

SEPARATION AGREEMENT JOINT COMMITTEE
ANNUAL REPORT FOR THE YEAR 2022

Report from the Secretariat to the Joint Committee on the functioning of the Agreement on arrangements between Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland following the withdrawal of the United Kingdom from the European Union, the EEA Agreement and other agreements applicable between the United Kingdom and the EEA EFTA States by virtue of the United Kingdom's membership of the European Union (The Separation Agreement) for the calendar year 2022

INTRODUCTION

1. The Separation Agreement established a Joint Committee (Article 65) to supervise and facilitate the implementation and application of the Agreement. The Separation Agreement requires the Joint Committee to issue an annual report, drawn up by the Secretariat, each calendar year. This report is provided pursuant to Article 65(6).
2. The Secretariat to the Joint Committee operates under the authority of the rotating Joint Committee Chair to perform the tasks conferred on it, as outlined in the Rules of Procedure of the Joint Committee. The Secretariat is composed of officials from His Majesty's Government of the United Kingdom and the EFTA Secretariat.
3. The Separation Agreement requires the Joint Committee to meet at least once a year after the end of the transition period as defined in Article 2(h). In 2022, the Joint Committee met once, on 8 June 2022. The meeting was chaired by the Ambassador of Liechtenstein to the EU.
4. This report provides an overview of Separation Agreement from 1 January 2022 until 31 December 2022.
5. The report contains three annexes:
 - (A) The full text of the Joint Committee Decision adopted in 2022;
 - (B) The Joint Statement issued by the Parties following the meeting of the Joint Committee in 2022; and
 - (C) Reports by the Independent Monitoring Authority and the EFTA Surveillance Authority, respectively, issued pursuant to Article 64(3) of the Separation Agreement.

SEPARATION AGREEMENT JOINT COMMITTEE ACTIVITY IN 2022

6. The Joint Committee met on 8 June 2022. Liechtenstein chaired the meeting, which was held in London.
7. At the meeting, representatives from Iceland, Liechtenstein, Norway and the United Kingdom gave updates on their implementation and application of the Separation Agreement, with a particular emphasis on the provisions relating to citizens' rights. Both the EEA EFTA States and the United Kingdom agreed that implementation of the Agreement was going well, and that citizens' rights remain a priority.
8. Representatives of the Independent Monitoring Authority and the EFTA Surveillance Authority also attended, presenting information on the monitoring of the implementation and application of the Separation Agreement.
9. The Joint Committee adopted one Decision (No 1/2022), amending Part I of Annex I to the Separation Agreement. The amendment was adopted pursuant to Article 34(3) of the Separation Agreement to reflect any new Decision or Recommendation which has been adopted by the Administrative Commission for the Coordination of Social Security Systems ("Administrative Commission") and which has been incorporated into and is in force under the EEA Agreement.
10. The EEA EFTA States and the United Kingdom noted at the meeting that they shared the objective of ensuring the continued correct implementation and application of the Separation Agreement, to provide certainty to citizens. A Joint Statement to this effect was issued by the Parties following the meeting of the Joint Committee.

CONCLUSION

11. The Joint Committee's actions and Decision during 2022 provide a solid foundation for ongoing cooperation between the EEA EFTA States and the United Kingdom and the continued proper implementation of the Separation Agreement.

Signed in Brussels, 27 September 2023

*For the Joint Committee
The Chair*

Jiří Klaška

Specialist Director, Norwegian Ministry of Labour and Social Inclusion

**Decision No 1/2022 of the Joint Committee established by the Separation Agreement
of 8 June 2022
amending Part I of Annex I to the Separation Agreement**

THE JOINT COMMITTEE,

Having regard to the Separation Agreement¹, and in particular Articles 34(3) and 66(1) thereof,
Whereas:

- (1) Pursuant to Article 34(3) of the Separation Agreement, the Joint Committee shall amend Part I of Annex I to reflect any new Decision or Recommendation which has been adopted by the Administrative Commission for the Coordination of Social Security Systems (“Administrative Commission”) and which has been incorporated into and is in force under the EEA Agreement.
- (2) The Administrative Commission has adopted three Decisions which have been incorporated into and are in force under the EEA Agreement, and which are not listed in Part I of Annex I to the Separation Agreement.
- (3) Part I of Annex I to the Separation Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

1. The following Decisions are added in Part I of Annex I to the Separation Agreement:
 - (a) Under Electronic Data Exchange (E series):
 - ‘Decision No E6 of 19 October 2017 concerning the determination of when an electronic message is considered legally delivered in the Electronic Exchange of Social Security Information (EESSI) system (OJ C 355, 4.10.2018, p. 5.)²;

¹ Agreement on arrangements between Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland following the withdrawal of the United Kingdom from the European Union, the EEA Agreement and other agreements applicable between the United Kingdom and the EEA EFTA States by virtue of the United Kingdom’s membership of the European Union of 28 January 2020.

² Incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 235/2019 of 27 September 2019.

(b) Under Horizontal issues (H series):

- ‘Decision No H10 of 21 October 2020 concerning the methods of operation and the composition of the Technical Commission for Data Processing of the Administrative Commission for the Coordination of Social Security Systems (OJ C 89, 16.3.2021, p. 6)³;
- Decision No H11 of 9 December 2020 regarding the postponement of deadlines mentioned in Articles 67 and 70 of Regulation (EC) No 987/2009 as well as in Decision No S9 due to the COVID-19 Pandemic (OJ C 170, 6.5.2021, p. 4)⁴.’

2. The following decision is deleted from Part I of Annex I to the Separation Agreement:

(a) Under Horizontal issues (H series):

- Decision No H8 of 17 December 2015 (updated with minor technical clarifications on 9 March 2016) concerning the methods of operation and the composition of the Technical Commission for Data Processing of the Administrative Commission for the Coordination of Social Security Systems (OJ C 263, 20.7.2016, p. 3)⁵.

Article 2

This Decision shall enter into force on the day of its adoption. In relation to Iceland and Liechtenstein, this Decision shall enter into force on the first day of the second month following their respective notification to the Depository that their domestic legal requirements have been fulfilled.

The text of this Decision shall be deposited with the Depository.

Done at London, 8 June 2022

For the Joint Committee

The Chair



Pascal Schafhauser

Ambassador, Mission of Liechtenstein to the EU

³ Incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 137/2022 of 29 April 2022.

⁴ Incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 10/2022 of 4 February 2022.

⁵ Repealed under the EEA Agreement by Decision of the EEA Joint Committee No 137/2022 of 29 April 2022.

Separation Agreement Joint Committee Meeting (June 2022): Joint Statement

The third meeting of the Separation Agreement Joint Committee was held in London today, chaired by officials from the Principality of Liechtenstein, with representatives from Iceland, the Kingdom of Norway, and the United Kingdom (UK) in attendance. The Committee was established by the Separation Agreement to monitor its implementation and application. The Separation Agreement ensures that nationals of Iceland, Liechtenstein or Norway ('the EEA EFTA States') already living in the UK, or UK nationals living in the EEA EFTA States at the end of the transition period, have largely the same rights as before the UK left the EU. In addition to the right of residence, these include entitlements to social security and the recognition of professional qualifications.

During the meeting, representatives from the EEA EFTA States and the UK updated each other about their implementation and application of the Separation Agreement, focusing on the provisions relating to citizens' rights. Representatives of the EFTA Surveillance Authority and the Independent Monitoring Authority also attended, presenting information on the monitoring of the implementation and application of the Separation Agreement.

The EEA EFTA States and the UK adopted a Decision amending Part I of Annex I to the Separation Agreement, in order to include recent relevant Decisions of the Administrative Commission for the Coordination of Social Security Systems.

The EEA EFTA States and the UK continue to work together to ensure the correct implementation and application of the Separation Agreement, to provide certainty to citizens.

ANNEX C - REPORTS BY THE INDEPENDENT MONITORING AUTHORITY AND THE
EFTA SURVEILLANCE AUTHORITY FOR 2022

IMA

For the Citizens'
Rights Agreements

**IMA's Annual Report
to the Specialised
Committee on Citizens'
Rights established
under the Withdrawal
Agreement and the Joint
Committee established
under the EEA EFTA
Separation Agreement**



IMA's Annual Report to the Specialised Committee on Citizens' Rights established under the Withdrawal Agreement and the Joint Committee established under the EEA EFTA Separation Agreement

Presented to Parliament pursuant to the European Union (Withdrawal Agreement)
Act 2020.



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This report will be published on the [IMA website](#) where full details of all our work can be found.

1. Introduction

This report is prepared in accordance with Article 159(2) of the Withdrawal Agreement and Article 65(1) of the EEA EFTA Separation Agreement. It reports on measures taken in the UK and Gibraltar to implement and comply with Part 2 and the number and nature of complaints made to the Independent Monitoring Authority on Citizens' Rights ("the IMA")¹.

The requirement for the IMA to prepare this report is set out in the UK's domestic legislation in paragraph 31 of Schedule 2 to the European Union (Withdrawal Agreement) Act 2020 ("the Act"). Similar provision in relation to Gibraltar is made in regulation 14 of the Independent Monitoring Authority Regulations 2020² ("the Gibraltar Regulations"). In accordance with these provisions, this report also provides information on the exercise by the IMA of its functions in relation to Part 2 of the Agreements.

This is the second annual report prepared by the IMA and reports on the 12-month period from January 1 to December 31, 2022.

In addition to the prescribed matters which the IMA must report on, the report also contains information that we think is relevant to our operation which relates to this period.

The report is submitted to the Specialised Committee on Citizens' Rights established under Article 165(1)(a) of the Specialised Committee and the Joint Committee established under Article 65(1) of the EEA EFTA Separation Agreement.

This report will provide details on the implementation of Part 2 of the Withdrawal Agreement and Part 2 of the EEA EFTA Separation Agreement. In general, the report does not distinguish between the two except where that is relevant and helpful.

The report will be submitted to the governments of each part of the UK and Gibraltar who will in turn lay it before their respective legislatures as required by the Act and the Gibraltar Regulations³.

1. [European Union \(Withdrawal Agreement\) Act 2020 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

2. [Independent Monitoring Authority Regulations 2020 \(gibraltarlaws.gov.gi\)](https://www.gibraltarlaws.gov.gi)

3. See paragraph 31(8), (9) and (11) of Schedule 2 to the Act and regulation 14(8) and (9) of the Gibraltar Regulations.

2. Role of IMA

The IMA was established in 2020 and became fully operational as at 11pm on 31 December 2020. We are an independent body that makes sure the rights of EU and EEA EFTA citizens and their family members living in the UK and Gibraltar as at the 31 December 2020 are upheld following the departure of the UK from the EU.

We monitor UK public bodies⁴ to make sure they adequately and effectively implement the rights provided for by the Withdrawal Agreement and Part 2 of the EEA EFTA Separation Agreement (for the purpose of this report when we refer to both we use the term the Agreements). We promote the adequate and effective implementation and application of these Agreements by holding public bodies to account where there is not full compliance.

As to the scope of the IMA's powers, these are framed by the rights set out in the Agreements. These rights are extensive and were designed to broadly provide EU and EEA EFTA citizens and their family members the same entitlements to work, study and access public services and benefits as they enjoyed before the UK left the EU.

The citizens covered by the Agreements are those from the 27 EU Member states as well as Iceland, Liechtenstein and Norway, along with their family members.

4. Public bodies include all parts of government and any body which exercises functions of a public nature. It would therefore include UK Government departments, the Northern Ireland Executive, the Scottish Government, the Welsh Government and the Government of Gibraltar. It also includes local government.



**The IMA has two broad duties
– to monitor and to promote.**

These citizens' rights include:

- **residency:** this means the right to live in the UK or Gibraltar. It also includes the right to enter and exit the UK.
- **the right to work:** this means the right to work, including self-employed work and also the right to continue to be a frontier worker.
- **mutual recognition of professional qualifications:** this means the right for qualifications which have already been recognised before 31 December 2020 (or in the process of being recognised at that time) to continue to be recognised in the UK.
- **co-ordination of social security system:** this means that individuals who have lived in both the UK and the EU before the end of the transition period can continue to be able to access pensions, benefits and other forms of social security.
- **equal treatment and non-discrimination:** within scope of the rights set out above, EU and EEA EFTA citizens and their family members are entitled to be treated equally with UK citizens and not to be discriminated against on the grounds of their nationality. This includes ensuring access to certain public services such as education, healthcare and certain benefits.

Detailed information on the IMA's powers can be found on our website including our [Annual Plan for 2022/23](#) and [operational guidance](#).

2.1 Our power to receive complaints

We can receive complaints from persons who claim to have a right under the Agreements⁵. Complaints may report where the UK or Gibraltar has failed to comply with these Agreements, or a public body has acted or is proposing to act in a way that prevents the person exercising the right in question.

Although we do not resolve individual complaints, we assess every complaint to see whether they indicate a potential breach of the Agreements.

Complaints, however, are just one of the ways we understand the experience of EU and EEA EFTA citizens and their family members. We also collect and analyse intelligence from a range of sources to help us understand any issues citizens may be facing.

While these issues may not indicate a general or systemic failing and therefore would not of itself trigger the threshold for the carrying out an inquiry, we maintain the information from both our intelligence gathering and complaints as it may help form part of a wider set of intelligence gathered over time which could indicate a systemic failing.

5. The IMA may also receive a complaint from a person who claims to have a right provided under UK or Gibraltar law which corresponds to rights provided under the Agreements.

2.2 Our power to conduct inquiries

Our powers to conduct inquiries are set out in paragraph 25 of Schedule 2 to the Act⁶.

We may decide to conduct an inquiry in one of three situations:

- i. Following a request from the Secretary of State, the Northern Ireland Executive, the Scottish Government, the Welsh Government, or the Government of Gibraltar.
- ii. As a result of a complaint or series of complaints received.
- iii. Of our own initiative.

The purpose of an IMA inquiry is to:

- decide whether the United Kingdom has failed to comply with the Agreements; or
- decide whether a relevant public body has acted or is proposing to act in a way that prevents a person exercising a relevant right (see definition in paragraph 41 of Schedule 2 to the Act); and
- to identify any recommendations for relevant public bodies appropriate to promote the adequate and effective implementation of the Agreements.

When considering whether to carry out an inquiry we will consider the importance of addressing general or systemic failings. We may not carry out an inquiry in the situations in (ii) or (iii) above unless we have reasonable grounds to believe that the inquiry may conclude that a failure to comply with the Agreements has occurred or that a public body has acted or is proposing to act in a way that prevents a person from exercising their rights under the Agreements.

6. The corresponding power in relation to Gibraltar is found in regulation 8 of the Gibraltar Regulations.

To inform this assessment we will carry out pre-inquiry investigations. In carrying out such investigations we may be able to resolve any issues in a more timely way than proceeding to full inquiry.

We began one inquiry in 2022, further details about this are outlined in [section five](#). Compliance case investigations are also proceeding in regard to a number of issues which are also outlined below in relation to the emerging themes of some of the complaints and intelligence we have received to date.

A number of issues have also been resolved in what we refer to as Early Case Resolutions (ECRs). Details of these are outlined in [section five](#) of this report.

We also undertake assurance investigations to assure ourselves that public bodies are doing what they should to uphold the rights of EU and EEA EFTA citizens.

In 2022 we started one assurance review. More information on this can also be found in [section five](#).



2.3 Our power to take legal action

Our powers to take legal action are contained in paragraph 30 of Schedule 2 to the European Union (Withdrawal Agreement) Act 2020⁷. It provides that the IMA may:

- take legal action, or
- intervene in any legal proceedings.

In both cases, the IMA must be satisfied that it is appropriate to do so in order to promote the adequate and effective implementation or application of the Agreements.

While we are only able to take legal action by way of judicial review proceedings⁸, we can intervene in “any” legal proceedings. This includes not only public law actions brought against public bodies, but sometimes we may also feel it is appropriate to join private causes of action in order to ensure that we are effectively performing our duties.

Our approach to the exercise of our litigation powers is also detailed in our operational guidance.

In 2022 we have used our litigation powers in respect of four cases and these are detailed in [section five](#) of this report.

