

A stylized world map composed of a grid of dots. Most dots are light gray, but several are red, highlighting specific regions: North America, Western Europe, Central Africa, and parts of South America and Asia.

Endangered Rights

The Impact of Brexit on EU Citizens

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- The issue of citizens' rights has not been resolved. Brexit continues to pose specific threats to the rights and livelihoods of EU citizens living in the UK and Britons resident in other EU countries. Agreements reached to date provide neither adequate guarantees nor certainty, especially as they rely on reaching an overall agreement.
- As it stands, both EU citizens in the UK and Britons in other EU countries are set to lose rights. Such retroactive changes, and the continuing uncertainty for both groups, are unacceptable.
- For EU citizens in the UK the agreed new ›settled status‹ poses serious risks. All 3.7 million EU citizens currently living in the UK are there legally, but in future will have to apply for this status regardless of how long they have lived in the UK. As it is an application, there is a risk of rejection. Some groups, such as children or the elderly, are especially vulnerable. There will also be a charge for the application. The best-case outcome is a loss of rights, while the worst-case outcome – rejection of the application – could lead to illegality and deportation.
- No-deal Brexit poses an even more serious threat to both EU citizens in the UK and Britons resident in EU countries, as it would make void even the inadequate agreements already reached. The UK government has repeatedly refused to clarify what this would mean for EU citizens in the UK. Regrettably, the EU has no adequate contingency plans to protect the affected citizens either.
- It is critical that people be put before politics. The UK and the EU must ring-fence agreements reached, with a Citizens' Rights Protocol added to the Withdrawal Agreement for EU citizens in the UK, to finally give certainty to five million people. Their lives must not become collateral for Brexit.

1. Introduction

When then UK Prime Minister David Cameron announced that the UK would hold an in/out referendum on the UK's membership of the EU, many EU citizens in the UK, and Britons who live in other EU countries, were concerned. While holding such a referendum raised a lot of questions about the potential economic consequences and constitutional issues, it was clear even then that for those EU and British citizens who are currently exercising the reciprocal right of freedom of movement the potential consequences would pose specific immediate threats. But although these two groups, which estimates suggest comprise at least five million people—around 3.7 million EU citizens in the UK and 1.2 million Britons resident in another EU country—would be most affected, the vast majority of them had no say in the EU referendum itself.

EU citizens in the UK were deliberately excluded from the vote, and those Britons who have lived outside of the UK for more than 15 years were also unable to have a say. Exclusions from the franchise for the EU referendum were hence implemented both on the basis of citizenship (for EU citizens in the UK) and residency (for Britons resident outside the UK for more than 15 years). This approach is one reason why the outcome of the referendum, a vote for the UK to leave the EU, is especially tragic for these two groups of citizens.

Moreover, as the past two years have shown, citizens' rights are, on the whole, not the priority they are claimed to be. The UK government chose an approach that dragged citizens' rights into the negotiations from the outset, making it clear that EU citizens are little more than ›cards‹ to be played.¹ Instead of coming to a swift conclusion on the question, however, it took until December 2017 even for a few basic agreements to be reached. Regrettably, they are a far cry from the status quo, and both EU citizens in the UK and Britons in EU countries now face the prospect of retroactive limitation of their rights, as well as future limbo due to uncertainty around the processes they will have to go through and their potential implications.

1. Jessica Elgot, Liam Fox: EU nationals in UK one of ›main cards‹ in Brexit negotiations, *The Guardian*, 4 October 2016, <https://www.theguardian.com/politics/2016/oct/04/liam-fox-refuses-to-guarantee-right-of-eu-citizens-to-remain-in-uk> (last visited 14 July 2018).

