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Dear Maroš

CITIZENS' RIGHTS IN THE WITHDRAWAL AGREEMENT

I write following the first Withdrawal Agreement Joint Committee meeting. I am glad we were able to have such a constructive and collaborative meeting - albeit remotely - and reinforce our shared commitment to implementing and applying the Citizens' Rights Part of the Withdrawal Agreement in the UK and the EU. I know our officials will shortly be meeting in the Citizens' Rights Specialised Committee.

From the outset, both the UK and the EU have rightly made citizens' rights a priority. Part Two of the Withdrawal Agreement provides citizens with the certainty they need about their rights, and I know we are both committed to ensuring its faithful and generous implementation.

The UK takes its Withdrawal Agreement obligations on citizens' rights very seriously. We have established the EU Settlement Scheme to help deliver these commitments. There is a free, simple, online process generally testing only residency, identity and criminality. The latest official statistics up to the end of March 2020 show that we have received over 3.4 million applications and concluded over 3.1 million, granting settled status to 58%. We are also well under way with establishing the Independent Monitoring Authority and will update you further about this in due course. We recognise that some EU citizens continue to have concerns, and commit to assessing these fairly and quickly.

I appreciate the action that the European Commission has already taken to support Member States with their implementation, for instance the guidance note that you have issued this week. However I am obliged to raise some concerns that UK nationals living in the EU have raised with me, and would appreciate your help in addressing them. The response to Covid-19 has necessarily diverted the capacity of many governments, but implementation of the Withdrawal Agreement remains a clear legal obligation. UK nationals living in the EU must be able to rely on the rights it gives them. There are several areas of specific concern:

Communications. In accordance with the requirement in Article 37 of the Withdrawal Agreement for the UK and EU Member States to “disseminate information concerning the rights and obligations of persons ... by means of awareness-raising campaigns conducted, as appropriate, through national and local media and other means of communication”, the UK has established a full suite of communications on the EU Settlement Scheme. £5.5 million has been spent on marketing covering public spaces, internet, radio, television, and the press. The UK Government is engaging with a wide range of stakeholders, including employers, local authorities and community organisations, has made information on the Scheme available in 26 EU languages, and has provided a telephone helpline for applicants. In contrast, there have not been the sort of major media campaigns required under Article 37 in EU countries. Information available to UK nationals on government websites of EU Member States varies significantly in content, scale and accessibility. Many Member States have not established telephone helplines, or contacted UK nationals.

Application windows. The UK has afforded EU citizens a total of 27 months to apply to the EU Settlement Scheme, with a grace period until 30 June 2021. In contrast, several EU Member States which are adopting constitutive systems have not announced when their schemes will open. Others are planning short application windows that may not allow sufficient time for citizens to secure their rights, especially in the absence of a wider communications campaign. For example, some Member States are considering a window of only six months. There is a major imbalance in the treatment of EU citizens by the UK and UK nationals in the EU. Further delays to the opening of application processes will compound risks for UK nationals in the EU.

Streamlined procedures. The UK’s EU Settlement Scheme application process is online and most applications can be finished in 20 minutes. The average turnaround for applications is just five days. In contrast, many EU Member States have introduced complex processes involving a range of paper-based documentary requirements and face-to-face appointments (which may be impossible due to Covid-19). The timescale for decision-making is unclear in many cases and there are suggestions that some Member States could take weeks or months to process applications. Some EU Member States have not provided any detail on what their application processes will entail.

Support for the vulnerable. The UK has made available support to vulnerable EU citizens, with grants of £9 million awarded to 57 community organisations and a further £8m for 2020/21. We also provide regional and local government support services, helping people use our online application and providing technical support by phone or email. In addition, the UK is providing up to £3 million to organisations assisting UK nationals in the EU, but this cannot substitute for Member States’ activity. In contrast, Member States have not shared concrete information on what support they are making available to elderly, hard-to-reach or other vulnerable citizens. In many cases, there seems to be none.

The themes highlighted above relate to individual Member States. Nonetheless the Withdrawal Agreement places obligations on the EU as a whole. When viewed cumulatively these themes amount to a serious risk that the EU will not fulfil its obligations under the Withdrawal Agreement by the time the transition period ends on 31 December 2020. We are already seeing several instances of misapplication of the Withdrawal Agreement within the EU. So far these have been localised incidents where officials have misunderstood the effect of the transition period. But they have resulted in UK nationals finding it harder to exercise their rights on issues such as the use of EHICs, exchange of driving licences and purchasing of property.

I know we share the objective of providing certainty and reassurance to both UK nationals in the EU and EU citizens in the UK: they must have confidence that their rights, as protected by the Withdrawal Agreement, will be respected both during the transition period and in the future. I would therefore be grateful if the Commission could take action to address the risks identified above, and if you could set out how you propose to deal with them.

I am copying this to Clara Martinez Alberola at UKTF and to Jeppe Tranholm-Mikkelsen, Secretary-General of the Council.

With every good wish,

*Yours,
Michael*

**Rt Hon Michael Gove MP
Chancellor of the Duchy of Lancaster
and Minister for the Cabinet Office**