7. The corresponding power in relation to Gibraltar is found in regulation 13 of the Gibraltar Regulations.

8. Applications to the supervisory jurisdiction of the Court of Session in the case of Scotland.

3. Measures Taken on the Implementation and Application of Part 2 of the Agreements

To provide details on the measures taken on the implementation and application of Part 2 of the Agreements, we have sought information from those responsible for implementing and applying the Agreements.

We requested the Government of Gibraltar, the Northern Ireland Executive, the Scottish Government, the UK Government and the Welsh Government to provide us with information relating to the:

- most relevant legislative instruments in place to implement Part 2 of the Agreements;
- most relevant legislative instruments implementing Part 2 of the Agreements that were adopted or amended in the last year;
- most relevant domestic jurisprudence from the last year;
- basic statistical data that show how the Agreements have been applied (for example for residence rights: estimated number of resident beneficiaries of the Agreements, number of applications made in the last year and in total and their outcome (residence granted/permanent residence granted/refused/invalid applications/pending cases))

To do this we provided a proforma for them to complete and their returns are included at [section seven](#), numbered Annexes 1-5.



We accept complaints from third parties as well as individuals who are affected and we encourage complaints to be made via our complaints' portal on our [website](#).

4. Issues

The IMA publishes an issues log on our [website](#) which details all the areas we are investigating either as a result of complaints from citizens that public bodies are not upholding their rights or from intelligence we have gathered.

We are able to receive complaints about any of the rights which are protected by the Agreements. We are also able to receive complaints which 'correspond' to rights in the Agreements but are established in domestic legislation. For example, where the EU Settlement Scheme is extended to EU or EEA nationals not strictly in scope of the Agreements.

Complaints must be about a relevant public body which is defined as bodies carrying out public functions excluding courts and tribunals, the UK Parliament, and the devolved governments.

We received 209 complaints in 2022 from citizens of 80% of EU and EEA EFTA countries, this is slightly less than in 2021 when we received 237 complaints. We are yet to receive any complaints from citizens who are from Estonia, Iceland, or Liechtenstein.

Citizens whose nationality was recorded as 'other' registered the most complaints in 2022 with 40 complaints from people who classified themselves in this category. These citizens are non-EU and EEA EFTA nationals or dual nationals.

Most of the complaints related to the Home Office, followed by a smaller group of complaints related to a collective of public bodies, including Local Authorities, Student Finance England, Driver and Vehicle Licensing Agency (DVLA), Department for Environment Food and Rural Affairs (DEFRA), and Department for Trade (DfT). The third largest group of complaints related to the Department for Work and Pensions (DWP).

The right to reside and issues connected in some way to the EUSS, run by the Home Office (HO), were the subject of most of the complaints. The issues raised included:

- Citizens experiencing long wait times for their EUSS applications, beyond estimated application processing times advised by the HO.
- Citizens experiencing long wait times for their EUSS Family Permit applications.
- Valid ID documents of citizens not being recognised by carriers when travelling to the UK.
- Lengthy EUSS administrative reviews and an inability by applicants to obtain updated information as the review progresses.

We also received complaints about the right to work and, in particular, ongoing technical issues affecting the View and Prove service which inhibit citizens' ability to access their proof of status.

Issues around the rights to access forms of social security were also raised including the denial and suspension of benefits based upon EUSS status and difficulties applying for proof of national insurance contributions.

We also received complaints about right of entry from citizens experiencing challenges and refusals at UK borders. These mainly related to their EUSS status.

We received no complaints about the right to have professional qualifications recognised.

4.1 Themes

During 2022 we began enquiries into 33 issues which we have detailed on our issues log on our [website](#). Five have resulted in early case resolutions and three in no further action being required at this stage. The rest are still subject to ongoing engagement with the public bodies involved.



On the [next page](#) is a list of some of the main themes being investigated.

Theme	Inquiry Action		Outcomes
Access to Healthcare	2 lines of enquiry addressing:		
	1	Guidance on implementing the overseas visitor charging regulations	
	2	NHS (Charges to Overseas Visitors) Regulations 2015/ Guidance on implementing the overseas visitor charging regulations	
Equal Treatment and Non-Discrimination	4 lines of enquiry addressing:		
	1	The Education Fees Scotland Regulations 2022	Early Case Resolution
	2	The St Mary's Music School – Aided Places	Early Case Resolution
	3	DVLA – issue relating to share codes	No Further Action
4	The Agriculture (Student Fees) Regulation (Northern Ireland) 2022	Early Case Resolution	
Entry into the UK	3 lines of enquiry addressing:		
	1	EUSS - UK Border Force	
	2	EUSS - Awareness of digital status and valid ID documents to travel	
3	Access to UKVI accounts		
Residence	3 lines of enquiry addressing:		
	1	EEA Family Permits	Early Case Resolution
	2	Civil Status and Registration Office	No Further Action
3	Appendix FM	No Further Action	

Theme	Inquiry Action	Outcomes	
Housing	1 line of enquiry addressing:		
	1	Access to housing in Gibraltar	
Social Security	1 line of enquiry addressing:		
	1	Disability Living Allowance	Early Case Resolution
Living in the UK	11 lines of enquiry addressing:		
	1	EUSS - Application Delays	
	2	EUSS - View and Prove	
	3	EUSS - Family applications	
	4	EUSS - Maiden Name Application Issue	
	5	Extra cohort	
	6	Civil Service Jobs website	
	7	EUSS - Issues with the Settlement Resolution Centre	
	8	EUSS - Rights of Late Applicants	
	9	EUSS - Enforcement	
	10	EUSS - Applications for Prisoners and Immigration Removal Centre detainees	
11	EUSS Administrative Reviews and Appeals		

5. Exercise of IMA's Functions

In general terms, in all the activities outlined below no differentiation is made between the rights provided under the Withdrawal Agreement and the EEA EFTA Separation Agreement. This is due to the fact that any potential breach, piece of legislation or litigation does not specifically relate to those with rights under the Withdrawal Agreement or EEA EFTA Separation Agreement.



5.1 Inquiry

In summer 2022 we launched an [inquiry](#) to establish whether the Home Office (HO) has fulfilled its obligation to issue a Certificate of Application immediately to EUSS applicants.

EU and EEA EFTA citizens and their family members who apply to the EUSS but are awaiting the outcome of their application should receive a Certificate of Application immediately. This certificate is the only means to evidence their rights, for example the right to work, rent or access benefits, while their application is being considered.

We received a number of complaints and information from citizens experiencing delays in receiving their Certificate of Application. The IMA examined the extent, nature and cause of any delays in issuing the certificates and assessed whether there is any breach of the Agreements. We also looked at the impact any delays are having on citizens who are unable to exercise their rights until the Certificate of Application is issued.

Citizens were encouraged to share details of their experiences via a call for evidence survey. IMA staff also reviewed existing complaints, took accounts from citizens and considered information from stakeholders and other third parties.

As part of the inquiry the IMA also investigated the policies and processes adopted by the HO for issuing Certificates of Application. This included performing on-site visits and interviewing HO staff.

The report detailing the inquiry outcome and any recommendations is expected to be published in spring 2023.

5.2 Assurance Reviews

We also launched our first assurance review in 2022 to find out what measures local government across the UK is taking to ensure eligible EU and EEA EFTA looked after children, care leavers and children in receipt of local authority care and support (for example children in need) have their rights protected.

Following the UK's departure from the EU, all eligible citizens – including children – need to apply to the EUSS to secure their rights in the UK.

The IMA is assessing whether local governments are upholding their responsibilities to support applications to the scheme for these children and care leavers.

The review is being undertaken in stages across all local government in England, Northern Ireland, Scotland and Wales. Separate reports will be provided for each part of the UK while England will be separated into nine different regions with reports for each region. The work is currently ongoing.

We are considering how local government identifies all looked after children, care leavers and children in receipt of local authority care and support who need to apply to the EUSS, as well as the procedures they have in place for monitoring applications. The review will indicate whether the IMA is satisfied these children will be able to access their rights. These include the right to work and study as well as access healthcare, housing and social security when needed.

The [interim report](#) for Wales has already been completed with 22 local authorities being considered against three areas: identification, record keeping and retrospective checks of eligible children. Each local authority was categorised as either green, amber or red based on the information provided by local authorities.

Further action by the IMA, such as compliance investigations and litigation, may be considered if the IMA believes that rights under the Agreements of looked after children, care leavers and children in receipt of local authority care and support are at risk.

5.3 Early Case Resolutions

Where possible we try to resolve issues quickly, so citizens are not disadvantaged or are denied their rights for as little time as possible.

We do this by undertaking Early Case Resolutions (ECRs) which are agreed interventions with public bodies to make improvements or changes to overcome potential issues.

We then undertake a period of monitoring to ensure that the public bodies involved have made the necessary adjustments.

The enquiries which have resulted in ECRs are referred to briefly above with more details outlined below. In total we completed five new ECRs in 2022.

Three of the ECRs were identified via our legislation monitoring which are detailed in our section on legislation monitoring at 5.5 below. While a further two came from issues and intelligence raised with us. All of these are now subject to a period of monitoring to ensure the action required is taken.

Two ECRs, which were completed in 2021, also concluded their period of monitoring in 2022. The conclusion of monitoring does not preclude the IMA from looking at the issues again should we receive new information that a problem could still exist.

ECRs Completed in 2022 with Monitoring Ongoing:

- The IMA raised concerns with the Home Office (HO) that some citizens who had applied for an EEA Family Permit before the deadline were refused but on appeal were successful. However, in the meantime the EEA Family Permit route had closed and at that stage they were not eligible to apply for an EUSS Family Permit. The EEA Family Permit route allowed eligible EEA extended family members of EU and EEA EFTA citizens to travel to the UK to work or study for six months. The HO confirmed that EEA family members could use the EUSS route instead. The IMA welcomed the concession and has concluded the issue by means of an early case resolution.
- The IMA received a complaint raising concerns at how a Certificate of Application (COA) may not have been taken into account when the Department for Work and Pensions (DWP) assessed eligibility for [Disability Living Allowance \(DLA\)](#). While we investigated to clarify whether this was a wider failure or an isolated incident, DWP were able to confirm that no other cases were involved. While, however the DWP's decision to refuse the DLA was based on sound reasoning the way it was communicated was confusing and unhelpful. The DWP agreed to hold a lessons' learnt exercise to ensure the standard of public facing correspondence received in this particular case would not be repeated in the future.

ECRs with Monitoring Completed in 2022:

- We concluded our period of monitoring with [Pembrokeshire County Council](#) after they wrongly removed EU and EEA EFTA citizens with pre-settled and settled status from their social housing lists. We contacted them to say it was unlawful and the policy was immediately reversed. We monitored the situation until February 2022. We believe the action taken resolves the issues identified.
- We also concluded our period of monitoring with the Welsh Government in relation to the [Allocation of Accommodation and Homelessness: guidance to local authorities in Wales](#). The IMA felt that part of the guidance in relation to eligibility criteria could lead to misunderstanding of those who could claim eligibility. We raised the issues with the Welsh Government who provided information of engagement work they had undertaken with local authorities to explain who was eligible for homelessness provision and agreed to amend the guidance and update local authorities that this had been completed. Following a period of monitoring we concluded that all actions had been taken to resolve the issue.

5.4 No Further Action

We refer to something as a No Further Action (NFA) when we have been in contact with public bodies about certain issues and are satisfied that the information provided does not show evidence of a breach and therefore no intervention is needed at that time. This, however, does not prevent the IMA from intervening or taking action at a later date.

In the interests of transparency and openness our NFAs are [published](#) and below is a summary of the three that were concluded in 2022:

- [DVLA](#) – we received a number of complaints that citizens were experiencing issues with EUSS share codes expiring while waiting for their licence applications to be processed. The DVLA confirmed with us that they had a recovery plan in place to address the issue and were also proactively liaising with the Home Office to improve the service offered regarding EUSS share codes.
- [Civil Status and Registration Office \(CSRO\)](#) – we received information about a delay in receiving blue civilian registration cards in Gibraltar. All Gibraltar residents are required to have a card with blue cards being issued to EU nationals. Due to an upsurge in requests for the blue card following a legislative change, which meant the card needed to change, people were experiencing delays in their cards being processed. The CSRO took steps to communicate the delay and worked with the card provider to address the backlog. Processing times are now at the targeted six weeks.
- [Appendix FM](#) - Concerns were raised that pre-settled status was not being recognised as sufficient in proving a citizen was present and settled in the UK and so could act as a sponsor for a partner visa application via Appendix FM. The Home Office clarified that pre-settled status is sufficient in proving that a sponsor meets the relationship requirement for the purposes of a partner visa application under Appendix FM; it does not, however, demonstrate that a person is present and settled in the UK. The Home Office also confirmed and provided evidence that applicants are signposted to the EUSS via the application page for a partner visa.

5.5 Legislation Monitoring

During 2022 the IMA looked at legislation across the UK and Gibraltar. It identified two Bills and 16 pieces of secondary legislation that affected citizens' exercise of their rights under the Agreements.



Reports in respect of that legislation can be found on our [website here](#).

The legislation reviewed covered the areas of education, benefits, employment, renting, mutual recognition of professional qualifications and EUSS.



The IMA has submitted evidence to Parliament on the Retained EU Law (Revocation and Reform) Bill and is involved in ongoing discussions with UK Government officials on the Professional Qualifications Act 2022.



As a result of the IMA's legislation monitoring work, two pieces of legislation have been amended, with a further piece of amended legislation awaited, incorrect information has been corrected on websites and five pieces of guidance have been, or are in the process of being amended.



Two main themes emerged in 2022. One was about a lack of clarity as to eligibility for some benefits and services for those citizens who make a late application to the EUSS and for joining family members. The other was that legislation does not accurately reflect the policy position of government departments.



The following few pages are some examples of work undertaken which in these cases also resulted in ECRs.

Adult Disability Payment and Child Disability Payment (Scotland)

During 2022 the IMA considered a number of Scottish statutory instruments which were concerned with Child Disability Payment and Adult Disability Payment. These are new benefits administered by Social Security Scotland which replace Disability Living Allowance in Scotland.

In order to be eligible for the benefits, a person must not be subject to “immigration control” under section 115(9) of the Immigration and Asylum Act 1999. Citizens who have either pre-settled or settled status are not subject to immigration control.

Whilst the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020 make it clear that some EU and EEA EFTA citizens and their family members who have a pending application for status made under the UK Government’s EU Settlement Scheme before 30 June 2021 are not subject to “immigration control”, there is no equivalent domestic legislation in respect of late applicants or joining family members who arrive after 30 June 2021.

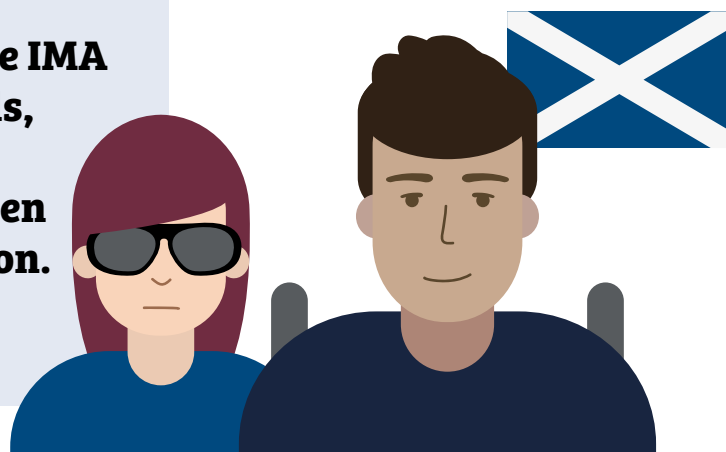
The Home Office however recognised in an announcement on 6 August 2021 that applicants to the EUSS after 30 June 2021, including joining family members are entitled to rights whilst their application is being processed.

This an issue that is being considered separately by the IMA, however in the meantime the IMA was keen to better understand how caseworkers were treating applications from late applications and joining family members.

Consideration of the case-worker guidance revealed that it did not adequately provide for late applicants or joining family members.



Following discussion between the IMA and Scottish Government officials, changes have now been made to relevant guidance, so this has been treated as an early case resolution.