This paper explores the status quo of the negotiations regarding the rights of EU citizens in the UK and UK citizens in the EU to provide context to their concerns. The paper addresses the agreements made in the Joint Report by negotiators (December 2017), and the draft Withdrawal Agreement (March 2018), and examines what has happened since. The paper also looks at the potential impact of a so-called ›no-deal Brexit‹, a scenario in which no agreement is reached and the UK crashes out of the EU. The paper concludes by offering a clear route to a pragmatic solution that would end the uncertainty for five million EU citizens in the UK and Britons in other EU countries.

2. The Immediate Aftermath of the EU Referendum

Citizens' rights have been a central focus since the day after the UK's EU referendum because of the immediate impact the UK's departure from the EU would have on the lives of those citizens currently exercising the right to freedom of movement. But while the official Vote Leave campaign was clear in its commitment to EU citizens in the UK—›there will be no change for EU citizens already lawfully resident in the UK [and] these EU citizens will automatically be granted indefinite leave to remain in the UK and will be treated no less favourably than they are at present‹²—reality could hardly be more different from this assurance. Outgoing UK Prime Minister David Cameron could have ended the uncertainty immediately, but all he said to EU citizens living in the UK and Britons in EU countries was that ›there will be no immediate changes in your circumstances‹.³ Cameron's failure to clarify the situation triggered an urgent sense of unease and fear for many, but it also goes some way to explaining how certain perceptions—that for some the referendum was indeed about ›kicking out‹ some immigrants—continue to fester.

2. See ›Statement by Michael Gove, Boris Johnson, Priti Patel, and Gisela Stuart‹, 1 June 2016, http://www.voteleavetakecontrol.org/restoring_public_trust_in_immigration_policy_a_points_based_non_discriminatory_immigration_system.html (last accessed 22 July 2018).

3. David Cameron, ›EU referendum outcome: PM statement‹, 24 June 2016, <https://www.gov.uk/government/speeches/eu-referendum-outcome-pm-statement-24-june-2016> (last accessed 22 July 2018). It is worth noting that the response by the Scottish government has been fundamentally different from day one. Regrettably its influence is limited, but the contrasting approach to the questions of citizens' rights deserves to be expressly noted and praised. See ›First Minister: EU referendum result‹, 24 June 2016, <https://beta.gov.scot/publications/first-minister-eu-referendum-result/> (last accessed 22 July 2018).

2.1 Hate Crimes

Anti-immigrant sentiments stirred during the EU referendum campaign help explain the measurable rise in hate crimes directed at EU citizens around the time of and in the wake of the EU referendum, as Home Office statistics document.⁴ A key factor was the constant negative focus on immigration in much of the press and political discourse—the casting of EU citizens in the UK as something negative for the country—that could be seen throughout the EU referendum campaign. The Remain campaign failed almost completely to engage with the question of immigration, and did not explain the benefits of freedom of movement. Consequently, immigration and freedom of movement were framed almost exclusively by Leave campaigners, who cast both in largely negative terms, focusing in particular on (mostly non-existent) damaging impacts.⁵ Eastern Europeans continue to be a main target in the press to this day.⁶ The ›othering‹ of EU citizens that this rhetoric enabled created a climate of hostility that has contributed directly to the rise in hate crimes.

Statistics tell only part of the story, of course. The impact of the rise in hate crimes on real people, EU citizens who have lived in the UK for years, perhaps decades, has much more far-reaching consequences in many communities throughout the UK.⁷ How these can be overcome in future to allow communities to heal and move forward from the divisive EU referendum remains a significant concern, not least because the targets of hate crimes are not only EU citizens, but also many other people perceived to be immigrants because, for instance, of the colour of their skin.

4. Aoife O'Neill, ›Hate Crime, England and Wales, 2016/17‹, Home Office Statistical Bulletin, 17/17, 17 October 2017, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/652136/hate-crime-1617-hosb1717.pdf (last accessed 22 July 2018).

