authorities of their residence and claim to rights under the WA. The soft deadline in Germany is 30 June 2021. Although rights are not lost if a residency card is not obtained (declaratory country), expectation in Germany generally is that people are able to evidence status and while there is guidance from the Interior Ministry that many cards are unlikely to be issued before the end of the year, official information e.g. re proof of status for employment purposes has not yet been updated and thus we are concerned (and have raised that concern) that problems may arise from July, not least because implementation is highly devolved in Germany.
- **Implementation: general progress.** It is progressing in some countries more smoothly than expected (France) and less smoothly in others. There are also **challenges in declaratory countries** with large UKinEU populations where implementation **is decentralised** (Germany, Spain, Italy). In Spain, for example, a key issue is the decentralised application of the Spanish

government's official requirements that the green

¹ There are some statistics in the recently released third joint implementing report of the EU/UK WA Specialised Committee on citizens' rights, but the source data are already out of date. Cards or residence documents that British citizens held as EU citizens can continue to be used, although there is an option to apply already for the new WA residence card or Tarjeta de Identidad de Extranjero (TIE). This is not always being applied correctly in practice.

However, a general theme in many countries is the length of time that it is taking to process applications (the COVID crisis is of course a factor) and to issue residence cards in declaratory and residence permits in constitutive countries. This issue is arising, e.g., in declaratory countries Portugal and Italy, as well as constitutive countries e.g. Denmark, where implementation is generally going well but issue of cards is slow (the deadline for applications is end 2021). The Netherlands, on the other hand, appeared to be closer to reaching all UK in EU in country before the original deadline of 30 June 2021 (now extended until 1 October 2021) and plans a communication campaign to reach the British citizens who have not yet applied.

Italy was quick out of the blocks in February 2020 with a circular to local authorities enabling UK citizens to apply for a new WA certificate of residence. There were massive problems with that process, with widespread ignorance among the authorities of the existence of this certificate, the criteria to be met etc. Things began to settle down by the autumn only for the government to announce in December that, as from 1st January 2021, police stations would be issuing a new biometric residence card in accordance with the relevant EC Implementing Decision (effectively restarting the process).

In Portugal, our latest information is that no cards have yet been issued and that until recently, there was no system in place for those who arrived before end of 2020 to register.

- **Various Member States are also requiring documentation beyond that permitted.** This is a particular issue where implementation is devolved and where there are widespread variances between different registration offices and even within offices as regards documentation requirements and proofs to be shown at interview. We have also seen confusion in some Member States between the rules under national immigration and EU law as they apply to third country nationals generally and the requirements of the WA as regards UK in EU.
- **Denial of access to services, benefits, jobs without production of WA card:** we have seen this in a number of Member States. The problems have not only been with officials, but also in other aspects of life where work contracts have not been renewed, bank accounts refused, the completion of a house purchase refused because the UK national has been unable to provide a WA card, even though they are in a declaratory country where the card is optional, and in many cases not available even for those who have applied for it. Initial problems in these areas in Germany in January were resolved through active communication by our Germany group and the UK embassy with the relevant ministries. Similarly in Greece, our active group raised the issues with both the UK and with the Greek ombudsman and a new directive was issued, which has resolved the problem. We are still seeing these issues e.g. in Italy and Portugal. For example, in Italy, the government has failed

to issue an authoritative statement that UK citizens do not require a residence permit (which other third country nationals hold) and have not made clear that the WA residence card is optional; linked to this, many official computer systems had not been updated to take this into account, and thus many issues arose in February and March for which only now a piecemeal workaround is being found.

- **Travel.** There were initial problems in January 2021 with some confusion among airlines and at border control as to the new rules and how they applied to those covered by the WA. These problems have mostly been solved although WA beneficiaries are still having passports stamped in some countries, as this is an area of mixed EU/national competence and, in some EU countries, national law provides that even resident third country nationals may have their passports stamped on entry and exit. As COVID has suppressed travel, we are not seeing the full impact but as travel increases, a concern will be the slow progress that some EU countries are making as regards the final issue of cards/residence documents.
- **Combination of statuses with the WA status; the status of dual citizens under the WA.** There are problems in some countries of proving our right to combine the status under the WA with other essential statuses. The EU Commission has confirmed that a person covered by the WA may also hold other statuses. There are two categories:
 - a) Combining WA status with e.g. EU citizen family member or third country national statuses such as EU long term residence or an EU Blue Card, which provide mobility rights.
 - b) Dual citizens. Dual citizens who exercised their free movement rights as a British citizen when moving to the country where they are living are still covered by the WA. This means e.g. that a British citizen who moved to Germany and then took German citizenship before the end of transition and was thus able to keep both citizenships would still be covered by the WA.