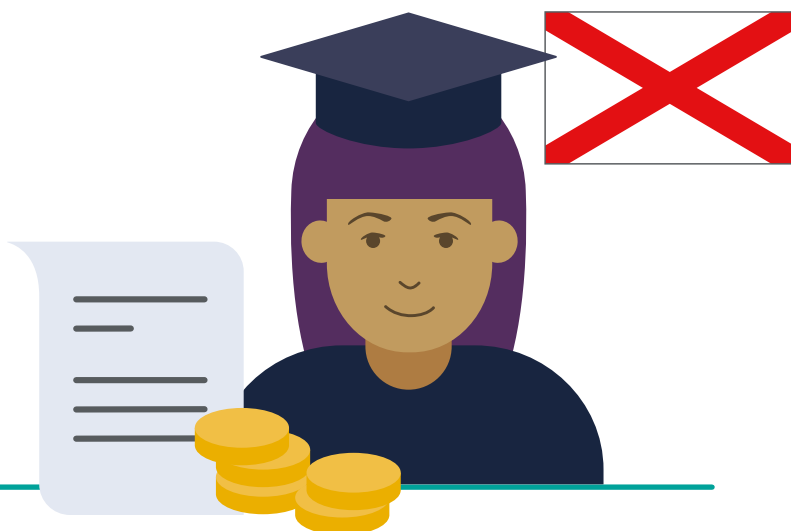
The Agriculture (Student Fees) Regulation (Northern Ireland) 2022

The Regulations set the level of fees payable for undergraduate and postgraduate higher education courses delivered by the Department of Agriculture, Environment and Rural Affairs (Defra) at its college of Agriculture, Food and Rural Enterprise in Northern Ireland.

Whilst it was clear from the policy memorandum to the regulations that the intended policy was to treat citizens with status under the EUSS the same as students ordinarily domiciled in Northern Ireland so far as fees were concerned, the regulations did not provide for EU national students with pre-settled status to be treated in such a manner.



Following discussions with officials from the Executive Office, Northern Ireland, they have agreed to progress amendments to the regulations. This has now been treated as an early case resolution.



The Education Fees (Scotland) Regulations 2022

The regulations replaced the Education (Fees) (Scotland) Regulations 2011. They provide that it is lawful for a Scottish Higher Education Institution to charge higher fees to students who do not have a 'relevant connection' with Scotland.

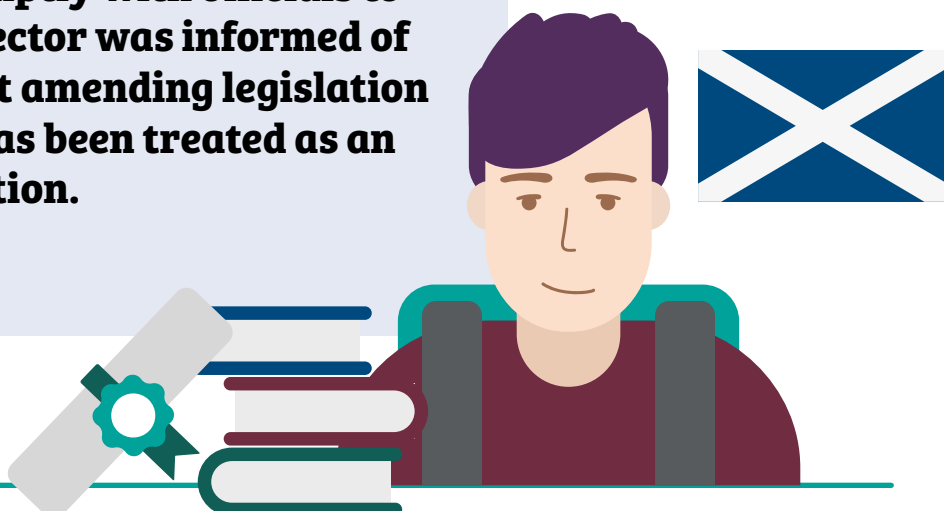
Scottish Higher Education Institutions are however prevented from charging higher fees to certain categories of students, referred to in the legislation as 'excepted students'.

Whilst under the 2011 Regulations, EU nationals and their family members who were within scope of the Withdrawal Agreement were 'excepted students' and could not be charged higher fees where they could demonstrate that they had been ordinarily resident in the UK and Islands, Gibraltar, the EEA, and Switzerland for three years prior to the first day of the start of the first year of their academic course, this provision had been restricted under the 2022 Regulations to residence in the UK only.

Restricting residence to the UK only meant that this criterion was impossible for some EU citizens with protected rights under the Withdrawal Agreement to meet. It also led to an odd situation whereby EU national students who had previously been 'excepted students' would no longer be in this category.



Officials at the Scottish Government confirmed that there had been no change in policy and the omission of residence in the EEA was accidental. The IMA was able to work promptly with officials to ensure that the sector was informed of the error and that amending legislation was made. This has been treated as an early case resolution.



5.6 Litigation

The IMA exercised its litigation powers on four occasions during 2022. Of those, three were the exercise of the IMA's powers to intervene within proceedings, and one was the IMA's own action.

Judicial Review

As to the IMA's own action, the IMA issued judicial review proceedings in December 2021 against the Secretary of State for the Home Department ("SSHD").

We brought this case because we considered that the EUSS was unlawful in that it provided for a loss of residence rights in circumstances which were not permitted by the Agreements. Specifically, a requirement to make an application for settled status (or in certain limited circumstances for a further period of pre-settled status) and the automatic loss of rights which resulted from a failure to make this second application was considered unlawful.

We also considered that permanent residence arose automatically by operation of law once the citizen in question had reached five years of continuous legal residence.

The High Court granted the IMA permission to proceed with its judicial review claim in June 2022, and Mr Justice Lane heard this case in November 2022. The European Commission and the 3million intervened within the IMA's claim, in support of the IMA's position.

Judgment was handed down in December 2022. Mr Justice Lane agreed with the IMA and the two interveners that the EUSS, operating in the way as set out above, was unlawful. The IMA therefore received a judicial declaration to that effect.

Interventions

The IMA intervened in three cases during 2022.

In August 2022, we intervened within two sets of Court of Appeal proceedings, both against different Local Authorities (CA-2022-000752 and CA-2022-001016). These cases concerned the interpretation of the Withdrawal Agreement, specifically in relation to issues including derivative rights, non-discrimination rights, and the application of the [Charter of Fundamental Rights of the European Union](#) ("the Charter") following the end of the transition period.

The case under reference CA-2022-1016 settled by way of consent order ahead of the appeal being heard. The case under reference CA-2022-000752 was due to be heard by the Court of Appeal in March 2023.

In October 2023, the IMA intervened within the Upper Tribunal case of Secretary of State for Work & Pensions v AT. In general terms, this case concerned the applicability of the Charter as under the framework of the Withdrawal Agreement. Judgment was handed down in December 2022, with the Upper Tribunal holding that the Charter does have a role following the end of the transition period under the Withdrawal Agreement. Permission to appeal the Upper Tribunal's judgment was granted to the Secretary of State for Work & Pensions, and this appeal is also due to be heard by the Court of Appeal in March 2023.

Consistent with its approach to publication of its litigation activities, the IMA has published its key documents filed within these cases, and these are all available on our [website](#).

6. Other Information

A key focus continues to be to raise awareness of the IMA and what we do among citizens and stakeholders.

As a result, we continue to undertake a comprehensive stakeholder engagement programme. We regularly hold meetings with organisations supporting and representing EU citizens such as Settled, the 3Million, and Citizens Advice Services. We also continue to meet with representatives of the Northern Ireland Executive, Scottish Government, UK Government, Welsh Government and the Government of Gibraltar.

We also continue to meet with the EU Commission and EFTA Surveillance Authority.

We have once again written to every elected member of the legislatures of the UK, Gibraltar, Northern Ireland, Scotland and Wales. We have undertaken regular and wide-ranging media interviews, including a number of briefings for the Foreign Press Association and are continuing to meet with EU Embassies as well as organisations that work with EU and EEA EFTA citizens.

As the restrictions imposed by Covid receded we are pleased that we were able to undertake more and more meetings in person.

Our work with our Citizens' Panel continues and we welcomed a new cohort of members in 2022 as others left the panel. This enables us to ensure we are always hearing the perspectives of different voices. The panel continues to be invaluable at providing feedback and a citizens' perspective.

We also re-launched our website in 2022 to make it easier for citizens to find information about their rights and what work we undertake which included the publication of a new issues log which details all the areas in which pre-inquiry work is taking place.

The evaluation of our first awareness raising social media and radio campaign, which took place at the end of 2021, helped to inform our social media content throughout 2022.

In particular it helped to identify the need to better explain individual rights for citizens which led to the production of dedicated downloadable promotional materials on our [website](#). It will also be used to shape future campaigns.

We continue to undertake an [annual survey](#) to try to better understand the experience of EU and EEA EFTA citizens living in the UK and Gibraltar since the UK left the EU. This continues to provide valuable insight.

Our proactive intelligence gathering involves developing relationships and we meet regularly with stakeholders including those from representative stakeholder networks and organisations that provide employment and immigration advice to citizens, including EUSS advisers. We also attend the EU Delegation to the UK's Citizens' Rights Monitoring Network. This approach has enabled us to develop our understanding of the impact or potential impact on citizens of reported issues, as well as to identify emerging issues.

7. Annexes

Information provided from the Government of Gibraltar, the Northern Ireland Executive, the Scottish Government, the UK Government, and the Welsh Government in relation to implementation and application of Part 2 of the Withdrawal Agreement and EEA EFTA Separation Agreements.



Annex 1 – Government of Gibraltar

1) Residence rights

Gibraltar operates a residence scheme in accordance with Article 18(4) of the Withdrawal Agreement and Article 17(4) of the EEA/EFTA Separation Agreement (“the Agreements”).

EU and EEA/EFTA nationals who are exercising residence rights under the Agreements are issued with a blue civilian registration card. Persons connected with these nationals (who are within the scope of the Agreements) may also apply for a blue civilian registration card (which is substantially in the EU’s uniform physical format) under regulation 5 of the Electronic Identity Card Regulations 2015. Provided that the person can prove their entitlement, there is no time limit for application.

The blue civilian registration card serves as proof that the recipient is registered as resident in Gibraltar and may be used as a form of ID. As such, the card may be used to access provisions relating to residence.

Where a person had a blue civilian registration card before IP completion day (issued under EU law) that person can continue to use that card to access provisions for the remainder of their residence in Gibraltar.

Gibraltar has not put in place more favourable residence conditions.

Gibraltar has not made use of derogations from equal treatment under Article 23(2) of the Withdrawal Agreement.

The fee for the card is £27.00 on first issue, and £11.00 on renewal.

A) Key legislative instruments implementing the Withdrawal Agreement and EEA EFTA Separation Agreement

Key legislative instruments in Gibraltar are:

- [European Union \(Withdrawal\) Act 2019;](#)
- [European Union \(Withdrawal Agreement\) Act 2020;](#)
- [Electronic Identity Card Regulations 2015;](#)

The following instruments are also relevant to the implementation of the Withdrawal Agreement and the EEA EFTA Separation Agreement.

- [Immigration, Asylum and Refugee Act;](#)
- [Civilians Registration Act;](#)
- [European Union \(Civilian Registration\) \(EU Exit\) Regulations 2021;](#)
- [Notice of Prescribed Fees.](#)

All of the legislation listed above implements both the Withdrawal Agreement and the EEA EFTA Separation Agreement.

B) Key legislative instruments adopted or amended in the reporting year

No new key legislation has been adopted or amended in the reporting year.

C) Key administrative documents giving guidance on the implementation of the Withdrawal Agreement and EEA EFTA Separation Agreement

[Technical Notice \(10\) Guidance to EU/EEA/Swiss Residents of Gibraltar](#) is the key administrative document giving guidance on both the Withdrawal Agreement and the EEA/EFTA Separation Agreement.

D) Key domestic jurisprudence from the reporting year

No jurisprudence has arisen in the reporting year.

E) Statistical data

A	Estimated number of resident beneficiaries of the Withdrawal Agreement and EEA EFTA separation Agreement	Total EU: 2,152 Total EEA: 68 Overall total: 2,220
B	Number of residence applications made in the reporting year	Total EU: 28 Total EEA: 1 Overall total: 29
B1b	Number of applications granted as permanent residence	13
B1c	Number of applications refused	0
B1c1	Out of B1c, number of applications invalid	0
B1c2	Out of B1c, number of applications that were withdrawn by applicants	0

2) Rights of workers and self-employed

In Gibraltar, beneficiaries of the Withdrawal Agreement are not obliged to apply for a document identifying their frontier workers' rights. Frontier Workers were provided a dedicated government electronic platform on which they are able to corroborate whether the Gibraltar Government considers them to be frontier workers covered by the personal scope of the Withdrawal Agreement. Since the 1 January 2021 the platform has included a facility, free of charge, which allows for frontier workers to request a letter certifying that they are frontier workers covered by the scope of the Withdrawal Agreement. In the period 1 January to 31 December 2022 the electronic platform was accessed 8,320 times and 14 requests for a letter were made.

A) Key legislative instruments implementing the Withdrawal Agreement and EEA EFTA Separation Agreement

Key legislative instruments in Gibraltar are:

- [European Union \(Withdrawal\) Act 2019;](#)
- [European Union \(Withdrawal Agreement\) Act 2020;](#)

The following instrument is also relevant to the implementation of the Withdrawal Agreement and the EEA EFTA Separation Agreement.

- [Immigration, Asylum and Refugee Act;](#)

All of this legislation implements both the Withdrawal Agreement and the EEA EFTA Separation Agreement.

B) Key legislative instruments adopted or amended in the reporting year

No further legislative instruments have been adopted this year.

C) Key administrative documents giving guidance on the implementation of the Withdrawal Agreement and EEA EFTA Separation Agreement

[Technical Notice \(11\) Guidance to EU/EEA/Swiss Frontier Workers](#) is the key administrative document giving guidance on both the Withdrawal Agreement and the EEA/EFTA Separation Agreement.

D) Key domestic jurisprudence from the reporting year

No jurisprudence has arisen in the reporting year.

E) Statistical data

The government maintains details of every frontier worker in Gibraltar. 7618 are EU citizens falling under the UK-EU Withdrawal Agreement, there are no frontier workers who are EEA nationals falling under the UK EEA EFTA Separation Agreement.

A1	Number of applications granted	0
A2	Number of applications refused	2
A2a	Out of A2, number of applications that were invalid	2
A2b	Out of A2, number of applications that were withdrawn by applicants	0
A3	Number of applications that are still pending at the end of the reporting year	0

3) Co-ordination of social security schemes

No special implementation choices have been made in respect of Gibraltar

A) Key legislative instruments implementing the Withdrawal Agreement and EEA EFTA Separation Agreement

Key legislative instruments in Gibraltar are:

- [European Union \(Withdrawal\) Act 2019;](#)
- [European Union \(Withdrawal Agreement\) Act 2020;](#)
- [Healthcare \(International Agreements\) and Social Security Coordination Act 2019;](#)
- [Healthcare \(European Economic Area and Switzerland Arrangements\) \(EU Exit\) Regulations 2020;](#)

Each of these pieces of legislation implement both the Withdrawal Agreement and the EEA EFTA Separation Agreement.

B) Key legislative instruments adopted or amended in the reporting year

No further legislative instruments have been adopted this year.

C) Key administrative documents giving guidance on the implementation of the Withdrawal Agreement

[Technical Notice \(16\) Getting ready for the end of the Transition Period – Social Security Coordination](#) is the key administrative document giving guidance on both the Withdrawal Agreement and the EEA/EFTA Separation Agreement.

D) Key domestic jurisprudence from the reporting year

No jurisprudence has arisen in the reporting year.

E) Statistical data

Applicable legislation (Portable Document A1)	4
Cross-border health care (EHIC, Portable Documents S1 and S2)	
EHIC	1,037
S1	8,333
S2	0
Pensions	
Old age pension	103
Survivors' pension	6
Unemployment benefits (Portable Documents U1 and U2)	
U1	403
U2	0
Family benefits	
Maternity allowance	70
Maternity grant	181

4) Recognition of professional qualifications

No special implementation choices have been made in respect of Gibraltar.