5. For details see Martin Moore and Gordon Ramsay, ›UK media coverage of the 2016 EU Referendum campaign‹, Centre for the Study of Media, Communication and Power, King's College, May 2017, <https://www.kcl.ac.uk/sspp/policy-institute/CMCP/UK-media-coverage-of-the-2016-EU-Referendum-campaign.pdf> (last accessed 10 July 2018).

6. See also Alexandra Bulat, ›The brightest and best‹, us – and the rest: desirable and undesirable migration in EU referendum leaflets, LSE Brexit Blog, <http://blogs.lse.ac.uk/brexit/2017/09/15/the-brightest-and-best-us-and-the-rest-desirable-and-undesirable-migration-in-eu-referendum-leaflets/> (last accessed 22 July 2018).

7. See, for example, Jörg Schindler, ›Not so Great: Britain grows increasingly hostile to EU citizens‹, Spiegel Online, 7 December 2017, <http://www.spiegel.de/international/europe/as-brex-it-nears-harassment-of-eu-citizens-in-uk-rises-a-1181845.html> (last accessed 28 July 2018).

2.2 The ›Hostile Environment‹ and Racism

The rise of hate crimes and negative anti-immigration rhetoric can be seen not only in the context of the EU referendum, however. We can see a rise of anti-migrant sentiment throughout Europe and the wider world, and the UK is no exception to this pattern. In fact, it has been government policy for years to create a so-called ›hostile environment‹ for immigrants, which takes some of its fuel from the ›othering‹ of people born outside the UK. This approach, which is designed both to bring down the number of immigrants already in the UK and to deter others from coming, is important in the context of the Brexit negotiations because its chief architect is Theresa May, the current Prime Minister of the UK. It was under her leadership as Home Secretary that stringent revisions were made, often without the consultation of Parliament, to create this ›hostile environment‹.

If there was any doubt about the impact of the ›hostile environment‹, the recent Windrush scandal—which revealed the wrongful detention, denial of legal rights, threats of deportation, as well as actual wrongful deportation, of over 60 British subjects (from the so-called ›Windrush generation‹ comprising immigrants and their descendants from the Caribbean invited to the UK after the Second World War to help rebuild the country)—shed a harsh light on why concern about the rights of EU citizens is not misplaced.⁸ In fact, Brexit has brought EU citizens directly into the reach of the ›hostile environment‹, and the plans for Settled Status may well create a future Windrush generation for a significant number of EU citizens.⁹

These wider patterns explain many of the concerns EU citizens in the UK have about their treatment and their lack of trust in the institutional framework of the Home Office.

2.3 From Citizens to Bargaining Chips

But worse was to come. Only a few days after the referendum, as the leadership contest in the UK's Conservative Party was under way to find a replacement for David

8. For details see <https://www.theguardian.com/uk-news/windrush-scandal>.

9. Tanja Bueltmann, ›The shameful Windrush saga has struck fear into EU nationals' hearts‹, <https://www.theguardian.com/commentisfree/2018/apr/17/windrush-eu-nationals-uk> (last accessed 18 August 2018).

Cameron, Theresa May — now the UK's Prime Minister — made it clear that the question of the rights of EU citizens already living in the UK would be looked at 'as part of the negotiations'. What this meant was that the lives of well over three million people were to be made bargaining chips in the negotiations. Not only that: while May claimed that this was a necessary position she had to adopt to safeguard the rights of Britons in EU countries, there is no evidence to back that up. Moreover, the UK government demonstrably does not, and never has, cared about the rights of its own citizens in the EU, nor those of EU citizens who have made their homes in the UK.

That is why all attempts to safeguard the rights of EU citizens prior to the triggering of Article 50 failed. While there was some cross-party consensus, politicians were driven not by a concern with people's futures, but by party lines or, in some cases, ideological reasons. Some, like the then Labour MP for Birmingham Edgbaston, Gisela Stuart, have shown particular hypocrisy. Stuart was one of the lead campaigners of the official Vote Leave campaign and a signatory of the letter that assured EU citizens that nothing would change for them should the UK vote to leave the EU. She also chaired an inquiry by British Future (a UK NGO) that was set up to examine how the UK government could protect the rights of EEA citizens in the UK. Even though the inquiry called on the government 'to make a clear public commitment that EU citizens in the UK will be given Permanent Residence and that their rights will be guaranteed',¹⁰ Stuart then proceeded to repeatedly vote against securing their rights in the House of Commons.