For many, combining statuses is essential. For example, a dual national may need the enhanced WA provisions on family reunification or recognition of qualifications. A non- dual citizen, on the other hand, may wish to obtain EU long term residence in order to have mobility rights whereas the WA provides none. However in many Member States there is no satisfactory means of **proving** one's right to concurrent statuses in one or both categories. There are particular concerns for dual nationals in constitutive countries where they are not able to apply for the status and yet the status is only granted on application

– and deadlines are approaching e.g. France. The Netherlands, on the other hand, allows for both the recording of multiple statuses *and* for dual nationals to apply for a WA document as proof of their rights.

- **Driving licences.** The exchange of driving licences or incorrect application of the conditions applying to their exchange is an issue in some countries e.g. France and Spain. In France, a reciprocal agreement is still awaited and an increasing number of people whose licence has expired are now unable to drive (applications on the online system are not currently accepted at all from UKinEU). In Italy, the deadline for exchange has been extended but there is no bilateral agreement as yet.
- **Health.** Other than the issues raised above related to problems with

residence cards, we are not seeing systemic issues across the EU in relation to access to healthcare and social security.

Communication and Support

The obligation of the Member States (i.e. not the Commission) and the UK under WA Art. 37 is to "disseminate information concerning the rights and obligations of persons covered by [the citizens' rights Part], in particular by means of awareness-raising campaigns conducted, as appropriate, through national and local media and other means of communication." Compliance by Member States with this obligation has been patchy, to say the least, and in our view a number of countries are in breach.

The quality of communication varies from country to country, and the quality of UK govt information is better on the ground in-country than the central information coming out of London. Certain EU countries e.g. France have done very little indeed to communicate the position of UK citizens under the Withdrawal Agreement while others, like Germany, have provided good central information online but left local communication to regional and local authorities. The bulk of communication to date has been online, both by the UK and EU countries, and we are concerned that those who are not online, especially vulnerable groups, will not be reached as well as certain highly integrated and long-term residents e.g. in Germany, who may have no idea that they need to act. The situation has been made worse by COVID and the lack of physical meetings.

The UK government has put in place a support fund of £3 million to support UK nationals as regards their residence rights (UKNSF), which has recently been extended: the support under this fund does not however cover the whole EU and thus there are differing levels (as well as in quality) of support in different countries.

Supervision of implementation by the European Commission

Following on from the regular consultation of BiE by the Commission (and HMG) during the WA negotiations, we have continued to liaise regularly during and post the transition phase. It undoubtedly helps that BiE is officially recognised by the WA Specialised Committee on citizens' rights as a representative of UKinEU. The Commission is responsive to the issues that we raise, but the extent to which it is proactively raising its own concerns with Member States is hard for us to judge since such discussions are behind closed doors. It is of course an issue that there is no independent monitoring authority and that the treatment of third country nationals is an area of mixed competence for the EC and EU countries and thus EU countries tend to see this as their area of competence and the EC is reluctant to take action unless there is a fairly clear breach of the WA. However the EC is having regular meetings with the Member States to discuss issues/implementation and has used its powers of persuasion effectively. We will now be advising our members to raise individual issues not only with the Your Europe Advice service (where cases get logged and info fed to EC) but also to make complaints to the EC so that the EC has a better overall view of where there are problems.

The third joint implementation report of the WA Specialised Committee on citizens' rights, the first since December, was only published on 28 May². This was with one month to go before the hard deadline and with figures that were not up to date, in particular, in relation to the five countries with constitutive systems and June deadline. Figures for France, Luxembourg, the Netherlands, Malta and Latvia ranged in date from end March to 19 April. It was difficult to understand

why it took so long to publish this report and why some countries had still provided no data at all at this late stage in the implementation process e.g. Germany. Further, according to the report, only 190,800 UK citizens of 298,000 in constitutive countries had

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https://ec.europa.eu/info/sites/default/files/third_report_draft_final_version_for_publication_en.pdf

applied as at the date of the report. In the five countries with a June deadline, 171821 had applied out of 213400 leaving 19.5% of the UK population in those countries outstanding.