A) Key legislative instruments implementing the Withdrawal Agreement

Key legislative instruments in Gibraltar are:

- [European Union \(Withdrawal\) Act 2019;](#)
- [European Union \(Withdrawal Agreement\) Act 2020;](#)
- [Recognition of Professional Qualifications and Services \(Amendments and Miscellaneous Provisions\) \(EU Exit\) Regulations 2020.](#)

B) Key legislative instruments adopted or amended in the reporting year

No further legislative instruments have been adopted this year.

C) Key administrative documents giving guidance on the implementation of the Withdrawal Agreement

[Technical Notice - No Deal Brexit - Recognition of professional qualifications](#) is the key administrative document giving guidance on both the Withdrawal Agreement and the EEA/EFTA Separation Agreement.

D) Key domestic jurisprudence from the reporting year

No jurisprudence has arising in the reporting year.

E) Statistical data		
Medical Practitioners		
A	Number of applications under Article 28 of the Withdrawal Agreement made in the reporting year (2021)	30
A1	Number of applications granted	30
A2	Number of applications refused	0
A2a	Out of A2, number of applications that were invalid	0
A2b	Out of A2, number of applications that were withdrawn by applicants	0
A3	Number of applications that are still pending at the end of the reporting year	0
Nurses, Midwives and Health Visitors		
A	Number of applications under Article 28 of the Withdrawal Agreement made in the reporting year (2021)	28
A1	Number of applications granted	28
A2	Number of applications refused	0
A2a	Out of A2, number of applications that were invalid	0
A2b	Out of A2, number of applications that were withdrawn by applicants	0
A3	Number of applications that are still pending at the end of the reporting year	0

E) Statistical data		
Dentists		
A	Number of applications under Article 28 of the Withdrawal Agreement made in the reporting year (2021)	4
A1	Number of applications granted	4
A2	Number of applications refused	0
A2a	Out of A2, number of applications that were invalid	0
A2b	Out of A2, number of applications that were withdrawn by applicants	0
A3	Number of applications that are still pending at the end of the reporting year	0
Pharmacists		
A	Number of applications under Article 28 of the Withdrawal Agreement made in the reporting year (2021)	1
A1	Number of applications granted	1
A2	Number of applications refused	0
A2a	Out of A2, number of applications that were invalid	0
A2b	Out of A2, number of applications that were withdrawn by applicants	0
A3	Number of applications that are still pending at the end of the reporting year	0

Annex 2 – Northern Ireland Executive

1) Residence rights

The devolved Government in Northern Ireland does not levy any personal taxation but the Department of Finance does collect Domestic and Non-Domestic property tax referred to as “rates”. The amount levied is based on the Capital Value for Domestic Properties and Net Annual Value for Non-Domestic properties and so does not distinguish between property owned by a UK citizen and property owned by an EU or EEA citizen. The Department of Finance also provides a number of Rate Relief schemes, reducing the amount of rates payable based on the circumstances of the occupier. In administering these relief schemes, the Department of Finance does not distinguish between a UK citizen and an EU or EEA citizen in determining entitlement.

A) Key legislative instruments implementing the Withdrawal Agreement and EEA EFTA Separation Agreement

Not Applicable

B) Key legislative instruments adopted or amended in the reporting year

Not Applicable

C) Key administrative documents giving guidance on the implementation of the Withdrawal Agreement and EEA EFTA Separation Agreement

Not Applicable

D) Key domestic jurisprudence from the reporting year

Not Applicable

E) Statistical data

Not Applicable



2) Rights of workers and self-employed

A) Key legislative instruments implementing the Withdrawal Agreement and EEA EFTA Separation Agreement

Not Applicable

B) Key legislative instruments adopted or amended in the reporting year

Not Applicable

C) Key administrative documents giving guidance on the implementation of the Withdrawal Agreement and EEA EFTA Separation Agreement

Not Applicable

D) Key domestic jurisprudence from the reporting year

Not applicable

E) Statistical data on the frontier worker scheme

Not Applicable

3) Co-ordination of social security schemes

A) Key legislative instruments implementing the Withdrawal Agreement and EEA EFTA Separation Agreement

Not Applicable

B) Key legislative instruments adopted or amended in the reporting year

Not Applicable

C) Key administrative documents giving guidance on the implementation of the Withdrawal Agreement

Provision of Health Services to Persons Not Ordinarily Resident Regulations (Northern Ireland) 2015. www.health-ni.gov.uk/sites/default/files/publications/health/doh-pnor-guidance-v2.1.pdf

D) Key domestic jurisprudence from the reporting year

Not Applicable

E) Statistical data

Not Applicable

4) Recognition of professional qualifications

[If there are some implementation choices provided by the Withdrawal Agreement and EEA EFTA Separation Agreement, please provide text to describe choices made].

A) Key legislative instruments implementing the Withdrawal Agreement

Not Applicable

B) Key legislative instruments adopted or amended in the reporting year

Not Applicable

C) Key administrative documents giving guidance on the implementation of the Withdrawal Agreement

- Information on Regulated Professions, including Approved Driving Instructor and Approved Motorcycle Instructor is published here: [UK regulated professions and their regulators - GOV.UK \(www.gov.uk\)](https://www.gov.uk)
- Approved Driving Instructors and Approved Motorcycle Instructors who have qualified in an EU state can apply to transfer their licence to NI here: [EU instructor licence transfer application form | nidirect](#)
- The key information fulfilling the requirements of the EEA EFTA Train Driver Licensing, Certification and Regulatory Enforcement here: [Train Driver Licensing, Certification and Regulatory Enforcement | Department for Infrastructure \(infrastructure-ni.gov.uk\)](https://infrastructure-ni.gov.uk)

D) Key domestic jurisprudence from the reporting year

Not Applicable

E) Statistical data

Please provide statistical data on:

A1	Number of applications granted	
A2	Number of applications refused	
A2a	Out of A2, number of applications that were invalid	
A2b	Out of A2, number of applications that were withdrawn by applicants	
A3	Number of applications that are still pending at the end of the reporting year*	6

*The 6 pending applications all relate to professionals working in the field of education.

Barristers:

Over at least the last three years the only applications to be called to the Bar of Northern Ireland from outside the UK have come from barristers whose “home” practice has been in the Republic Of Ireland. These applicants have been able to do so by virtue of a long standing mutual recognition arrangements between the two Bars on the island of Ireland which are contained within our Rules of Admission. Under these regulations no EU lawyers have been admitted during this period.

Solicitors:

While the Northern Ireland Department of Finance has approached the Law Society for figures no reply has been received in time for inclusion in this reply.

Annex 3 – Scottish Government

A) Key legislative instruments implementing the Withdrawal Agreement and EEA EFTA Separation Agreement

Not Applicable

B) Key legislative instruments adopted or amended in the reporting year

Legislation monitoring by the IMA identified issues around the definition of residence requirements in some Scottish Government regulations and guidance. After working with the IMA to identify the issues, and to ensure that any amendments accurately reflected the protections for EEA nationals and their families in the Withdrawal and Separation Agreements, the following regulations were amended:

- The Education (Fees) Scotland Regulations 2022 – Scottish Statutory Instrument (SSI) 2022 number 362
- The St Mary’s Music School (Aided Places) (Scotland) Amendment (No. 2) Regulations 2022 - SSI 2022 number 377

In addition, Social Security Scotland **guidance** for decision makers regarding Adult Disability Payment and the Child Disability Payment was updated to protect late applicants and joining family members.

C) Key administrative documents giving guidance on the implementation of the Withdrawal Agreement and EEA EFTA Separation Agreement

The Scottish Government continued to support EU citizens through their Stay in Scotland campaign. Since 2019, the Scottish Government has provided nearly £2 million to community organisations to help EU citizens to apply to the EUSS. The Scottish Government funded an immigration caseworker working with local authorities across Scotland to support vulnerable EU citizens to make late EUSS applications. They funded the Citizens’ Rights Project to provide advice and support to EU citizens.

The Scottish Government delivered an advice service with Citizens’ Advice Scotland, to support EU citizens making late EUSS applications and to understand their rights.

The Scottish Government provided helpful information for EU citizens online, which was periodically promoted through marketing campaigns and social media. This included up-to-date information on the [Scottish Government website](#) to help citizens access public services. The Scottish Government also commissioned [factsheets](#) in a range of languages to help citizens understand their rights.

Policy officials at the Scottish Government raised awareness of EU citizens' rights, inside and outside the Scottish Government. This included close working with a variety of policy areas, including Higher Education, NHS Scotland and Social Security Scotland. The Scottish Government worked closely with local government and the third sector. This included regular meetings with the Convention of Scottish Local Authorities to discuss issues related to EU citizens and updating guidance for local authorities [EEA Factsheet for Local Authorities](#). Scottish Government officials also regularly met third sector partners and other organisations working to support EU citizens and their families.

The IMA conducted an awareness raising session with the Scottish Government Legal Directorate in October 2022. The session was very well attended and successfully reinforced officials' understanding of the Scottish Government's obligations to EU citizens.

To better understand the needs and experiences of EU citizens in Scotland, the Scottish Government commissioned Migration Policy Scotland to host an event which was held on 16 September 2022. The event titled 'EU Nationals in Scotland: Experiences, Needs and Support' brought together migration and public policy experts to discuss the experiences and needs of EU citizens following Brexit and the pandemic. A summary of the event can be found [here](#).

D) Key domestic jurisprudence from the reporting year

Not Applicable

E) Statistical data

According to the 15th Home Office quarterly statistics report, published on 23 February 2023, up to 31 December 2022, 325,240 EUSS applications had been made from Scotland. Of the 319,140 concluded applications, 178,870 (56%) were granted settled status, 119,840 (38%) were granted pre-settled status, 10,160 (3%) applications were refused, 5,790 (2%) withdrawn or void and 4,470 (1%) were invalid applications.

Annex 4 – UK Government

1) Residence rights

The United Kingdom operates a constitutive residence scheme in accordance with Article 18(1) of the Withdrawal Agreement. The residence scheme went fully live for applications on 30 March 2019. Residence documents have been issued in a digital form since it went fully live on 30 March 2019. Residence documents are issued free of charge.

The deadline for applications under Article 18(1)(b) of the Withdrawal Agreement was 30 June 2021. This deadline applied to EEA nationals and their family members resident in the UK by the end of the transition period (31 December 2020) - it did not apply to joining family members arriving on or after 1 April 2021 who are subject to a rolling three-month post arrival deadline, as per Article 18(1)(b) of the Withdrawal Agreement.

The United Kingdom has put in place more favourable residence conditions than required under the UK-EU Withdrawal Agreement. Aside from identity and suitability requirements, eligibility for the EU Settlement Scheme (EUSS) is based on an EEA national being resident in the United Kingdom before the end of the transition period (23:00 on 31 December 2020), rather than requiring them to have been exercising relevant Treaty rights. This expanded the scope of those EEA nationals eligible to apply for residency and simplifies the application process. As a matter of domestic policy, the UK has also chosen to allow certain derivative rights holders who meet the residency requirements, to apply under the scheme.

The United Kingdom has made use of derogations from equal treatment under Article 23(2) of the Withdrawal Agreement. However, this is a continuation of the position which was in place prior to the UK leaving the EU.

A) Key legislative instruments implementing the Withdrawal Agreement and EEA EFTA Separation Agreement

- [European Union \(Withdrawal Agreement\) Act 2020 \(legislation.gov.uk\)](https://legislation.gov.uk)
- [The Citizens' Rights \(Application Deadline and Temporary Protection\) \(EU Exit\) Regulations 2020 \(legislation.gov.uk\)](https://legislation.gov.uk)
- [The Immigration \(Citizens' Rights Appeals\) \(EU Exit\) Regulations 2020 \(legislation.gov.uk\)](https://legislation.gov.uk)
- [The Citizens' Rights \(Restrictions of Rights of Entry and Residence\) \(EU Exit\) Regulations 2020 \(legislation.gov.uk\)](https://legislation.gov.uk)
- [The Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020 \(Consequential, Saving, Transitional and Transitory Provisions\) \(EU Exit\) Regulations 2020 \(legislation.gov.uk\)](https://legislation.gov.uk)
- [Immigration Rules Appendix EU - Immigration Rules - Guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk)
- [Immigration Rules Appendix EU \(Family Permit\) - Immigration Rules - Guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

B) Key legislative instruments adopted or amended in the reporting year

- [The Immigration \(Restrictions on Employment and Residential Accommodation\) \(Prescribed Requirements and Codes of Practice\) and Licensing Act 2003 \(Personal and Premises Licences\) \(Forms\), etc., Regulations 2022 \(legislation.gov.uk\)](https://legislation.gov.uk)

C) Key administrative documents giving guidance on the implementation of the Withdrawal Agreement and EEA EFTA Separation Agreement

- [EU Settlement Scheme caseworker guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/eu-settlement-scheme-caseworker-guidance)
- [Apply to the EU Settlement Scheme \(settled and pre-settled status\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/apply-to-the-eu-settlement-scheme-settled-and-pre-settled-status)
- [EU Settlement Scheme: family and travel permits - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/eu-settlement-scheme-family-and-travel-permits)
- [View and prove your immigration status - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/view-and-prove-your-immigration-status)
- [Visiting the UK as an EU, EEA or Swiss citizen - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/visiting-the-uk-as-an-eu-eea-or-swiss-citizen)
- [EEA nationals at the border post grace period - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/eea-nationals-at-the-border-post-grace-period)
- [Entering the UK under the EU Settlement Scheme and EU Settlement Scheme family permit - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/entering-the-uk-under-the-eu-settlement-scheme-and-eu-settlement-scheme-family-permit)
- [Public funds - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/public-funds)
- [Landlord's guide to right to rent checks - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/landlord-s-guide-to-right-to-rent-checks)
- [EU Settlement Scheme: employer toolkit - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/eu-settlement-scheme-employer-toolkit)
- [Right to work checks: employing EU, EEA and Swiss citizens - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/right-to-work-checks-employing-eu-eea-and-swiss-citizens)
- [Right to work checks: an employer's guide - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/right-to-work-checks-an-employers-guide)
- [EEA decisions taken on grounds of public policy - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/eea-decisions-taken-on-grounds-of-public-policy)
- [Considering immigration status and deciding enforcement action - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/considering-immigration-status-and-deciding-enforcement-action)
- [EU Settlement Scheme: evidence of relationship - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/eu-settlement-scheme-evidence-of-relationship)

D) Key domestic jurisprudence from the reporting year

- The Independent Monitoring Authority for the Citizens' Rights Agreements v Secretary of State for the Home Department, [2022] EWHC 3274 (Admin): [The Independent Monitoring Authority for the Citizens' Rights Agreements, R. \(On the Application Of\) v Secretary of State for the Home Department \[2022\] EWHC 3274 \(Admin\) \(21 December 2022\) \(bailii.org\)](#)
- Batool & Ors (other family members: [EU exit](#)) [2022] UKUT 219 (IAC) (19 July 2022) - [Batool & Ors \(other family members: EU exit\) \[2022\] UKUT 219 \(IAC\) \(19 July 2022\) \(bailii.org\)](#)
- Celik (EU exit, marriage, human rights) [2022] UKUT 220 (IAC) (19 July 2022) - [Celik \(EU exit, marriage, human rights\) \[2022\] UKUT 220 \(IAC\) \(19 July 2022\) \(bailii.org\)](#)



E) Statistical data		
Please provide statistical data on:		
A	Estimated number of resident beneficiaries of the Withdrawal Agreement and EEA EFTA Separation Agreement	3.5-4.1 million⁹
A1	Number of EUSS applications to date (to 31 December 2022)	7,040,670
B	Number of residence applications made in the reporting year (1 January 2022-31 December 2022)	655,130
B1	Number of in time residence applications made in the reporting year	n/a
B1a	Number of applications granted as pre-permanent residence	200,380
B1b	Number of applications granted as permanent residence	293,490
B1c	Number of applications refused	237,590
B1c1	Number of applications that were invalid	30,420
B1c2	Number of applications that were void or withdrawn by applicants	40,720
B1d	Total number of in time applications pending at the end of the reporting year	*Unable to provide data
B2	Number of late residence applications made between 1 July 2021 and 31 December 2022	396,190
B2a	Number of applications where national authorities concluded that there were reasonable grounds for not respecting the application deadline between 1 July 2021 and 31 December 2022	Unable to provide data

9. Impact Assessment for the EU Settlement Scheme, March 2019

E) Statistical data		
B2b	Number of applications where national authorities concluded that there were no reasonable grounds for not respecting the application deadline between 1 July 2021 and 31 December 2022	Unable to provide data
B2a	Number of applications where national authorities are still assessing there were reasonable grounds for not respecting the application deadline between 1 July 2021 and 31 December 2022	Unable to provide data
B2a1	Number of late applications granted as pre-permanent residence between 1 July 2021 and 31 December 2022	69,610
B2a2	Number of late applications granted as permanent residence between 1 July 2021 and 31 December 2022	78,060
B2a3	Number of late applications refused between 1 July 2021 and 31 December 2022	125,860
B2a3a	Number of late applications that were invalid between 1 July 2021 and 31 December 2022	18,090
B2a3b	Number of late applications that were void or withdrawn by applicants between 1 July 2021 and 31 December 2022	17,980
B1d	Total number of late applications pending at the end of the reporting year	*Unable to provide data
C	Number of entry visa applications made in the reporting year by family members seeking to join the beneficiary under Article 14(3) of the Withdrawal Agreement	50,890
C1	Number of entry visas granted	34,338
C2	Number of entry visas applications refused	47,149
C3	Total number of entry visa applications pending at the end of the reporting year	Unable to provide data
*If this cannot be distinguished, please provide aggregate data on pending applications.		