Any trust EU citizens had in assurances made, or that their rights would be guaranteed soon, was eroded almost instantly in light of such developments. The lack of trust in the institutional framework is thus complemented by a lack of trust in the British political system.

3. The Negotiations

That there was no reason to trust the UK government's approach was emphasised when negotiations began in earnest after the UK government triggered Article 50 on 29 March 2017.

10. 'Report of the inquiry into securing the status of EEA+ nationals in the UK', December 2016, http://www.britishfuture.org/wp-content/uploads/2016/12/EUNationalsReport.Final_12.12.16.pdf (last accessed 17 July 2018).

3.1 Starting Positions

The EU issued its starting position on citizens' rights in a Council decision setting out the negotiating directives for Article 50 negotiations on 22 May 2017, while the UK government published a proposal on the safeguarding of the position of EU citizens in the UK and UK nationals in the EU on 26 June 2017.

The EU's negotiation directives were set out in a transparent manner and included a consultation with representatives from affected citizens from both groups. This approach was expressly welcomed by citizens' rights groups at the time. While they raised concerns about the EU's position as well—in particular the principle that 'nothing is agreed until everything is agreed' (which is a major concern to this day), and specific questions about residency status, grace period, certain rights, and wording on matters such as health care—overall the directives were recognised as a positive step forward, seeking to protect acquired rights.

The same cannot be said about the UK's opening position, which failed on a number of basic levels. Even though it came over a month after the EU's directives, the UK proposal did not respond to the EU's position, instead presenting a completely different offer. This goes some way to explaining the many hurdles that had to be overcome thereafter. More critically, the UK's proposal is not as detailed as that of the EU in a number of key areas, and is largely ignorant of UK nationals in the EU. For EU citizens in the UK the proposal did not seek to safeguard their acquired rights, but proposed a new status—'settled status'—in UK law, which is less than a status based on protecting acquired rights. Additionally, the impact of this lesser status remained largely unclear at the time as the proposal lacked detail on fundamental issues such as the right to work, pensions or health care.¹¹

One of the significant stumbling blocks in negotiations became immediately apparent from the starting positions: namely, the question of who would oversee the protection of the rights of EU citizens in the UK in the future. The EU's position—that rights must continue to be overseen by the European Court of Justice (CJEU)—was a

11. For a detailed analysis of the differences in the starting positions, see Steve Peers, 'The Brexit talks: opening position on the status of UK and EU citizens', EU Law Analysis Blog, <https://eulawanalysis.blogspot.com/2017/06/the-brexit-talks-opening-positions-on.html> (last accessed 28 July 2018).



›red line‹ in the UK's proposal, which asserted that ongoing CJEU jurisdiction would not be tolerated in the UK.

3.2 Phase I — Kicking the Can Down the Road

Phase I of the negotiations concluded with a joint report from EU and UK negotiators in December 2017, which attested that sufficient progress had been made in the negotiations to move to phase II.¹² It must be said at the outset that this is rather misleading with regard to citizens' rights: it was at this point that it became apparent that, despite all the assurances from both sides, citizens' rights were not in fact a priority in the negotiations. This is because the report left a considerable number of critical concerns unanswered or pushed them into phase II of negotiations, while also including several ambiguities.

