

Written evidence submitted by the British in Europe (FRE0014)

Executive summary

- Implementation of the citizens' rights part of the Withdrawal Agreement ("WA") in the EU is still in its very early stages, with few countries having final or even draft legislation in place. Application processes have begun in only four countries. Covid measures have added to the delay. [paras. [2-3](#), [28-31](#), [39](#)]
- **Uncertainty and fear for the future are a major concern.** UK citizens in the EU ("UKinEU") have already endured almost four years of uncertainty about their future between the Referendum and ratification of the WA. To this is now added a further period, of uncertain length, during which thousands of families and individuals have to await the outcome of applications to be allowed to stay in their own homes in countries which have opted for an application or constitutive system. [paras. [4-19](#), [23-27](#)]
- There is **uncertainty about the application of the WA** in some important respects. The European Commission's promised guidance note was very recently published on 12 May and will assist in clarifying some of these issues. Issues on which clarification is urgently needed include:
 - How dual UK/EU nationals (and other citizens) who do not rely on the WA for residence rights can evidence their WA rights.
 - How the WA applies to UK citizens who are eligible both for protection under the WA in their own right and for protection under EU law as family members of EU citizens.
 - Whether UK citizens eligible for protection under the WA (which confers no right of free movement to other EU countries) can obtain the rights to at least some mobility enjoyed by other Third Country Nationals ("TCNs"), either in addition to their WA rights or by waiving that protection and opting to register as non-WA TCNs. [paras. [20-22](#)]
- **The common format of the card evidencing WA rights** for UKinEU, mandated by the Commission, is profoundly unsatisfactory as it fails to distinguish between the two fundamental statuses under the WA, those of **permanent residence** and **ordinary residence**. The UK should be pressing for it to be amended. [paras. [13-19](#), [56](#)]
- The UK should press for British in Europe and the 3million to attend the specialised **Committee on citizens' rights of the Joint Committee on Implementation of the WA** established under Article 165 WA as expert observers so that issues like the above arising

during implementation can be quickly identified by hearing from those affected at grass-roots level. [paras. [49-53](#)]

- The conditions for lawful residence both under the EU law which applies during the transition period and under the WA include, for those who have not yet acquired, or had confirmed, permanent residence, requirements to be employed/self-employed, or economically self-sufficient with comprehensive health insurance. These conditions are applied strictly in many EU countries. The lockdown restrictions of the **Covid** crisis have caused many to lose their jobs or much of their income and there will be others unable to obtain comprehensive health insurance because of exclusions. Students studying abroad and recent graduates are at particular risk. The UK should press both the EU institutions to call upon EU Member States, and EU Member States to adopt and publicise now a flexible and understanding approach to applications by such people, just as the UK should do this as regards EU citizens in the UK. In particular **fear of being unable to comply with these rules should deter nobody from seeking benefits necessary** to feed their families. [paras. [10-12](#), [39-44](#)]
- If the transition period is not extended, the UK should be asking Member States to grant, where appropriate, **extensions of time limits** under the WA for securing rights with which people have been unable to comply because of **Covid** restrictions on travel or the closure of administrative offices. This applies not only to residence rights across the EU but also to citizenship applications where 31.12.20 is a cut-off date (see Germany and Italy). [paras. [42-45](#)]
- We welcomed the news in March that, in line with our requests since November 2018 to the UK government, UK FCO announced it had allocated £3 million under the 'UK Nationals Support Fund' to seven charities and organisations to provide UK citizens living in the EU with practical support with their residency applications under the WA. We do however have **some concerns about the way in which the funds under this Fund have been allocated**, and the coverage of the funding, on the one hand, as regards the geographic and demographic scope of the coverage, and on the other, the limited scope of the WA issues covered (registration of residence only). [paras. [57-68](#)]
- We note that this **written evidence does not deal with rights that UK citizens in the EU have lost already or are not covered by the Withdrawal Agreement** because considered out of scope: notably, voting rights, onward movement, cross-border working and EU-wide recognition of qualifications.

Introduction

1. **British in Europe (“BiE”)** is grateful to the Committee for the invitation to submit evidence on implementation of the citizens’ rights part of the Withdrawal Agreement (“WA”). **BiE** is the coalition of groups representing UK citizens living and working in EU countries. As some Members were not in the predecessors to this Committee, we attach at Annex 1 a brief account giving more details about us [p.19]. We move straight to the questions which the Committee has posed.

Q1. Could you set out the means by which UK citizens can secure their rights under the Withdrawal Agreement in each EU Member State, how easy are these systems to use and how do they compare with the EU Settlement Scheme in the UK?

2. We attach a series of Annexes setting out the position in the countries where **BiE** has the most active groups, which correspond to the countries with the largest populations of UK citizens, as well as some others.
3. To summarise the overall position:
 - a. Implementation of the WA is still at a very early stage across the EU, most countries have yet to announce or legislate for implementation measures, and even where implementation has already started the COVID-19 lockdown has meant that very few applications have been processed.
 - b. We understand that 13 countries have opted for the constitutive system or an application under Art. 18.1 WA (like the UK). In this system, as in the UK, the status depends on the citizen making a successful application by a deadline, in principle, 30 June 2021. The citizen would have no legal status without such a successful application by the deadline. This is despite the fact that the vast majority of UK citizens in EU countries are already registered, unlike EU citizens in the UK. The choice of this system must thus clearly have been made on the basis of reciprocity with the system applying to their own citizens in the UK.
 - c. 12 countries have opted or are expected to opt for the declaratory system under Art. 18.4. In this system, the citizen’s obtaining a new residence document confirms her/his rights under the WA but a failure to register by the deadline should not mean that the citizen will have no legal status.
 - d. Denmark appears to be choosing the declaratory system.

- e. The Netherlands, Estonia, Malta and Luxembourg have legislation in place. Germany and Sweden have published draft legislation. Italy is not amending its law but relying on the direct effect in Member States of the WA as a treaty made by the EU: it has simply issued a circular setting out a procedure to follow.
- f. Countries with the biggest populations of UKinEU – Spain, France and Germany – have not yet started implementation. Netherlands (constitutive), Italy (declaratory) and Malta (constitutive) have started implementation. Some countries have not adopted final legislation yet but nevertheless have indicated when implementation is due to start – Sweden has indicated that implementation will not start until December 1st 2020, but that applications may be made until the end of September next year: our local group advises that such applications are likely to take a year to process. France has drafted a decree (not yet published) and intends to begin implementation via an online application platform in July 2020; it has also added a paragraph to an Article in a wider bill (currently going through parliamentary process) which is intended to preserve the current rights of British citizens to exercise a professional activity in France whatever the outcome of the current negotiations on the future relationship.
- g. In the Netherlands the Immigration Department writes to UKinEU inviting them to make an application: invitations are sent out in batches and so far, have only gone to those with 5+ years residence. Applications can be made online or on paper and appear to be easy to use. It is likely that the WA criteria of job/sufficient resources/health insurance will be applied to those with less than 5 years' residence and it appears that these criteria are also being applied to those with more than 5 years' residence. It remains to be seen how strictly the criteria will be applied.
- h. In Italy application is made in person to one of the nearly 8,000 local authorities. The only evidence required for those already registered as resident is evidence of identity: otherwise it is a simple process of getting a new residence document to replace the existing EU citizen one. New arrivals during transition must satisfy the conditions of EU law for EU citizens.
- i. In Malta implementation began on 17 February 2020 using a staggered approach based on place of residence; UK citizens receive invitations by post to attend the relevant registration office (one in Malta, one in Gozo) during specified periods based on where they live. They have to complete an application form and submit documents based on their residence status before attending an interview in person. All those without a current permanent residence document must demonstrate that they satisfy the conditions of EU law for EU citizens. The application system is currently suspended as a result of Covid.

Delay

4. When the WA was finally ratified in January, UKinEU had already endured 3½ years of not knowing whether they would be able to continue with the most fundamental aspects of their life. We are not talking simply of the right to reside, though that too has been in doubt, but of the conditions which make a right to reside meaningful – work, recognition of qualifications, healthcare, pensions, social security benefits, university education and living together as a family with close relations. Again and again, through our social media groups, we have heard heart-rending stories of the serious anxiety which many people have suffered through fear for their future.
5. The delays in implementation referred to above have caused this uncertainty and anxiety to be extended by up to two years (sometimes even more), particularly in countries which are adopting the constitutive procedure requiring us to re-apply for the right to live in our own homes.

Uncertainties

6. The principal uncertainties which UKinEU face are (i) by what date will they finally know whether they can stay; (ii) what are the conditions which they will have to satisfy in order to be able to stay; (iii) in the case of those entitled to permanent residence, what means they will have to prove that status; (iv) in the case of those with dual UK/EU nationality, how they are to prove that they are covered by the WA; (v) what is the position of those who, for example by having married an EU citizen who is living in another EU member state, both satisfy the conditions of EU law for third country national (“TCN”) family members of EU citizens *and* satisfy in their own right the conditions of the WA; (vi) will UKinEU covered by the WA but for whom freedom of movement across the EU is vital for work be eligible for other more limited EU mobility schemes for TCNs? There is also a concern whether the distinction between “constitutive” and “declaratory” schemes is quite as clear-cut as it might appear.

Date and time period for applications

7. The date at which individual UKinEU can begin to relax is, of course, generally the date when they receive evidence confirming their status. Since applications take time to process, that will generally be later than the date of application. We have seen that in Sweden, with applications closing at the end of September 2021 and requiring a year to process, the date could be as late as September 2022, or 6½ years after the Referendum. It is expected that this will be less of an issue in declaratory systems where UKinEU will simply have to register for a new residence card but this should be monitored.
8. Moreover, during the application period, the individual UKinEU will need to be able to document her/his right to stay in the country, as well as to travel and come back to the

country. EU countries will need to confirm what documentation will be provided to those who e.g. are applying for jobs or need to travel while they are waiting for their application to be processed.

9. However, confirmation of one's right of residence is not always sufficient. It remains to be seen how other aspects of implementation, such as the right to health care or non-discrimination in the job market, will play out in due course.

Conditions to be satisfied

10. Directive 2004/38 is the EU legislation that applied to us while the UK was in the EU and most of which is mirrored in the WA. Under this Directive, to be legally resident in a country a person has to satisfy certain conditions for the first 5 years of their residence. Briefly these are that they are a worker/self-employed, or a student or economically inactive with sufficient resources to maintain themselves. In the case of students and the economically inactive they must also have comprehensive health insurance. Family members have similar rights. Someone who obtains social assistance risks prejudicing their right of residence by becoming "an unreasonable burden" on the State's social assistance scheme. After 5 years' legal residence people are entitled to permanent residence without demonstrating that they satisfy those conditions going forward.
11. Experience to date under Dir. 2004/38 has shown that States vary in the strictness with which they apply these conditions. In some, such as Portugal, the conditions are applied but with a light touch. In others, there is close examination of whether a person's work is "genuine and effective". The new residence cards being issued in the Netherlands to those without permanent residence distinguish between the economically active and those who are not, and contain a clear warning on the back about the risk of becoming reliant on public funds.
12. There is a concern that there will be differences in the strictness with which these conditions are applied not only as between countries, but also as between the responsible authorities within a country where administration of these rules is highly devolved. France, the only country apart from the UK where EU citizens were not required to register, is a good example of strict application both of criteria such as 'genuine and effective work' and of local variations. There is also the concern that there will be differences in the strictness with which these conditions are applied to UKinEU under the WA, as compared to how they were applied to them as EU citizens.

Permanent residence

13. It will be clear from the above that the right of permanent residence ("PR") is a fundamental right. It is important because (i) those with PR are no longer at risk of losing their residence rights if they do not continue to satisfy the conditions required in the first 5 years; (ii) in

Italy, economically inactive persons cannot access the health service on the same terms as Italian nationals unless they have permanent residence; (iii) under the WA those with PR can be absent from their country of residence for up to 5 years without loss of rights, whereas those without it can lose *all right of residence* after as little as 6 months absence.

14. It is therefore essential not only to have that right but to be able to *prove* that one has that right. A right which cannot be proved is no right at all.
15. Both under Dir. 2004/38 and under the WA the right of PR accrues automatically after 5 years legal residence in a country. However, the emphasis here is on “legal” residence: the right is only acquired when one has satisfied the conditions referred to in para. 10 above for the first 5 years. Therefore, it is not enough simply to show that one has been resident in the country in question for 5 years, but evidence can be required of job history, earnings, savings, health insurance etc. This will often involve the production of complex documentation dealing with, for example, changes in jobs, gaps between employment, establishing that one was self-employed, proving continuous health insurance etc. Any Member of this Committee who was present at the hearing of its predecessor Committee in January 2017 may recall the graphic incident in which the representative of **the3million** produced the enormous pile of paperwork she had had to assemble in order to apply for PR under the EU rules which were strictly applied in the UK at that time and set it down in front of her on the desk.
16. The problem which UKinEU face in many countries is that there is to be no means of proving one’s entitlement to PR. Under Dir. 2004/38 we had a right to apply for a certificate if we wanted one. The WA contains no corresponding express provision, though we say it is clearly implied on any reasonable reading of Article 18(4). The European Commission’s guidance note states that if the host State decides to operate a declaratory scheme, the rules set out in Dir. 2004/38, such as deadlines, fees, supporting documents and residence documents issued apply. However, we know already that Italy, Germany and Portugal do not intend to make this distinction on the cards they are issuing to evidence WA rights and, even more worryingly, the European Commission Implementing Decision¹ which sets out a *mandatory* form of card for this purpose does not do so either. The EC guidance note does not make a clear statement on this either. Fortunately the Netherlands’, and Poland and Sweden’s proposed, cards do make the distinction.
17. The problem goes further than individuals merely not having a card to prove their entitlement. In countries where there is no certificate there is no application process since there is nothing to apply for. There will therefore be *no public record* to which officials may refer if they need to know whether, eg, someone who wants to return to the country after a year’s absence has the right to do so, or whether in Italy someone is entitled to be enrolled

¹ https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/borders-and-visas/document-security/docs/c2020_1114_commission-implementing-decision.pdf

in the equivalent of the NHS. It follows that for years to come those who, as a matter of right, have PR can be required by any number of officials to produce complex documentation to prove that they have at some point, possibly well in the past, completed the necessary 5 years continuous legal residence. And if they cannot do so, they will be treated as if they never had it.

18. The UK has clearly recognised the fundamental importance of the distinction between permanent residence (“Settled Status”) and ordinary residence (“Pre-settled Status”). There is an application process, with a decision on that application and a central record of who has been accorded which status. Decisions tell the applicant which form of residence they have. There is of course an issue, raised persistently by **the3million** with whom we agree, about the problems caused by the absence of a physical proof of their status, but that is not the same as having no form of decision or record at all.
19. **BiE** sent the Commission on 4th March a detailed paper calling upon it to amend the Implementing Decision. We have received acknowledgement of that email but no response to our paper.

The European Commission’s Guidance Note

20. As with any agreement regulating complex arrangements affecting a large group of people, there are elements of the WA that require interpretation and further explanation. The European Commission had been promising since 2018 to produce an explanatory memorandum (now referred to as a guidance note) giving guidance to Member States on how to implement the citizens’ rights part of the WA. This is a common procedure in EU law. Although work on the guidance note started well before ratification and publication was expected for February when representatives of **BiE** and **the3million** met with the relevant officials of the Task Force for Relations with the United Kingdom, it was only published on 12 May 2020. It may well be that part of the explanation for the delay was that staff had been diverted to deal with Covid-19, and if that is the case, obviously that is a good reason. We welcome its publication now and the detailed guidance provided in its 56 pages, both to Member States but also citizens. It is an excellent document, particularly the section on social security, which provides many practical examples to illustrate a complex area. On the other hand, it goes out of its way to say that it is simply a document prepared by Commission staff, and should not be taken as representing the Commission’s “official position”.
21. However, EU Member States are already late in their implementation of the WA and publication of this note was essential to enable them to prepare properly and consistently. Some of our groups in member states, when speaking to national governments, have been told that they were waiting for the publication of EU guidelines before finalising their implementation plans for the WA.