I. CONSTITUTIVE COUNTRIES BELGIUM (Constitutive)

ANNEX

Things now seem to be progressing as more and more communes are issuing appointments for biometrics for the M card (the WA card in BE). We are not aware of any refusals but there is concern that it has taken so long for the system to start operation. The slow start may cause problems when travel opens up if people do not have the WA card.

A significant problem is that many UK citizens in Belgium (UKinBE) are trying to apply for citizenship but are being told that if they swap their existing 2004/38 EU citizen cards for the M card this is not accepted as evidence of residence for citizenship purposes so many British citizens are holding off applying for the M card in the hope that they can get citizenship first. Citizenship takes 4-6 months to obtain in theory so there is a fear that some may leave it too late to apply before the December deadline.

There is also a suggestion in some communes that UKinBE are being encouraged to apply for the F card family permit where they are married to EU citizens exercising free movement without being advised of the impact of this on their WA rights in a constitutive country (in a constitutive country, without a successful application within the deadline, the WA rights will be lost).

(As at 20 May 2021)

DENMARK (Constitutive)

Travelling after the end of June deadline: Denmark are allowing applications under the WA until the end of the year and have allocated specific months for British citizens to apply, based on the year of birth. Unfortunately that means some UK nationals (UKNs) will not have their card until 2022 and we fear that it may be difficult for those without a WA card to travel after June in and out of Denmark, especially via The Netherlands or Germany. Staff at those borders may not know that Denmark have extended the application process until the end of the year and could refuse to accept old EU paperwork. For instance, an existing permanent residency permit is simply a printed out letter posted to the UK national via their electronic mail box, and it is only in Danish.

Also, on travel, some UKNs have erroneously been informed by SIRI that they need re-entry permits when travelling abroad. Apparently these are usually issued to non-EU residents and therefore some staff think they are now required for UKNs, which is incorrect.

Delay in cards being issued: Earlier in the year there seemed to be delays with biometrics, with UKNs waiting many weeks to receive their invite to attend SIRI to have their biometrics taken. This has now improved. However, despite the application process starting in January, no cards had been issued up until about two weeks ago. It seems that some people are still waiting for cards which they applied for in January, while others who applied in March have already received their cards. We have heard reports that some cards were sent to SIRI from the manufacturers with mistakes, and so have had to be replaced, leading to increased delays. Despite this, the process seems to be running more smoothly and, as yet, we have had no reports of any refusals

Dual Nationals: Positive news on this. Denmark are allowing Lounes Dual Nationals to apply and one of our members has already completed the process and received their card. However, getting people to actually apply is a problem as they cannot understand why they should do it in order to protect their rights under the WA that are in addition to their rights as dual citizens.

(As at 12 May 2021)

FRANCE (Constitutive)

Overall the system is still progressing well and has good user feedback. The system is that applications are made online via an application portal, and then distributed to the relevant préfecture which processes the application then calls the person in for biometrics and an ID check. This is a quick and easy procedure which takes around 10 minutes and does not involve any kind of questioning or interview. The residence card is then produced at a central location and should be sent by registered post, meaning that only one visit to the préfecture is required. All UKNs must hold cards by 1 October, giving préfectures 3 months to deal with all outstanding applications.

Key points are:

- **Fast approaching deadline/how many still to apply?** Last figures indicated that 137k applications had been received BUT because registration is not required of EU citizens in France, we have no real idea of the number of resident UKNs equally we have no idea how many are still to apply. The estimated UK population figure is 150k but this is widely held to be low. The total number of applications excludes those under 18, who are not required to apply (and indeed cannot apply unless the card is needed for work or training purposes), and dual FR-UK nationals, but it includes third country national (TCN) family members.
- **Long delays in dealing with applications at préfecture level;** certificates of application are issued within hours but then most people encounter a long silence while waiting to be called. It is this aspect which people find most difficult and stressful, and especially so as we approach the application deadline; we have suggested that préfectures be asked at least to put a message on their websites but this is not happening. Some people who applied in October 2020 are still waiting for first contact from their préfecture; this we understand is due to a technical issue with the software used to transfer applications to préfectures We are now advising all those who applied some time ago but have not been called for biometrics to make contact with their préfectures before 30 June to check the status of their applications; this is however not always easy as not all préfectures publish email addresses or phone numbers, and are due to Covid restrictions remain closed to the public except by appointment.
- **Total lack of publicity from Ministry of the Interior** who are effectively in breach of Article 37 of the WA. There is only a very basic website which is not in any way technical - the only real information is provided in the application process but this is process rather than anything else. There is no public guidance note or anything to suggest how individual préfectures should make decisions. There is however a circular issued by the Ministry which is in effect a simplified outline of the WA, which can be and is being used to show to other government departments and agencies, employers, students' offices etc if they are demanding sight of card to provide services. No outreach or media work has been done by the Ministry.
- **Provision of information by UK** – the Embassy team is doing its best and there are weekly online Q&As, bi-monthly online outreach sessions. However, control over information by the FCDO in London has been undermining these efforts. For example although France is a constitutive country with a deadline for applications at the end of June, UK publicity did not mention the deadline until beginning June 2021.

- **Misunderstanding.** There is still much misunderstanding amongst UK nationals about the need to apply for status/card, especially amongst those with current EU cards, those who are very long term residents, those who are a spouse of a French national, and TCN family members of UKNs.
- **Refusals?** On the upside, we are aware of only a very small number of outright refusals, and these are we understand on serious criminality grounds. A number of applicants are receiving 'we are unable to process your application at present' communications, usually because they have not provided correct or full information or evidence. So this is good, as people are being given the chance to 'correct' their application before being refused.
- **Process.** Some relatively small differences in procedure between préfectures, including differences in documents required and process undertaken to obtain cards, but this is not the big issue that it is for EU citizens and that we feared it might be.
- **Late applications.** No clear idea yet of how late applications will be dealt with and what levels of tolerance will be applied in the case of a failure to apply by the 30 June 2021 deadline. No guidelines on this have been published.
- **Possible backlogs.** There is uncertainty not just over whether all UK nationals will apply by 30 June 2021, but whether all préfectures will be able to deal with backlogs in time for all UKNs to hold their card by 1 October as required. Will there be extensions to either/both of these dates? No information has been provided yet nor indication given either on or off the record.
- **Vulnerable groups** - little thought has been given to these by the MoI and the system is rather a one-size-fits-all. Particular issues arise for those unable to attend préfecture for biometrics – there is no automatic dispensation for this except for hospital patients.
- **WA card.** There is some evidence of employers, universities, government agencies etc demanding a WA card but this is not systemic and can usually be dealt with by providing a copy of the MoI circular.
- **Permanent residence.** There is no specific or written information about what happens when a UK national reaches 5 years' residence and qualifies for permanent residence - how/when do they apply for the permanent residence card? There has also been no clarification how children turning 18 after 1/1/22 apply for a card, or how permanent residence will carry over from minor to major.
- **Dual nationals** are still unable to apply; combining of statuses unclear as advice is that only one card can be held at one time. However, there has been recent movement and information from the MoI to individuals that suggests that France now accepts that dual citizens can also benefit from their WA status in relation to e.g. family reunification but that these rights will be case-worked individually as opposed to a form of proof of status being provided to the dual citizen.
- **Renewals/address changes.** Another positive: France has now set up online processes for renewals/address changes and other administrative issues relating to residence cards which will simplify things in future. It looks as though this is being done on the back of the WA process so hopefully a good outcome for all.

Other issues

- **Driving licences** – a reciprocal agreement is still awaited and an increasing number of people whose licence has expired are now unable to drive (applications on the online system are not currently accepted at all from UK nationals). The Embassy expected to be able to confirm that an agreement would be in place a month ago but still no news. The MoI has confirmed that those whose UK licences have expired, and also those whose UK photocards have expired, are unable to drive legally so this is a growing issue.

The information in this report was compiled on 13 June 2021.