The central concerns at this point were:

- no guarantee on future freedom of movement rights for Britons already living in EU countries, nor the lifelong right to return for EU citizens in the UK, should they leave the UK at some point in the future;
- no declaratory system, but an application process for EU citizens in the UK;
- lack of detail on the application and the underlying process;
- concerns over family reunification rights, for example with regard to future partners;
- time-limit on CJEU oversight;
- no real details on the proposed Independent Monitoring Authority designed to ensure the correct implementation of the Withdrawal Agreement for citizens' rights;
- continuation of the ›nothing is agreed until everything is agreed‹ approach.

The Joint Report also highlighted how many groups, including children, the elderly, EU citizens with disabilities or homeless EU citizens, are at risk of falling through

the application process for ›settled status‹ because they might well lack the evidence footprint required to prove their right to be in the UK.

Consequently, while designed to provide certainty, the Report in many ways had the opposite effect, leaving key concerns unanswered. Moreover, it also became apparent that compromises were being made that undermined basic principles set out in the EU negotiation directives in May 2017. Those were clear, for instance, that any registration process should simply confirm existing rights. What was agreed in the Joint Report, however, is a constitutive process. This approach means that EU citizens have to apply to stay in the UK. It is worth stressing again that this means that they have to apply to stay in what is already their home. It is regrettable that the EU agreed to compromise on this most basic of questions, especially as it also means that EU citizens will lose rights through the application process and get sucked into processes of the Home Office and UK immigration law. This will cause problems in future.

3.3 The Draft Withdrawal Agreement (March 2018) — No Further Clarity

Some progress was made with regard to the issues identified as central concerns in the Joint Report, but regrettably the main one—that ›settled status‹ is an application process—was not addressed. Given the uncertainties that this will continue to cause for EU citizens in the UK, and the potentially very serious risks it entails, it is clear that the Withdrawal Agreement should not have greenlighted citizens' rights.

Significant concerns relating to the Withdrawal Agreement are:

- a problematic requirement of ›continuity residence‹ and unclear definitions of status and conditions for particular groups of EU citizens (Articles 8 and 9);
- lack of clarity on the actual application process;
- failure to include a lifelong right to return for EU citizens in the UK, and failure to secure future freedom of movement rights for UK citizens already resident in an EU country—this substantially changes current rights and can easily pose existential threats to livelihoods (Article 14);

12. The full report is available here: https://ec.europa.eu/commission/sites/beta-political/files/joint_report.pdf (last accessed 20 July 2018).

- the constitutive approach and issuance of residence documents (Article 17); this includes concerns over the extension to the proposed grace period following a transition period; how those who already hold a Permanent Residence document or Indefinite Leave to Remain (the latter applies especially to elderly EU citizens) will be dealt with; and the scope of criminality and security checks;
- a failure to include adequate protections and safeguards with regard to criminality checks and potential removal of EU citizens from the UK based on conduct (Articles 18 and 19);
- gaps in social security coordination (Article 29);
- specific groups of EU citizens at high risk of falling through an application system, for example, stay-at-home carers;
- concerns over the use of requirements such as Comprehensive Sickness Insurance (CSI).

Overall, details were still largely absent, for instance also on how the UK would actually translate the Withdrawal Agreement on citizens' rights into national law.

4. The Current Situation

It is clear from the problems set out above that neither the Joint Report (December 2017) nor the draft Withdrawal Agreement (March 2018) adequately protect the rights of EU citizens living in the UK. They are a far cry from promises made about a straightforward process and take rights away from citizens.

At a practical level the gravest concerns are related to the application process for 'settled status' itself. While this is being cast as straightforward, what has been disclosed so far suggests that it would be anything but. An app for use on mobile phones has been developed at significant cost, but it only works on some Android phones. What the alternative modes of application will look like, and what pitfalls they may bring, remain largely unclear. The only known is that they would involve more traditional checks of ID documents that, in light of existing evidence of high processing error rates and documents lost by the Home Office, does not instil confidence.

A trial of the application system is currently taking place in the north-west of England. Guidance released for case workers supporting the trial neglects whole sections of information as this is deemed confidential, and raises other questions. This is not what a transparent system should look like.