22. We are reviewing it in detail and will be preparing a detailed paper commenting on the note. However, we thought it might be useful to provide some highlights, concerning, in particular, issues that we have raised as needing clarification in this note:
- a. Dual nationals, and others who do not rely on the WA for residence rights: There is an issue over whether UK citizens who have also obtained nationality in their country of residence are entitled to apply for registration under the WA. It is objected that, as they do not depend on the WA for their residence rights because they already have citizenship of their country of residence, they cannot apply or register under the WA in that country. Some countries have even stated that dual UK-EU nationals are not covered by the WA. The difficulty with this is that it leaves them with no means of proving that they are covered by the WA for essential purposes other than residence, when in fact they are so covered. The best example concerns their right to recognition of professional qualifications obtained in the UK. The guidance note does confirm that such dual citizens - whether they become dual citizens before or post end of transition - are covered by the WA where relevant as long as they have exercised free movement rights in the country of residence or another Member State. It does not, on the other hand, explain how this is to be documented so that they are able to prove that they are so covered. Documentation is also relevant for dual citizens and all others covered by the social security provisions of the WA but who do not rely on it for residence rights: it is clear that they are covered by the WA for healthcare and pension purposes but again it is not clear how these rights will be documented to ensure the smooth continuation of the coordinated social security system for these people post end of transition.
 - b. People with overlapping rights: Many UK citizens have married or are in a partnership (civil or durable) with an EU citizen, either a citizen of the country where they live, or another EU country. They are covered by the WA in their own right, but equally, after December 31st, will be Third Country National ('TCN') members of the family of an EU citizen with rights conferred as such by Dir. 2004/38 in the country where they live if the EU citizen is not a citizen of that country. On the other hand, if their partner or spouse is a national of the country where they live, they will also have rights as a family member of a national of the country where they live. Our understanding of the guidance note is that, by analogy with EU law, it confirms that they will not have to choose between the WA status and the relevant family member status in these cases, and the different rights they confer, but this is a point on which we seek confirmation.
 - c. Relationship to rules on Third Country Nationals: UK citizens, as former EU citizens, ought at the least to have rights no worse than those of Third Country Nationals in similar circumstances, not least as the WA itself sets out a principle of no discrimination on the grounds of nationality. Under the WA UKinEU are granted no right whatever of

mobility to other EU countries for the purposes of living and working², even where permanent residence has been acquired, which is the WA equivalent of TCN long term residence status. Third Country Nationals, on the other hand, have a range of mobility rights for work or other reasons: eg the Long Term Residence Directive (for TCNs resident for 5+ years), the EU Blue Card Directive (for highly qualified employment). Why does permanent residence under the WA not give at least equivalent mobility rights to EU long term residence, and this despite the principle of non-discrimination on the grounds of nationality set out in Article 12 WA? Will it be possible for UKinEU to opt for these different TCN statuses that grant mobility rights? If so, do they have to choose to abandon their rights under the WA, although this may leave them with lesser rights in other areas? If so, how do they do that in a declaratory country? Unfortunately, none of these questions have been answered by the guidance note, although BiE has raised the issue of the interface between WA status and TCN statuses on many occasions with the EC, both orally and in writing.

- d. Social security. This is an extremely complex area in the context of the WA, ensuring the continuation of the coordinated social security and healthcare system for those covered. This is not least because the personal scope of Title III of Part 2 of the WA on social security is different and wider than that for other rights under the WA. The guidance note has an extensive section on this part of the WA setting out detailed explanations of the relevant articles. However, it still leaves some further issues unresolved.

These are all important issues which people need to know about before implementation begins and before they make, possibly irrevocably, an application under the WA. The guidance note is aimed primarily at national authorities in the context of implementation of what is a complex legal area, and it is necessary so that the relevant officials are able to advise UK nationals properly about their rights and the best approach to their application or registration under the WA.

² However we will have the limited right of movement for purposes other than work for up to 90 days in any 180 under the Schengen rules.

Constitutive vs declaratory

23. Although the WA draws a clear distinction in Art. 18 between constitutive (application) and declaratory schemes, in practice the line between them is more blurred than might appear. For example, if under a declaratory scheme possession of the new WA residence certificate is mandatory, what are the consequences for those who do not have one? If it is that you lose all rights under the WA then the scheme is effectively constitutive because the very nature of a declaratory scheme is that you have certain rights and the piece of paper or plastic you receive is merely 'declaratory' of those rights, whereas the essence of a constitutive scheme is 'no certificate no rights'. Moreover, if possession of the new WA certificate is mandatory, what is the date by which application must be made? The date of June 30th 2021 only applies under Art. 18(1) WA; so it only applies to constitutive schemes. The WA has no final date for applications under Art. 18(4) declaratory schemes.
24. The point is relevant because it appears that possession of the new certificate may be mandatory in 'declaratory' Italy in order to exercise WA rights. The draft law in Germany also makes registration under 18(4) mandatory by June 2021 but it is not suggested that possession of the new certificate may be mandatory.
25. The Commission's guidance note does assist in this regard in that it makes clear that under the declaratory system, no decision of national authorities is needed to have the status, although there may be an obligation to apply for a document attesting the status. It also specifies clearly that, under the declaratory scheme, the new residence document is not made a condition for lawful residence in the host State. It remains to be seen how this guidance is applied by the Member States.

Comparison with UK

26. Despite the delays and uncertainties referred to above, it would be simplistic to draw an unfavourable comparison with the UK for being well ahead of the EU in registering under the WA and for applying a very light touch to the conditions to be satisfied. The UK had a very much larger population of EU citizens to register and, never having registered them in the past, had to start from scratch. Because of its desire to get Brexit done, it was always going to have to start early and adopt a very relaxed approach to the conditions for residence under the WA: the bureaucracy simply could not have coped with registering 3.5+ million people in time if it had insisted on strict proof of compliance with the conditions as to work, economic self-sufficiency, health insurance etc. EU states, on the other hand, had very much smaller populations of UK citizens to process, had many more important priorities than Brexit, and were not inclined to set up registration procedures under the WA while the UK was deciding whether to ratify it. It was, therefore, only about 3 months ago that EU states, having spent more than a year and a great deal of energy concentrating on contingency plans for citizens in the case of No Deal, finally began to prepare for Deal. And just as the Deal had been ratified, Covid-19 arrived.

27. However, in this comparison we make an exception for the failure to distinguish between ordinary and permanent residence. This is a distinction which the UK drew from the outset, and there is no justification for the EU not to have done the same.

Q2. What has been the experience of UK citizens in the EU Member States securing their rights under the Withdrawal Agreement so far?

28. As we have said, there is very little experience so far as implementation has only started in three countries of which we have reports.

29. In the Netherlands the system of application appears to be relatively simple. It has the further advantage that, as all British citizens are required to be registered already, the Immigration Department can initiate the process by writing to them all. This should reduce the likelihood of people failing to apply, although initially an estimated 50% failed to apply within the 4 week time limit for the first group (with 5+ years) and the reason for this remains unclear. As noted above, currently, only those with over five years' residence are being processed. We understand that much of the information relating to the situation of British citizens is already held online and available. We also understand that conditions in relation to genuine and effective work will be applied, as will those in relation to sufficient resources and comprehensive health insurance for those who are economically inactive. It remains to be seen how strictly the conditions will be applied. Finally, to date the Dutch legislation has addressed residence rights but the government is also working on provisions to implement the free movement rights of frontier workers which will be enacted later in the year.

30. In Italy the application system is straightforward, but the fact that management of the system is devolved to nearly 8,000 local authorities gives rise to concern that implementation will be variable. This fear has already been borne out by the results of some of the early applications. Permanent residence is a particular problem since, as indicated above, Italy is not issuing WA certificates which distinguish between permanent and ordinary residence. One applicant for the new WA certificate, with an existing certificate of permanent residence, was required to prove that he satisfied the job/economic sufficiency conditions of Dir. 2004/38, although he should not have been so required. Another, also with a certificate of permanent residence, was wrongly required to surrender his certificate in order to obtain one which did not make his status clear. Several applicants for certificates of permanent residence, made before January 31st, have been wrongly refused on the ground that they are no longer EU citizens, despite the fact that we enjoy the rights of EU citizens during transition.

31. In Malta, where implementation began on 17 February, we have little feedback as it was then suspended less than a month after commencement due to COVID-19. However, the application system appears to be well organised, and those who have already applied have

reported the process to be straightforward. All 13,000 UK citizens have received or are due to receive direct contact from Identity Malta, the agency charged with implementation. The agency has also produced a brochure which is available in both electronic and paper form to advise UK nationals of the new status and procedures; it has also been proactive in assuring them that they will be able to apply at a later stage and that their existing documents will remain valid. It is too early to gauge whether there are any technical issues or how strictly the conditions are being applied.

Q3. Has the treatment of UK citizens been consistent across the EU Member States or have there been differences between Member States?

32. The very distinction between constitutive and declaratory makes a significant difference, with roughly half the Member States opting for each type of system.
33. It is too early to generalise about actual treatment, since there has been so little. However, we have indicated above some concerns, particularly about the strictness with which the conditions for residence in the first 5 years (or even for those with over five years' in the country) are likely to be applied.
34. We have also indicated that fortunately a few States, among them the Netherlands, Sweden and Estonia, are drawing a distinction between permanent and ordinary residence cards despite the Commission's Decision which does not do this.

Q4. Have public bodies, businesses and landlords in the EU Member States continued to treat UK citizens in the same manner as during EU membership?

35. There is good anecdotal evidence that businesses have been reluctant for some time now to employ British nationals in jobs where cross-border travel within the EU is likely to be required. They take the view that it is easier to employ an EU national who will have complete freedom of movement than a UK citizen who will from time to time require visas to work. This is the inevitable consequence of the failure of the WA to allow UKinEU continued freedom of movement. There is also some anecdotal evidence that employers wish to have some evidence of the right of UK citizens to remain and work in their country of residence.
36. There is also anecdotal evidence that in some States prospective employers and landlords have rejected UK applicants on the grounds of uncertainty and misunderstanding of their rights, for example seasonal workers in some resorts in Austria, or are raising questions about residence status and/or requiring residence cards.
37. In addition, for example, widespread problems are reported by our group in Greece, ranging from misinformation by officials and professionals as to the need to register under existing

law, a refusal of professional bodies to treat UK citizens in the same way as EU, and a refusal of officials in Rhodes to complete property sales to UK nationals.

38. Otherwise there is generally very little clear evidence of general discrimination against UK citizens since the Referendum.

Q5. What has been the impact of COVID-19, if any, on securing the rights of UK citizens in EU Member States?

39. Prioritising the COVID-19 crisis has certainly led to a slow-down in the ability of both governments and the public administration across the EU to implement the WA. In some countries, such as Italy, this has been accompanied by an extension by law of the time limits within which the administration is required to decide applications or registrations of any sort. Inevitably, there will be backlogs in all systems, particularly where physical appointments are necessary. It is impossible to say how much more quickly implementation would have happened otherwise.
40. As we have made clear, there are widespread concerns that losing one's job or income and making a claim for social assistance might impact adversely on residence applications by those who do not have permanent residence, or are unable to prove that they have permanent residence. A similar concern is expressed about those without permanent residence or a job being able to get satisfactory comprehensive health insurance if insurers begin to exclude COVID-19 from their cover. At this stage, however, these are only concerns. There is as yet no evidence of people being denied residence on these grounds, largely because so few applications have yet been made. EU citizens exercising free movement rights may also suffer financially during the crisis, but the difference for UKinEU is that once they have lost their WA status in the host country, it is lost forever without free movement.
41. Action can, however, be taken by Member States now to deal with these concerns. Firstly, in formulating their rules for residence applications they can make it clear that they will adopt a flexible and understanding approach to those who are unable to meet the strict conditions for residence as a result of the COVID-19 pandemic. Secondly, they can announce this publicly *now*. Employees and the self-employed may be assisted by the provisions in the WA for those who are unable to work through sickness or involuntary unemployment, as long as EU countries make clear that these apply. And it is particularly important, for example, that all States should announce now that nobody who needs social assistance because of COVID-19 should be deterred from claiming because of a fear for their residence status. No family should go hungry because of a fear of this sort. An announcement to that effect would be entirely consistent with the general approach to the pandemic that has been adopted by the European Commission. A similar announcement on the part of the UK concerning EU citizens in the UK would also assist greatly.

42. There are also concerns that the effect of the COVID-19 travel restrictions and/or of the closure of administrative offices may impact on people's ability to meet residence requirements. For example, a pre-requisite for coverage under the WA is that one should be "legally" resident in the country in question at the end of Transition. In most states it is a requirement of "legal residence" that one should be registered under Dir. 2004/38 which governs residence as EU citizens, and which continues to apply to UKinEU until Dec. 31st. Some people are trapped in the UK or elsewhere and unable to get home to their host state. In some countries appointments to ask for legal residence can take months to arrange.
43. Students and recent graduates are in a particularly precarious position. If studying abroad some have struggled to get back to their host country so may then struggle to meet residence requirements. Further, with the looming recession, recent graduates may well find gaining employment harder in the short timescale left and so fail to meet any resource requirements in constitutive countries. This is a valid concern e.g. in France where there are discrepancies between regions already in how this requirement is applied to young adults. Those graduating in 2019 and 2020 may well need leniency.
44. There will also be people who have made firm plans to move to an EU country during transition but whose physical arrival is delayed by travel restrictions. If that delay is then followed by a bureaucratic delay in registering them under Dir. 2004/38, they should not be deprived of their residence as a result of a failure to meet the Dec. 31st deadline.
45. Citizenship applications are also affected. Dual citizenship is vital for those who need continued freedom of movement across the EU. In Germany and Italy, for example, the end of the year is also an important cut-off date for citizenship applications by UK nationals. Germany has extended until 31st December the date by which UK nationals can apply for dual citizenship and the date of validity of the application (TCNs normally have no automatic right to dual nationality in Germany). Normally, the relevant date at which the rules on dual citizenship apply is the date of decision on the application; in this case, as long as a British citizen has submitted a full application and fulfilled the conditions before end transition, (s)he can keep dual citizenship even if the decision on the application is after transition. Italian law provides that EU citizens can apply for Italian citizenship after 4 years residence whereas TCNs only after 10: Italy has extended the date for UK nationals to apply with 4 years residence until the end of the year. However, in both countries the application has to be accompanied by proof of compliance with the relevant conditions. These include not only birth and criminal records certificates, which in Italy have to be 'apostilled' by the UK but also certificates of knowledge of the language, and, in Germany, of having passed a citizenship test. Government offices in all countries have either closed or given priority to other issues during the lockdown, so there will be delays in getting certificates. Universities and other language test centres, as well as citizenship test centres have closed, so getting an appointment for a language or citizenship test and a certificate in time for the deadline may

not be possible. A flexible and understanding approach to the deadlines is called for in this respect as well.

Q6. Are there any administrative, legal, technical, financial or practical issues outstanding and what action might be taken to resolve them and by whom?

46. As will be apparent from the foregoing, the lion's share of the work on implementation has yet to begin and thus UKinEU can only anticipate most of the practical issues that may arise during as implementation goes live across EU countries.
47. Outstanding right now are (i) **BiE's** request for the Commission to amend its Implementing Decision so as to distinguish between permanent and ordinary residence on the EU-wide residence cards, and (ii) the request of **BiE** and **the3million** to attend meetings of the specialised Committee on citizens' rights as expert observers (see para. 49 below). This is in addition to clarification of the uncertainties over the WA which we outline above: our preliminary analysis of the Commission's guidance note shows that there are further issues to clarify, and we will be producing a list of these when we have had time to review that complex document carefully. Finally, there should be a clear statement by EU national governments to UK citizens in their countries that they will **take a generous approach**, particularly in constitutive countries in applying the conditions of the WA, and especially in the context of the Covid-19 crisis, as well as a similar statement by the UK to EU citizens in the UK.

Q7. Do you have any estimates for how many UK citizens have undergone the necessary formalities to secure their rights in each Member State and how many have yet to do so?

48. No applications made in most countries and very few in the countries where implementation has commenced. In other words, the vast majority have not yet undergone the necessary formalities to secure their rights in each Member State.

Q8. Is there a role for civil society representatives of UK citizens in the EU to contribute towards monitoring of the Withdrawal Agreement? If not, how might this be addressed?

49. Not only does such a role exist, but it is also vital that such representatives be listened to regularly so that problems on the ground can be addressed with the minimum of delay.
50. **BiE** is not too modest to say that it (together with **the3million** for EUinUK) is the civil society representative best placed to fulfil this function for three reasons. Firstly we have the widest reach among affected citizens with groups in most EU countries. Secondly we have a proven track record of picking up concerns through our social media groups and our monitoring of legislative and other developments. Thirdly we have demonstrated that we can be trusted

to maintain confidences, to understand the law and to be constructive in our suggestions and criticisms. As Appendix 1 makes clear, we were consulted by both sides on a confidential basis before and after each round of the original WA negotiations on citizens' rights, and have received nothing but praise and thanks from individuals in government on both sides for our input and engagement. We can thus lay claim to be experts (including legal experts) as regards the EU-UK negotiations on citizens' rights and the resulting Part II of the Withdrawal Agreement.

51. The most important place for such input to take place is in the specialised Committee on citizens' rights of the Joint Committee on Implementation set up under the WA. Whilst we accept that the actual members of that Committee will be Ministers or civil servants representing the two sides, **BiE** and **the3million** have asked Michael Gove and Maroš Šefčovič, the UK and EU chairs of the Joint Committee, to agree that we should attend meetings of the Committee as expert observers. We have yet to receive a reply from Mr. Gove to our request which was sent on 30th March (copy at [Annex 21](#), p67), though we have recently received a reply from Mr. Šefčovič which was non-committal.
52. This is not a novel suggestion and is a feature of many international negotiations in other areas of policy. For example, when the Conference of the Parties for the WHO Framework Convention on Tobacco Control established working groups to develop guidelines on the implementation and oversight of the Convention, civil society organisations were invited onto the working groups as expert observers and contributed positively to the development of the guidelines.
53. We hope that this Committee will feel able to support that proposal.
54. **BiE** will in any event continue to monitor implementation and discuss issues arising both with the FCO (where we hope to meet the new Minister as soon as restrictions are lifted) and with the Commission Task Force on Relations with the UK and other EU Institutions.
55. Our country groups fulfil a similar function to this as regards implementation and issues arising out of implementation in their dealings with both Member State governments and the British Embassies in the EU. The attached reports from, eg, Germany ([Annex 9](#), p35), Italy ([Annex 11](#), p40), Portugal ([Annex 16](#), p54), and the Netherlands ([Annex 14](#), p48) show how useful this process is.