LUXEMBOURG (Constitutive)

The application system is very quick and straightforward. The current completion time from application to new biometric WA card in your hand is 2-3 weeks. That said, we believe that up to 10% of the non-EU dual UK population has yet to apply. That is not a huge number in the overall scheme of things but a failure in a country as small and digital as LU where the population is largely of working age or younger and where the government knows where we live. The LU government is now sending out letters to those who have not applied. We and the embassy have been asking for this to be done for some time. Our view is that the government is in breach of its information obligations but when pushed to do more last summer they made it clear that they were doing enough in their opinion. We have also asked for concrete information on what the consequences of a failure to apply will be but have never been given an answer to this question.

For LU it seems to be still that about 600 have not applied, so 10% of the overall non-dual population but recent information suggests that these are mostly those working for the EU officials – we are however checking this.

(As at 25 May 2021)

THE NETHERLAND (Constitutive)

Eligible UK Nationals (UKNs) have to submit residence applications by 30th June 2021.

- **Decisions to date.** We understand that some 36,904 decisions have been made on applications, with an estimated 3,200 still to apply. The Immigration and Naturalisation Service (IND) and Embassy are checking and validating the numbers, with a communications campaign planned to reach these in time for the deadline, which has now been extended to 1 October (this happened 31 May). In the light of Covid restrictions on travel, problems with length of absence from NL have potentially affected residence status (e.g. students) and created difficulties in completing the application process (e.g. being physically present for biometrics). Cases and exceptions are being considered on an individual basis.
- **Dual status:** Holders of Dutch national residence permits who have also exercised their Art. 50 rights are able to have both statuses recorded in the public records database, and to choose which card to hold. Also it is optional for dual nationals UK/NL to apply for an Article 50 card but they should do so by 30th June or they would lose Art 50 rights.
- **Passport stamping:** Although not to the extent seen immediately after the ending of transition, erroneous stamping of UKNs passports resident in NL is still taking place despite individuals showing their Art. 50 residence permit

and expressing their objections at the time. A variety of reasons is being given by individual officials, none of which appear to be correct. Some stamp even when shown guidance written for UK nationals by Dutch government that says 'your passport does not need to be stamped at the border' and explains how to have a stamp annulled. This is happening principally at Schiphol airport and to a lesser extent at Eurostar terminals in Amsterdam and Rotterdam. 'British in the Netherlands' have reported examples given since January 2021, and further escalation is taking place with the Dutch government and the Embassy.

(As at end May 2021)

II. DECLARATORY COUNTRIES GERMANY (Declaratory)

On the whole, UK citizens who have received their residence cards are very relieved after nearly 5 years of uncertainty now to have documentation with which they can prove their status. British in Germany has run a survey to obtain feedback on the process. A large majority of those taking our survey after their appointment with the Foreigners' Office are positive about their interview. (However around 10% are not and at earlier stages of the process there is a 50:50 positive/negative split.)

Top issues

- **Residency cards / evidence of status:** Many or most UK citizens in Germany with rights under the WA will not have evidence of their status by July this year and many will, as a consequence, face problems with employers, customers (for the self-employed or those running companies), landlords, travel, and in other areas of daily life from July onwards, although Germany is of course a declaratory country and the card is not compulsory. Although more cards will be issued in the second half of the year, the problems are likely to intensify for all those who will not yet have received them. The latest guidance from the Ministry of the Interior (published end of April) now states that UK citizens may not receive cards until later in the year, and sets a new expectation that cards will be issued by end of December.
- **"Soft deadline"** of 30th June by which UK citizens should notify authorities of their residence and claim to rights under the WA is expressed as mandatory in both German law and German government publications. This tends to drive an (incorrect) expectation that evidence will need to be held by that date, although Germany is a declaratory country.
- **Outreach shortcomings:** It is highly likely that there are UK citizens in Germany who are unaware that there is any need for them to take action. Outreach from the Federal government includes good quality FAQs on their national website in both English and German but outreach is mostly online. As far as we are aware, the only hard-copy communication materials provided for UK citizens by the German government are hard-copy leaflets which were produced at the end of 2020 with intent to distribute at airports. As travel has been hugely constrained throughout 2021, these have not had an impact. We are not aware of any information or communication campaign using press, newspapers or social media initiated by Germany authorities other than posting on local websites. As far as we are aware, there has been no outreach, publicity or other form of communication by the Federal or regional governments to agencies dealing with vulnerable people (cared-for children, those in care homes or sheltered accommodation, those with dementia, other

marginalized groups). Further outreach from the German authorities has been largely left to the local Foreigners' Offices and has been inconsistent. Best cases have included posting detailed information and instructions in both English and German to all UK citizens registered in the local area (Kreis/Stadt). Worst cases include zero information (even now) on the local website, and e.g. offices unreachable by phone and unresponsive to emails or post, offices which continue to respond only with automated/standardized requests to "be patient" or to say that they are not able to start processing UK citizens yet.