Notes regarding the data

Data up to the end of the reporting year of 2022 is taken from the EUSS quarterly report up to 31 December 2022

* = 1 to 9

1. EUSS application figures are rounded to the nearest 10 and may not match overall totals.
2. Figures in these tables have been derived from live management information systems and are provisional and subject to change.
3. Total applications received by nationality include small numbers of records (less than 0.01%) in which nationality is not currently in an analysable form from live systems. The figures above include records where nationality was not in an analysable form.
4. For EUSS outcomes, invalid, withdrawn or void are not subsets of refusal figures.
5. While the IMA is not responsible for monitoring the UK-Swiss Citizens' Rights Agreement, applications from Swiss nationals and their family members have been included in the figures because they are part of our published statistics.
6. For EU, EEA and Swiss citizens and their family members resident in the UK by the end of the transition period, the deadline for applications to be made to the EUSS was 30 June 2021.
7. In-time applications include online applications received by 9am on 1 July 2021 and paper applications received by midnight 07 July 2021.
8. As data is taken from a live management information system, there may be differences to previous publications.
9. Late applications to the EUSS are self-reported by the applicant.

10. Post 30 June 2021 data which includes late applications is being consistently reviewed and there may be minor changes to future reports where administrative systems have been updated.
11. Concluded outcomes for late applications include those for late applications submitted in the previous reporting year.
12. The statistics include applications from cohorts able to apply as a result of domestic policy decisions (e.g. Zambrano cases) that are not covered by the Citizens' Rights Agreements or monitoring by the IMA.
13. For EUSS family permits, the number of concluded applications may exceed the number of applications made due to the way the data is captured in each period. For this reason, direct comparisons between the two should not be made.
14. EUSS family permit figures include a small number of EUSS travel permits.
15. For EUSS family permits, grants and refusals do not include applications withdrawn or lapsed.
16. Data for EUSS family permits can be found in the Immigration Quarterly report up to December 2022 (VIS_D01 and VIS_D02).

The United Kingdom has provided data for previous reporting years, and with nationality breakdowns. Please see data sheet at [annex 4.1](#) for details.

2) Rights of workers and self-employed

In the United Kingdom, those who meet the definition of a frontier worker as set out in the Withdrawal Agreement are able to apply for a frontier worker permit confirming their status. Since 1 July 2021, frontier workers have been required to hold a valid frontier worker permit in order to evidence their right to enter the UK on this basis.

The frontier worker permit scheme opened for applications on 10 December 2020. The permits are issued primarily in a digital form. The permits are issued free of charge.

A) Key legislative instruments implementing the Withdrawal Agreement

- [The Citizens' Rights \(Frontier Workers\) \(EU Exit\) Regulations 2020 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

B) Key legislative instruments adopted or amended in the reporting year

- [The Immigration \(Restrictions on Employment and Residential Accommodation\) \(Prescribed Requirements and Codes of Practice\) and Licensing Act 2003 \(Personal and Premises Licences\) \(Forms\), etc., Regulations 2022 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

C) Key administrative documents giving guidance on the implementation of the Withdrawal Agreement

- [Frontier worker permit scheme caseworker guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

D) Key domestic jurisprudence from the reporting year

N/A

E) Statistical data

Please provide statistical data on:

A	Number of applications made in the reporting year	3,834
A1	Number of applications granted	1,964
A2	Number of applications refused	2,376
A2a	Number of applications that were invalid	n/a
A2b	Number of applications that were withdrawn by applicants	175
A3	Number of applications that are still pending at the end of the reporting year	Unable to provide data

3) Co-ordination of social security schemes

A) Key legislative instruments implementing the Withdrawal Agreement and EEA EFTA Separation Agreement

- European Union (Withdrawal Agreement) Act 2020 (legislation.gov.uk)
- Healthcare (European Economic Area and Switzerland Arrangements) Act 2019

B) Key legislative instruments adopted or amended in the reporting year

Section 162 of the Health and Care Act contains provisions to implement international healthcare agreements, amending the Healthcare (European Economic Area and Switzerland Arrangements) Act 2019. The amendments have been approached by Parliament and are due to be commenced in 2023. Secondary legislation came into force in December 2022.

C) Key administrative documents giving guidance on the implementation of the Withdrawal Agreement

All departments: [Guidance relating to Operational Implementation of SSC Provisions.](#)

D) Key domestic jurisprudence from the reporting year

None

E) Statistical data

For statistical data on all departments please see - [Social Security Coordination at a Glance 2022](#)

4) Recognition of professional qualifications

The EU-based system for recognition of professional qualifications gained overseas is underpinned by the European Union (Recognition of Professional Qualifications) Regulations 2015 ('2015 Regulations'). The Professional Qualifications Act 2022 revokes the 2015 Regulations and introduces a new approach to recognising professional qualifications gained overseas. In implementing the Professional Qualifications Act, the UK government has committed to uphold existing recognition decisions and to ensure applications in process at the time of the revocation can be progressed. The UK government will preserve retained EU law where necessary to maintain international commitments. These include the Common Travel Area with Ireland and international legal obligations through the Withdrawal Agreement with the EU, the EEA EFTA Separation Agreement, and the Citizens' Rights Agreement with Switzerland.

A) Key legislative instruments implementing the Withdrawal Agreement

- [Section 12 of the Recognition of Professional Qualifications section of the European Union \(Withdrawal Agreement\) Act 2020](#)
- [The Professional Qualifications and Services \(Amendments and Miscellaneous Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1038\)](#)
- [Services of Lawyers and Lawyer's Practice \(Revocation etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1342\)](#)
- [Recognition of Professional Qualifications \(Amendment etc\) \(EU Exit\) Regulations 2019 \(S.I. 2019/312\)](#) (amends the [European Union \(Recognition of Professional Qualifications\) Regulations 2015](#)).
- [Recognition of Professional Qualifications \(Amendment etc.\) \(EU Exit\) Regulations 2021](#)

B) Key legislative instruments adopted or amended in the reporting year

- [Professional Qualifications Act 2022](#)

C) Key administrative documents giving guidance on the implementation of the Withdrawal Agreement

- [Recognition of professional qualifications: guidance for regulatory bodies](#)

D) Key domestic jurisprudence from the reporting year

NA

E) Statistical data

Please provide statistical data on:

A	Number of applications under Article 28 of the Withdrawal Agreement made in the reporting year	
A1	Number of applications granted	
A2	Number of applications refused	
A2a	Number of applications that were invalid	
A2b	Number of applications that were withdrawn by applicants	
A3	Number of applications that are still pending at the end of the reporting year	

The UK Government does not hold detailed statistical data on recognition decisions on professional qualifications that relate to the provisions in the Withdrawal Agreement. Information on recognition decisions is held by the relevant regulators and professional bodies for professions in scope of the Withdrawal Agreement.

Annex 4.1

B1: Number of EUSS applications made between 1 January 2022 up to 31 December 2022

Country of nationality	1 January 2022 - 31 December 2022
Total	654,980
Total EU27	562,650
Austria	1,170
Belgium	2,920
Bulgaria	60,220
Croatia	880
Cyprus	2,530
Czech Republic	5,760
Denmark	1,290
Estonia	520
Finland	1,320
France	11,980
Germany	7,320
Greece	12,890
Hungary	10,420
Ireland	810
Italy	45,500
Latvia	7,340
Lithuania	12,090
Luxembourg	120
Malta	440
Netherlands	7,220
Poland	44,110
Portugal	35,030
Romania	230,790
Slovakia	14,880
Slovenia	330
Spain	31,150
Sweden	13,640
Total EEA EFTA and Swiss	4,640
Iceland	130
Liechtenstein	*
Norway	3,410
Switzerland	1,100
Non-EEA	87,680

B1a: Number of applications granted pre-settled status between 1 January 2022 up to 31 December 2022

Country of nationality	1 January 2022 - 31 December 2022
Total	200,330
Total EU27	135,660
Austria	340
Belgium	1,000
Bulgaria	13,730
Croatia	230
Cyprus	660
Czech Republic	1,200
Denmark	350
Estonia	120
Finland	330
France	3,100
Germany	1,950
Greece	3,090
Hungary	1,830
Ireland	220
Italy	9,170
Latvia	1,580
Lithuania	2,500
Luxembourg	20
Malta	90
Netherlands	2,000
Poland	9,000
Portugal	7,460
Romania	57,980
Slovakia	3,250
Slovenia	40
Spain	9,400
Sweden	5,020
Total EEA EFTA and Swiss	1,960
Iceland	40
Norway	1,610
Switzerland	320
Non-EEA	62,710

B1b: Number of applications granted settled status between 1 January 2022 up to 31 December 2022

Country of nationality	1 January 2022 - 31 December 2022
Total	293,430
Total EU27	263,310
Austria	860
Belgium	1,780
Bulgaria	14,300
Croatia	680
Cyprus	1,310
Czech Republic	3,580
Denmark	960
Estonia	430
Finland	810
France	9,180
Germany	5,900
Greece	8,860
Hungary	6,920
Ireland	570
Italy	34,420
Latvia	4,820
Lithuania	8,890
Luxembourg	60
Malta	410
Netherlands	5,400
Poland	35,250
Portugal	19,990
Romania	72,490
Slovakia	6,310
Slovenia	300
Spain	16,420
Sweden	2,400
Total EEA EFTA and Swiss	2,200
Iceland	100
Liechtenstein	*
Norway	1,300
Switzerland	790
Non-EEA	27,920

B1c: Number of applications refused between 1 January 2022 up to 31 December 2022 (excluding invalid and withdrawn or void)

Country of nationality	1 January 2022 - 31 December 2022
Total	237,580
Total EU27	209,480
Austria	250
Belgium	780
Bulgaria	32,980
Croatia	160
Cyprus	1,160
Czech Republic	2,230
Denmark	290
Estonia	100
Finland	330
France	2,290
Germany	1,480
Greece	2,420
Hungary	2,800
Ireland	290
Italy	7,130
Latvia	2,420
Lithuania	3,840
Luxembourg	30
Malta	50
Netherlands	1,940
Poland	12,020
Portugal	11,550
Romania	101,580
Slovakia	6,880
Slovenia	30
Spain	9,310
Sweden	5,140
Total EEA EFTA and Swiss	1,770
Iceland	20
Norway	1,550
Switzerland	200
Non-EEA	26,340

B1c1: Number of applications that were invalid between 1 January 2022 up to 31 December 2022 (excluding refused and withdrawn or void)

Country of nationality	1 January 2022 - 31 December 2022
Total	30,370
Total EU27	26,770
Austria	20
Belgium	160
Bulgaria	1,840
Croatia	30
Cyprus	60
Czech Republic	680
Denmark	30
Estonia	10
Finland	30
France	800
Germany	320
Greece	180
Hungary	480
Ireland	70
Italy	890
Latvia	210
Lithuania	430
Luxembourg	*
Malta	20
Netherlands	310
Poland	4,130
Portugal	1,540
Romania	11,600
Slovakia	1,930
Slovenia	*
Spain	730
Sweden	300
Total EEA EFTA and Swiss	160
Iceland	*
Norway	130
Switzerland	30
Non-EEA	3,450

B1c2: Number of applications that were withdrawn or void between 1 January 2022 up to 31 December 2022 (excluding refused or invalid)

Country of nationality	1 January 2022 - 31 December 2022
Total	40,570
Total EU27	35,260
Austria	100
Belgium	160
Bulgaria	3,220
Croatia	30
Cyprus	160
Czech Republic	450
Denmark	110
Estonia	50
Finland	60
France	750
Germany	500
Greece	510
Hungary	690
Ireland	80
Italy	1,880
Latvia	790
Lithuania	1,520
Luxembourg	*
Malta	40
Netherlands	670
Poland	3,520
Portugal	2,380
Romania	14,250
Slovakia	1,180
Slovenia	*
Spain	1,640
Sweden	530
Total EEA EFTA and Swiss	230
Iceland	*
Liechtenstein	*
Norway	160
Switzerland	70
Non-EEA	5,070

C: Number of entry visa applications made in the reporting year by family members seeking to join the beneficiary under Article 14(3) of the Withdrawal Agreement. Data provided includes EUSS Family Permits and EUSS Travel Permits

Country of nationality	1 January 2022 - 31 December 2022
Total	50,890
Afghanistan	512
Albania	2,431
Algeria	157
Angola	154
Argentina	33
Armenia	19
Australia	21
Austria	21
Azerbaijan	8
Bahamas, The	1
Bahrain	1
Bangladesh	3,849
Belarus	54
Belgium	57
Benin	88
Bolivia	121
Bosnia and Herzegovina	6
Botswana	2
Brazil	876
Bulgaria	126
Burkina	31
Burma	2
Burundi	2
Cambodia	3
Cameroon	358
Canada	26
Cape Verde	55
Central African Republic	1
Chad	7
Chile	12
China	119
Colombia	503

Comoros	1
Congo	14
Congo (Democratic Republic)	51
Costa Rica	3
Croatia	13
Cuba	39
Cyprus	41
Cyprus (Northern part of)	8
Czech Republic	36
Denmark	28
Djibouti	26
Dominican Republic	1,222
East Timor	80
Ecuador	398
Egypt	222
El Salvador	6
Equatorial Guinea	30
Eritrea	35
Estonia	14
Ethiopia	138
Fiji	0
Finland	26
France	171
Gabon	5
Gambia, The	798
Georgia	41
Germany	88
Ghana	2,878
Greece	136
Grenada	2
Guinea	260
Guinea-Bissau	313
Haiti	8
Honduras	5
Hong Kong	13
Hungary	150
Iceland	1
India	8,940
Indonesia	49
Iran	45

Iraq	320
Israel	13
Italy	309
Ivory Coast	281
Jamaica	30
Japan	24
Jordan	62
Kazakhstan	26
Kenya	272
Korea (South)	6
Kosovo	17
Kyrgyzstan	9
Latvia	80
Lebanon	37
Liberia	29
Libya	20
Lithuania	61
Luxembourg	2
Macau	1
Macedonia	148
Madagascar	5
Malawi	8
Malaysia	12
Mali	22
Malta	12
Mauritania	4
Mauritius	9
Mexico	32
Moldova	2,157
Mongolia	6
Montenegro	3
Morocco	489
Mozambique	36
Namibia	2
Nepal	444
Netherlands	94
New Zealand	12
Nicaragua	6
Nigeria	2,504