Q9. Do you have any other concerns for UK citizens in the EU regarding the remainder of the transition period, including the roll-out of the proposed EU-wide biometric document?

56. We have made clear our concerns for the immediate future. We have also been highly critical of the Commission's biometric document (see above), but we should make clear that we welcome in principle the Implementing Decision setting out the details of such a very

useful document. We take issue only with its failure, as the principal EU document mandated to be used in every EU Member State to “evidence” our rights, to evidence this most fundamental status.

57. We would also wish to raise the issue of support for UKinEU. British in Europe asked the UK government to set up a support fund for UK nationals living in the EU, EEA and EFTA states in November 2018. A similar fund for EU citizens in the UK has been in place since April 2019 with funding of £9 million, supplemented by a further £8 million in March 2020. On 6 March 2020, the UK FCO announced it had allocated £3 million under the ‘UK Nationals Support Fund’ to seven charities and organisations to provide UK citizens living in the EU with practical support with their residency applications under the WA. This includes potentially at-risk groups such as pensioners and disabled people. The UK announced the allocation of funding in a press release <https://www.gov.uk/government/news/uk-government-allocates-3-million-to-support-uk-nationals-in-the-eu> and confirmed that the organisations receiving funding under the Fund include:

- The AIRE Centre (Bulgaria, Greece, Iceland and Norway)
- Age in Spain (Catalonia and the Balearic Islands)
- Asociación Babelia
- Cyprus International Financial Services Association (Cyprus)
- Franco British Network
- International Organisation for Migration (IOM) (France, Spain, Poland, Slovakia, Germany, Italy and Portugal)
- SSAFA, the Veteran’s Charity (British veterans and families in France, Germany and Cyprus)

58. We welcome news of this funding but we do however have some concerns about the way in which the funds under this Fund have been allocated, and the coverage of the funding, both as regards the geographic and demographic scope of the coverage.

59. It will be immediately apparent from the list above that, while around 1.2-3 million UK citizens live across the EU, not all of the countries where they live are covered by this funding. In fact, the funding only appears to cover ten of 27 EU countries or less than half.

60. Only four Article 18(1) (constitutive system) countries, where UK citizens must apply to secure their status by end June 2021 and where support is therefore critical, are covered by the fund. These are Bulgaria, Cyprus, France and Greece. There are more Article 18 (4) (declaratory system) countries covered: Italy, Poland, Portugal, Slovakia, Spain and Germany (draft legislation proposed a declaratory system), where the support will be helpful but not as critical as in the so-called constitutive countries.

61. We are also concerned that the geographic scope within countries where contracts have been awarded is limited. In France, the constitutive country with the largest British

population, the funded organisations will only cover a very small geographical proportion of the country and therefore of British residents. The number of UK citizens in the areas fully covered (Normandy, Brittany and Dordogne) is just 27,498 out of a total population in France of 150-200k (although SSAFA will also cover certain regions in France but solely for veterans). There is no evidence to suggest that UK citizens living in these areas are more vulnerable than those living elsewhere - indeed there are many other areas of France with larger numbers of vulnerable British residents who will receive no support at all from the Fund. In addition, some of the organisations funded have little or even no experience or expertise in citizens' rights issues.

62. Similarly, in Spain, the country with the largest British population, the coverage is limited to Alicante, Andalucía, Catalonia, the Balearic Islands, Madrid and Murcia. The organisation based in Catalonia and the Balearic Islands, Age in Spain, will only cover those over 65. The information on their website is relatively detailed but they are still at the stage of advertising for the staff who will run this support. Babelia in Alicante will cover all demographics but currently has a small amount of information on their website and are also still at the stage of advertising for staff. A quick Google search provided no details beyond the original press release as to how and where the IOM will support UK nationals in the other parts of Spain listed.
63. Even in Germany, it is not clear whether all regions will be covered or whether in certain regions, only veterans will receive support from SSAFA. The two organisations covering Germany are the latter and IOM.
64. Finally, as regards the demographic scope covered, we of course recognise that veterans will have to deal with specific issues due their particular status in the countries where they are resident. On the other hand, support for veterans will be provided in two declaratory countries, as well as France, while support for other demographics is only being provided in four constitutive countries and is limited to only certain regions in France, the constitutive country with the largest population. Thus, for example, a single mother of two with a small business hit by the COVID-19 crisis living in one of the French regions not covered by the Fund will not be eligible for any help.
65. Moreover, we are concerned generally that some of the organisations funded do not have expertise in the area of citizens' rights and the complex area of citizens' rights in the Withdrawal Agreement at all. And it appears that at least one organisation does not yet have a presence in those countries where they have been awarded a contract and so are starting from scratch.
66. There is, therefore, an urgent need for the FCO to clarify when the grantees will be up and running and in a position to provide expert advice to vulnerable UK nationals as the clock ticks down to the end of the transition period. In addition, the FCO must ensure that the

thousands of UK nationals who are not covered by the grantees will be provided with assistance via other channels should they require it.

67. It is also extremely important that the FCO monitors and evaluates the work of its grantees on a regular basis to ensure quality of service and advice. This will be particularly important for those grantees with no prior experience in EU citizens' rights work under the Withdrawal Agreement and/or in the countries in which they are operating, as the consequences of wrong or delayed advice could be life changing for the recipients. These evaluations should be made publicly available.
68. One last point. The support these organisations are able to give is limited by the scheme to practical support during registration for residence. It should not be thought that they will be providing advice or assistance with the many other, often more serious, problems that UK nationals will have to confront under the WA - healthcare, recognition of qualifications, employment, social security etc. This leaves a very big gap in the support available during implementation of the WA which can only be filled by proper funding of expert organisations.

May 2020

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ANNEX 1 - BRITISH IN EUROPE

Who we are:

British in Europe is a coalition of grassroots citizens' organisations and the largest grouping of UK citizens in the EU. It was founded in early 2017 to give UK citizens living, working and studying across the EU a voice in the Brexit negotiations.

We are the organisation of reference on citizens' rights for UK nationals in the EU. Since 2017 we have been recognised by the British government, the European Commission, the Council and the European Parliament as trusted interlocutors, meeting secretaries of state, ministers in member states and key EU and British officials. Our ten-person Steering Team has campaigned jointly with the3million, which represents EU27 citizens in the UK. Together, we have pressed to keep our existing rights and to prevent Brexit from destroying the lives and families we have created whilst exercising those rights.

For our advocacy, we have produced dossiers highlighting the human and legal cost of Brexit for the 1.2 million UK citizens in the EU. We have given evidence at the European Parliament, Westminster and national and regional parliaments around the EU. With the3million, we have explained our plight to senior politicians such as Michel Barnier, Stephen Barclay, Guy Verhofstadt, Katarina Barley and Nathalie Loiseau. We have provided expert analysis across the media and built up a strong social media presence to show how losing our rights will affect our everyday lives.

What we have achieved so far:

The Withdrawal Agreement:

Working with the3million, British in Europe ensured that citizens' rights was the top priority in negotiations. We had a major impact on the citizens' rights chapter, feeding into each round of negotiations. We highlighted areas such as dual national rights and the need for clarity on healthcare and social security. We persuaded both sides to extend the right of absence for permanent residents from two to five years. We widened the initial focus of negotiators to ensure that issues affecting UK nationals of working age and particularly young people were prioritised.

Implementation of the Withdrawal Agreement

The advocacy of BiE country groups has affected member states' decisions to choose between declaratory and constitutive systems to secure our rights. For example, we believe that British in Germany's campaign for a declaratory system has had a clear impact given the recently published draft legislation proposing that option.

UK Government Issues:

We obtained a commitment that UK nationals in the EU27 wishing to study in Britain will be entitled to pay home university fees instead of expensive international fees for seven years from the end of the transition period. We also obtained a grace period until 2022 for British citizens returning to the UK with non-British family members without having to meet the requirements of normally applicable UK immigration law.

Information:

BiE has provided clear and accurate information on citizens' rights for the UK nationals we represent. To governments and the media, we have supplied expert analysis with a strong legal basis on complex issues such as working rights, professional qualifications, pensions, healthcare and mobile citizens.

ANNEX 2 - AUSTRIA

1. Could you set out the means by which UK citizens can secure their rights under the Withdrawal Agreement in Austria, how easy are these systems to use and how do they compare with the EU Settlement Scheme in the UK?

- Austria will apply a constitutive system (Art 18(1)).
- British citizens will have to apply for one of two new cards (paralleling the current third country national cards but with different conditions) for up to 5 years (temporary residence) or over 5 years (permanent residence).
- Details of how exactly this will be done have not been published, but will almost certainly involve applying in person at the local town hall or registration office.
- It is not possible to register yet, details will be announced "in good time".
- A physical card will be issued after application has been processed. A temporary confirmation can be issued on request if the applicant needs proof to travel etc.

2. What has been the experience of UK citizens in Austria securing their rights under the Withdrawal Agreement so far?

- Implementation has not yet begun so no data available.

3. Have public bodies, businesses and landlords in Austria continued to treat UK citizens in the same manner as during EU membership?

- There have been some cases of landlords and prospective employers rejecting UK citizens on the grounds of uncertainty and misunderstanding of the rights. Autumn 2019 was a period where many seasonal workers in the ski-resorts sometimes had problems, but they tended to involve only a few employers. On the whole the Austrians are sympathetic and well-informed, or at least willing to find out. British seem to be well-regarded and welcome.
- There have also been a few cases of dual-nationals (EU & UK) being struck off the local and EU election lists. But these appear to be genuine mistakes and have always been rectified quickly.

4. What has been the impact of COVID-19, if any, on securing the rights of UK citizens in Austria?

- The main issue concerns people who have become unemployed because of Covid-19. Health insurance is dependent on correct registration, and lack of insurance can have a serious effect on residency, especially when determining whether conditions for permanent residency conditions are met - so there could be problems to come further down the line. The whole unemployment/insurance situation is a bit of a minefield in Austria, but that is also the case for Austrians, and not specifically for UK citizens. The language-barrier can be a problem.

5. Are there any administrative, legal, technical, financial or practical issues outstanding and what action might be taken to resolve them and by whom?

- The current registration system is still open and running and is currently working as it did before transition.
- There is no timetable for implementation of WA rights, no indication of whether Austria intends to draft legislation and very little information on how it intends to apply the registration conditions in the WA, meaning that British citizens are effectively in the dark. The Austrian government needs to resolve these issues.

ANNEX 2 – AUSTRIA cont.

6. Do you have any estimates for how many UK citizens have undergone the necessary formalities to secure their rights in Austria and how many have yet to do so?

- There are around 10,000 British citizens resident in Austria.
- Implementation of the WA has not yet begun; we have no official figures of how many residents may not yet have registered as EU citizens but believe it to be a small number.

7. Is there a role for civil society representatives of UK citizens in the EU to contribute towards monitoring of the Withdrawal Agreement? If not, how might this be addressed?

- Yes, it is vital if British citizens are to be represented properly and have a voice.

8. Do you have any other concerns for UK citizens in Austria regarding the remainder of the transition period, including the roll-out of the proposed EU-wide biometric document?

- No.

ANNEX 3 - BELGIUM

1. Could you set out the means by which UK citizens in Belgium can secure their rights under the EU-UK Agreement on Citizens' Rights, how easy is this system to use and how does it compare with the EU Settlement Scheme in the UK?

- British citizens living in Belgium can currently apply for a residence document (Carte E) after three months and a Carte E+ after five years residence. Similarly, family members of UK citizens can apply for a Carte F or a Carte F+. UK EU officials are issued with a CIS card, Carte d'Identité Spéciale. Holders of the CIS do not fall under the scope of the WA.
- Belgium is implementing the declaratory system under Article 18(4) of the WA and has advised UK nationals that they will receive a letter inviting them to swap their current EU residence documents for a new one issued under the WA. No further steps are needed by UK citizens until they receive this letter.

2. What has been the experience of UK citizens in Belgium securing their rights under the agreement so far?

- These letters have not been sent out yet so we cannot say. The government website says that all necessary documents will be issued by mid-2021 and that letters will not be sent until the new residence card is available to be issued. There is no public information on when this might be.

3. Have public bodies, businesses and landlords in Belgium continued to treat UK citizens in the same manner as during EU membership?

- There have been reports that UK external experts living in Belgium are being rejected for project evaluation work by some EU agencies even though other non-EU citizens (e.g. Norwegians) are being considered.
- There are also a few anecdotal reports that recruiters are no longer considering UK nationals for employment unless they hold dual EU citizenship.

4. What has been the impact of COVID-19, if any, on securing the rights of UK citizens in Belgium?

- In order to obtain a residence card in Belgium it is necessary to apply in person and then to pick up the card in person once it is ready for collection. This process can take up to six months and there can be a long waiting list for appointments in certain communes in Brussels to apply for and collect residence cards (E/F and E+/F+) or even to provide details of a change of address. This situation is likely to be made worse by the COVID-19 lockdown and could adversely delay issuance of new WA residence permits, particularly where the invitation letters are sent to out of date addresses, or where a UK national has acquired permanent residence under the 2004/38/EC directive but has not been able to obtain the relevant document because of previous and COVID-19 exacerbated administrative delays.
- There have been a small number of reports of UK nationals deciding not to apply for COVID-19 financial assistance but this is also associated with a desire not to prejudice or delay an application for Belgian citizenship.

5. Are there any administrative, legal, technical, financial or practical issues outstanding and what action might be taken to resolve them and by whom?

- See point 4 above. Once the lockdown is lifted it would be helpful if communes could receive additional staff to help them get through the backlog or if UK nationals could apply online for their new residence documents.

6. Do you have any estimates for how many UK citizens have undergone the necessary formalities to secure their rights in Belgium and how many have yet to do so?

- The letters inviting them to swap their existing residence documents have not been sent out so we have no information on this point.

7. Is there a role for civil society representatives of UK citizens in the EU to contribute towards monitoring of the Withdrawal Agreement? If not, how might this be addressed?

- Yes, it is vital if British citizens are to be represented properly. There is a particular role here in monitoring the experience of British EU officials who are not covered by the agreement and who are experiencing difficulties in applying for Belgian citizenship in order to secure their rights as many communes do not accept the CIS residence card issued to EU civil servants as evidence of residence in Belgium for citizenship application purposes (unlike in Luxembourg, for example).

ANNEX 4 - CYPRUS

1. Could you set out the means by which UK citizens can secure their rights under the Withdrawal Agreement in Cyprus, how easy are these systems to use and how do they compare with the EU Settlement Scheme in the UK?

- Cyprus is applying a declaratory system (Art 18(4)).
- British residents who currently hold the correct registration documents as EU citizens (those issued after 2004) will not be required to apply for a new residence document certifying their rights under the WA, although they will have the right to request one if they choose to do so.
- The Ministry of the Interior has not yet introduced the new biometric residence documents (UK1, UK2 and UK3) that will certify residence rights under the WA.
- Those registering for the first time before the new biometric documents have been introduced will receive the same registration documents that are issued to EU citizens (MEU1, MEU2 and MEU3).
- British residents who do not currently hold any form of registration document, as well as those who hold an outdated (pre-2004) residence document, are now being urged to register before the end of transition under current rules.
- Any British citizen who is resident before the end of transition but has not applied for residence documents by then will continue to have the right to apply for residence documents, *provided that* they can submit documentary evidence of their residency prior to the end of the transitional period.
- Applications are currently made at one of 5 local Registration Offices.
- After the end of transition UK nationals and family members who are covered by the WA will also be able to apply through an electronic portal of the Ministry of Interior - Migration Department. Details will be announced before the end of the transition period.

2. What has been the experience of UK citizens in Cyprus securing their rights under the Withdrawal Agreement so far?

- Up to now there is no difference in how registration is being dealt with as current procedures for EU citizens are being followed.
- There are, however, long delays in processing times - applications can take up to 6 months and as Registration Offices have been closed due to the Covid-19 crisis delays will no doubt increase.

3. Have public bodies, businesses and landlords in Cyprus continued to treat UK citizens in the same manner as during EU membership?

- There is no evidence of any discrimination or change in treatment.

4. What has been the impact of COVID-19, if any, on securing the rights of UK citizens in Cyprus?

- Registration Offices have been closed until the beginning of May so all applications for residence cards have been on hold for 6 weeks. We now expect to see a knock on effect as delays were already running at up to 6 months.
- During the COVID-19 crisis flights into and out of Cyprus have been suspended; British residents who do not hold current registration documents (see Q6) and were stranded abroad have reported some difficulties in applying for places on repatriation flights.

5. Are there any administrative, legal, technical, financial or practical issues outstanding and what action might be taken to resolve them and by whom?