Since the draft Withdrawal Agreement was published, both the UK government and the EU have published further guidance and notes that are relevant for assessing the status quo as negotiations are concluded.

4.1 EU Settlement Scheme: Statement of Intent (July 2018)

The Statement of Intent (Sol) published by the UK government in July 2018 went some way towards addressing concerns in relation to the draft Withdrawal Agreement and did signal that further thought had gone into the issues EU citizens applying for 'settled status' could face. It is worth noting positively, for instance, that application fees are waived for some, and that the Statement of Intent resolved concerns in relation to some specific questions. But although these developments are welcome, the Statement of Intent regrettably still falls far short of giving EU citizens certainty, and indeed adds a number of new concerns.

With little time for negotiations left, it is particularly worrying that the following issues have not yet been resolved:

- Even though the UK government has stated repeatedly throughout the negotiations that the 'settled status' application process will be straightforward and user-friendly, this is simply not going to be the case for a large number of EU citizens who do not have what we might call a traditional footprint in the records of the Department for Work and Pensions; the evidential burden will fall on EU citizens.
- The Statement of Intent confirms the use of Immigration Rules to set out the provisions for 'settled status'; this approach poses a serious risk to the rights of EU citizens (see details below).
- The Statement of Intent also confirms that 'settled status' will be evidenced with a digital ID only; it is

problematic enough to assign an ID only to a specific group of people (the UK does not have a general ID registration system), but to provide it only in a digital format, which would involve those required to check the status of EU citizens in future—for example, employers, banks and landlords—entering a number on an internet site for checking, is bound to lead to discrimination.

- The Statement of Intent implies that criminality checks will be carried out universally for everyone; this needs clarification urgently, also in terms of the threshold for these checks and their implications.
- Significant and serious concerns remain about outreach: many EU citizens in the UK simply do not know about ›settled status‹; this is particularly worrying because the UK has chosen to make it a constitutive process.
- Connected to the previous point are outreach and support for vulnerable groups: how, for example, will they be identified and aided through the process?
- There is still a lack of clarity on the Independent Monitoring Authority.
- There are many inconsistencies in the Statement of Intent, particularly the inconsistency between statements that the process will be straightforward and other statements that have been made on several occasions that details will be available only at an unknown point in the future.
- Overall, significant details are still lacking; how, for example, would deportation decisions be made in cases of rejected ›settled status‹ applications?

It is obvious that there are many potential potholes and traps in the process. Apart from the most fundamental issue—that this is an application system designed to take rights away from EU citizens—the key concern is the use of Immigration Rules/secondary legislation, as the Statement of Intent states that ›settled status‹ will be implemented via the Immigration Act 1971. Unlike primary legislation, changes to the Immigration Rules do not require scrutiny in Parliament and so they can be changed very easily without debate. This also makes them a much more likely target of future governments

in terms of quick policy changes. Since 2012, for example, the Immigration Rules have been changed 58 times.

4.2 Data Protection Immigration Exemption

Connected to these specific concerns are wider policy changes, among which the Data Protection Immigration Exemption is particularly pressing. This is an issue not directly connected to Brexit nor is it solely about EU citizens, but it does pose serious risks for EU citizens applying for ›settled status‹. The Data Protection Immigration Exemption is part of a recently passed bill, the Data Protection Bill, which was adopted in line with the introduction of the General Data Protection Regulation (GDPR). What it means for immigrants in an immigration procedure is that they may be prevented from accessing the data the UK's Home Office holds on them. As EU citizens are about to also enter an immigration procedure—applying for ›settled status‹ could easily be cast as such—there is a serious risk that anyone being rejected may never find out why, if the exemption is invoked. Understanding decisions might become impossible and thus so might appeals. This is neither acceptable in terms of human rights nor transparent, and makes it clear that the UK government views immigrants—and EU citizens—as second class citizens.