Norway	32
Occupied Palestinian Territories	53
Other and unknown	97
Pakistan	8,321
Paraguay	6
Peru	86
Philippines	373
Poland	291
Portugal	227
Refugee	57
Romania	615
Russia	276
Rwanda	17
Sao Tome and Principe	84
Saudi Arabia	4
Senegal	715
Serbia	32
Seychelles	1
Sierra Leone	179
Singapore	9
Slovakia	21
Slovenia	1
Somalia	2,505
South Africa	276
Spain	293
Sri Lanka	336
St. Lucia	2
St. Vincent and the Grenadines	1
Stateless	5
Sudan	165
Sudan (South)	3
Surinam	5
Swaziland	1
Sweden	171
Switzerland	21
Syria	397
Taiwan	3
Tanzania	28
Thailand	84

Togo	15
Trinidad and Tobago	9
Tunisia	63
Turkey	295
Turkmenistan	4
Uganda	93
Ukraine	271
United Arab Emirates	3
United States	108
Uruguay	4
Uzbekistan	22
Venezuela	230
Vietnam	52
Yemen	267
Zambia	21
Zimbabwe	46

C1: Number of entry visas granted

Data provided includes EUSS Family Permits and EUSS Travel Permits

Country of nationality	1 January 2022 - 31 December 2022
Total	34,338
Afghanistan	371
Albania	1,444
Algeria	80
Angola	54
Argentina	21
Armenia	3
Australia	27
Austria	14
Azerbaijan	7
Bahrain	1
Bangladesh	2,257
Barbados	1
Belarus	43
Belgium	31
Benin	40

Bolivia	63
Bosnia and Herzegovina	4
Brazil	784
British overseas citizens	0
Bulgaria	57
Burkina	18
Burma	1
Cambodia	3
Cameroon	190
Canada	29
Cape Verde	29
Central African Republic	2
Chile	10
China	74
Colombia	228
Congo	5
Congo (Democratic Republic)	17
Costa Rica	4
Croatia	3
Cuba	16
Cyprus	17
Cyprus (Northern part of)	16
Czech Republic	14
Denmark	17
Djibouti	12
Dominica	3
Dominican Republic	466
East Timor	59
Ecuador	155
Egypt	158
El Salvador	2
Equatorial Guinea	14
Eritrea	15
Estonia	1
Ethiopia	99
Finland	17

France	118
Gabon	2
Gambia, The	284
Georgia	27
Germany	166
Ghana	2,692
Greece	97
Guatemala	4
Guinea	133
Guinea-Bissau	118
Haiti	7
Honduras	6
Hong Kong	9
Hungary	50
India	5,750
Indonesia	32
Iran	33
Iraq	216
Israel	20
Italy	218
Ivory Coast	105
Jamaica	23
Japan	18
Jordan	37
Kazakhstan	18
Kenya	162
Korea (South)	5
Kosovo	9
Kuwait	2
Kyrgyzstan	2
Latvia	33
Lebanon	27
Liberia	22
Libya	8
Lithuania	14
Macedonia	92

Madagascar	2
Malawi	5
Malaysia	17
Mali	16
Malta	7
Mauritania	2
Mauritius	9
Mexico	35
Moldova	1,526
Mongolia	1
Montenegro	1
Morocco	240
Mozambique	14
Nepal	200
Netherlands	77
New Zealand	6
Nicaragua	4
Nigeria	1,550
Norway	31
Occupied Palestinian Territories	31
Other and unknown	24
Pakistan	6,956
Panama	1
Paraguay	4
Peru	57
Philippines	225
Poland	117
Portugal	133
Refugee	78
Romania	231
Russia	204
Rwanda	4
Sao Tome and Principe	23
Saudi Arabia	3
Senegal	386
Serbia	37

Seychelles	2
Sierra Leone	151
Singapore	5
Slovakia	9
Slovenia	1
Somalia	2,010
South Africa	201
Spain	223
Sri Lanka	126
St. Lucia	1
St. Vincent and the Grenadines	1
Stateless	4
Sudan	109
Sudan (South)	10
Surinam	2
Swaziland	1
Sweden	115
Switzerland	22
Syria	212
Taiwan	7
Tanzania	18
Thailand	49
Togo	5
Trinidad and Tobago	6
Tunisia	44
Turkey	204
Turkmenistan	4
Uganda	61
Ukraine	452
United States	98
Uruguay	1
Uzbekistan	11
Venezuela	115
Vietnam	26
Yemen	184
Zambia	5
Zimbabwe	31

C2: Number of entry visas applications refused
Data provided includes EUSS Family Permits and EUSS Travel Permits

Country of nationality	1 January 2022 - 31 December 2022
Total	47,149
Afghanistan	462
Albania	3,423
Algeria	141
Angola	176
Argentina	21
Armenia	13
Australia	10
Austria	14
Azerbaijan	2
Bahrain	1
Bangladesh	4,386
Barbados	1
Belarus	35
Belgium	40
Benin	47
Bolivia	96
Bosnia and Herzegovina	5
Botswana	3
Brazil	1,157
Bulgaria	115
Burkina	25
Burma	2
Burundi	2
Cambodia	1
Cameroon	188
Canada	14
Cape Verde	47
Central African Republic	2
Chad	9
Chile	10

China	101
Colombia	452
Congo	16
Congo (Democratic Republic)	43
Costa Rica	2
Croatia	14
Cuba	32
Cyprus	32
Cyprus (Northern part of)	4
Czech Republic	35
Denmark	20
Djibouti	22
Dominican Republic	939
East Timor	73
Ecuador	336
Egypt	158
El Salvador	3
Equatorial Guinea	22
Eritrea	37
Estonia	9
Ethiopia	127
Finland	19
France	127
Gabon	5
Gambia, The	796
Georgia	30
Germany	156
Ghana	2,828
Greece	101
Guinea	230
Guinea-Bissau	271
Guyana	1
Haiti	16
Honduras	3
Hong Kong	7

Hungary	133
Iceland	2
India	6,883
Indonesia	33
Iran	56
Iraq	218
Israel	4
Italy	243
Ivory Coast	218
Jamaica	18
Japan	6
Jordan	47
Kazakhstan	22
Kenya	225
Korea (South)	7
Kosovo	12
Kyrgyzstan	11
Latvia	60
Lebanon	38
Liberia	19
Libya	22
Lithuania	58
Luxembourg	3
Macau	3
Macedonia	101
Madagascar	2
Malawi	8
Malaysia	8
Maldives	1
Mali	21
Malta	8
Mauritania	3
Mauritius	5
Mexico	15
Moldova	1282

Mongolia	6
Montenegro	2
Morocco	432
Mozambique	28
Namibia	2
Nepal	414
Netherlands	87
New Zealand	6
Nicaragua	5
Nigeria	2,384
Norway	21
Occupied Palestinian Territories	48
Other and unknown	47
Pakistan	9,063
Paraguay	3
Peru	70
Philippines	242
Poland	252
Portugal	205
Refugee	79
Romania	565
Russia	178
Rwanda	24
Sao Tome and Principe	78
Saudi Arabia	5
Senegal	480
Serbia	34
Sierra Leone	188
Singapore	6
Slovakia	14
Slovenia	5
Somalia	2,357
South Africa	192
Spain	218
Sri Lanka	310

St. Lucia	2
Stateless	7
Sudan	120
Sudan (South)	3
Surinam	3
Sweden	85
Switzerland	18
Syria	336
Taiwan	5
Tanzania	15
Thailand	50
Togo	12
Trinidad and Tobago	7
Tunisia	59
Turkey	193
Turkmenistan	1
Uganda	107
Ukraine	188
United Arab Emirates	3
United States	78
Uruguay	5
Uzbekistan	24
Venezuela	190
Vietnam	42
Yemen	190
Zambia	18
Zimbabwe	28

Applications for FW Permits. Frontier Worker

Country of nationality	1 January 2022 - 31 December 2022
Total	3,834
Australia	1
Austria	21
Belgium	31
Bulgaria	89
Croatia	38
Cyprus	3
Czech Republic	64
Denmark	74
Estonia	39
Finland	7
France	59
Germany	176
Greece	160
Hungary	44
Iceland	2
India	1
Ireland	6
Italy	118
Kosovo	1
Latvia	286
Lithuania	144
Malta	3
Netherlands	204
Norway	71
Other and unknown	265
Pakistan	1
Poland	980
Portugal	94
Romania	581

Russia	1
Rwanda	1
Slovakia	33
Slovenia	20
South Africa	1
Spain	161
Sweden	40
Switzerland	13
United States	1

Outcomes of applications. Frontier Worker - Permits Issued

Country of nationality	1 January 2022 - 31 December 2022
Total	1,964
Austria	18
Belgium	27
Bulgaria	26
Croatia	16
Cyprus	2
Czech Republic	37
Denmark	59
Estonia	21
Finland	2
France	49
Germany	146
Greece	119
Hungary	23
Iceland	1
Ireland	1
Italy	68
Latvia	134
Lithuania	65
Luxembourg	1
Malta	2
Netherlands	153
Norway	41
Poland	529
Portugal	63
Romania	191
Slovakia	17
Slovenia	12
South Africa	2
Spain	107
Sweden	25
Switzerland	6
United States	1

Outcomes of applications. Frontier Worker - Permits Refused

Country of nationality	1 January 2022 - 31 December 2022
Total	2,376
Argentina	1
Austria	5
Belgium	12
Bulgaria	74
Croatia	33
Cyprus	3
Czech Republic	51
Denmark	37
Estonia	25
Finland	5
France	40
Germany	95
Greece	54
Hungary	33
Iceland	3
Ireland	5
Italy	63
Latvia	184
Lithuania	101
Malta	2
Netherlands	98
Norway	55
Poland	652
Portugal	73
Romania	529
Slovakia	33
Slovenia	12
South Africa	1
Spain	65
Sweden	25
Switzerland	7

Outcomes of applications. Frontier worker - Permits Withdrawn

Country of nationality	1 January 2022 - 31 December 2022
Total	175
Argentina	1
Australia	1
Austria	3
Belgium	1
Bulgaria	6
Croatia	1
Czech Republic	2
Denmark	3
Finland	2
France	6
Germany	4
Greece	10
Hungary	3
India	1
Ireland	1
Italy	9
Kosovo	1
Latvia	9
Lithuania	3
Netherlands	3
Norway	1
Other and unknown	1
Pakistan	1
Poland	31
Portugal	3
Romania	38
Russia	1
Rwanda	1
Slovakia	7
Slovenia	1
Spain	13
Sweden	4
Switzerland	3

Annex 5 – Wales

1) Residence rights

A) Key legislative instruments implementing the Withdrawal Agreement and EEA EFTA Separation Agreement

Not applicable

B) Key legislative instruments adopted or amended in the reporting year

Not applicable

C) Key administrative documents giving guidance on the implementation of the Withdrawal Agreement and EEA EFTA Separation Agreement

- In January 2022, the Welsh Government launched an EUSS/EU citizens' rights awareness raising digital campaign via Facebook and Instagram. The aim of the campaign was to:
 1. Target those who were yet to make an application or those who may need to apply for a family member or someone they care for.
 2. Make EU citizens with pre-settled/settled status aware of their rights.
 3. Make EU citizens aware of their obligations to update their online immigration status.

Digital assets were produced in over 20 European languages with 7 key messages covering: late applications, EU citizens rights, access to healthcare and benefits, travelling with pre-settled or settled status, using the UK Government View and Prove service.

- The Welsh Government produced an EUSS/EU citizens' rights information leaflet that was shared with stakeholders and third sector organisations who provide advice and support to EU citizens in Wales. This leaflet was used in community network events to provide EU citizens with the relevant information relating to the rights under the European Withdrawal Act Agreement.

- The Welsh Government also produced EU Settlement Scheme reminder cards for pre-settled status holders. These pocket-sized cards enabled status holders to record the date that their pre-settled status expires, to remind them to apply for settled status to ensure that they did not lose access to their rights and entitlements.
- The Welsh Government continued to provide a package of free support to help EU citizens continue to live and work in Wales. This package of support has enabled EU citizens to get the help they needed, including:
 - Free advice and support from third sector organisations Citizens Advice Cymru and Settled
 - Advice on social welfare issues and workplace rights
 - Free specialist immigration advice for people with complex needs, delivered by immigration law firm Newfields Law
 - Outreach support for hard-to-reach and vulnerable groups
- The funding for EUSS Advice Services provided by Citizens Advice, Settled and Newfields Law was extended until March 2023 to continue to provide support to those with more complex applications which has become commonplace since the deadline for applications in June 2021.
- The Welsh Government continued to promote Wales as a 'Nation of Sanctuary' ensuring the Welsh Government's website 'Sanctuary' remained up to date on information for migrant and EU citizens. [Home - Wales: Nation of Sanctuary \(cityofsanctuary.org\)](https://www.gov.wales/sanctuary).
- The "Preparing Wales" website (created in 2019) remained active until October 2022 and was regularly updated to signpost EU citizens to the relevant information on the EU Settlement Scheme and EU citizens' rights. The information from Preparing Wales was migrated to the Welsh Government website: [EU citizens' rights to reside in Wales | GOV.WALES](https://www.gov.wales/eu-citizens-rights).
- The Welsh Government has produced six factsheets on EU citizens' rights. These are: Rights to access benefits, Rights to access healthcare, Rights to vote, Rights to study, Rights to housing and Rights to work. These factsheets were updated regularly and published on GOV.WALES. These leaflets were also shared with our stakeholders who provide advice and support to EU citizens' and can be accessed at: [EU citizens' rights | GOV.WALES](https://www.gov.wales/eu-citizens-rights).
- The Welsh Government continued to chair the quarterly EUSS Co-ordination Group meetings which allows key stakeholders across Wales an opportunity to meet and raise issues in relation to the EU Settlement Scheme.

- In January 2022 the Minister for Social Justice attended the EUSS Co-ordination Group meeting. This meeting provided an opportunity for the Minister to hear about the work undertaken by our stakeholders and the support that was still required despite the deadline for the EU Settlement Scheme having passed. The meeting also provided opportunity to discuss future support needs.
- The Welsh Government continued to communicate and share information on various topics, to key stakeholders, which could impact EU citizens.
- On the 1-year anniversary of the EUSS deadline social media assets were produced and shared on the Welsh Government Facebook and Twitter channels to inform EU citizens who missed the deadline that there is still time to apply. Assets were shared with the EUSS Co-ordination Group, Migration Roundtable, and Health Inspectorate Wales and Care Inspectorate Wales with a request to share these via their own communication channels.
- In 2022 the Welsh Government attended the Welsh Head of Wales School Nursing and Health Visitors meeting following stakeholders reporting concerns that EU citizens were not aware that they needed to apply for pre-settled status for children and new-borns. The purpose of attendance was to raise awareness of EUSS with midwives and health visitors.
- On 13 July 2022, the First Minister and Minister for Education and Welsh Language met with the EU Ambassador to the UK to discuss several issues in relation to the UK's relationship with the European Union including the rights of EU citizens residing in Wales.
- On 18 & 19 October 2022, the Welsh Government hosted a meeting with the European Union Economic and Social Justice Committee where members met with Ministers and Officials to hear about the work the Welsh Government is undertaking to ensure the rights of EU citizens continue to be protected following the UK's departure from the European Union.
- On 28 November 2022, following the interim report from the Independent Monitoring Authority (IMA) for Wales being published, the Chief Social Care Officer for Wales wrote to all Heads of Children's Services in Wales, highlighting the issues regarding how Local Authorities are making and supporting EU settlement scheme (EUSS) applications on behalf of all eligible looked after children, children in receipt of local authority care and support and care leavers. The letter outlined the local authorities' duties and requested that measures were put in place to improve how they support eligible children and young people in their role as corporate parents.
- In December 2022, the First Minister met with the new EU Ambassador to the UK to discuss EU citizens rights.

D) Key domestic jurisprudence from the reporting year

Not applicable

E) Statistical data

Not applicable

2) Rights of workers and self-employed

A) Key legislative instruments implementing the Withdrawal Agreement and EEA EFTA Separation Agreement

Not applicable

B Key legislative instruments adopted or amended in the reporting year

Not applicable

C) Key administrative documents giving guidance on the implementation of the Withdrawal Agreement and EEA EFTA Separation Agreement

The Welsh Government produced six factsheets on EU citizens rights. These are: Rights to access benefits, Rights to access healthcare, Rights to vote, Rights to study, Rights to housing and Rights to work. These factsheets were updated regularly and published on GOV.WALES. These leaflets have also been shared with our stakeholders who provide advice and support to EU citizens and can be accessed at: [EU citizens' rights | GOV.WALES](#).