- To give due credit to the Ministry of the Interior, it produced in March a very clear and helpful document, available online, including detailed information covering all aspects of implementation: <https://bit.ly/MoICyprus>.
- It is not currently clear whether Cyprus intends to adopt legislation.
- The main issue remains the frequent and long delays in processing applications. It would be helpful if more resources were put into this by the Ministry of the Interior but understandably resources have been diverted to COVID-19.
- A big concern is the reported number of UK nationals resident in Cyprus who remain unregistered - almost 50%. Many of these are likely to be long-term residents with pre-2004 residence cards who are unaware that these cards are no longer valid. In spite of the generous approach being planned by the Cypriot government it is clear that a major information campaign needs to take place to reach those who are unregistered, involving both the High Commission and the Ministry of the Interior.

6. Do you have any estimates for how many UK citizens have undergone the necessary formalities to secure their rights in Cyprus and how many have yet to do so?

- There are around 70,000 UK nationals resident in Cyprus; it is estimated that some 31,000 of these are either completely unregistered or hold pre-2004 registration documents, which are now invalid.
- At present Cyprus is planning to take a generous approach to those people who were resident before the end of transition but still unregistered at the end of the transition period; they will continue to have the right to apply for residence documents, provided they can submit documentary evidence of their residency prior to the end of the transition period. There is currently no cut-off point for doing this but clearly the situation must be monitored and all UK nationals urged to register as soon as possible.

7. Is there a role for civil society representatives of UK citizens in the EU to contribute towards monitoring of the Withdrawal Agreement? If not, how might this be addressed?

- Yes, very clearly. Specifically in terms of Cyprus it will be important that the implementation of the WA is monitored by those who are actually directly affected by it, as it is at that level that issues arising can be identified and fed back. A crucial aspect will be to ensure that UK nationals are encouraged and helped to register where they have not done so already.

8. Do you have any other concerns for UK citizens in Cyprus regarding the remainder of the transition period, including the roll-out of the proposed EU-wide biometric document?

- No.

ANNEX 5 - CZECH REPUBLIC

1. Could you set out the means by which UK citizens can secure their rights under the Withdrawal Agreement in the Czech Republic, how easy are these systems to use and how do they compare with the EU Settlement Scheme in the UK?

- It appears that system will be declaratory - 18(4) of WA - but not yet confirmed.
- Czech government has told all resident British passport holders to use the existing registration scheme for EU citizens here and register for temporary or permanent residency status by the end of 2020.
- All such registered British citizens will be issued with a free biometric card indicating their withdrawal agreement status during 2021.
- No scheme for this has been announced to date, and other than applying for temporary or permanent residence permit (if not currently held) no action is required during 2020. No legislation or timetable yet presented.
- As a declaratory system this should be much simpler to use than the UK's scheme as no application for residence status required.

2. What has been the experience of UK citizens in the Czech Republic in securing their rights under the Withdrawal Agreement so far?

- No information available as Implementation of the WA not yet begun.

3. Have public bodies, businesses and landlords in the Czech Republic continued to treat UK citizens in the same manner as during EU membership?

- After initial confusion in January by some employers and by the biggest public health insurance provider - caused by lack of knowledge of what was in the Withdrawal Agreement - there have to date been few reports of problems for British residents.

4. What has been the impact of COVID-19, if any, on securing the rights of UK citizens in EU Member States?

- No known problems other than for British citizens wishing to relocate here during the last two months, and also for weekly cross-border workers.

5. Are there any administrative, legal, technical, financial or practical issues outstanding and what action might be taken to resolve them and by whom?

- No known problems other than exchanging driving licences where some staff and offices have proved to be inconsistent and lacking guidance from their ministry.
- Difficulties with recognition of some qualifications.
- Czech government needs to resolve these issues by providing information at local level.

6. Do you have any estimates for how many UK citizens have undergone the necessary formalities to secure their rights in the Czech Republic and how many have yet to do so?

- We estimate that 80-90% of resident British citizens have already got their necessary temporary or permanent residence permits as EU citizens and will therefore be issued with a new card during 2021.

- Inevitably there are some long term residents who have never registered and these will need to do so before the end of 2020 to benefit from their WA rights.

7. Is there a role for civil society representatives of UK citizens in the EU to contribute towards monitoring of the Withdrawal Agreement? If not, how might this be addressed?

- Yes - both at EU level & at individual state level.
- At national level the British in the Czech Republic group has been able to focus Embassy official eyes on issues which were worrying members - eg. S1 form holders and non-employed people's future access to public health insurance, and the problems with exchanging driving licences.
- At a wider level British in Europe should have a seat on relevant specialised committees.

ANNEX 6 - ESTONIA

1. Could you set out the means by which UK citizens can secure their rights under the Withdrawal Agreement in Estonia, how easy are these systems to use and how do they compare with the EU Settlement Scheme in the UK?

- Estonia will be applying a declaratory system under Art 18(4).
- On 21 February 2019 Estonia adopted a Supplement to the Citizen of the European Union Act (which regulates the residence of EU citizens in the country) extending the scope of this Act to UK citizens who are resident in Estonia at the end of the transition period and are therefore covered by the WA.
- In early February the Ministry of the Interior made it clear to UK nationals that their current residence documentation would remain valid until expiry and that no action was currently needed beyond ensuring that address was correct on the national population register.
- Implementation has not yet begun and is not expected to start until 2021 when new residence documents will be issued.
- Full details of how this will roll out are not yet clear but it is expected that UK citizens will have to attend their local Police Immigration Migration centre to do this, after first having been contacted by email. Currently, the Police and Border Guard is developing a system to issue new documents.
- The Ministry of the Interior has confirmed that Estonia does not currently propose to adopt any further legislation to implement the WA as they want to “keep the system as simple as possible”, although it does plan a ministerial decree that will cover the issuance of new residence cards.
- One corollary of the extension of the CEU Act to UK citizens covered by the WA is that unlike the WA, the Act does not differentiate between current and future family members so unless this is amended in the future (it hasn't been to date), UK citizens within scope of the WA will be able to bring a future spouse to live with them in Estonia.
- The Ministry of the Interior has confirmed that future residence cards will differentiate between ordinary and permanent residence.

2. What has been the experience of UK citizens in the EU Member States securing their rights under the Withdrawal Agreement so far?

- Implementation has not yet begun so no experience yet.

3. Have public bodies, businesses and landlords in the EU Member States continued to treat UK citizens in the same manner as during EU membership?

- Yes, as far as we know - there have been no reports of any issues.

4. What has been the impact of COVID-19, if any, on securing the rights of UK citizens in EU Member States?

- The view of the British-Estonian Chamber of Commerce is that the crisis has not affected UK citizens in Estonia as badly as many other countries; most people are able to work from home as this is very much a digital society.

5. Are there any administrative, legal, technical, financial or practical issues outstanding and what action might be taken to resolve them and by whom?

- Nothing evident at this point - Estonia was ahead of the game in passing legislation to cover both Deal and No-Deal scenarios back in February 2019 and genuinely seems to be organising things to run smoothly. Obviously, this will need to be monitored once implementation begins.

6. Do you have any estimates for how many UK citizens have undergone the necessary formalities to secure their rights in each Member State and how many have yet to do so?

- As of February 2019, 1335 UK citizens were registered as residents in Estonia and held a valid ID-card; 338 of them had a permanent residence status. All of these should be contacted directly by the Estonian government when implementation starts.
- We have no information about the number who are not registered.

7. Is there a role for civil society representatives of UK citizens in the EU to contribute towards monitoring of the Withdrawal Agreement? If not, how might this be addressed?

- There appears to be little concern amongst UK citizens living in Estonia about their future rights or even the wider effect of Brexit on their lives; there has been little to no engagement either on the British Embassy Facebook page or in the British in Estonia or British in Europe groups. We can only assume this is because they have heard and trust the message from the Estonian government that they do not currently need to do anything to retain their current rights.
- On a wider level, there is of course a clear need for civil society representatives to play a part in the monitoring of the WA as direct experience of the effect and implications of the WA is vital to the monitoring process and is the only way that omissions and ambiguities can be signalled. We strongly support British in Europe's request for expert observer status at the joint Specialised Committee on Citizens' Rights.

8. Do you have any other concerns for UK citizens in the EU regarding the remainder of the transition period, including the roll-out of the proposed EU-wide biometric document?

- No.

ANNEX 7 - FINLAND

1. Could you set out the means by which UK citizens can secure their rights under the Withdrawal Agreement in Finland, how easy are these systems to use and how do they compare with the EU Settlement Scheme in the UK?

- So far there is limited information regarding the means by which UK citizens can secure their rights under the WA. The Finnish Government has yet to publish its proposal and pass legislation in the Finnish Parliament.
- What has been stated so far is that Finland will operate a constitutive scheme under Article 18(1) of the WA and ALL UK citizens will have to re-register and “prove” (what “proof” has not been published as yet) that they have exercised their right under Freedom of Movement, as contained in the WA.
- The target registration period is 1 October 2020–30 June 2021. The Finnish government will provide more detailed instructions for making this application at a later date.
- UK citizens that have lived permanently in Finland for more than 5 years will have their existing permanent residence permit (if they have one) exchanged to a permanent permit taking into account the provisions contained in the WA.
- UK citizens who have not obtained permanent residence (less than 5 years living in Finland) will have to register for a temporary residence permit under the WA.
- It is not clear yet but there was some mention that temporary UK citizens would have to register each year until they obtain the 5 years permanent status and that they may need to pay a registration fee each year.
- It is not currently a requirement to have an ID card (although they are available) or a document stating that the person has the right of residence. This information is held at Migri (Finnish Immigration) and the Finnish Population Register.
- However, all residents have a “henkilötunnus” (personal Identity number) which is used to obtain most services. It is also displayed on the Finnish driving licence.
- It is unclear what documentation UK citizens will need to ensure that they can leave Finland and return to Finland (their home) without incurring problems at Immigration or border controls.

2. What has been the experience of UK citizens in Finland securing their rights under the Withdrawal Agreement so far?

- Process has not yet begun so nothing has changed so far. The target commencement date is 1 October 2020.

3. Have public bodies, businesses and landlords in Finland continued to treat UK citizens in the same manner as during EU membership?

- As far as we are aware, British citizens are being treated the same as Finnish citizens.

4. What has been the impact of COVID-19, if any, on securing the rights of UK citizens in Finland?

- As implementation of the WA is not scheduled to begin until October 2020 there has so far been no direct impact on the securing rights of EU citizens.

5. Are there any administrative, legal, technical, financial or practical issues outstanding and what action might be taken to resolve them and by whom?

- The protection of British citizens rights should be monitored, as it is likely that problems and issues will arise after the implementation of the Withdrawal Agreement and the interpretation of the Agreement by the administration, legal, technical, financial and plain discrimination.
- The EU should allow British citizens to continue to use the legal services of the EU, such as SOLVIT, and those EU institutions should have the power to intervene in any errors or issues that British citizens might/will have.

6. Do you have any estimates for how many UK citizens have undergone the necessary formalities to secure their rights in Finland and how many have yet to do so?

- There are between 4,500 and 5,000 UK citizens registered as living in Finland.
- As stated above, we currently have no information as to how UK citizens will undergo the necessary formalities to secure their rights.

7. Is there a role for civil society representatives of UK citizens in the EU to contribute towards monitoring of the Withdrawal Agreement? If not, how might this be addressed?

- There will most definitely be a role for civil society representatives of UK citizens in the EU, to contribute towards monitoring of the Withdrawal Agreement and indeed well after.
- As stated above, legal services of the EU such as SOLVIT and the role of the British in Europe, British in EU27 countries and British in EEA countries will be necessary, as problems that are not envisaged will appear.
- If there is no representation, we will be the “elephant in the room”. We will have major issues but no-one will see us.

ANNEX 8 - FRANCE

1. Could you set out the means by which UK citizens can secure their rights under the Withdrawal Agreement in France, how easy is this system to use and how does it compare with the EU Settlement Scheme in the UK?

Means to secure rights:

- Like the UK (and unlike other Member States) registration as a resident has not been compulsory for British/EU citizens.
- France will be applying a constitutive system under Art 18(1).
- A decree covering process and exact conditions has been drafted but not yet passed and is not public.
- All residents whether holders of current residence cards or not will need to **apply for** new status and card. As per WA, for those with permanent residence cards this will be a relatively straightforward exchange.
- Process will be via initial online application platform, with applications processed (as now) via departmental préfectures. This means that as now there will be scope for regional variation in how applications are dealt with and decisions made, particularly where there is discretion eg determining sufficient resources/genuine and effective work.
- ALL applicants who have been resident for over 5 years but have never held a residence card currently have to prove exercise of treaty rights for a 5 year period and we expect this to be carried forward under decree.
- One visit to préfecture will be needed for fingerprinting but it is envisaged that cards will be sent by post.
- Platform is due to go live at the beginning of July (there are no details or timetable available yet) and we understand that this date will stand in spite of Covid-19.

Ease of use:

- Based on sight of the online system proposed for a no-deal scenario, likely to be relatively simple for those with current permanent residence card but more complex for (a) those with less than 5 years residence, and (b) those with over 5 years residence but no residence card. This is because of the need to upload many and often complex documents in order to prove the exercise of treaty rights and meet conditions for legal residence.
- We have no knowledge yet of what alternatives will be put into place for those unable to use online system.
- Many who are not computer literate or do not have necessary hardware will struggle to upload documents.
- Upload speeds in much of rural France can be very slow (less than 200Kbps) so multiple file uploads are likely to be a challenge.

Comparison with EU Settlement Scheme:

- Unlike the EU Settlement Scheme, simply proving identity and residence will not be enough: all those without current permanent residence card (estimated at around 85%) will need to prove that they **meet conditions**: ie that they have genuine and effective work/self-employment; or are a student and can support themselves; or if economically inactive that they are self-sufficient, are/will not be a burden on the state AND have comprehensive health insurance.

- There are real fears that some British residents (across a number of categories) may struggle to show that they fully meet these conditions and therefore may not qualify for residence status under the WA.
- Unlike the UK scheme however residents will receive a physical residence document.

2. What has been the experience of UK citizens in France securing their rights under the Withdrawal Agreement so far?

- The process has not yet begun so no data yet.

3. Have public bodies, businesses and landlords in France continued to treat UK citizens in the same manner as during EU membership?

- It is really too early to say but apart from some anecdotal evidence of ill-informed employers requiring residence cards (which are not yet compulsory) there is no real evidence of discriminatory treatment.

4. What has been the impact of COVID-19, if any, on securing the rights of UK citizens in France?

- Implementation has not yet begun; we understand that the launch of the online platform (see Q1) is still planned for July 2020 but we watch and wait.
- Many British residents have suffered serious loss of income due to COVID-19 and there are concerns about how this could impact legal residence for the purposes of securing rights.
- There are also concerns about British citizens who (a) are resident in France but stranded overseas in the light of COVID-19; or (b) who are planning a move to France before the end of the transition period but who have been delayed by COVID-19.

5. Are there any administrative, legal, technical, financial or practical issues outstanding and what action might be taken to resolve them and by whom?

- There are a number of outstanding technical questions concerning the WA that concern many British residents, for example treatment of dual nationals and of spouses of EU/French citizens, whether the WA and other statuses (eg EU Long Term Residence) are cumulative. We hope that the Commission's implementation guidance will throw light on these but it really does now need to be published.
- There have been and continue to be concerns about insufficiency of communication with British residents in France, by both UK and French governments. There is no national register or address list in France of British nationals and because registration has been optional no clear way of reaching them, but neither government has to date set out a successful communications plan. This needs to be addressed and monitored by the FCO and the Joint Committee on WA implementation.

6. Do you have any estimates for how many UK citizens have undergone the necessary formalities to secure their rights in France and how many have yet to do so?

- Implementation has not yet begun but it is worth noting that less than 20% of the 150-200k British residents currently hold any form of residence card, so the vast majority will need to apply with full supporting documentation to prove their exercise of treaty rights - which gives a sense of the scale of the project ahead.

7. Is there a role for civil society representatives of UK citizens in the EU to contribute towards monitoring of the Withdrawal Agreement? If not, how might this be addressed?

- Yes, without question. Only civil society representatives can fully represent the interests of British citizens in an independent and uncompromised way, and it will be necessary for independent civil society organisations to maintain an overview of implementation across the EU, advocating and feeding back on legal, practical and human interest issues. This is what has been done by British in Europe and its network of country-based groups (including the French platform France Rights) for over 3 years now, and such work needs to continue and develop - we are living out the effects of Brexit in every aspect of our daily lives and are uniquely placed to call out aspects that are not working as they should and identify what needs to change. Funding should be made available to facilitate this.
- On a national level, sadly there is no real means for civil society representatives to engage with the government and no process to enable this to happen. This can be frustrating, but it is a cultural issue which applies equally to French grassroots advocacy organisations and is simply 'not how things are done' in France, which has always taken a very top-down approach. So although for example we have been able to meet with officials from the Ministry of the Interior to discuss technical questions, there is no real sense that we are invited to input into the process of implementing the WA. We have not been offered sight of the draft decree (nor, in fact, has the Embassy team) and we learn of developments via government press releases.

8. Do you have any other concerns for UK citizens in France regarding the remainder of the transition period, including the roll-out of the proposed EU-wide biometric document?