The UK Embassy has provided messaging including video clips and text-based information via Facebook. The Embassy has held monthly online Q&A sessions, although publicity for these is relatively restrained. Questions asked and answered between 30 and 90 per session. These are published by [gov.uk](https://www.gov.uk) and are readable by anyone who locates them. There have been no face to face events in the last 18 months (constrained by the pandemic).

- **Vulnerable and highly integrated groups.** Vulnerable groups are unlikely to be reached. Also, a proportion of the many highly-integrated UK citizens in Germany are likely not aware of what they may need to do to secure their status. This group may have minimal or zero contact with other UK citizens in Germany and it is highly unlikely that German members of their family or circle of friends will have any awareness as there has been little or no coverage in the German media. Although mitigated by the fact that Germany is declaratory, the unaware groups are at risk of future problems in establishing rights.
- **Statistics.** As far as we know, Germany has not made any statistics available to date and none were included in the WA third implementing report of 28 May 2021. Thus we do not know the number of UK citizens who have notified the authorities, of residency cards issued, breakdown of ordinary and permanent residence, nor refusals of status. No visibility of statistics by state. Based on statistics we have been given informally by two Laender, a small proportion (10-2%) of their estimated UK populations appeared to have received cards by April. The cards are issued centrally at Federal level but the central authorities do not appear to be tracking progress of card issue.

(As at end May 2021)

ITALY (Declaratory)

Italy was quick out of the blocks in February 2020 with a circular to local authorities (of which there are nearly 8,000), enabling UK citizens in Italy (UKinIt) to apply to the local authority for a new WA certificate of residence. There were massive problems with that process, with widespread ignorance among the authorities of the existence of this certificate, the criteria to be met etc. Things began to settle down by the autumn only for the government to announce in December that, as from 1st January 2021, police stations would be issuing a new biometric residence card in accordance with the EC Implementing Decision. The 'vademeccum' announcing this new card does not say that it is mandatory but equally does not make it clear that it is not.

No cards were available for issue in January and, although people were able to make appointments to get the card, no cards were actually issued until late March. Appointments for cards are being given as far away as the autumn and there are still problems in actually issuing cards after the appointment (the author of this note had an appointment in early February but still has no card; there have also been technical problems reported concerning fingerprinting for

the biometric card, resulting in more than one visit to the questura).

Very serious problems were caused to some people by two failures of the government. The first was a failure, in breach of the WA, to provide information about the WA rights and obligations of UKinIt. The second was a failure to update its computer systems to prevent them asking us for a standard non-EU citizen residence permit that we simply do not have.

Information: The government failed to issue a clear authoritative statement that (i) we do not need a residence permit (a document only issued to non-EU citizens, but exceptionally not to UK nationals who arrived before 31.12.20 due to the provisions of the WA) and (ii) the new residence card is optional and we can prove our residence before 31.12.20 by a number of other means. Despite a lot of pressure they have still not done so at the date of writing. The closest one can find to such a statement is a minute of an inter-ministerial committee that has been posted recently on a government website but it is not easy to find either for UK nationals or officials and is therefore of little assistance.

As a direct result of the lack of government information, a number of UK nationals covered by the WA were unable to complete the purchase of a house (as the notary wrongly required a residence permit), to rent an apartment, to open a bank account, to get a mortgage, to buy a car or other vehicle and to do many other normal essential activities. Some people have also been asked by the police on routine checks to produce a residence permit which they cannot do.

Information on the procedure for getting the residence card was not bad at the beginning, but a number of difficult issues remained – eg the definition of durable partners (a public announcement of the policy is awaited), the procedure for vulnerable people who cannot get to a police station (a policy is awaited). There is still no policy on applications for additional statuses (such as Blue Card or Long Term Residence Directive) which would enable mobility within the EU for those who need it, eg for work or to get home fee status if studying in a university outside their state of residence.

