

**SUMMARY OF THE WEBINAR ON CITIZENS' RIGHTS**  
**ORGANISED BY THE EU-UK FRIENDSHIP GROUP OF THE EUROPEAN PARLIAMENT**  
**ON 28 APRIL 2020**

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**TANJA BUELTMANN, PROFESSOR AT NORTHUMBRIA UNIVERSITY**

Professor Tanja Bueltmann gave the participants a summary of her survey on citizens' right. The report is based on 3171 responses from EU citizens (EU/EEA/Swiss citizens and their family members), of which a majority has applied to one of the scheme. They come from all over the UK. There were many responders from Scotland, but the figure remained sufficiently low in order not to create distortion between the four UK Nations.

The top-3 countries of citizenship of the responders were Germany, France and the Netherlands. The first Eastern European country is Poland, in the top 10.

71.5% of the responders have applied for Settled Status, while 28.5% had not applied when the survey was conducted. Among those who applied, 3.8% applied more than once. Among those who have not applied, around 7% think they do not need applying.

The data show that the UK government has not done enough to inform those who have not applied yet, in particular because they may be the hardest to reach. Among those who did not apply/did not think they needed to apply, many are Irish citizens. This is good as they do not necessarily have to apply, however, there might be reasons why they would perhaps chose to apply if they knew the differences between the Withdrawal Agreement and the Common Travel Area for instance. Some people think they do not need to apply because they have permanent residence, while in fact they *do* need to apply.

97.1% of the responders did get the decision that they expected to get. People find the helpline usually useful and the Home Office guidance as well. They differentiate between the policies that they do not necessarily like and the people on the Helpline that support them during the process.

The average days that elapse between applying and getting the outcome is 14 days. This remains an average and the range is broad, some people having waited for 300 days. With Covid-19, delays are adding up to the pre-existing delays in the system.

Most of the people used the "EU Exit: ID Document Check" app on their phones to do the ID checking. It generally worked for most of them, but again, even with small numbers, the problem still becomes quite significant given how many people are concerned overall. Some problems for example have to do with surnames not being recognized because of a specific umlaut, or records not matching with somebody married or peculiar systems like the surnames (and which way they appear on the passport). These are known and predictable problems.

33% of people were asked to provide additional evidence. This can be worrying once you look to the more detailed data/subgroups such as women, people from specific groups (unemployed people, students, etc.).

People feel how this process is interfering in their lives, having to dig out their records. This is a known problem in many ways.

The survey shows that people want a physical document and are not happy about a digital proof-only system. This is indeed insecure but also adds all sorts of problems, not just actually for EU citizens themselves but for everybody who will have to use it in the future because it means prolong processes in which a physical document would be easier (for instance, renting a flat, etc.). There need to be a physical proof of settled status that people can keep in their possession instead of a digital mean whose proof is only held by the Home Office. 89% of all responders felt that it was difficult to trust a system without physical proof, this figure reaches 93% of responders in Scotland.

The worrying thing is that 11% of responders are already being asked for proof of their settled status by landlords, by councils, GP, surgeries, banks, embassies for visas at border control. Nobody should be asked about their settled status now and this may reveal a wider worrying trend because it is likely to mean discrimination and all sorts of other problems.

What comes out from the survey overall is the effect that settled status has on people. When asked which word would best describe the situation, the most recurrent one were: angry, anxious, unwanted, unwelcome, etc. There is not any positive word.

People are also sad because they chose to make their home in the UK and to contribute to this country and they are now suddenly kicked out. People felt relief once they had the settled status but it stopped there, it did not give them a sense of positivity or a positive outlook on the future. People are anxious about the future as there is no long-term certainty. They do not feel at home because is an application, not a registration process.

It also has had impacts on people's identity. They feel considerably more European now than they previously felt. Their national identity of birth plays a stronger role in some ways. There is certainly a strong feeling of belonging together as one group in the UK, partly because they were not cast out like that but also because there is a sense of community spirit among those people.

People also feel anxious about other things too such as the increasing rate of hate crimes (people attacked for speaking their own language on the street), etc.

This has a consequence on their mental health as well, even though this is mostly unreported.

In Scotland, the situation is a bit different. It says a lot about the government and its response. There, EU citizens are even more opposed to settled status itself but also to the fact that there is no physical proof. However, they laud and applaud overall very strongly the Scottish government's action. The possibilities of the Scottish government are limited, but it has used

all devolved powers available to improve the process. For instance, there has been much more funds to support the process.

The all issue can be summarized around one word: “trust”. The survey shows that EU citizens do not trust the UK government, but those who lived in Scotland certainly trust the Scottish government.