- Insufficient support will be available to help residents apply for residence. The UK Support Fund organisations will only cover a very small geographical proportion of the country and therefore of British residents. The number of UK citizens in the areas covered (Normandy, Brittany and Dordogne) is just 27,498 out of a total population in France of 150-200k. There is no evidence to suggest that UK citizens living in these areas are more vulnerable than those living elsewhere - indeed there are many other areas of France with large numbers of vulnerable British residents who will receive no support at all from the Fund. In addition, some of these organisations have little or even no experience or expertise in citizens' rights issues, which is obviously a real concern especially given that we believe there to be a significant number of people who may struggle to prove legal residence and would therefore need expert support.
- The concept of compulsory registration is new to British citizens and there may be issues of willingness and/or ability to comply.
- The sheer scale of the task ahead, given the estimated population of between 150,000 and 200,000 British citizens resident in France, of which 120,000 to 160,000 (those without permanent residence cards) will be required to make fully documented applications for residence which demonstrate how they meet the conditions.
- The biometric residence document needs to differentiate between ordinary and permanent residence to ensure that permanent residents can access the rights that come with that status. We do not yet know whether this will be the case in France, although its EU-format biometric cards for both EU citizens and Third Country Nationals do make the distinction.
- It is not yet certain how British residents still without any current residence card will be able to prove their resident status after the end of the transition period when travelling into France from the UK or another non-Schengen country.

ANNEX 9 - GERMANY

1. Could you set out the means by which UK citizens can secure their rights under the Withdrawal Agreement in Germany, how easy are these systems to use and how do they compare with the EU Settlement Scheme in the UK?

- Germany has not adopted legislation yet but in the first draft legislation published on 27 March 2020, the Interior Ministry has opted for the declaratory system of registration under Article 18(4).
- The Ministry then sought comments from stakeholders, including BiE's core group in Germany, British in Germany.
- While there is no public information yet on the timetable for next steps, British in Germany expects the legislation to be adopted by the summer (probably by July) and for Germany to begin implementing the system by September.
- However, it should be noted that, under the federal system in Germany, implementation will be decentralised to the individual regions or Länder. Thus the system may be implemented at different dates in different Länder. In addition, some Länder have one central Foreigners' office while others have multiple offices e.g. Nordrhein-Westfalen, with the largest British population, has 84 different offices.
- The Interior Ministry has not yet set out the process by which UK citizens will have to secure their status at the relevant Foreigners' offices on its website. The draft law states that those who do not yet have a residence card or permanent residence card will need to register with those offices and when doing so, the conditions set out in Article 18(1) (i)-(n) will in principle apply, although the notes to the draft specify that this is only where there are reasonable grounds to do so and then only to the extent necessary to establish entitlement. UK citizens are however already advised to make sure that they are registered with the local residents' registration office where they live to obtain proof of residence.
- The draft decree accompanying publication of the draft legislation in March set out details of the proposed residence card. As set out in the draft, this will implement the European Commission's Implementing Decision to the letter and will not make a distinction between permanent and ordinary residence.

2. What has been the experience of UK citizens in Germany securing their rights under the Withdrawal Agreement so far?

- There has been no experience of the new scheme as registration has not yet started.
- New arrivals continue to be able to register with the local residents' registration offices where they live in the same way as EU citizens. EU citizens do not receive a residence card when they register but simply an extract from the register confirming their registration. They have the option, as in all EU countries, to apply for a residence card proving that they have acquired permanent residence, after five years' continuous residence and by showing that they are either employed (by showing a contact of employment) or self-employed (by business registration, tax number and current tax return) or if neither, that they have health insurance and their means of subsistence.
- British citizens, like other EU citizens, did not usually take up that option in the past but since the Referendum some may have done so in order to be able to document their permanent residence, whether or not the WA was ratified.

- The German authorities, both in their no deal contingency plans and now in relation to WA implementation, have made clear that they wished to take a generous approach and ensure that British citizens could stay in Germany.
- The majority of British citizens are registered in Germany and it is difficult to do anything in Germany without being registered. The majority of the British population have been in Germany for more than five years, and many for far longer, but there is also a significant proportion who arrived more recently.
- The German authorities also made what, in a German context, was an important concession as regards the acquisition of dual citizenship, which is only automatically possible where both citizenships are EU. British citizens who have applied for citizenship during the transition period, and who fulfil all the conditions for citizenship before end of transition, will still be able to keep dual citizenship even if the decision on their application is not made until after end of transition. The usual rule is that the date of decision is the relevant date.

3. Have public bodies, businesses and landlords in Germany continued to treat UK citizens in the same manner as during EU membership?

- In general, we believe yes, although there has been a good deal of anecdotal evidence as regards those applying for jobs, where questions have been raised as regards their residence status, and we have also had examples of employers now asking UK citizens to provide a residence card. In general, it has been possible, at least in the individual cases we are aware of, for the individuals concerned to resolve the problem through providing information.

4. What has been the impact of COVID-19, if any, on securing the rights of UK citizens in Germany?

- There are a lot of concerns in Germany as regards loss of income or applications for support, and how these will impact their applications under the WA. Questions have been raised by members about both furlough measures and applying for benefits.
- Those who rely on an S1 form for health cover have raised concerns about their renewal and delays in the UK in issuing new forms. This can lead to the German health insurance organisation suspending coverage until a new form arrives and, in the crisis, any gap in health insurance could lead to real issues accessing healthcare.
- On dual citizenship applications, the crisis has led to the cancellation of test dates for citizenship and language tests, or to the cancellation of appointments or inability to obtain appointments. This has left UK citizens worrying that they will not be able to complete their applications by end of transition and may therefore not have dual citizenship (as explained above, there is a grace period until end of transition to apply and fulfil the conditions for citizenship and to keep both British and German citizenship).
- There are also people who are stuck in the wrong country and unable to return to Germany, and thus concerned as to how this will impact their rights under the WA. Likewise, there are those who had planned to move to Germany and cannot travel, or have had a job offer put on hold as a result of the crisis.

5. Are there any administrative, legal, technical, financial or practical issues outstanding and what action might be taken to resolve them and by whom?

- The main issue is that already referred to above - uncertainty since the legislation has not yet been adopted, nor has implementation started, nor is it yet clear how the system will be implemented across the many Foreigners' authorities across Germany.
- The draft residence card does not distinguish between permanent and ordinary residence.
- There are many mobile UK citizens in Germany and they do not yet know whether EU statuses for third country nationals that provide for mobility options such as EU Long Term Residence or the EU Blue Card will be cumulative with the WA status.

6. Do you have any estimates for how many UK citizens have undergone the necessary formalities to secure their rights in Germany and how many have yet to do so?

- None have applied for the WA status as the system is not yet up and running but there are an estimated 106,000 UK citizens in Germany.

7. Is there a role for civil society representatives of UK citizens in the EU to contribute towards monitoring of the Withdrawal Agreement? If not, how might this be addressed?

- Without doubt as British in Germany has lobbied hard at regional and federal level concerning WA implementation, including for a declaratory system (originally, Germany was expected to opt for a constitutive system) and particularly in relation to specific issues such as the rights of dual citizens and mobility rights. Jane Golding (Co-Chair of BiE) is also Chair of British in Germany and has regularly fed back issues to contacts at EU and UK levels. British in Germany has a very good working relationship with the Embassy, as well as federal and regional offices in Germany. It has collaborated with the Embassy and German officials to provide numerous information evenings for UK citizens. BiG is monitoring the situation on the ground and regularly provides feedback to both UK and German officials about issues raised by its members.

8. Do you have any other concerns for UK citizens in Germany regarding the remainder of the transition period, including the roll-out of the proposed EU-wide biometric document?

- Mobility and the cumulation of statuses.
- The position on dual citizens (as referred to above here and in the main body of the text).
- The fact that the draft residence card does not currently make a distinction between permanent and ordinary residence.
- It is not clear why the draft law, while opting for an 18(4) declaratory system, makes reference to conditions set out in Article 18(1) (constitutive system).
- Geographic and demographic coverage of the two organisations, the IOM and the Armed Forces charity, SSAFA, that were appointed to support UK citizens in Germany with their registrations to secure their status under the WA. It is not clear whether all Länder will be covered and whether only veterans will be covered in some Länder.

ANNEX 10 - GREECE

1. Could you set out the means by which UK citizens can secure their rights under the Withdrawal Agreement in Greece, how easy are these systems to use and how do they compare with the EU Settlement Scheme in the UK?

- There is no official confirmation of the registration system to be used but it is likely to be constitutive (Art 18(1)).
- No legislation or details of procedures have been published so British citizens are still completely in the dark.
- No timetable has been published.

2. What has been the experience of UK citizens in Greece securing their rights under the Withdrawal Agreement so far?

- N/A - implementation has not begun.

3. Have public bodies, businesses and landlords in Greece continued to treat UK citizens in the same manner as during EU membership?

- There is a concerning and increasing amount of misinformation, including from the authorities themselves.
- Immigration officers are sometimes unaware of the transition period or they are refusing registration or applications for the 5 year permanent residence card as 'everything will become invalid anyway' at the end of the year.
- Some professional bodies (accountants/lawyers/estate agents) are already treating British citizens as non-EU citizens.
- Immigration officers, accountants, government departments and even lawyers are telling UK nationals not to bother registering now as the permits are going to change anyway.
- The association of lawyers of Rhodes has had to make an official complaint to the government because estate agents are refusing to complete property transactions to UK nationals according to their free movement rights. Many officials think the UK has already left and have no awareness of transition.

4. What has been the impact of COVID-19, if any, on securing the rights of UK citizens in Greece?

- All flights from the UK have been banned since 23 March and are unlikely to start before the end of June. People who are normally resident in Greece or intending to move this year are now trapped in the UK and unable to get here for the foreseeable future.
- Immigration offices throughout Greece are closed and there is no online facility to register.
- What this means in practice is that there may well be a problem with people meeting deadlines both for registration and exchange to the new permits depending on how the pandemic pans out.

5. Are there any administrative, legal, technical, financial or practical issues outstanding and what action might be taken to resolve them and by whom?

- Everything is outstanding. British residents in Greece have no idea when, where or how to apply.
- At the moment the guidelines for registration and permanent residency of EU citizens in Greece are very loose, which leads to a wide variation in their application from one area of Greece to another. There is real concern that there may be a postcode lottery.

- Because of this it will be especially important when the legislation does come out to check that it conforms to the terms of the WA and to address any issues, and also to interpret the resulting circulars (the sets of instructions that will be sent out to immigration offices). Legal experts will be needed to do this.
- There is also concern that applications from British citizens may be dealt with by the main Aliens Office, which deals with all TCN applications and where chaos reigns and immigration officers are much stricter.

6. Do you have any estimates for how many UK citizens have undergone the necessary formalities to secure their rights in Greece and how many have yet to do so?

- Inevitably there is a percentage of British residents who have never registered as EU citizens (and therefore may find themselves unable to apply for WA rights) but we have no information how many may be affected.

7. Is there a role for civil society representatives of UK citizens in the EU to contribute towards monitoring of the Withdrawal Agreement? If not, how might this be addressed?

- Yes. Civil society representatives are more likely to know what is happening on the ground and can help people circumnavigate most issues. They are also more likely to be trusted by grassroots British citizens than either the UK or Greek governments and because of this will have access to information that perhaps is not available to official organisations.
- In Greece, the Greek wing of British in Europe, British in Greece, has become the go-to place for British citizens wanting to navigate Greek bureaucracy particularly in relation to Brexit and citizens' rights. Without this group - which has 3000 members and is growing at the rate of 100 members a week - it is hard to imagine how the implementation of the WA in Greece could successfully be monitored.

8. Do you have any other concerns for UK citizens in the EU regarding the remainder of the transition period, including the roll-out of the proposed EU-wide biometric document?

- A big concern is how to reach British residents in Greece, especially those who are currently unregistered and also those who do not follow social media. With a likely constitutive system planned this is vital if numbers of people are not to miss the application deadline.
- There have been inconsistencies in the issuing of existing permits which could penalise UK citizens who have genuinely been living in Greece for many years and have a paper trail to prove it. Some have taken their case to Solvit without resolution. Obviously now there is concern that this could put some residents' rights under the WA in jeopardy.

ANNEX 11 - ITALY

1. Could you set out the means by which UK citizens can secure their rights under the Withdrawal Agreement in Italy, how easy are these systems to use and how do they compare with the EU Settlement Scheme in the UK?

- Italy has adopted the declaratory procedure under Art. 18(4) of the WA.
- Italy has not passed a new law to implement the WA but is relying on the fact that EU Treaties have direct effect in Member States. The Ministry of Interior has simply issued a Circular to give guidance to the relevant authorities, and the Circular prescribes the contents of a new residence document.
- Those already registered under Dir. 2004/38 (the EU law on residence for EU citizens) present themselves physically to the local authority and ask for the new paper certificate which Italy is issuing. All they need is proof of ID. It is not clear whether this new certificate is obligatory and, if so, what is the date by which it must be obtained and what are the consequences of not doing so.
- Those who have not already registered and those who arrive during Transition must apply to the local authority to register their residence under the EU Directive 2004/38 with proof that they satisfy the requirements of job/self-sufficiency/health insurance etc. Once registered they have a right to be issued with the new certificate.
- Administration of the system is in the hands of local authorities, of which there are nearly 8,000 in Italy. In principle the procedure is straightforward but there are bound to be variations from one office to another. This is likely to be a serious problem, not assisted by the very limited guidance offered so far by central government. **British in Italy** and the Embassy will continue to push for more guidance once the pandemic occupies less of the government's time. We do not know whether those efforts will be successful.
- How that compares with the UK scheme is hard to say since one scheme is physical and the other virtual. For problems so far, see response to the next question.

2. What has been the experience of UK citizens in Italy securing their rights under the Withdrawal Agreement so far?

- Experience so far is limited because the Italian government Circular was published not long before the Coronavirus lockdown began; so few applications have been made and most of the ordinary administrative work of local authorities has been put on hold by decree, with extensions of time for the authorities to deal with all forms of request for administrative action.
- The most common reported problem is that those who have established a right of Permanent Residence ("PR") have been unable to get a certificate of PR. The importance of PR is dealt with in the main text of our submission to the Committee and will not be repeated here, other than to recall that PR is of particular importance for access to healthcare in Italy. Suffice it to say that it is a right which UK citizens retain during the Transition Period and which is expressly provided for in Art. 15 of the WA. We are aware of several people, all of whom had applied for a certificate of PR prior to January 31st, being refused post-Brexit on the ground that they are no longer EU citizens. **British in Italy's** complaint to the Ministry of the Interior about this was rejected because the Ministry lawyer agreed with the local authorities, but our follow-up questions as to how we are to prove our right to PR have not been answered, we assume because the Ministry lawyers are so

involved drafting the lengthy decrees which the Italian Government has issued to deal with Coronavirus.

- Other problems experienced illustrate the local variations which we can expect when the Coronavirus restrictions are lifted. One person who applied for the new certificate proving residence in accordance with the WA was wrongly required to surrender his existing certificate of PR. Another person, who was already registered as a resident EU citizen and who applied for the new certificate, was required to prove that he satisfied the criteria for residence in the country (ie the 'constitutive' approach was applied), contrary to the express provisions of the government Circular.

3. Have public bodies, businesses and landlords in Italy continued to treat UK citizens in the same manner as during EU membership?

- For public bodies, see above for the problem in establishing a right of Permanent Residence. Before February 1st the criteria for this were clear and generally applied consistently.
- There is a potential concern about employment. Many British residents in Italy work as teachers or translators in schools and universities. Many of these jobs are restricted to Italian and EU nationals. Many such jobs do not have fixed contracts and the individual must re-apply annually through a competition process for her or his position. During 2019 a number of people were told that after Brexit, regardless of whether the WA was ratified, they would no longer have a job because they would not be an EU citizen. Others were told that they could not enter into the annual competition to re-apply for their existing job or a new job. In view of the equal treatment provisions of the WA this ought not to be a problem. Our group has not had reports of people actually being dismissed since February 1st, but we flag up the earlier threats as an issue to keep under close observation.

4. What has been the impact of COVID-19, if any, on securing the rights of UK citizens in Italy?

- Registration for the new WA residence certificate has, in practice, been effectively suspended during lockdown. If the restrictions are lifted soon, existing residents are likely to have time to secure the new WA certificate by the end of this year. However, in some local authorities, particularly in the large cities, there can be a delay of months in getting an appointment, so the situation needs to be monitored.
- Those who planned to move to Italy but had not done so before the restrictions were imposed might have more difficulty in establishing their right to do so. The conditions they have to satisfy are more onerous than for those who are already registered, but it is too early to say whether the COVID-19 delays will in fact create problems. Again, the situation needs to be monitored.
- For all forms of administrative procedure, the government extended by decree the time limits with which the bureaucracy is bound to comply. So further delay, but understandable.
- Italian citizenship: Many UK citizens for whom continued freedom of movement across the EU is important, particularly for work, have applied for Italian citizenship in order to retain their EU citizenship rights. In Italy applicants for citizenship based on residence have to have been resident for 4 years if they are EU citizens but 10 if they are not. By a special decree UK citizens who had been resident for 4 years as at January 31st 2020 have been given the right to make such an application up to December 31st 2020. However, such an application has to be backed by birth and criminal record certificates from UK authorities and by a certificate of knowledge of the

Italian language. It is too early to say whether the Covid delays in either country will cause problems with obtaining such certificates, but there is a real risk of difficulty in doing a course/language test in time to get a certificate in Italy given that the universities are closed. Such language tests will be well down the list of priorities and it can take months to get a certificate after a successful completion of the test.