D) Key domestic jurisprudence from the reporting year

Not applicable

E) Statistical data on the frontier worker scheme

Not applicable

3) Co-ordination of social security schemes

A) Key legislative instruments implementing the Withdrawal Agreement and EEA EFTA Separation Agreement

- The Welsh Government has made the National Health Service (Charges to Overseas Visitors) (Amendment) (Wales) (EU Exit) Regulations 2022 which ensure that the National Health Service (Charges to Overseas Visitors) Regulations 1989 reflect the UK-Switzerland Convention on Social Security Coordination.
- A review of the National Health Service (Charges to Overseas Visitors) Regulations 1989 with regards to the charging of late EUSS Applicants was initiated by the Welsh Government in December 2022.
- A review of the [Allocation of accommodation and homelessness: guidance for local authorities in Wales](#) was initiated by the Welsh Government in December 2022.
- The EU Settled Status (EUSS) Data Linkage Project which is an Administrative Data Research (ADR Wales) initiative, led by the Welsh Government, born out of the need to improve the evidence base on EU citizens in Wales who are part of the EU Settlement Scheme continued. The project aims to anonymously link Home Office data with other data already held within the SAIL Databank, enabling researchers and policymakers to better understand the experiences of EU citizens with Settled Status, and therefore to develop better informed policy and services that address the needs of this potentially vulnerable population. Understanding trends in the workforce is crucial to help maintain and improve the health of the economy. This research will investigate the experiences of EU citizens in the workforce.
- Right to rent checks continue to not be applicable to EU citizens in Wales.

B) Key legislative instruments adopted or amended in the reporting year

Not applicable

C) Key administrative documents giving guidance on the implementation of the Withdrawal Agreement

- The Welsh Government has published the “Guidance on implementing EU Exit amendments to the Overseas Visitors Charging Regulations” [Guidance on implementing EU Exit amendments \(gov.wales\)](#). The guidance provides help and advice to Local health Boards on the implementation of changes to the charging of overseas visitors to Wales:
 - as a consequence of the UK Government’s decision to leave the European Union (EU).
 - the new arrangements resulting from the UK’s relationship with EU under the Protocol on Social Security Co-ordination (SSC) contained in the UK-EU Trade and Co-operation Agreement (TCA).
 - the consequential changes made in The National Health Service (Charges to Overseas Visitors) (Amendment) (Wales) (EU Exit) Regulations 2020 and The National Health Service (Charges to Overseas Visitors) (Amendment) (Wales) (EU Exit) Regulations 2021; and
 - The National Health Service (Charges to Overseas Visitors) (Amendment) (Wales) Regulations 2022.

A review of aspects of this guidance regarding the charging of late EUSS Applicants and family members was initiated by the Welsh Government in December 2022.

- The EU Settled Status (EUSS) Data Linkage Project is an Administrative Data Research (ADR Wales) initiative born out of the need to improve the evidence base on EU citizens in Wales who are part of the EU Settlement Scheme. The project aims to anonymously link Home Office data with other data already held within the SAIL Databank, enabling researchers and policymakers to better understand the experiences of EU citizens with Settled Status, and therefore to develop better informed policy and services that address the needs of this potentially vulnerable population.

A crucial element of understanding the experiences of EU citizens with Settled Status in Wales is understanding how their experiences differ from those of the rest of the population. The wealth of de-identified data in the SAIL Databank provides the opportunity to develop a closely matched control group of British citizens with similar characteristics. This could help explore whether EU citizens with Settled Status have different experiences to British

citizens. This data linkage will provide an opportunity to compare the health experiences of EU citizens with the rest of the population in Wales along with the educational experiences of EU citizens. As education attainment is such an important predictor of other outcomes, an understanding of the education experiences of EU citizens would be invaluable for supporting them in the future.

D) Key domestic jurisprudence from the reporting year

Not applicable

E) Statistical data

Not applicable



4) Recognition of professional qualifications

A) Key legislative instruments implementing the Withdrawal Agreement

Not applicable

B) Key legislative instruments adopted or amended in the reporting year

The Professional Qualifications Act 2022 was amended. Please see link:
[Professional Qualifications Act 2022 \(legislation.gov.uk\)](https://legislation.gov.uk).

C) Key administrative documents giving guidance on the implementation of the Withdrawal Agreement

Not applicable

D) Key domestic jurisprudence from the reporting year

Not applicable

E) Statistical data

Not applicable



IMA

**For the Citizens'
Rights Agreements**

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2022

ESA's Annual Report on
the EEA EFTA Separation
Agreement with the
United Kingdom

No. 02

*Report submitted to the UK/EEA EFTA
Joint Committee in August 2023*

Brussels, 15 August 2023
Case No: 88758
Document No: 1386001

2022 ESA Annual Report to the Joint Committee established under the Separation Agreement

1 Introduction

This report is prepared in accordance with Article 64(3) of the Agreement on arrangements between Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland following the withdrawal of the United Kingdom from the European Union, the EEA Agreement and other agreements applicable between the United Kingdom and the EEA EFTA States by virtue of the United Kingdom's membership of the European Union ("the Separation Agreement/the Agreement"),¹ and Article 2 of Protocol 9 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice ("Surveillance and Court Agreement"/"SCA").² It aims to provide a general overview of the various measures undertaken by the EFTA Surveillance Authority ("ESA") to implement procedures in order to ensure effective monitoring of, and compliance with Part Two of the Separation Agreement, as well as a summary of the correspondence received from UK nationals in the EFTA States falling under the personal scope of the Agreement. The report also provides information concerning measures undertaken by the EEA EFTA States (that is, in Iceland, Liechtenstein, and Norway) to implement and to comply with Part Two of the Agreement. For the first time, ESA has requested that the EEA EFTA

¹ This report is submitted to discharge the obligation set out in Article 64(3) of the Separation Agreement, which provides that "*The EFTA Surveillance Authority ...shall ... annually inform the Joint Committee on the implementation and application of Part Two in the EEA EFTA States...*"

² Article 2(2) of Protocol 9 of the Surveillance and Court Agreement states: "*The EFTA Surveillance Authority shall annually inform the Joint Committee established by Article 65 of the Separation Agreement on the implementation and application of Part Two of the Separation Agreement in the EFTA States. The information provided shall, in particular, cover measures taken by the EFTA States to implement or comply with Part Two and the number and nature of complaints received.*"

States submit statistical and other information in advance of compiling the present report. This reflects the approach adopted by the UK Independent Monitoring Authority (“UK IMA”) under the Separation Agreement, as well as that adopted by the European Commission in respect of its analogous role under the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (“the Withdrawal Agreement”).

ESA has been tasked with overseeing the implementation and application in the EEA EFTA States of Part Two of the Separation Agreement, which is entitled “Citizens' Rights”.

Article 64(2) of the Separation Agreement empowers ESA *“to conduct inquiries on its own initiative concerning alleged breaches of Part Two by the administrative authorities of the EEA EFTA States and to receive complaints from United Kingdom nationals and their family members for the purposes of conducting such inquiries”*. The same article provides that ESA is to have *“the right to bring a matter before the EFTA Court pursuant to the Surveillance and Court Agreement”*.

Article 64(3) of the Separation Agreement provides that *“The EFTA Surveillance Authority...shall...annually inform the Joint Committee on the implementation and application of Part Two in the EEA EFTA States The information provided shall, in particular, cover measures taken to implement or comply with Part Two and the number and nature of complaints received.”*

This is the second annual report prepared by ESA and reports on the 12-month period during the calendar year 2022. The first annual report, covering the first twelve months after the expiry of the transition period, was adopted on 23 May 2022, and is available on ESA’s website, along with a detailed guidance note concerning initial measures taken by ESA to implement procedures to deal with the Separation Agreement.³

³ <https://www.eftasurv.int/esa-at-a-glance/publications/annual-report/separation-agreement-annual-report-2021>

In addition to the prescribed matters on which ESA is tasked to report, the report also contains information that is relevant to ESA's activities in relation to the Agreement during this period.

The report is submitted to the Joint Committee established under Article 65(1) of the Agreement.

2 ESA's role under the Agreement

ESA took up its new functions with respect to the Agreement as of midnight CET (11pm GMT) on 31 December 2020. While ESA's counterpart with respect to the rights of the nationals of the EEA EFTA States in the UK, UK IMA is a newly-established and bespoke body that is tasked with ensuring that the rights of EU and EEA EFTA citizens and their family members living in the UK and Gibraltar as at the 31 December 2020 are upheld following the departure of the UK from the EU, ESA's genesis pre-dated the Agreement by more than a quarter century.

ESA's principal task, and that for which it was originally established, involves monitoring compliance with the Agreement on the European Economic Area ("EEA Agreement") in Iceland, Liechtenstein and Norway; the EFTA States that are parties to the EEA Agreement ("EEA EFTA States"), allowing them to participate in the Internal Market of the European Union ("EU"). The EEA Agreement, broadly speaking, extends the EU's four economic freedoms to the EEA EFTA States.

ESA operates independently of the EEA EFTA States and seeks to protect the rights of individuals and market participants who find their rights infringed by rules or practices of the EEA EFTA States or companies within those states.

With respect to the Separation Agreement, ESA's role is novel. The Separation Agreement represents the first occasion on which ESA has been tasked with the oversight of a new international treaty that is separate from the EEA Agreement. While there are significant similarities in terms of ESA's monitoring tasks under the EEA Agreement on the one hand, and the Separation Agreement, on the other, there are also important distinctions. Given the novel role undertaken by ESA in this regard, ESA's approach can be expected to evolve over the first years of its mandate under the Separation Agreement. This is demonstrated, *inter alia*, by the fact that for this, second, Annual Report prepared in accordance with Article 64(3)

of the Separation Agreement, a different approach has been taken, with ESA requesting statistical data from the three EEA EFTA States.

ESA's role is restricted to the monitoring of Part Two of the Separation Agreement, entitled "Citizens' Rights". Broadly speaking, the rights falling under Part Two reflect rights previously held by UK nationals (that is, by natural persons holding UK nationality, as defined by Article 2(d) of the Agreement)⁴ on the basis of the EEA Agreement, until the end of the Transition Period (that is, until 31 December 2020). However, the rights due to UK nationals are significantly more circumscribed than those previously available under the EEA Agreement. The territorial, material, and personal scope of ESA's monitoring obligations under the Separation Agreement are all distinct from those under EEA law.

Personal scope

Articles 8, and 9 of the Separation Agreement jointly determine the definitions and personal scope for the purposes of the application of Title II of Part Two of the Separation Agreement. The beneficiaries of Title II of the Separation Agreement consist of EEA EFTA nationals and UK nationals having exercised the right to reside or work in accordance with EEA law before the end of the transition period and continuing to do so after that period, as well as their respective family members.⁵

Territorial Scope

While Article 3(2) provides as a general rule that *"any reference in this Agreement to EEA EFTA States, or their territory, shall be understood as covering the territories of Iceland, Liechtenstein and Norway to which the EEA Agreement applies,"* the territorial scope of the Separation Agreement is more circumscribed than the EEA

⁴ Article 2(d) of the Agreement provides that *"United Kingdom national" means a national of the United Kingdom, as defined in the New Declaration by the Government of the United Kingdom of Great Britain and Northern Ireland of 31 December 1982 on the definition of the term 'nationals' [OJ C 23, 28.1.1983, p. 1] together with Declaration No 63 annexed to the Final Act of the intergovernmental conference which adopted the Treaty of Lisbon [OJ C 306, 17.12.2007, p. 270]."*

⁵ Further information concerning the personal scope of the Agreement can be found in ESA's Guidance Note (Doc No 1186826), annexed to the 2021 Annual Report.

Agreement would be in similar circumstances, as onward mobility is not included for such individuals.⁶

Material Scope

As noted, the material scope of Part Two of the Agreement is confined to “Citizens’ Rights”. This entails that other issues contemplated by the Agreement, including, but not limited to:

- (a) goods placed on the market, including ongoing customs procedures;
- (b) intellectual property;
- (c) ongoing police and judicial cooperation in criminal matters;
- (d) data and information processed or obtained before the end of the Transition Period or on the basis of the UK-EU Withdrawal Agreement (“The Withdrawal Agreement”);
- (e) ongoing public procurement and similar procedures; and
- (f) ongoing judicial procedures (representation before the EFTA Court)

all fall outside the scope of ESA’s monitoring obligations under the Separation Agreement. Moreover, in relation to goods specifically, Article 41 of the Agreement provides that *“The market surveillance authorities of the EEA EFTA States and the market surveillance authorities of the United Kingdom shall exchange without delay any relevant information collected with regard to the goods referred to in Article 39(1) in the context of their respective market surveillance activities. They shall, in particular, communicate to each other and to the EFTA Surveillance Authority any information relating to those goods presenting a serious risk, as well as any measures taken in relation to non-compliant goods, including relevant information drawn from networks, information systems and databases established under the provisions of the EEA Agreement or United Kingdom law in relation to those goods.”*

⁶ Certain limited exceptions may occasionally arise in circumstances in which UK nationals falling under the personal scope of the Separation Agreement, and resident in Iceland, for example, are also family members of UK nationals falling under the personal scope of the Separation Agreement in Norway. In such circumstances, those UK nationals resident in Iceland would normally be permitted to move to Norway and themselves acquire rights in that State on the basis of their family connection with another UK national falling under the personal scope of the Separation Agreement.

While this does not establish a monitoring obligation for ESA *per se*, it does entail an additional responsibility, namely to receive communications from the market surveillance authorities in the EEA EFTA States under the Separation Agreement.

ESA notes that it has not received any communications from the market surveillance authorities in the EEA EFTA States under the Separation Agreement during the year 2022.

The “Citizens’ Rights” provisions extend, broadly, to the following categories of rights, which may be exercised by UK nationals covered by the personal scope of the Separation Agreement and their family members:

- (a) Residency, including the right to enter and exit Iceland, Liechtenstein, or Norway.
- (b) The right to work, including self-employed work and also the right to continue to be a frontier worker.
- (c) Mutual recognition of professional qualifications: this means the right to have qualifications that have already been recognised before 31 December 2020 (or that were in the process of being recognised at that juncture) to continue to be recognised in Iceland, Liechtenstein, or Norway.
- (d) Co-ordination of social security systems, including pensions, benefits and other forms of social security.
- (e) Equal treatment and non-discrimination, including ensuring equal access to certain public services such as education, healthcare and certain benefits.

With respect to ESA’s mandate under the Separation Agreement, ESA monitors the EEA EFTA States and their public institutions and actors exercising public functions to ensure that they adequately and effectively implement the rights provided for by the Agreement. ESA promotes the adequate and effective implementation and application of the Agreement by holding public bodies to account where there is not full compliance, and by engaging in dialogue and correspondence to ensure early and where possible amicable and informal case resolution. In addition, Article 2 of Protocol 9 to the SCA provides that ESA’s powers that follow from the EEA Agreement shall apply *mutatis mutandis* to the Separation Agreement. This entails

that ESA can begin infringement proceedings against the EEA EFTA States and can bring matters before the EFTA Court.

As to the scope of ESA's powers, these are framed by the rights set out in the Agreements. These rights are extensive and were designed to broadly provide UK nationals and their family members the same entitlements to work, study and access public services and benefits as they enjoyed before the UK left the EU, subject to the limitations set out by the material scope of the Agreement. These powers reflect, to a significant degree, the powers allotted to ESA in terms of its monitoring obligations under the EEA Agreement and the Surveillance and Court Agreement.

In summary, ESA's specific powers are as follows:

2.1 ESA's power to receive complaints and correspondence

ESA can receive complaints and other correspondence from persons who claim to have a right under the Separation Agreement. Complaints may report where one of the EEA EFTA States has failed to comply with the Agreement, or a public body has acted or is proposing to act in a way that prevents the person exercising the right in question.

Although ESA does not generally dispense legal advice to members of the public, ESA will nonetheless assess all correspondence received in relation to potential rights arising under the Separation Agreement to assess whether such correspondence indicates a potential breach of the Agreement. ESA will further consider whether any potential breach may constitute a general or systemic failing, and will decide, *inter alia*, on this basis whether to pursue the case further. Individual complaints and correspondence may be particularly useful in providing information or alerting ESA to possible issues of a general or systemic nature.