**KUBA JABŁONOWSKI, RESEARCH ASSOCIATE, THE 3MILLION**

Mr Jabłonowski highlights that “EU citizens” are EU citizens and those people who could benefit from the rights of EU citizenship in the UK, including the citizens of the EEA and Swiss nationals as well as family members of those “EU citizens” coming from third countries.

The EU settlement scheme is a constitutive system, this means that all EU citizens living in the UK have to apply for a new immigration status. This is not the automatic guarantee of rights promised during the Brexit campaign and then not delivered. It is an application that will last until 30 June 2021 when the so-called “Grace Period” ends. The Grace Period is a period that follows the Transition Period. Those people who do not apply to the status before 30 June 2021 will be left or at risk of being left without legal status.

The process to acquire a legal status is through the settlement scheme which opened just a year ago to all EU citizens and their families. The UK government’s position has been to qualify the scheme as a success story and as a proof cited the high number of applications: 3.5 million. Other claims regularly made by the UK government are that nobody is refused on eligibility grounds, for lack of evidence, etc. It was true before Brexit, however, in the couple of months that has passed, there were 600 refusals. In one case, an applicant had been waiting for 7 months, getting incorrect advice, before being refused. In other case, people got the wrong status.

While the EU settlement scheme is up and running, it does not necessarily work for everybody. We are asking the UK government to make the scheme safe and transparent.

There are three issues: knowing about the scheme, getting the right status under the scheme and being able to use the status. All those three areas are problematic right now.

1. “Knowing about the status”

A lot of people came through and applied. The difficulty and the risk are, however, that we do not know how many people need to apply therefore we do not know how many have not applied yet. This is because there is no data available to civil society organisations, to social scientists and even to the UK government (as there is no centralised record of people present in the territory). What we are left with is estimates based on surveys, which have quite often errors and are not comparable to raw data.

We do not know how many people have applied either. The way applications are being reported is very problematic as the Home Office keeps talking about the number of applications and not the number of applicants.

If you have been in the UK for more than 5 years, you should apply to the settled status, if you have been there for less than 5 years, you should apply to a pre-settled status and then apply again once you reach 5 years of continuous residence.

So people who have submitted several applications have been counted several times. This has led to the figure of 3.5 million that the UK government talks about. There is a problem of reliability of those estimates. For instance, last month, the figures showed that 171 000 Bulgarians applied to the settlement scheme, however there are only 109 000 Bulgarians living in the UK.

In addition, it seems that women are asked to provide additional evidence more often than men. Yet, we do not know the proportion of men/women getting the pre-settled/settled status.

## 2. "Getting the right status"

We have seen people with 20 years of residence in the UK that were nonetheless granted pre-settled status. You should only get this status if you lived in the UK for less than 5 years.

The most extreme case we have seen is a person who was born in Melbourne, fluent English-speaker who worked in the civil service for decades and yet did not understand the difference between settled and pre-settled status and ended up with the last. This raises the concern that people are not getting the right status nor a status they understand.

## 3. "Using the status"

This is the issue of the lack of physical document. It is almost universally accepted that such a document would provide an extra layer of safety. The main concern is around discrimination.

Right now in the UK, with the hostile environment, you have to prove that you have the right to work, to seek job or accommodation. In order to prove it, your landlord has to receive an email, go to the website instead of showing a document. If you imagine a situation in which a landlord or a potential employer sees five people, 4 of them with a passport and another one who has to use an online system that they do not know how it works, then it leads to discrimination.

The other problem – especially now with the Covid-crisis – is access to benefits. People with pre-settled status do not have automatic rights to access welfare benefits. We are trying to estimate the scale of the issue but right now, 40% of applicants were granted pre-settled status. That means 1.3 million people with pre-status will not be able to access welfare benefits.

Covid-19 exacerbates the issue of status. We are getting information about EU citizens living inside the UK but who are stranded outside the country. This is important because if you have pre-settled status you can only leave the country for 6 months and if you leave for longer, you lose the status.

There is a relatively simple fix to all that. Because of the mechanics of the EU settlement scheme, we just need to change the underlying principle. The biggest problem we see is the application deadline. It is the cliff edge of June 2021 whereby everyone who has not applied by then cannot get the status. If we make that deadline a soft deadline, or if we remove it, then many problems disappear.

We are also asking for the option of physical documents to be extended to everybody. The interesting thing about it is that, while the UK government is refusing to provide a document, EU citizens and EEA/Swiss can have physical documents issued to third country family members. We are simply asking to extend that to EU citizens.

#### **JANE GOLDING, CO-CHAIR OF BRITISH IN EUROPE**

Ms Golding gives a quick snapshot of what is going on on the ground for British citizens in the EU (26 countries as Ireland is a slightly different situation), and also looks into how the covid-crisis impacts UK citizens in the EU and the implementation of the withdrawal agreement.