5. Are there any administrative, legal, technical, financial or practical issues outstanding and what action might be taken to resolve them and by whom?

- Outstanding issues:
 - Clarifying whether the new WA certificate is compulsory; if so what is the date by which it has to be obtained and the consequences for those who fail to do so.
 - Ensuring that there is a procedure in place for establishing a right of Permanent Residence.
 - Monitoring whether the Covid lockdown is actually causing the bureaucratic problems referred to above, and if so, adopting a flexible attitude to relevant time limits.
 - Italian Government needs to resolve these issues, and pressure needs to be brought on it by British Embassy, FCO and UK representatives on Joint Committee on WA implementation.

6. Do you have any estimates for how many UK citizens have undergone the necessary formalities to secure their rights in each Member State and how many have yet to do so?

- No.

7. Is there a role for civil society representatives of UK citizens in the EU to contribute towards monitoring of the Withdrawal Agreement? If not, how might this be addressed?

- Yes. We strongly support BiE's request for observer status at the joint Specialised Committee on Citizens' Rights for the reasons given in the main submission. **British in Italy** will need to continue monitoring for problems such as those referred to above. We have already been in contact with the Italian Government and the British Embassy about them and will continue to do so.

8. Do you have any other concerns for UK citizens in the EU regarding the remainder of the transition period, including the roll-out of the proposed EU-wide biometric document?

- Whilst we welcome the idea of an EU-wide biometric document, the failure to provide different documents for those with and those without Permanent Residence, when seen against the refusal of Italian authorities to issue any other certificate of Permanent Residence, is extremely worrying. In Italy Permanent Residence is a passport for the non-economically active to register in the NHS equivalent on the same terms as Italians. The lack of proof of this status is likely to cause major difficulties, particularly in a country where the public administration is highly devolved.

ANNEX 12 - LUXEMBOURG

1. Could you set out the means by which UK citizens can secure their rights under the Withdrawal Agreement in Luxembourg, how easy are these systems to use and how do they compare with the EU Settlement Scheme in the UK?

- Luxembourg is applying Art. 18(4) WA, the declaratory scheme.
- Luxembourg legislated in 2019 for implementation of the WA and the new law came into effect on February 1st 2020. The law:
 - Requires UK nationals and their family members to request a new WA compliant residence document before or at the end of the Transition Period. Possession of the new document is mandatory but our local group's understanding is that failure to get one merely means that one has an out of date document, not that the legality of one's residence is affected.
 - Enables those entitled to Permanent Residence at Brexit, or who become so entitled before the end of the Transition Period, to apply for a new Permanent Residence document to replace their existing one.
 - Requires the ministry of employment to issue a cross-border work permit under Art. 26 of the WA upon request after January 1st 2021.
- The exact procedures are to be provided for under a Grand Ducal regulation (not yet published) but are not expected to be open until the autumn of 2020. Until the new document is issued, according to the Brexit FAQ on the government website, "current registration documents shall serve as documents certifying the regularity of residence."
- Since the procedures have not yet been published, let alone implemented, we cannot say how easy they are to use. Generally, registration procedures are carried out at the local commune and are usually straight forward. Under no-deal preparations the government intended to centralise all new registration applications in one office with trained staff in Luxembourg city. We don't know if they will do the same for issuance of the new WA documents.

2. What has been the experience of UK citizens in Luxembourg securing their rights under the Withdrawal Agreement so far?

- The only experience so far is of people applying for their Transition Period EU citizens' rights, which are governed by the same procedure as pre-Brexit. We have no recent reports of any particular difficulties.

3. Have public bodies, businesses and landlords in Luxembourg continued to treat UK citizens in the same manner as during EU membership?

- The employment market here often demands freedom of movement and usually a knowledge of at least one other EU language. There are anecdotal reports of employers telling recruitment agencies not to consider British nationals for roles but those reports are difficult to confirm.

4. What has been the impact of COVID-19, if any, on securing the rights of UK citizens in Luxembourg?

- Covid may have delayed the period for publication and/or implementation of the new registration procedures as most government departments are closed to the general public. Emergency appointments can be requested by email or via the hotline.
- Most UK nationals resident in Luxembourg are employed by the EU institutions or large multinationals and banks and appear unlikely to be affected by Covid-related problems which might otherwise have affected their residence rights, such as unemployment or the need to claim social security benefits. In 2016, approximately 10% of UK citizens in Luxembourg were self-employed and will be eligible for newly announced government support as long as they meet the conditions applicable to all self-employed people in Luxembourg.

5. Are there any administrative, legal, technical, financial or practical issues outstanding and what action might be taken to resolve them and by whom?

- Although UK citizens entitled to Permanent Residence by the end of Transition have the right to apply for a new Permanent Residence certificate, there is no procedure in place for the grant of a certificate to those who become entitled to Permanent Residence *after* January 1st 2021 pursuant to Art. 15 WA.
- Contrary to statements made by the European Commission and the UK government, the Luxembourg government presently does not accept that those who have dual UK/Luxembourg nationality/other EU nationality fall under the scope of the Withdrawal Agreement.
<https://gouvernement.lu/en/dossiers/2019/brexit.html#bloub-1>
- Therefore, it will be necessary for the Luxembourgish government to revise this position and to define procedures for dual UK/EU nationals to have their rights recognised under the Withdrawal Agreement as we will not be eligible for the WA residence document. The rights affected may include family reunification where the WA is more generous than national Luxembourgish law and social security and pension rights covered by the WA.
- The WA also does not apply to British nationals who are holders of a diplomatic card or other residence document issued on the basis of the law of 7 August 2012. This includes British nationals employed as permanent officials of the EU and other international bodies in Luxembourg. Their status and rights after they leave employment vis à vis the WA needs to be clarified.
- Clarification is therefore needed on these topics from the European Commission and the Luxembourg Government. It may well be that, ultimately, that clarification can only be provided by the CJEU. Pressure needs to be brought to bear by British Embassy, FCO and UK representatives on the Joint Committee on WA implementation. Where that pressure has already been applied, wide dissemination of the outcome and information is needed.

6. Do you have any estimates for how many UK citizens have undergone the necessary formalities to secure their rights in Luxembourg and how many have yet to do so?

- No. It should be noted that many British citizens who are eligible to do so are applying for Luxembourgish citizenship and that is the focus for activity at the moment.

7. Is there a role for civil society representatives of UK citizens in the EU to contribute towards monitoring of the Withdrawal Agreement? If not, how might this be addressed?

- Yes. Representatives of British in Europe and the 3million should be given observer status on the special sub-committee on citizens' rights established under the Joint Committee. We sent a joint letter on 30 March 2020 to Michael Gove and Maroš Šefčovič asking for this status. We received a reply from Mr Šefčovič on 30 April, 2020, but have yet to hear back from Mr Gove. British in Europe and the 3million have been the recognised representatives of UK nationals living in the EU and EU nationals living in the UK since March 2017. We have taken part in numerous meetings with UK and EU officials, as well as Michel Barnier, UK ministers, including the Secretary of State, Stephen Barclay, and given evidence to the Exiting the EU Committee, the EU and Justice Committees in the House of Lords and several committees in the European Parliament. Implementation of the citizen' rights chapter of the WA affects over 5 million individuals. We are living with the impact of Brexit on our lives, livelihoods and families and we can provide grassroots experience and early warnings of what is going wrong and what needs to be changed to implement our rights correctly and fully. We are the canaries in the coalmine on implementation and there should be nothing about us without us.

8. Do you have any other concerns for UK citizens in Luxembourg regarding the remainder of the transition period, including the roll-out of the proposed EU-wide biometric document?

- It is unfortunate that the EU-wide biometric document, which is said to 'evidence' our rights does not include a distinction between ordinary and permanent residence. If Luxembourg varies the prescribed format to include this distinction, then this will not create any problems for those resident here.
- Given the highly cross-border nature of employment and services provision in Luxembourg, British nationals working here also need urgent clarification on how our rights under the WA agreement intersect with rights conferred on third country nationals under EU and national immigration law.

ANNEX 13 - MALTA

1. Could you set out the means by which UK citizens can secure their rights under the Withdrawal Agreement in Malta, how easy are these systems to use and how do they compare with the EU Settlement Scheme in the UK?

- Malta is applying a constitutive system under Art 18(1).
- All UK nationals will need to apply for a new residence status and document
- Implementation began on 17 February 2020 but is currently suspended due to COVID-19.
- With an estimated 13,000 UK nationals resident in Malta, the authorities have decided to take a staggered approach based on area. People are being called in order according to their place of residence, and given a time period during which they must make their application. These invitations are being sent by post to those who are currently registered as resident.
- Identity Malta, the agency responsible for processing applications, has also produced a brochure which is available in both electronic and paper form to advise UK nationals of the new status and procedures.
- UK nationals who do not already hold permanent residence status will need to demonstrate the exercise of treaty rights and produce the same documents as on initial registration, including financial information for those who are not economically active.
- All residence documents issued under the WA will be valid for 10 years.
- Legislation (Legal Notice 18 of 2020) has already been adopted.

2. What has been the experience of UK citizens in Malta securing their rights under the Withdrawal Agreement so far?

- It is very early days in the process and of course implementation has now been suspended because of COVID-19 but feedback to date has been favourable.

3. Have public bodies, businesses and landlords in Malta continued to treat UK citizens in the same manner as during EU membership?

- As far as we are able to judge there have been no reported issues.

4. What has been the impact of COVID-19, if any, on securing the rights of UK citizens in Malta?

- The registration scheme, which opened on 17 February 2020, is currently suspended as a result of COVID-19. The target completion date for registration under the WA was August-September 2020 and it is clear that this will not now be met.
- The Maltese government, via the agency Identity Malta which is responsible for processing applications, has been proactive in assuring UK nationals that they will be able to apply at a later stage and that their existing documents will remain valid.

5. Are there any administrative, legal, technical, financial or practical issues outstanding and what action might be taken to resolve them and by whom?

- Some UK nationals may currently hold a residence document in accordance with subsidiary legislation SL 123.79 Residents Scheme Regulations, which grants favourable tax status in certain situations. Although they will benefit from protection under the WA there remain a number of questions around this scheme, for example whether beneficiaries can acquire EU/WA permanent

residence status even if they have been resident for 5 years or more. This should be clarified by the Maltese government.

6. Do you have any estimates for how many UK citizens have undergone the necessary formalities to secure their rights in Malta and how many have yet to do so?

No.

ANNEX 14 - THE NETHERLANDS

1. Could you set out the means by which UK citizens can secure their rights under the Withdrawal Agreement in the Netherlands, how easy are these systems to use and how do they compare with the EU Settlement Scheme in the UK?

- In implementing the citizens' rights part of the WA, the Netherlands government is focusing initially on residence, and is working on plans to extend implementation to the rest of the Agreement from the summer of this year.
- The Netherlands is applying the constitutive procedure for issuing residence documents under Art. 18(1) WA.
- NL has incorporated the residence related provisions of the WA by making amendments to its Aliens legislation. Amendments were published in February and April 2020.
- Since February UK citizens have been receiving invitations to apply for their new status. Invitations are sent out in batches in order of date of first registration in the country, and to date have only been sent to those who have been resident for 5 years or more. You are asked to apply within 4 weeks of receiving the invitation, and application can be either online or on paper. The online application appears straightforward. As far as we can ascertain, it is intended to apply the same procedure when those with less than 5 years residence are invited to apply.
- For reasons which are not yet clear less than 50% of invitees have applied within the 4 week period. They have received a reminder letter asking them to call if they experience problems in making the application. The Immigration Department is trying to find out the reasons for the low response rate with a view to making improvements in the system. Unfortunately focus groups it had planned to conduct before the Covid lockdown had to be cancelled.
- We believe that the criteria for residence are applied strictly. Much of the information needed by the authorities is available to them online in any event. In particular everyone is obliged to register their residence on arrival, there is a compulsory health insurance scheme and there is an online system which holds employment records (number of years worked and earnings) for everybody. Individuals have access to these online records so that they can see and validate what is said about them.
- There are three types of residence card: one for Permanent Residence, one for those with less than 5 years residence who are economically active and one for those with less than 5 years residence who are not economically active.
- Both of the cards for those with less than 5 years residence have on the back a warning that reliance on public funds might have implications for the holder's right of residence.

2. What has been the experience of UK citizens in the Netherlands securing their rights under the Withdrawal Agreement so far?

- It is too early to report on the experience of those who have applied for residence documents, particularly in view of the lockdown. **British in the Netherlands'** Facebook group has not reported any rejections yet.
- Invitations are not being sent out automatically to those with dual nationality. The justification for this is that those with Dutch nationality do not need the protection of the WA to be entitled to residence. However, this ignores the fact that many dual nationals will want to register in order to prove that they are covered by other aspects of the WA, most notably the provisions on

recognition of qualifications obtained in the UK, and will also wish to know how their rights under the social security chapter of the WA will be documented.

- The legislation also does not yet provide for frontier workers who are protected by the WA. **British in the Netherlands** has raised this with the Dutch government who are looking at the issue.

3. Have public bodies, businesses and landlords in the Netherlands continued to treat UK citizens in the same manner as during EU membership?

- The only discrimination of which we are aware, anecdotally, is in relation to job applications. There appears to have been some discrimination against UK citizens applying for jobs which require the holder to be able to travel freely for work throughout the EU after the end of Transition. Although this is the logical consequence of the denial of freedom of movement to UK citizens after Brexit, the Netherlands government is concerned about it and raised it at a meeting with **British in the Netherlands**. The government has undertaken to strengthen the guidance to employers on equal treatment as a result of the feedback it received at the meeting.

4. What has been the impact of COVID-19, if any, on securing the rights of UK citizens in the Netherlands?

- Some people have expressed concerns that their right of residence might be affected if they claim benefits and **British in the Netherlands** has raised this with the government. To date there is no evidence of whether this is happening, but that is because (logically) only those with less than 5 years residence would be affected and invitations to apply have yet to be sent out to that group.

5. Are there any administrative, legal, technical, financial or practical issues outstanding and what action might be taken to resolve them and by whom?

- See above on dual nationals and frontier workers.
- These issues can only be resolved by the Netherlands government, and if necessary pressure needs to be brought on it by British Embassy, FCO and UK representatives on the Joint Committee on WA implementation.

6. Do you have any estimates for how many UK citizens have undergone the necessary formalities to secure their rights in the Netherlands and how many have yet to do so?

- No. The Dutch government is in the process of gathering data.

7. Is there a role for civil society representatives of UK citizens in the EU to contribute towards monitoring of the Withdrawal Agreement? If not, how might this be addressed?

- The Netherlands experience is one of the countries that provides an example of best practice as regards communication and engagement. The Dutch government has taken engagement on Brexit and its implications with representatives of British citizens seriously from shortly after the Brexit Referendum and, for example, instigated meetings (physical and telephonic) this year. **British in the Netherlands** has been given advance notice of communications by the Immigration Department as well as the opportunity to comment on drafts. Building on its outreach meetings

with British citizens, the British Embassy has considerably increased the frequency and responsiveness of communication with this group and with the community of British citizens in general: for example, in addition to a recently held drop-in online session to discuss the impact of coronavirus, a joint webinar was being planned but had to be shelved because of Covid.

8. Do you have any other concerns for UK citizens in the Netherlands regarding the remainder of the transition period, including the roll-out of the proposed EU-wide biometric document?

- In principle an EU-wide biometric format is welcome. The Netherlands has decided to issue different cards to those with and those without Permanent Residence and also, for those without Permanent Residence, to distinguish between those who are economically active and those who are not.

ANNEX 15 - POLAND

1. Could you set out the means by which UK citizens can secure their rights under the Withdrawal Agreement in Poland, how easy are these systems to use and how do they compare with the EU Settlement Scheme in the UK?

- Poland is applying a declaratory system under Article 18(4).
- Currently, all EU/EEA and Swiss nationals who are resident in Poland are required to register for a Certificate of Registration of Stay of a Citizen of the European Union for stays longer than 3 months. Poland has not changed this requirement for UK citizens during the transition period and has previously strongly advised UK citizens to ensure they are registered before the end of the transition. Due to COVID-19 though, the 3 month rule has been suspended as the immigration offices are closed
- The residence documents issued prior to the expiry of the transition period will serve as proof that their holders are the beneficiaries of the WA.
- At the end of the transition period there will initially be no obligation for UK citizens to apply for a new residence permit, although from 1 January 2021 they will have the right to receive a residence document containing a statement that it has been issued in accordance with Article 18 (4) of the WA. Such applications will be made to local voivodeships (roughly akin to a county council).
- It is currently planned that the residence permits issued to UK citizens and their family members before the end of the transition period will expire on 1 January 2022. Applications for replacing residence permits issued before the end of transition should be therefore submitted until 1 January 2022. Poland is recommending that all UK citizens do this within the 12 month period.
- After that date all those who did not replace their existing residence documents will be able to submit a new application for registering their stay and for obtaining the appropriate residence document. It is not yet clear what form such an application might take.
- It is planned that residence permits issued under the WA will distinguish between ordinary and permanent residence.
- UK citizens who are frontier workers (working in, but not resident in, Poland) before the end of the transition period will be required to register if they intend to continue frontier working after this period. The status of frontier worker under Art 9(b) will only be awarded after registration. Such applications may be submitted from 1 January 2021 and it is possible that a time limit for applying may be introduced.
- It is unclear at this stage what will happen to UK citizens who have not registered as resident after the transition period.

