

## BREXIT NEGOTIATIONS: SAFEGUARDING RIGHTS OF EU AND UK CITIZENS

9 May 2017

The anxiety and difficulties faced by more than three million EU nationals living in the UK and over one million Britons living in the EU since the UK referendum of June 2016 are well documented. This has contributed to creating a high level of anxiety amongst many, and certainly within the 30+ thousand members of our on-line discussion forum<sup>1</sup>. The general feeling amongst our supporters is that of a threat to our “indivisible rights”<sup>2</sup> which derive from the right of residency under EU freedom of movement. This must be dealt with as early as possible as part of the forthcoming Brexit negotiations.

In addition, the current process of registering EU citizens in the UK is not fit for purpose. Problems stem from the fact that the UK, unlike many other EU countries, has historically chosen not to register EU nationals. This has resulted in the system creaking at the seams as tens of thousands of people are applying for permanent residence and the Home Office is unable to process applications swiftly, efficiently and fairly.

We welcome the negotiating guidelines adopted by the European Council and the strong position taken by the European Parliament. Yet, recent media reports about Mrs May allegedly hinting that EU citizens could become “third country nationals” through a simple change of status raise new questions and concerns.

### What do we want?

We fundamentally disagree that an agreement on citizens’ rights should be negotiated under the same overarching core principle for the rest of the negotiations that “nothing is agreed until everything is agreed”. This is because it unnecessarily prolongs the current, unacceptable, uncertainty experienced by almost five million EU and UK nationals for another two years at minimum. This is compounded by the very real fear that the negotiations may fail or may be considerably delayed, leading to even greater anxiety. We therefore ask:

- All negotiating parties should support an **early, legally binding separate agreement, preserving all citizens’ indivisible rights**. This should be **ring-fenced** from all other items, to ensure it will continue to stand even if there is no wider agreement, or if the negotiations fail or are delayed.
- The European Parliament should adopt a **separate resolution on citizens’ rights** setting key principles and guidelines underpinning an agreement on this issue. People’s lives matter, above and beyond anything else, and should be dealt with away from the rest of the Brexit negotiations;
- All negotiating parties should agree the UK urgently needs a **new, simplified or bespoke, registration process that would allow us to claim our rights**;
- All negotiating parties should agree to – at the very least – **maintain existing voting rights** of EU citizens in the UK and UK citizens in the EU **for European Parliament and local/mayoral elections**.

<sup>1</sup> <https://www.facebook.com/groups/Forum4EUcitizens/>

<sup>2</sup> Brexit Acquired Rights: <http://www.publications.parliament.uk/pa/ld201617/ldselect/ldcom/82/8202.htm>

The new system put in place must be fair, swift, simple and free and designed in a way that permanently resolves a number of outstanding issues including, but not necessarily limited to, the following:

- **Comprehensive Sickness Insurance:** The UK Government's failure to recognise access to the NHS as sufficient to fulfil the requirements for Comprehensive Sickness Insurance is particularly discriminatory against thousands of EU students, stay at home parents, pensioners and others. This requirement also affects persons with disabilities and long term health conditions and should be abolished;
- **Minimum income threshold:** The UK's interpretation of what constitutes "genuine and effective employment" for workers should be abolished as it is discriminatory against part-timers, many people on 'zero-hour' contracts, or those who only work on an irregular basis due to health conditions, disabilities or caring duties;
- **Persons with disabilities or long term health conditions:** These people's situations are often complex and yet they are not covered by the 2004 EU Directive: provisions will need to be made;
- **Carers:** The UK does not recognise persons providing full-time care as either 'workers' or 'self-sufficient' under the EU definition, as they are in receipt of Carer's Allowance, considered a benefit. As a result, EEA nationals who are providing such care, and are therefore unable to perform other work, are not considered to be exercising treaty rights;
- **EU citizens in the process of acquiring their rights:** EU citizens who will have been residents in the UK for less than five years by the time the UK leaves the EU need to be included in the new system as they will not have had enough time to exercise their EU treaty rights;
- **Long absences from the UK:** People who already have PR status currently lose their residence rights if they leave the UK for more than two years. This needs to change, otherwise some long-term residents in the UK since birth or childhood or who see the UK as their home, face losing their residency rights in the UK if they travel abroad to pursue career opportunities or look after family members.

In addition, UK and British citizens in the EU must be recognised, supported and fully involved at all stages of the negotiations concerning the preservation of their existing rights, and the implementation of guarantees and safeguards for the future. To this end, [the3million](http://the3million.org.uk) has been working closely with colleagues from British in Europe. Full and genuine involvement must at the very least include regular communication between our citizen groups and UK and EU institutions engaged in the process, as well as mechanisms to support their active involvement.

**For more information:**

The [the3million](http://the3million.org.uk) Position Paper: <http://bit.ly/2qhWarG>

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