

Member of the European Parliament  
European Parliament Brexit Coordinator  
Group of the Alliance of Liberals and Democrats for Europe  
The Chair



Rt Hon Sajid Javid MP  
Secretary of State for the Home Department  
Home Office  
2 Marsham Street  
London SW1P 4DF  
United Kingdom

D 307216 30.04.2018

Dear Sajid,

When I met your predecessor Amber Rudd and officials in London on 6 March 2018 it was agreed that a team from your department would come over to Brussels and present the online administrative procedure being developed by the Home Office to allow EU citizens in the UK to register in order to be assured of their rights provided for in the Withdrawal Agreement.

I am pleased to say that this presentation took place on 24 April 2018 before the European Parliament's Brexit Steering Group and five of our standing committees (LIBE, JURI, EMPL, AFCE and PETI) most concerned by this issue. Your officials made a very clear and comprehensive presentation which I believe was appreciated by all Members who were in the meeting. I would be grateful therefore if you would pass on my thanks to Mr Simon Bond and his team for the very professional way in which they conducted themselves.

The Home Office began by making reference to the Windrush affair. This was welcome. As you can imagine this issue has generated a great deal of concern and anxiety both here in the Parliament but more importantly among EU citizens living in the UK. I can only urge you to go to all lengths to dispel any fears that what was visited on the Windrush generation will not be repeated in respect of EU citizens living in the UK.

At the outset of their presentation your officials made it clear that you are still consulting on this new online procedure and that they would welcome any suggestions and proposals to improve it prior to a mass testing phase which will be launched later this year.

In the meeting on 24 April MEPs did raise a number of comments and suggestions during the hearing. The purpose of this letter, which I am sending to you on the behalf of the Brexit Steering Group and the chairs of the committees who were present at the hearing, is to communicate these to you so that they might be taken on board before mass testing of the application.

The comments we had were of two kinds. First, there were those which referred to the registration procedure itself. Second, there were a number of comments with respect to what might be called flanking measures which will accompany the introduction and operation of the new procedure.

However, before getting to those comments I want to raise the crucial and cross-cutting issue of vulnerable groups, which both the new procedure and any flanking measures must address (and for which reason reference to this issue also features in the comments below). Vulnerable groups were raised by Members during the hearing and to be fair your team also made it clear that this was something receiving a lot of attention by the Home Office. Members were concerned both with EU citizens who may have difficulties in using the new application or providing the requisite documentation, especially for Europeans who arrived long ago and obtained ILR and may have lost the relevant documentation, and those who for whatever reason may simply be unaware of the new procedure and their obligations in respect of it. It is vital in rolling out and operating the new procedure that account is taken of those who are covered by the Withdrawal Agreement, but for whatever reason do not or have difficulties to claim this.

Turning to the registration procedure itself, seven specific issues were raised.

First, a view strongly expressed was that the use of the various functionalities presented during the meeting, including ID scanning, should be equally accessible to all EU citizens in the UK. There is particular concern for citizens who do not hold the most modern IDs with a chip, as well as for children below 16 years old, who are not entitled to a biometric passport, who might not be able to complete the registration process. We were surprised to learn during the meeting that a device with an IOS operating system will not support all the envisaged functionalities and that to complete a registration it was suggested that the applicant simply borrow an Android device. We would urge as a matter of urgency that you try to resolve the problem with Apple. As it is clear that the technological solutions proposed by the Home Office will not have universal application, it is incumbent on the Home Office to put in place alternative practical arrangements, one form of which should be an offline registration system (see below). We believe that forwarding passports in the post is not an option in this context, given the risk of loss and the impact on citizens' capacity to travel. Alternative practical arrangements are necessary and could include a network of contact points across the country, for example in public libraries, citizens' advice bureaux or local authorities where applicants could avail themselves of facilities to scan in a secured environment their passports or IDs. Mention was also made of the possibility of home visits in this context. These are essential, particularly when it comes to those who will have difficulties, for whatever reason, to make an application. This includes older people, digitally illiterate<sup>1</sup> and disabled people, amongst others.

Second, the system should allow the option of submission of joint registration forms by members of the same family (for those who wish to do this since there may be cases that separate applications are entirely legitimate). The registration, as it stands now, does not currently provide for this. Having completely separate registration forms for each family member does run the risk of members of the same family being subjected to different treatment. I am sure that you will share my view that we must avoid this. At the very least, it should be possible, in line with the relevant provisions of the Withdrawal Agreement (see Article 17(1)(f)), to indicate other family members at some point in the registration process to ensure a consistency of approach.

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<sup>1</sup> In a recent Report of the Migration Observatory of the University of Oxford, it was estimated that in early 2017 an estimated 2% or 64,000 non-Irish EU citizens had never used the internet.