2. What has been the experience of UK citizens in Poland securing their rights under the Withdrawal Agreement so far?

- Implementation of the WA has not yet begun, but our experience is that all UK citizens who have registered for residence under current rules have obtained the necessary certificate (even if the system is administratively cumbersome and slow).

3. Have public bodies, businesses and landlords in Poland continued to treat UK citizens in the same manner as during EU membership?

- Yes, so far as we are aware.

4. What has been the impact of COVID-19, if any, on securing the rights of UK citizens in Poland?

- The 3 month rule to obtain a residency certificate from an immigration office has been suspended. At the moment, the Polish government plans to reopen them before the end of the transition period. They have not published any contingency plans for what happens if they do not reopen before 31 December 2020.

5. Are there any administrative, legal, technical, financial or practical issues outstanding and what action might be taken to resolve them and by whom?

- There may be considerable numbers of returning dual Polish-UK citizens in Poland (see Q6) who are not required to register for residence but who may nevertheless need to rely on the WA for certain aspects, for example for recognition of professional qualifications gained in the UK. Clarity is needed on the procedures under which this can happen.
- We are aware that there have been long waiting times in Poland for non-EU citizens applying for residence (up to 2 years in some instances) and there are some concerns about whether and how this may affect future applications for replacement permits under the WA.

6. Do you have any estimates for how many UK citizens have undergone the necessary formalities to secure their rights in Poland and how many have yet to do so?

- According to the Polish Office for Foreigners 1, there were 6,040 UK citizens registered as residents in Poland. Out of these, approximately 4,700 are men and 1,400 are women. Over 80% are aged between 20 and 60.
- The number of registered residents will, by definition, undercount the number of UK citizens living in Poland for two reasons.
 - First, it will not include those who have not registered. In theory, registering is a legal requirement, but from experience, we are aware of many people who have not done so.
 - Second, people who are dual citizens of both the United Kingdom and Poland do not need to register. Due to the migration from Poland to the UK and the subsequent return of some of these, the numbers of these may be considerable. Statistics Poland has some data on this, but it only includes those who formally deregistered and reregistered. See also Q5.

7. Is there a role for civil society representatives of UK citizens in the EU to contribute towards monitoring of the Withdrawal Agreement? If not, how might this be addressed?

- There is a clear role for civil society organisations to monitor the implementation of the WA - it is at grassroots level that genuine difficulties and omissions can be identified as they affect real people, and recommendations given of how such challenges and difficulties can be overcome. Because of its experience British in Europe and its network of in-country groups is best placed to

carry out such monitoring and we support its request for observer status at the joint Specialised Committee on Citizens' Rights.

8. Do you have any other concerns for UK citizens in Poland regarding the remainder of the transition period, including the roll-out of the proposed EU-wide biometric document?

- Clarification is needed on the status of UK citizens who fail to register by the end of the transition period.

ANNEX 16 - PORTUGAL

1. Could you set out the means by which UK citizens can secure their rights under the Withdrawal Agreement in Portugal, how easy are these systems to use and how do they compare with the EU Settlement Scheme in the UK?

- Portugal has opted for the declaratory system of registration under Art. 18(4) WA.
- No new legislation has been passed yet and it is not clear whether Portugal intends to do so or just to rely on the force of the WA as an EU Treaty with direct effect in Member States. The British Embassy has advised that there may be some implementing legislation.
- The registration process has not started yet. The intention is that UK citizens registered as resident in Portugal, whether with Permanent Residence or not, will be able to attend an office in the area of the local authority where they live and exchange their existing paperwork for a biometric card. It is believed that no further supporting evidence of entitlement will be required. There will be a publicity campaign to alert UK nationals how to apply and where they need to go, but no details have been published yet.
- It is believed that the new biometric cards will NOT distinguish between those with Permanent Residence and those without, but will simply say that the holder is covered by the WA.

2. What has been the experience of UK citizens in Portugal securing their rights under the Withdrawal Agreement so far?

- There has been no experience of the new scheme since it has not yet started.
- However, new arrivals continue to be registered during the Transition Period under the law applying to EU citizens. Experience here varies and depends on which office that application is made to.
- In general, however, the Portuguese authorities have been very welcoming and have bent over backwards to help UK citizens. In particular during the Transition Period the authorities have said that where, as a result of the Covid lockdown, people fail to register their residence within the 3 months required by law they will not be penalised. The same flexibility is to be applied to those who, in theory, would lose their right of residence by an absence of over 6 months as a result of the travel restrictions.
- Historically switching from ordinary to Permanent Residence has been very easy.
- There remains a hard core which could be as high as 25,000 UK citizens living in Portugal who, though aware of their duty to register under the existing system for EU citizens, refuse to do so and who will therefore not qualify for protection under the WA. They will have to accept the consequences of that decision.

3. Have public bodies, businesses and landlords in Portugal continued to treat UK citizens in the same manner as during EU membership?

- Yes.

4. What has been the impact of COVID-19, if any, on securing the rights of UK citizens in Portugal?

- See above for the lenient treatment of people who have been prevented by Covid from registering their residence in time or returning to Portugal in time.

- Of course COVID-19 has affected many UK citizens living and working in Portugal very badly. Many have been unable to work or secure social security benefits. It is possible that this will mean that such people are unable to meet the minimum income requirements for registration as resident during the Transition Period, but we have not come across any such cases yet. This of course does not mean that there have not been any such cases, but simply that they have not come to our attention.

6. Are there any administrative, legal, technical, financial or practical issues outstanding and what action might be taken to resolve them and by whom?

- The main outstanding issue is publication of the scheme for registration. Only when that has been done will we know what issues, if any, arise.
- If it is true that the new card does not distinguish between those with Permanent Residence and those without, that will be a concern for the reasons given in the main submission to the Committee.

7. Do you have any estimates for how many UK citizens have undergone the necessary formalities to secure their rights in Portugal and how many have yet to do so?

- None have applied under the new scheme yet. The latest figures for registrations under the EU scheme which continues to apply until the end of Transition show that approximately 35,000 UK nationals, by the end of 2019, had registered for residency in Portugal. That was an increase of approximately 9,000 from the previous year.

8. Is there a role for civil society representatives of UK citizens in the EU to contribute towards monitoring of the Withdrawal Agreement? If not, how might this be addressed?

- **British in Portugal** actively monitors implementation of the citizens' rights part of the WA and will continue to do so. We work closely and constructively with the Embassy, as well as other Portuguese institutions, on issues arising. We have had to correct the material on their website. Through the umbrella group **British in Europe** we will pass on concerns to the EU institutions and the British Government.

9. Do you have any other concerns for UK citizens in Portugal regarding the remainder of the transition period, including the roll-out of the proposed EU-wide biometric document?

- Although obtaining Permanent Residence under the rules relating to EU citizens has been straightforward, it is concerning that from January 1st 2021 there is to be no means of proving that one has that status.

ANNEX 17 - ROMANIA

1. Could you set out the means by which UK citizens can secure their rights under the Withdrawal Agreement in Romania, how easy are these systems to use and how do they compare with the EU Settlement Scheme in the UK?

- Romania intends to adopt a constitutive scheme under Art. 18(1) WA.
- UK nationals will need to re-apply for their legal status even if they already have a residency status in Romania. Therefore, they are likely to be required to meet a number of criteria - as they are required to do when registering for residency under EU Law. At the moment, we cannot say how strict the requirements will be.
- No legislation or draft legislation has been published yet. At present an inter-ministerial consultation is under way and only when that has concluded will any legislation be published.
- It is understood that UK citizens will be able to apply for the new status from December 1st 2020 until the end of June 2021.

2. What has been the experience of UK citizens in Romania securing their rights under the Withdrawal Agreement so far?

- No experience yet as plans are still underway to agree and implement the legislation.

3. Have public bodies, businesses and landlords in Romania continued to treat UK citizens in the same manner as during EU membership?

- UK citizens in Romania have been treated very well to date.

4. What has been the impact of COVID-19, if any, on securing the rights of UK citizens in Romania?

- No impact, or none reported.

5. Are there any administrative, legal, technical, financial or practical issues outstanding and what action might be taken to resolve them and by whom?

- This remains to be seen when the new scheme is published.

6. Do you have any estimates for how many UK citizens have undergone the necessary formalities to secure their rights in Romania and how many have yet to do so?

- None as scheme not opened yet.

7. Is there a role for civil society representatives of UK citizens in the EU to contribute towards monitoring of the Withdrawal Agreement? If not, how might this be addressed?

- Romanian authorities and the British embassy appear to be working things through so far. However, bureaucracy here makes slow progress and other in-country political issues have taken precedence.

8. Do you have any other concerns for UK citizens in Romania regarding the remainder of the transition period, including the roll-out of the proposed EU-wide biometric document?

- Not even starting the application process until December 2020 is late and leaves very little room for the correction of errors and problems which inevitably arise with a new system.
- That said, our local group believes that the Romanian authorities will do the right thing by British nationals, even if it takes time. There is too small a British population in Romania to warrant big changes, as it would involve more effort than it's worth. The authorities bear no ill will to the British and genuinely want them to stay and be welcome.

ANNEX 18 - SPAIN

1. Could you set out the means by which UK citizens can secure their rights under the Withdrawal Agreement in Spain, how easy are these systems to use and how do they compare with the EU Settlement Scheme in the UK?

- Spain is adopting the declaratory registration procedure under Art. 18(4) WA.
- No legislation or draft legislation has been published yet, though we believe it will follow the lines of the no-deal legislation published in March 2019 (Real Decreto Ley 5/2019).
- Because of the declaratory nature of the procedures, UK nationals in possession of the current documents should therefore in theory be in a position to show lawful residence without many of the additional requirements of the proof required under the UK scheme. The transition will be from EU resident to Third Country resident benefitting from the WA, i.e. a specific category within the Spanish classifications of residency status.
- **Eurocitizens** had two meetings with the Spanish government in January and was told (i) that there would be no deadline for registration, as third-country nationals protected by the WA, for UK residents who are registered as EU citizens and (ii) that those with certificates of Permanent Residence would be required to surrender their certificate in exchange for a new EU residence card.
- We did not receive a reply to our question about the position of UK citizens with different statuses – e.g. those married to an EU citizen who would be able to choose between retaining that status under EU Directive 2004/38 and applying under the WA.
- The lack of information about registration procedures under the Withdrawal Agreement is a matter of concern for UK citizens in Spain. However, the country is still in the grips of the Covid lockdown which has affected it massively. Spain has more urgent concerns than the registration of UK citizens. As we appreciate their difficulties we have not pressed the government further.

2. What has been the experience of UK citizens in Spain securing their rights under the Withdrawal Agreement so far?

- Implementation has not yet begun.

3. Have public bodies, businesses and landlords in Spain continued to treat UK citizens in the same manner as during EU membership?

- Unlike the UK, where the government devolves responsibility to make checks to all concerned (the 'public bodies, businesses and landlords'), while not providing formal documentary proof of lawful residence, the possession of a NIE (national identity number) and the green residence card should remain broadly enough in Spain to reassure public bodies and landlords of lawful residence.
- **ECREU** reports that, before lockdown, public bodies in coastal Spain had, generally speaking, caught up with Brexit issues on procedures like the registration of resident UK nationals as EU citizens and the changeover of driving licences (from UK to Spanish), though there have been some cases where officials have had the wrong information.
- For UK nationals living in Alicante and Murcia, one issue has been the change in the place where they must register as EU citizens: from local police stations to centralised foreigners' offices (*Oficinas de Extranjería*). The latter deal with large numbers of third-country nationals, there are

long queues and the whole process can be intimidating for the more vulnerable. Travelling all the way to the provincial capital is also an obstacle for some UK residents, particularly the elderly who live in residential care homes.

- Some UK nationals have reported slightly different treatment from immigration officials at Alicante airport as they are "no longer European". During the transition period so far, Spain's universal health care system seems to have dealt very well and compassionately with UK citizens with Covid-19 or other health problems.
- For businesses the picture is not yet clear, but for those Spanish companies requiring employees to travel for work within the EU, undertake assignments in other Member States, etc., there is growing awareness that UK citizens are now third country nationals. Faced with the prospect of hiring a non-Spanish national of another EU27 country or a UK resident in Spain this will inevitably have consequences unless all work under contract is totally restricted to Spain.

4. What has been the impact of COVID-19, if any, on securing the rights of UK citizens in Spain?

- It has brought the process to a complete stop in Spain because (a) no procedures have yet been elaborated and (b) no-one can leave their domicile except for essential shopping, medical reasons, periods of exercise, etc. In addition, as a result of COVID-19 all police stations, registry offices etc cancelled all appointments from the week after the announcement of lockdown (13 March) and have not as yet restored online facilities for any procedures.
- Because of this, it does not seem that very many of the 350,000 or so UK residents in Spain will be able to regularize their position by obtaining the new documentation within the timeframe of the end of the transition period. The Spanish authorities have made it clear, informally, that the possession of the current documents will continue to be a valid means of proof to establish residence and that the 31 December deadline is not an actual cut-off date for applications under the WA. However, this will inevitably give rise to uncertainty and anxiety within the British community in Spain, some of whom are elderly (but over 60% of UK citizens in Spain are in fact of working age), and a number of other issues and problems, notably in respect of travel to other EU27 MS.
- We have no evidence of legally resident UK citizens encountering problems when trying to access social security benefits during the Covid-19 emergency. Obviously, these are not available to those who are unregistered and, in some areas on the coast, there has been an uptake amongst UK nationals at food banks run by Spanish charities like Caritas.

5. Are there any administrative, legal, technical, financial or practical issues outstanding and what action might be taken to resolve them and by whom?

- Overall, we are broadly optimistic that the procedures, at least for those already in possession of documents, as a declaratory system, will not be over burdensome.
- However, much needs to be done:
 - (a) The publication of the new scheme and legislation like that passed in the No Deal scenario.
 - (b) If the new card does not distinguish between those with Permanent Residence and those without, it is important that either the card is changed or at least that there be some scheme for registering Permanent Residence. The reasons are given in the body of our

submission to the Committee.

(c) It is also vital to resolve the issue, referred to above, of those who qualify both for protection under the WA and for some other status such as Third Country family member of an EU citizen. Unlike in other Member States, there will be no issues related to dual nationals resident in Spain - since dual nationality is only available for countries with 'historic links' to Spain (eg Latin American countries, Portugal, the Philippines etc).

(d) Resolving problems: issues relating to the implementation of the WA in Spain need to be resolved by the EU or by the Spanish government. In either case, if they are not resolved when the scheme is published, they need to be raised by the FCO and the British Embassy and before the Joint Committee on the implementation of the WA.

6. Do you have any estimates for how many UK citizens have undergone the necessary formalities to secure their rights in Spain and how many have yet to do so?

- None as far as the new scheme covered by the Withdrawal Agreement is concerned as it is not in place.
- The Spanish authorities, and to a considerable extent the British embassy, have been concentrating over the past three years on regularizing the situation of UK nationals as EU citizens. Although de facto residents, sometimes for years, many have never applied for resident status and have thus been illegal.
- It is difficult to estimate the numbers of unregistered UK citizens in Spain, but there seem to be thousands in coastal provinces like Málaga and Alicante. Some have no Spanish documentation despite the statutory requirement to obtain it after being resident in Spain for more than three months. This includes large numbers of 'swallows', people who spend several months in Spain and the rest of the time in the UK. Others have incomplete paperwork. For example, some are registered with their town halls and have a tax number but have not applied for legal residence as an EU citizen.
- In the months prior to the lockdown there was an exponential increase in UK citizens asking for assistance to register (as EU citizens or under the conditions of the transition period) before the end of transition. One lawyer in the Alicante region reported a 600% increase of clients wishing to obtain resident status.

7. Is there a role for civil society representatives of UK citizens in the EU to contribute towards monitoring of the Withdrawal Agreement? If not, how might this be addressed?

- Civil society representatives will inevitably be drawn into this process, notably on a 'First port of call' basis, but this is not their primary responsibility, which is more of lobbying to secure just and fair provisions. The rights accorded to persons under the citizens' rights part of the WA now form agreed parts of a binding international agreement between the UK and the EU. Thus monitoring of these parts of the WA in so far as they relate to British citizens resident in EU27 is the clear, primary responsibility of HMG. By extension, British embassies in EU27 should ensure the proper monitoring of how the WA is being implemented for their individual MS. As a result, British embassies in EU27 should be adequately staffed to deal with the issues and problems that will inevitably arise. There is no indication in Spain that the British embassy sees things differently.

- However, at the level of the WA, implementation will also be monitored by the Joint Committee and the relevant sub-committee on citizens' rights. Here civil society representatives do have a clear role to play, allowing them to continue to fulfil their main function of ensuring that provisions remain just and fair in their implementation by contributing their experience and oversight.