Computer systems: Many official computer systems required the production of a residence permit (ie assumed that we were exactly the same as other third country nationals), and would not allow the user to proceed further without it. As a result of this it was not possible for a UK national to get or renew a work contract (as the employer is fined if it does not register such a contract - so some lost their jobs), to set up as self-employed, to get social security benefits or claim their Italian pension, and, in many regions, to get or renew a health card which is essential for accessing the Italian NHS, so some could not get treatment. The same problem also beset applications for Italian citizenship.

These problems became apparent in February and March. The British Embassy has been lobbying the government hard and sometimes at a high level to get them sorted. The result has been piecemeal success – eg a workaround on the computer system for registering work contracts (putting in a 2099 date), an announcement by the Italian Banks Association, an announcement by the Notaries association, an internal note to the health authorities etc. As a result the problems have diminished considerably but not completely and if the government were only to comply with its duty under Art. 37 WA to provide proper information about the Agreement, then matters would be much better.

Administration of the National Health Service in Italy is devolved to the Regions, and some people are still being refused registration with the Health Service unless they have a residence permit or card. Although in some Regions Covid vaccinations are available without registration with the Health Service (as

indeed is national policy), some people are still being refused vaccination without it.

Driving licences: The Italian government has recently announced that people can continue driving on UK DL for the rest of this year: this followed a period when this was not possible so that people living in rural areas and dependent on a car were in great difficulty because they were unable to prepare for and get an appointment for an Italian driving test but unable to continue to use their UK licence. However there is still no bilateral agreement on exchange of licences on a more permanent basis.

(As at May 17th 2021)

SPAIN (Declaratory)

The following are the key issues resulting from implementing of the WA:

Acceptance of green document

The Spanish government's official position is that the green cards or residence documents that British citizens held as EU citizens can continue to be used, although there is an option to apply already for the new WA residence card or Tarjeta de Identidad de Extranjero (TIE).

There is clear evidence of widespread deviation at a local level from the government's position in respect of treatment of the green document. This is probably most acute at the border (see below), but there have also been reports of issues for example in registering changes of address with local authorities (registering for the padrón). This registration is far reaching as it encompasses schooling, electoral qualification and acts as a proof of residence that could be demanded in securing permanent residence.

There is a linked problem with non-officials (lawyers and gestors – administrative “go betweens”) who advise or enact legally based transactions (and estate agents) who are either ignorant of, or exploit, the formal government requirements. This extends to refusal of employment due to non-possession of the TIE based on gestorial advice. We believe that the government has attempted to train and advise officialdom in general. A dedicated citizen helpline is provided by the Spanish government and a dedicated Brexit (and English language) option is available. However, this only helps to solve the issue once it arises, not prevent it.

There have been reported cases where, particularly, immigration police have made caustic comments to the effect that “well the green document is being phased out”. This is something that both the Embassy and Spanish government have denied but the fact it is being said leaves suspicions – no smoke without fire principle. Against this, of course, Spain is not going to phase out green documents per se as they have been issued to nationals of the EU!

Passport stamping

We still hear isolated and anecdotal reports of WA protected citizens having passports stamped. There seems to be more chance of this occurring if the green document rather than the TIE card is produced. However, there is a suggestion that it is linked to a wider systemic issue of failure to differentiate between WA protected individuals and non-WA protected. The current situation is, in any case, artificial due to a) Covid restrictions and b) exceptionally low volumes compared to pre Covid trends. We are likely only to get a true picture of the core problem (if any) when volumes approach previous levels.

Other administrative

These issues stem from deviation from official requirements. The most notable is in terms of driving licence exchange where there is evidence that requirements over and above those set by the Ministry of Transport are imposed.

There are reports, especially from the Costas, that cases of proving residence at 31.12.20, in the absence of completing the formalities by that date, are subject to local interpretation. Covid has not helped but there appears to be an absence of categoric unequivocal guidance to officials (and to UK citizens) on this point.

Health

This is not an issue that EuroCitizens has encountered on a "case basis" other than in asking the Embassy for greater clarity. There are issues where there are greater concentrations of UK citizens but the suspicion is that this may be the result of confusion of status – not helped by the residence proof issue above.

15 June 2021