Four things to know about British in Europe:

1. There are 1.2/1.3 million British in Europe;
2. 80% are of working age or younger;
3. Pan-European movement;
4. We are also Europeans, many of us remain EU citizens or are family members of EU citizens.

Not enough attention is paid on the rights of British citizens in the EU are being implemented. The survey from Tanja concerns EU citizens in the UK and, while the UK settled status has many problems, it is up and running. In contrast, few EU countries have actually started implementing the withdrawal agreement for UK citizens and the clock is ticking. This is particularly important for countries who have an applicational constitutive system.

The timing matters, because EU countries – like the UK – had a choice about how they would apply this: a declaratory system, a simple registration system, an application or a constitutive system. Most UK citizens in the EU are already registered in the countries where they live, except France where there was no mandatory registration.

Nevertheless, over half of EU countries have decided to go for an application/constitutive system. This means, in principle, that unless the deadline is extended British citizens would have no settled status unless they apply for the status by June 2021. So, it is very similar to the situation in the UK as far as our constitutive countries are concerned.

We have little indications on how things are going on so far, on how countries will apply withdrawal agreement conditions that mirror the ones for exercising free movement rights. There are EU countries that do not apply those conditions very strictly for EU citizens. However, because we do not know how the withdrawal agreement will be implemented for UK citizens in the EU, we do not know yet if those requirements will be applied more strictly to UK citizens under the withdrawal agreement even if they are already permanent residents.

The withdrawal agreement does not cover all of our rights. A majority of our rights are covered by the country where we live, the “host country”. However, free movement rights, cross-border working rights, EU-wide recognition of qualifications are not covered. Third country nationals who have applied and successfully received and obtained EU long-term residence actually will have more mobility rights than UK citizens in the EU will have under the withdrawal agreement (as they are not covered by it). A British citizen with permanent residence will have fewer rights than another third country national with an equivalent status. This will affect younger groups, especially, who are very mobile but also affect many of our members because we are a very mobile population. Free movement is a key right for us.

It is also unclear whether the status we have under the withdrawal agreement can be cumulated with other statuses for instance EU long-term residence, or EU blue card, or as a family member of an EU spouse or partner. We have to choose between these statuses although we will lose rights. These are complex questions that need to be answered by the European Commission guidance note on the citizens rights part of the withdrawal agreement and which has not yet been published.

What happens to dual nationals?

Many people have taken dual citizenship after the referendum that is another issue for the guidance.

Dual citizens can rely on the withdrawal agreement, but not for residence right. They will not be issued with a residence card to document their rights. For instance, as a dual German-British citizen, if my qualifications are British, I cannot work if I cannot prove my rights under the withdrawal agreement continuing recognition of my qualifications. Then there are other, including dual citizens, who have to document their social security rights under the withdrawal agreement.

Finally, coming to the documents we receive: the good news is that British citizens will receive a document. However, there are still problems with the standard residence documents that are expected to be given once they applied for their status.

We welcome the European Commission implementing decision to provide for a standard form document but the problem is that it does not distinguish between permanent and ordinary residents. This is important because permanent residence is a fundamental status guaranteed by the withdrawal agreement after 5 years residence. With permanent residence, you can be absent from your country for up to five years whereas without it we would risk losing all rights if we are away from our host country for six months.

The other benefit for having proof of permanent residence is that you have the right to remain without having to prove on an ongoing basis that you are exercising free movement rights. In Italy, for instance, a non-economically active person needs a permanent residence card in order to access the health service in the same terms as Italians.

Regarding the snapshot of what is going on on the ground in the EU.

In most Member States we can only anticipate potential problems because implementation has not started. This includes three of the countries with the largest populations of British citizens: Spain, France and Germany.

Four countries have adopted their legislation or provisions on the future systems and are already starting to implement that: Italy, the Netherlands, Malta and Cyprus.

Moreover, there are few countries in which legislation or some form of implementing provisions have actually been adopted. This is understandable due to the current Covid-19 crisis and also because of the focus on no-deal last year, but we do hope that this will change around the summer.

- Spain and France have not yet put out draft legislation nor adopted legislation.
- Germany just adopted its draft legislation at the end of March.
- In many countries – smaller countries – there is no legislation yet.

The majority of our groups are unable to let us know what the timetable is for adoption and implementation. For all countries, it seems that it will not be before the summer or autumn and for some countries it even seems to be as late as next year, 2021.

We are worried about the impact of the Covid-19 crisis on UK citizens in the EU in the following way:

- The financial aspect of this and how this will impact people's ability to comply with the conditions;
- How it might affect young people;
- People that are not able to get back to their countries to fulfil all the bureaucratic conditions.