8. Do you have any other concerns for UK citizens in Spain regarding the remainder of the transition period, including the roll-out of the proposed EU-wide biometric document?

- It is concerning that from January 1st 2021 there are to be no means of proving that one has the status of Permanent Residence, though in Spain this will not affect the access of Britons to healthcare or benefits as in other countries.
- Our most obvious concern is that the eleven-month period of the transition period in respect of citizens' rights, already short, will be shortened to less than 4/5/6 months depending on the MS in question and COVID19 measures. This will place all concerned - UK citizens, EU27 administrations et al - yet again under unnecessary stress, anxiety and, for UK citizens, the risk of falling foul of what has thus become even more of an arbitrary deadline.
- While HMG may not wish to extend the transition period it should be prepared to consider taking the relevant steps to ensure that there is a smooth transition for its citizens in EU27, including, if needed, an extension to this part of the WA.
- Despite the existence of a binding international treaty, UK citizens in Spain are also concerned about reciprocity during the transition period and beyond. Most EU27 Member States are looking at the WA in terms of reciprocity. This means that reports that EU citizens in the UK will not be eligible for benefits, etc. unless they have acquired settled status under the UK scheme are a matter of real concern. For example, UK citizens in Spain are faced with the prospect of being unable to apply for their new status until the procedures are sorted out and can only hope that the Spanish authorities adopt a more rational and humane approach to their own rights within the Spanish system.

ANNEX 19 - SWEDEN

1. Could you set out the means by which UK citizens can secure their rights under the Withdrawal Agreement in Sweden, how easy are these systems to use and how do they compare with the EU Settlement Scheme in the UK?

- Sweden has opted for a constitutive application system under Art. 18(1) WA.
- A draft law has been prepared which will come into force on December 1st this year and allow applications for residence status to be made at any time from then until the end of September 2021.
- Applications are made to the Swedish Migration Agency. No details have been given yet of the procedure.
- The draft law provides for both permanent and ordinary residence status. Proof of ordinary residence status will be valid for 5 years and the Migration Agency shall renew proof of permanent residence automatically every 10 years.
- The format for proof of status is to be the EU card. It will distinguish between permanent and ordinary residence.
- The criteria for the grant of residence status to those covered by the WA will be the same as under existing EU law. The criteria of job, self-sufficiency etc are strictly enforced at the start of residence for EU migrants though checks are not made to ensure continued compliance with the criteria.
- Historically relatively few applications for proof of permanent residence status under EU law, which requires five years of continuous compliance with job/self-sufficiency rules, have been made by EU citizens. Of those applications that have been made 20-25% are rejected. For UK citizens to become permanent residents an application must be made.

2. What has been the experience of UK citizens in Sweden securing their rights under the Withdrawal Agreement so far?

- Too early to say as far as the operation of the new scheme is concerned since it does not come into force until December 1st. However, the delay alone has caused a lot of worry.

3. Has the treatment of UK citizens been consistent across the EU Member States or have there been differences between Member States?

- Comparing Nordic countries, Sweden's approach appears similar to that of Finland. Both Sweden and Finland have documented plans with specific timescales for the implementation of constitutive systems for which a British citizens' residence rights are lost in the absence of an application for a new residence status. There are indications from outreach meetings between UK citizens and officials from the UK embassy and the Danish government that Denmark is planning a declaratory scheme in which existing registered residents will automatically be granted a new residence status after 2020. While more details are needed of Iceland's and Norway's plans (both covered by the EFTA/EEA Agreement) they have so far guaranteed the continued residence of registered British residents.

4. Have public bodies, businesses and landlords in Sweden continued to treat UK citizens in the same manner as during EU membership?

- There have been no reports of discrimination other than minor issues such as which passport lane to use at airports at the start of Transition.

5. What has been the impact of COVID-19, if any, on securing the rights of UK citizens in Sweden?

- Some UK nationals have lost their jobs and are worried that as a result they may not be able to comply with the conditions for legal residence during the 5 continuous years needed to secure permanent residence.

6. Are there any administrative, legal, technical, financial or practical issues outstanding and what action might be taken to resolve them and by whom?

- The major practical issue is the lack of any clearly defined process yet. It is not clear how the Swedish government will inform UK nationals about the need to apply.
- There is a well-functioning population registry but access to it is typically devolved to regional authorities. If it is the responsibility of the regional authorities to reach out to UK nationals there is a risk of an uneven approach.
- Vulnerable individuals may need help with the application and it is not obvious that there are any organisations that can assist here.

7. Do you have any estimates for how many UK citizens have undergone the necessary formalities to secure their rights in Sweden and how many have yet to do so?

- None as the process has not yet started.

8. Is there a role for civil society representatives of UK citizens in the EU to contribute towards monitoring of the Withdrawal Agreement? If not, how might this be addressed?

- Yes. Primarily this should be the role of the UK government. However there is a feeling among British citizens in Sweden that the protection of their interests is not a priority for the UK government.

9. Do you have any other concerns for UK citizens in Sweden regarding the remainder of the transition period, including the roll-out of the proposed EU-wide biometric document?

- There is a concern that the application period is starting late (1st December, one month before the end of the transition period). This implies that after 2020 people's residence rights will be precarious while they apply for a new residence status. Although they will still be legal residents during the application period this will create difficulties for many areas of their lives, such as applications for employment and bank loans, which require a secure residence status. The application period has already been extended to the end of September 2021. A common complaint is that processing times for Sweden's migration agency are long. It is not unusual for third country national permits to take over a year. Many British citizens may well be without their new secure residence status well into 2022. Furthermore, should they be turned down they will find themselves illegal residents almost immediately and without the protection of residence

rights they would have had if the process had started and been concluded much earlier during the transition period.

ANNEX 20 - SWITZERLAND

1. Could you set out the means by which UK citizens in Switzerland can secure their rights under the Swiss-UK Agreement on Citizens' Rights, how easy is this system to use and how does it compare with the EU Settlement Scheme in the UK?

- The UK is of particular importance for the Swiss economy: around 43,000 UK nationals live in Switzerland and many more work there as frontaliers (cross-border workers) while living in France and (to a lesser extent) in Germany.
- The relationship between the two countries has been largely based on the Agreement on the Free Movement of Persons (AFMP) alongside some bilateral EU agreements. Switzerland and the UK concluded the citizens' rights agreement back in February 2019.
- The agreement covers UK nationals who are legally resident in Switzerland under the provisions of the EU-Swiss Free Movement of Persons Agreement (FMOPA) at the end of the transition period.
- Switzerland is applying the equivalent of a declaratory system; UK nationals who are covered by the agreement and have a current residence card are not required to take any action to confirm their rights under the Agreement.
- The government website states that “they might be called upon to exchange their current permit for another one” but it appears that no decision has yet been taken on this. Otherwise they must simply apply for a new permit with the cantonal immigration and labour market authorities before the existing one expires.
- After the end of transition UK nationals may be required to produce an extract from the criminal records register before a new short-stay permit, residence permit or cross-border permit can be issued.
- Those who hold the following residence permits are covered by the Agreement:
Type L short-term residence permit for those with work contracts of less than 1 year; Type B residence permit for those with employment contracts of more than 12 months and the self-employed. This permit is valid for five years and extendable. Students may be issued with this permit on a yearly basis, also extendable;
Type C permanent residence permit, which allows permanent settlement. This permit is governed by Swiss national law. 5 years continuous residence is required along with proof of integration and language skills appropriate to the canton of residence.
- Cross border workers (those living in another EU country but working in Switzerland) who hold a Permit G are also covered by the Agreement and will retain their permits under the same conditions as now.
- Holders of legitimisation permits (employees of international NGOs, foreign representations etc) and of their family members who hold Permit C1 are *not* covered by the Agreement.

2. What has been the experience of UK citizens in Switzerland securing their rights under the agreement so far?

- No action is currently needed to secure rights under the agreement.

3. Have public bodies, businesses and landlords in Switzerland continued to treat UK citizens in the same manner as during EU membership?

- So far as we are aware there have been no reported issues.

4. What has been the impact of COVID-19, if any, on securing the rights of UK citizens in Switzerland?

- No impact as no action required to secure rights.

5. Are there any administrative, legal, technical, financial or practical issues outstanding and what action might be taken to resolve them and by whom?

- One potential issue relates to British frontaliers (cross-border workers) who are holders of Permit G. This permit is valid for 5 years in the case of a fixed-term employment contract valid for more than 1 year or in the case of a permanent employment contract. If a fixed-term employment contract is valid for less than a year but for more than three months, the period of validity of the cross-border commuter permit is identical to the duration of this employment contract. At present, a UK national living in an EU country can take a break from being a cross-border worker (for example, for maternity or paternity leave or to take up a post in their country of residence) and then reapply for a Permit G under free movement rules. This will no longer be an option after transition when they would have to reapply under Third Country National rules, and there is an outstanding question as to whether, and for how long, a frontaliere covered by both the Withdrawal Agreement and the Swiss-UK Agreement may retain their cross-border rights if they take a break from cross border work.
- The status and rights of holders of legitimation permits and the Permit C1 (employees of international NGOs, foreign representations etc and their family members), who are not covered by the Agreement, after they leave employment needs to be clarified.

6. Do you have any estimates for how many UK citizens have undergone the necessary formalities to secure their rights in Switzerland and how many have yet to do so?

- No information on this is available but because both residence and cross border working in Switzerland is tightly regulated, it is unlikely that there are UK citizens who remain unregistered.

7. Is there a role for civil society representatives of UK citizens in the EU to contribute towards monitoring of the Withdrawal Agreement? If not, how might this be addressed?

- Yes, it is vital if British citizens are to be represented properly. There is a particular role here in monitoring the experience of the many cross-border workers who will be subject to implementation in two countries: the country where they live and the one where they work. Many UK nationals - mostly resident in France - are among the 100,000 frontaliers who work in Switzerland under a Permit G.

8. Do you have any other concerns for UK citizens in Switzerland regarding the remainder of the transition period, including the roll-out of the proposed EU-wide biometric document?

- No.



To: Michael Gove, Chancellor of the Duchy of Lancaster and Minister for the Cabinet Office
Maroš Šefčovič, Vice-President of the European Commission

Cc: Michel Barnier, Chief Negotiator, Task Force for Relations with the UK
David Frost, Prime Minister's Europe Advisor and Chief negotiator of Task Force Europe
Philippe Bertrand, EU Commission Task Force for Relations with the UK
Maria-Luiza van de Westelaken, EU Commission Task Force for Relations with the UK
David Hunt, Europe Directorate, Foreign & Commonwealth Office
Ruben Rees, Europe Directorate, Foreign & Commonwealth Office

Dear Mr Gove,
Dear Mr Šefčovič,

As the Joint Committee established by the Withdrawal Agreement meets for the first time on 30 March we are writing to you as representatives of the3million and British in Europe regarding the specialised sub-committee on citizens' rights and our participation therein.

British in Europe and the3million represent British citizens living in the EU and EU citizens living in the UK. We have been involved and have inputted into the discussions and negotiations on citizens' rights from the very start of the process (our organisations were established shortly after the Brexit referendum) and our first joint meeting took place with Michel Barnier on 28 March, 2017. More information about both our organisations is available at www.the3million.org.uk and britishineurope.org.

Given that the stated first priority of both parties since 2016 has been to secure the rights of citizens caught up in a situation not of their making, we are writing to request that representatives of our organisations be given a role on the specialised subcommittee on citizens' rights. We fully appreciate that it is up to the parties to nominate representatives but we also understand that there is provision for experts to attend the meetings and to provide input.

This is not new and is a feature of many international negotiations in other areas of policy. For example, when the Conference of the Parties for the WHO Framework Convention on Tobacco Control established working groups to develop guidelines on the implementation and oversight of the Convention, civil society organisations were invited onto the working groups as expert observers and contributed positively to the development of the guidelines.

We also have the current example of the five missions on cancer, climate change, food and soil, oceans and smart cities, whose boards include representatives of civil society. The missions are not international treaty negotiations but they are shaping EU policy and research agendas and priorities and will have a major influence on international as well as EU policy in the decades to come. As you are aware, citizens' engagement is a key priority for these missions and for the Commission.

30th March 2020

Why should British in Europe and the3million be expert observers?

- We have a proven track record of providing **well-informed legal analysis** of citizens' rights issues – see the numerous papers we submitted to both sides' teams during the negotiations, as well as to the UK Government, the European Commission, the UK and European Parliaments and the governments and parliaments of Member States.
- We have **detailed knowledge** of the issues that arose during the negotiations concerning the citizens' rights part of the Withdrawal Agreement – we were briefed privately by both parties' teams before and after each round of the citizens' rights negotiations and commented on each successive draft of the Agreement.
- Drawing on our **widespread network of members** we can provide up to date **evidence** of implementation of the WA across the EU and UK, and of any systematic problems being experienced in any country. This **"canary in the coalmine"** role will be particularly important in the aftermath of the coronavirus pandemic which may delay implementation, especially in the EU where most member states have yet to start implementation, and given the difficult economic conditions that all our countries will face as a result for the foreseeable future.
- We can be **trusted to maintain confidences**. Most briefings to us have been provided on a confidential basis and we have always respected those confidences.
- We have earned the **respect** of both sides' teams, including UK Ministers and civil servants on the one hand and the Commission's negotiating team, EU Council team and European Parliament's Brexit steering group on the other.

Both parties have consistently emphasised the importance of citizens in the Brexit process. Inviting us to participate in the specialised subcommittee would demonstrate a concrete commitment from you to your citizens. The coronavirus pandemic is changing our societies, our economies and how we do politics on a daily basis. The lives of EU and UK citizens and residents are being prioritised over all other concerns. Let's reflect these seismic changes from the very beginning of the discussions on the implementation of the Withdrawal Agreement by giving the3million and British in Europe a seat at the table because there should be "nothing about us without us".

Yours sincerely,

Dimitri Scarlato
the3million

Fiona Godfrey
British in Europe

30th March 2020



Committee on the Future Relationship with the European Union

House of Commons, London, SW1A 0AA

Email: freucom@parliament.uk Website: <https://committees.parliament.uk/committee/366/committee-on-the-future-relationship-with-the-european-union/>

24 April 2020

Fiona Godfrey
Co-Chair
British in Europe

Dear Fiona,

The House of Commons Committee on the Future Relationship with the European Union is inquiring into the progress of the negotiations between the UK and the EU. Under normal circumstances, the Committee holds regular oral evidence sessions in Westminster. However, measures to prevent the spread of the coronavirus make this difficult.

The Committee is keen to gather as much evidence as possible to inform its deliberations so I am writing to you to ask whether you would be willing to help us with our work by making a written submission. We welcome general responses to our [call for evidence](#), which was published on 4 March. We also hope that you would be willing to answer some of the more specific questions set out below on issues that fall within your area of expertise. Such submissions need not address every bullet point and can include other matters that you think are relevant to the negotiations and should be drawn to the attention of the Committee.

UK citizens in the EU

- Could you set out the means by which UK citizens can secure their rights under the Withdrawal Agreement in each EU Member State, how easy are these systems to use and how do they compare with the EU Settlement Scheme in the UK?
- What has been the experience of UK citizens in the EU Member States securing their rights under the Withdrawal Agreement so far?
- Has the treatment of UK citizens been consistent across the EU Member States or have there been differences between Member States?
- Have public bodies, businesses and landlords in the EU Member States continued to treat UK citizens in the same manner as during EU membership?
- What has been the impact of COVID-19, if any, on securing the rights of UK citizens in EU Member States?
- Are there any administrative, legal, technical, financial or practical issues outstanding and what action might be taken to resolve them and by whom?
- Do you have any estimates for how many UK citizens have undergone the necessary formalities to secure their rights in each Member State and how many have yet to do so?
- Is there a role for civil society representatives of UK citizens in the EU to contribute towards monitoring of the Withdrawal Agreement? If not, how might this be addressed?
- Do you have any other concerns for UK citizens in the EU regarding the remainder of the transition period, including the roll-out of the proposed EU-wide biometric document?

EU citizens in the UK

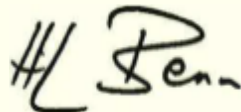
- What has been the experience of EU citizens in the UK securing their rights through the EU Settlement Scheme so far?

- Have public bodies, businesses and landlords in the UK continued to treat EU citizens in the same manner as during EU membership?
- What has been the impact of COVID-19, if any, on securing the rights of EU citizens currently living in the UK?
- Are there any administrative, legal, technical, financial or practical issues outstanding and what action might be taken to resolve them and by whom?
- Do you have any estimates for how many EU citizens in the UK have yet to apply to the EU Settlement Scheme?
- Is there a role for civil society representatives of EU citizens in the UK to input into monitoring of the Withdrawal Agreement? If not, how might this be addressed?
- Do you have any other concerns for EU citizens in the UK regarding the remainder of the transition period up until the June 2021 deadline for applications?

As the rights of certain family members of these citizens are also covered by the Withdrawal Agreement, please include in your responses any information you may have on such eligible persons.

The Committee staff will be happy to discuss the inquiry, any issues raised, or the process for submitting written evidence. You can contact them at freucom@parliament.uk.

Yours,

A handwritten signature in black ink, appearing to read 'H Benn', written in a cursive style.

Hilary Benn
Chair of the Committee