[http://www.migrationobservatory.ox.ac.uk/wp-content/uploads/2018/04/Report-Unsettled\\_Status.pdf](http://www.migrationobservatory.ox.ac.uk/wp-content/uploads/2018/04/Report-Unsettled_Status.pdf)

Third, we strongly believe that alongside the digital processing of registration, it should also be possible to submit and process paper registration. This will certainly be important for those who are uncomfortable with, or have little experience of, digital procedures. The support services mentioned above will be very useful since those who will prefer to make paper registration will be likely those in need of assistance in making a registration. In this context contact points would also be the places where paper copies of the pdf documentation certifying residence status could be produced for those who would wish to have such a paper version but cannot produce a paper version themselves.

Fourth, the registration process should not create unnecessary anxiety and therefore we are strongly of the view that a formal response to an application should be delivered as quickly as possible. A short cut-off date should therefore be defined, of no more than two working days, after which the absence of response should be taken as tacit acceptance of the registration. This is the only way to reflect the automaticity of the continuation of EU citizens' rights in the UK, to which the UK Government has repeatedly committed. Any negative response should clearly specify what further concrete actions and checks need to be undertaken by the applicant or the Home Office to justify the delay accordingly.

Fifth, regarding criminality checks, it was not specified during the meeting what further requests would be made in case the applicant declares she or he has a criminal record. We would like to have clarification and full details on this, as this is indeed crucial to assess whether the agreed proportionality of those checks will in fact be the case in practice. Moreover, it goes without saying that these checks should have no other consequences than those applicable today to an EU citizen in another EU Member State.

Sixth, while data protection is a transversal issue that needs to be urgently agreed in the framework of the Article 50 negotiations, it should be fully ensured that the processing of personal data within the framework of the application process fully complies with the General Data Protection Regulation (GDPR) and other relevant EU legislation in this field and that individuals will fully benefit of all the rights and principles set out by this legislation. In particular, more clarity is required on the use of fingerprints data that will be collected during the scanning process of biometric passports.

Finally, we would like to reiterate that this process should, as a matter of principle, be cost-free for applicants. It is unacceptable that citizens that were never consulted on Brexit should have to pay to retain their own rights. In addition, for medium-sized and large families the economic outlay to obtain the new residence status would be not inconsiderable.

Turning to what might be called flanking measures that will accompany the new procedure concern was expressed by a number of Members that given the error rates of IT systems and the number of EU citizens potentially affected, appropriate and effective supervision and appeal mechanisms should be fully operational for EU citizens. In this context, more details were requested on the independent authority overseeing the system. We would like to see how it will operate, what will be its competence and how its independence will be ensured.

We will also require information on the systems for redress which will be put in place and which we believe should be smooth, transparent, simple and absent of any unnecessary administrative burdens, including on the possibility for EU citizens to have contact with caseworkers. In this context we would be grateful for further clarification on the

'proportionate approach' you intend to take for persons who will miss the deadline to obtain registration, especially for the most vulnerable groups. It is also crucial for us that the principle of no refusal without prior discussion with a caseworker is upheld. Additionally, further clarity is needed on what documentation will be considered valid and accepted from EU citizens who arrive right before the end of the transition period, who will have no or very few documents evidencing their arrival or record of stay in the UK. It is crucial that these EU citizens are not discriminated against.

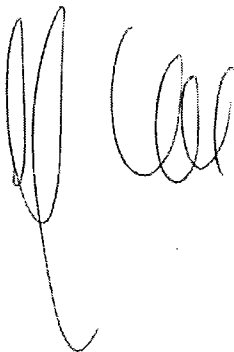
The success of the new procedure will be very closely linked to the effectiveness of the communication campaign which will accompany its launch and which should be continued throughout the period during which EU citizens must apply. Members had some information on this from the Home Office team but we would need more details to be satisfied that all possible vectors of communication, online and offline, will be used to get the message to all EU citizens, particularly those who have less internet know-how or those living or working, for example, in rural areas. In this regard, contacts and collaboration with civil society working with relevant vulnerable groups will be essential in order to ensure a strong understanding of their needs and challenges before and during the registration process.

Finally, a lot of these flanking measures to be successful will need to be appropriately resourced and funded. This goes not just for communication actions but more importantly to ensure the proper functioning of a network of contact points, the ability for the Home Office to make home visits where justified or just simply to handle what will be a vast case load given that we are speaking of the Home Office having to process more than 3.5 million applicants. Further details and reassurances on your part would be appreciated.

I would like to reiterate the importance of these issues for the European Parliament and recall that finding effective solutions will be key in determining its consent; Furthermore, I would be grateful if you might consider that a further information session by your team might be organised with the Brexit Steering Group closer to the date when you will begin mass testing of the application.

I am copying this letter to David Davis, Secretary of State for Exiting the EU, and Michel Barnier, the EU's Chief Negotiator.

Yours sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'G' followed by a series of loops and a long tail.

Guy Verhofstadt