



**Statement on behalf of the 3million to the Constitutional Affairs Committee (AFCC)**  
**21 November 2017, Brussels**

The 3million is a grassroots organisation of EU citizens living in the UK formed in July 2016 in reaction to the result of the referendum of June 2016 and the decision by the UK to leave the EU. the 3million has a membership of around 35,000 members.

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I can only reiterate what my colleague Jane Golding from British in Europe has said, that we are all children of Europe and of the European project. In the UK we are three million citizens who have been actively living up to their EU citizenship.

Three million EU citizens were also excluded in the referendum of June 2016, even though many of us have been residing in the UK for decades and have established lives, paid taxes, contributed to the social and economic life of the UK in many different ways, etc.

We too have limited faith in the negotiations and worry that the pressure to move onto Phase 2 of the negotiations may see compromises take precedence over the protection of our existing rights.

From the 3million's perspective, while there has on the surface been some progress in some areas, such as the recognition that the current administrative process to apply for documents certifying our right of residence is not fit for purpose, it is clear to us that many issues remain totally unresolved with potentially dire consequences for three million EU citizens in the UK. So where are we at now after round 6 of the negotiations?

There are 4 areas which we would like to highlight:

**1. Constitutional:**

The main stumbling block here is the oversight of our rights post Brexit by the European Court of Justice and the possibility of referring cases to it. Without the oversight of the ECJ, there is a danger that there could be different interpretations of the treaty, therefore of our rights.

There is of course the 'direct effect' of the Withdrawal Agreement and jurisprudence thereafter.

**2. Our rights:**

Under the proposed status which the UK intends to impose on EU citizens in the UK, the so-called 'settled status', we will lose our rights overnight (and the UK gvt keeps talking of rights "falling away") with an obligation to apply for this new lesser status with fewer rights. And it looks like this

narrative is going to be very hard to shift partly because most people only hear or are willing to hear the “settled” part of it which sounds reassuring but in fact is a false reassurance.

We also regret the lack of challenge by the EU of this status.

Main issues linked to this:

- Family reunification: this is still not resolved
- Freedom of Movement: at the moment this is a right that we have and yet, this is not to be discussed as part of the negotiations. Attached to Freedom of Movement is the loss of rights conferred under it. For instance, if an EU citizen currently residing in the UK wants to do a remote post grad degree in Europe (i.e. without moving to the EU), they can easily do so and pay the home fees of the country of the university they choose. Post Brexit, they will be regarded as third country nationals by Europe and asked to pay international fees... which is vaguely surreal when you think about it
- Another example concerns employment: At the moment, EU citizens residing in the UK can be employed on European funded projects. Post Brexit, they won't be able to. Therefore post Brexit these EU nationals living in the UK will be excluded from employment or projects funded by the EU due to residence rules

### **3. Accessing our via an administrative process**

There has been the very unfortunate conflation of support for the still to come simplified administrative process linked to the application for ‘settled status’. Whilst a simpler process is welcome, it is still a constitutive (i.e. we are having to apply for our existing rights) rather than a declaratory (i.e. simply confirming our rights), which is what we want.

The process is fraught with issues which go well beyond the purely logistical side of things such as the fact that the application to ‘settled status’ includes systematic criminality and conduct checks covering the whole of the period a person has been residing in the UK

Issues linked to the pillars of the Citizens’ Directive:

- CSI: this is still not resolved for current applications for documents certifying the right of residence (‘permanent residence’)
- Primary Earnings Threshold: the (work) test to judge whether a person’s employment is ‘genuine and effective’
- Sufficient resources

With regard to CSI and the work test, we welcome the fact that the UK gvt has said that they will be discounted under the new status. However the issue of sufficient resources has not been broached in detail yet while we know that it is used as a basis for deportation orders. What does that mean for carers, for persons on low or irregular income, for persons with disabilities or long term illness? What sort of protection can they hope for if this is not clarified, and soon?

#### 4. The hostile environment

The UK government keeps telling us that this is a non-issue, and often uses the forthcoming example of the simplified admin process as an example of goodwill.

However, this totally ignores the many reported cases of daily incidents of increased xenophobia experienced by EU citizens in all walks of life, whether it is the increased number of checks when trying to access health services, opening a bank account, in housing, the wide ranging data mining the UK gvt is currently undergoing across all sectors and life domains (including schools, victim police reports etc.)

This also ignores the UK governments' own figures on hate crime which show a very large increase in incidents of abuse since the referendum of June 2016. Notwithstanding those people who were murdered.

#### Conclusions

the3million totally agrees with our colleagues from British in Europe that there is indeed scope in the negotiating guidelines for flexibility. And this takes us back to first base principles, specifically the fundamental principle which seems to have got lost in the negotiations, that Brexit should not alter our lives.... because our rights should not be affected by it.

We would really like to see our rights ring fenced **now** so that the uncertainty that 3 million EU citizens are currently experiencing stops now. Over 122,000 of them have already left the UK. For some it has been devastating, hence the need to guarantee their rights now indeed.

EU citizenship is at the heart of Europe and what it means to be a European today. At the end of the day, its people's lives, not saucepans, not cars, not trade deals. And as Jane said, if we don't do this now, then when?