4.3 The Threat of No-Deal

Given that the UK Parliament passed the European Union (Withdrawal) Act 2018, we can say that EU citizens will not become illegal overnight, and that there will not be immediate complete limbo on 30 March 2019 were the UK to leave the EU without a deal in place. It would be wrong to read this as comforting news, however. The Act also gives sweeping powers to ministers—so-called ›Henry VIII powers‹—to make changes to laws incorporated from the EU through the Act very quickly and without consulting Parliament. Citizens' rights might well be affected by this given the consistent failure of the UK government to confirm that citizens' rights are safe regardless of the outcome of negotiations.

Citizens' rights campaigners rightly assume that no-deal would likely see further changes and additional limitations to the rights of EU citizens in the UK in line with UK

immigration laws for immigrants from elsewhere. With that in mind, changes could conceivably include requirements for a minimum salary and additional levies for the use of the National Health Service (NHS).

Most worryingly, many rights currently held by EU citizens simply cannot be guaranteed by the UK alone, but rely on reciprocity. This would be made impossible if a deal is not reached. This would likely be severely detrimental to the livelihoods of those affected as it includes healthcare arrangements, social benefit arrangements, including pensions, and the recognition of qualifications.

To make matters worse, the first batch of so-called ›preparedness notes‹ for no-deal recently issued by the UK government does not include any on citizens' rights, confirming again that they are not a priority. Regrettably, the EU's no-deal preparations do not offer much hope either, referring EU citizens simply to their respective embassies.

5. Conclusion

Ultimately, the conclusion can only be that EU citizens in the UK are being treated in a way that could not be further removed from the promises and assurances they were given prior to the EU referendum. Instead of facing no change, they are forced to apply to stay in what is their own home, in some cases for decades. The best-case outcome is that they will be able to stay, but with lesser rights and a special ID on a special register for special checks only for them. For Britons resident in EU countries there is less clarity about the process, partly because the solutions for them involve 27 member states, and specific concerns with regard to their situation, but the general conclusion is the same. The threat of no-deal is infinitely worse than the existing limbo for both groups.

This situation is an embarrassment for the UK and the EU, and simply not good enough.

EU citizens in the UK and Britons resident in an EU country are those currently exercising the right of freedom

of movement. That makes them the citizens who are at the very heart of the EU and the ideals it was founded on. That these citizens—five million people and their families—are likely to become the main victims of Brexit makes the situation even worse than it would be in any case. They are, essentially, being punished for choosing to live exactly what the EU is about.

That is why EU leaders, and governments and politicians throughout the EU, need now to be guided only by two fundamental principles: (1) humanity and (2) fairness.

For EU citizens in the UK the proposal of a Citizens' Rights Protocol made by the3million, the UK's leading NGO working to protect the rights of EU citizens, offers a solution to achieve that without voiding existing agreements. This protocol should be adopted immediately:¹³

- The Protocol would be annexed to the Withdrawal Agreement, setting out all implementation details and promises made by the UK government to make sure that they are legally binding at international treaty level.
- Additionally, all citizens' rights established in the Withdrawal Agreement, together with details from the Protocol, must then be set out in full primary legislation.
- This must be ring-fenced to protect EU citizens in the eventuality of no-deal.

EU citizens in the UK and Britons in the EU should not bear the heaviest burden of the UK government's decision to leave the EU. UK and EU leaders, parliamentarians and negotiators should use the little time that remains to finally put people before politics. After over two years of living in a state of uncertainty, EU citizens in the UK and Britons resident in EU countries deserve not only clarity and legally-binding guarantees. They also deserve what they were promised all along: that they are a priority and that their lives would not change.

13. For details on the proposed Protocol see ›Proposal for a Citizens' Rights Protocol‹, Stijn Smismans and Luke Piper on behalf of the3million, https://docs.wixstatic.com/ugd/0d3854_a940bffb8cdb445d95776252188953f1.pdf (last accessed 20 August 2018).



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