ESA will, in all cases, log any information received (in accordance with its Data Protection Policy) as it may help form part of a wider set of information gathered over time which could indicate a systemic failing.

2.2 ESA's power to conduct inquiries

ESA's power to conduct inquiries is set out in Article 64(2) of the Agreement. This provides that ESA may conduct inquiries on its own initiative concerning alleged

breaches of Part Two by the administrative authorities of the EEA EFTA States and to receive complaints from UK nationals and their family members for the purposes of conducting such inquiries. In this regard, Article 64(2) states that ESA “*shall have equivalent powers as those that follow from the EEA Agreement and the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice (“Surveillance and Court Agreement”).*”

This entails that, by and large, ESA’s responsibilities under the Separation Agreement mirror those under the EEA Agreement and the SCA. As such, and as shall be explained in greater detail below, ESA determined in 2021 that the best *modus operandi* for the exercise of its functions under Article 64(2) is to, wherever possible, follow pre-established procedures that replicate those under the EEA Agreement and the SCA. This has the advantage of leaning on ESA’s quarter century of experience, and of minimising costs and administrative complications associated with the implementation of new procedures for a new international treaty monitoring regime. This approach has been successful and was maintained during 2022.

ESA may decide to conduct inquiries, either as a result of information received via correspondence from a member of the public, or of its own initiative.

When considering whether to carry out an inquiry, ESA will consider the importance of addressing general or systemic failings. ESA may not carry out an inquiry unless it has reasonable grounds to believe that the inquiry may conclude that a failure to comply with the Separation Agreement has occurred, or that a public body has acted or is proposing to act in a way that prevents a person from exercising their rights under the Agreement.

To inform this assessment, ESA may, in certain cases, carry out pre-inquiry investigations. This may involve informal consultations with the EEA EFTA States. In carrying out such investigations ESA may be able to resolve any issues in a more timely way than proceeding to a full inquiry.

To date, ESA has not started any inquiries confined specifically to the Separation Agreement. However, a number of cases undertaken by ESA concern parallel matters pertaining to Part Two of the Separation Agreement, on the one hand, and rights of EEA nationals under the EEA Agreement, on the other. In such circumstances, the *modus operandi* on the part of ESA has been to open a single

case, with the principal legal framework that of the EEA Agreement. Any necessary annotations or adjustments relevant to UK nationals covered by the Separation Agreement may be noted thereafter in correspondence with the EEA EFTA States during the infringement stage.

Pre-inquiry investigations are proceeding and have concluded with regard to a number of issues which are outlined in Section 5, below, in relation to the emerging themes of some of the correspondence ESA has received to date. This has also involved early stage case resolution via informal contact with the EEA EFTA States on individual issues, without the need to open formal inquiry cases.

2.3 ESA's power to bring matters before the EFTA Court

Article 64(2) of the Agreement also provides that ESA shall also have the right to bring a matter before the EFTA Court pursuant to the SCA in respect of cases arising under the Separation Agreement. This also follows from Article 2 of Protocol 9 SCA, which provides that ESA's powers under the EEA Agreement shall apply to the Separation Agreement *mutatis mutandis*.

Bringing a matter before the EFTA Court will generally follow a full inquiry involving formal correspondence with the EEA EFTA State that ESA determines to be in breach of its obligations under the Separation Agreement. The stages of escalation in this regard will follow established procedures developed by ESA in its quarter century of existence in relation to breaches arising under the EEA Agreement.

To date, ESA has not brought any matters before the EFTA Court on a matter confined specifically to the Separation Agreement. Moreover, ESA has not brought any cases to the EFTA Court on a matter that pertains both to UK nationals falling under the scope of the Separation Agreement and to EEA nationals falling under the scope of the EEA Agreement.

3 Measures Taken on the Implementation and Application of Part Two of the Agreement

3.1 Internal measures

As noted in the 2021 Annual Report, in order to enable ESA to comply with its monitoring obligations in the most effective and efficient way possible, ESA's

Internal Market Affairs Directorate undertook a mapping exercise of tasks that needed to be undertaken in order to ready ESA for its new mandate. This included updating the rules of procedure and the ESA website, the creation of a new email address for complaints and correspondence, the publication of a detailed Guidance Note⁷ concerning the Separation Agreement, ESA's powers thereunder, and the rights of UK nationals and their families falling under its scope, the creation of new templates and procedures, and some internal training. During 2022, the fitness for purpose of these new elements was assessed by ESA. It was determined that no updates were required and that the system established was working well.

In addition to the above, in 2020, ESA constructed a preliminary typology of case types that are likely to arise under the Separation Agreement, in order to manage and classify the case load as it develops over time. Three principal types of cases were identified:

- (a) 'Parallel' cases: these cases are likely to be very common initially, and will arise where EEA law and Separation Agreement law are substantively identical. Such cases can effectively be handled together. Case 85895 concerning COVID measures undertaken by Norway is a good example of such a case.

- (b) 'Divergent' cases: these cases will arise when post-2021 secondary legislation has been implemented into the EEA Agreement. The Separation Agreement legal order, on the other hand, will rely on the 'old' EEA law as it stood on 1 January 2021, except in matters relating to social security co-ordination under Regulations (EC) No 883/2004 and (EC) No 987/2009, and under the conditions set out in Article 34 of the Agreement. Case 87307, concerning COVID vaccination certificates, is a good example of such a case, because in this instance, the COVID certificates in question were regulated by secondary legislation implemented into the EEA Agreement after 1 January 2021. As such, the rights of UK nationals, on the one hand, and those of EEA nationals, on the other, were subject to differing legal frameworks.

⁷<https://www.eftasurv.int/cms/sites/default/files/documents/gopro/ESA%20Guidance%20Note%20on%20the%20UK%20EEA%20Separation%20Agreement.pdf>

- (c) 'Transitional' cases: such cases are likely to involve measures adopted by one or more of the EEA EFTA States to implement the Separation Agreement into their domestic legal orders. Such cases may relate to changes in the documentary requirements for UK nationals, formalities related to the acquisition and maintenance of rights under the Agreement, et cetera. As of yet, ESA has not opened any inquiries related to such issues, and it would seem that the three EEA EFTA States have invested quite some time and energy into ensuring that the transition from EEA national status to the status of persons falling under the Separation Agreement has been smooth and comparatively problem-free for UK nationals and their families.

This typology was also re-evaluated during 2022, and no amendments were deemed necessary.

3.2 External measures

In order to comply with its obligations, arising *inter alia* from Article 64 of the Agreement, ESA has liaised both formally and informally with UK IMA, with either side keeping the other regularly apprised of developments with respect to their respective monitoring obligations.

In addition, ESA has liaised with the European Commission in respect of the Withdrawal Agreement. As noted above, Article 4(3) of the Separation Agreement provides that the provisions of Part Two of the Separation Agreement shall be interpreted in conformity with the provisions of Part Two of the Withdrawal Agreement, in so far as they are identical in substance.⁸ This entails that there is a close relationship between the law of the Separation Agreement, on the one hand, and that of the Withdrawal Agreement, on the other, and while the Separation Agreement does not provide for any formal role for the European Commission, ESA has found it useful to develop links on this axis in order to take account of any issues encountered by the European Commission in its work.

ESA's meetings in this regard are described in further detail in Section 4, below.

⁸ Much of the respective texts are either identical or very similar, while adaptations and adjustments have been made where differences between the two agreements entail or require divergences in implementation and application of provisions of the Separation Agreement compared to those in the EU-UK Withdrawal Agreement.

4 Measures undertaken by the EEA EFTA States to implement and to comply with Part Two of the Agreement

As noted above, Article 64(3) requires that ESA should annually inform the Joint Committee on the implementation and application of Part Two in the EEA EFTA States, and that the information provided should, in particular, cover measures taken to implement or comply with Part Two and the number and nature of complaints received.

For the first time, in relation to the 2022 Annual Report, ESA distributed pro-forma template documents to the EEA EFTA States, soliciting information concerning measures they had undertaken during 2022 to implement the Separation Agreement. These documents mirrored those distributed by the European Commission to the EU Member States, on the one hand, and by UK IMA to the Government of Gibraltar, the Northern Ireland Executive, the Scottish Government, the Government of the United Kingdom, and the Welsh Government, on the other. ESA's aim was to improve transparency and comparability by following a uniform approach in this regard.

In particular, ESA sought the following information from the EEA EFTA States:

- the most relevant instruments in place to implement Part Two of the Separation Agreement;
- the most relevant instruments implementing Part Two of the Agreement that were adopted or amended in the last year;
- the most relevant domestic jurisprudence from the last year; and
- certain basic statistical data that show how the Separation Agreement has been applied.

The responses received by ESA in this regard are referred to in Section 7 of the present report. These provide detailed data concerning the activities undertaken by the EEA EFTA States during 2022 with respect to the Separation Agreement.

As a general remark, ESA observes that the implementation of the Separation Agreement is generally very satisfactory. ESA considers that the implementation is now more mature, compared to the run-up to the end of the Transition Period and the first twelve-month period after the Transition Period. This has coincided, *inter*

alia, with a reduced volume of correspondence being received by ESA from members of the public.

Overall, for most UK nationals falling within the scope of the Separation Agreement and resident in the EEA EFTA States, the evidence available to ESA indicates that the transition from EEA law to the Separation Agreement legal order has been smooth.⁹ Any challenges or tensions arising (which have been vanishingly rare) have been promptly addressed by the EEA EFTA States, occasionally with informal input by ESA. Overall, there is evidence that the EEA EFTA States have adopted a flexible and pragmatic approach to solving problems encountered by UK nationals. Following this approach, fewer issues were drawn to ESA's attention in 2022 than in 2021 by the United Kingdom, external stakeholders, or individual UK nationals, with twelve communications in all, a minority of which were actually relevant to ESA's functions under the Separation Agreement.

ESA has also engaged in fruitful and structured discussions with the EEA EFTA States on an individual basis. ESA undertook discussions with the governments of Norway, Liechtenstein, and Iceland during the annual Package Meetings held in Oslo in October 2022, in Vaduz in April 2023, and in Reykjavík in June 2023, respectively. At each of these meetings, discussions were held with relevant ministries and case handlers concerning the 2021 Annual Report, national implementation of measures under the Separation Agreement, and general updates, planning in relation to the compilation of the present report. At these meetings, and via written input submitted thereafter, the three EEA EFTA States demonstrated to ESA's satisfaction that they had implemented adequate measures to ensure compliance with the Separation Agreement. In addition, the meetings revealed a possible reason, besides a high level of compliance, why so few complaints and enquiries have been received by ESA: all three EEA EFTA States have created a good suite of national avenues through which UK nationals falling under the personal scope of the Separation Agreement and their family members may have their concerns addressed at national level, obviating the need for recourse to contacting ESA. In addition, in all three States, there was evidence of

⁹ ESA observes that EEA law and the legal order created by the Separation Agreement must necessarily be understood as substantively related, but normatively separate, legal orders. While the (very similar) Withdrawal Agreement forms part of EU law (as an EU external agreement), with the Commission acting as its guardian in accordance with Article 17 of the Treaty on European Union, the Separation Agreement does not form part of EEA law, and the legal order created by it is thus separate from both EEA law and the Withdrawal Agreement.

good engagement from the side of the UK embassies in Oslo, Reykjavík and Berne in terms of both awareness raising and acting as an informal conduit between UK nationals in Norway, Iceland and Liechtenstein, respectively, when issues arise.

In addition, ESA has engaged regularly and productively with both UK IMA with respect to the Separation Agreement, and the European Commission with respect to overlapping issues between the Withdrawal Agreement and the Separation Agreement. Amongst the issues discussed with UK IMA were the ongoing case handling by UK IMA, and the similarities and differences of the challenges faced by both bodies in terms of their monitoring obligations. Amongst the issues discussed with the European Commission was the question as to when and under what circumstances an individual falling under the scope of either the Separation Agreement or Withdrawal Agreement might lose that status and fall outside the agreement in question's scope. This latter issue represented a novel question for ESA, as the scope of the EEA Agreement for EEA nationals is linked to nationality, whereas this is not the sole consideration in the case of the Separation Agreement. While engagement with UK IMA has, until this point, chiefly proceeded online, it is hoped that more in-person meetings may be possible in the near future.

During 2022, ESA attended meetings of the *Expert Group on the right to free movement of persons (Directive 2004/38/EC)*¹⁰ dedicated to the implementation of the residence rights provisions of the Withdrawal Agreement, with a view to garnering insights that might be applied in the context of the Separation Agreement.

During this meeting, the European Commission provided guidance to the Expert Group on the following matters that were of relevance for ESA due to the similarity of the two agreements:

- the scope of application of Article 21 of the Withdrawal Agreement;
- having Withdrawal Agreement beneficiary status in more than one Member State and the definition of frontier worker;
- having Withdrawal Agreement beneficiary status in more than one Member State and the applicable absence rules;

¹⁰ <https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?lang=en&do=groupDetail.groupDetail&groupID=2397>

- family members who are eligible to join Withdrawal Agreement beneficiaries after the end of the transition period and visa facilitations;
- visits of family members in the form of short stays falling outside the Withdrawal Agreement;
- Withdrawal Agreement beneficiaries travelling without a valid residence document;
- equal treatment provisions; and
- absence rules.

ESA has also taken cognisance of publications of the European Commission that might be of relevance to its work in relation to the Separation Agreement. For example, with respect to Chapter Three of Title Two of Part Two of the Withdrawal Agreement, the Commission provided guidance to Member States and beneficiaries of the Withdrawal Agreement and also updated its guidance note on the recognition of UK professional qualifications in the Union, following the United Kingdom's withdrawal, in particular with respect to qualifications obtained in the United Kingdom before the end of the transition period by EU citizens.¹¹ This has extended, in some instances, to areas falling outside the scope of Separation Agreement law *stricto sensu*, where the areas in question nonetheless have the potential to have a significant and immediate impact upon the exercise of rights under the Separation Agreement.¹²

Finally, ESA has engaged with a number of academics who have contacted the Authority with respect to research projects pertaining to the Separation Agreement.

¹¹ https://single-market-economy.ec.europa.eu/single-market/services/free-movement-professionals/recognition-professional-qualifications-practice/recognition-professional-qualifications-acquired-united-kingdom-european-union-nationals_en

¹² An example in this regard is the European Commission's updates to the relevant Annexes of the [Practical Handbook for Border Guards \(Schengen Handbook\)](#) to reflect Member States' notifications. In particular, the Commission updated the following Annexes:

Annex 22 (List of residence permits issued by Member States) to include the titles of documents that Withdrawal Agreement beneficiaries in host States with declaratory schemes may use to evidence their beneficiary status before holding a Withdrawal Agreement residence document; and *Annex 43* (Specimen of documents that beneficiaries of the Withdrawal Agreements (EU-UK, IS/LI/NO-UK, CH-UK) may hold before being in possession of the new residence document issued either in accordance with Commission Implementing Decision (EU) 2022/1945 of 21 February 2020) or in accordance with the Withdrawal Agreements concluded by Iceland, Liechtenstein and Norway on the one hand and Switzerland on the other hand) containing the specimen of documents relevant for the application of the Withdrawal Agreement.

5 Complaints and own initiative cases pursued

5.1 Divergent and transitional cases

ESA receives complaints and other correspondence concerning alleged violations of rights that are protected by the Separation Agreement. In its capacity as the surveillance authority for the EEA Agreement, ESA also receives complaints and other correspondence concerning issues under the EEA Agreement that correspond directly to rights in the Separation Agreement, which may also concern UK nationals falling within the personal scope of the Separation Agreement, as the rights covered in the two agreements are, in certain areas, identical or very similar.

ESA received approximately ten communications from members of the public that related specifically to the Separation Agreement over the course of 2022. These consisted of emails via the dedicated email address or through ESA's Registry, and telephone calls. None of these were escalated to the level of an inquiry. Rather, all were resolved informally. Communications received related exclusively to Iceland and Norway, with no correspondence received relating to Liechtenstein. The issues addressed related principally to minor issues of public administration, such as inquiries concerning deadlines for exchange of documents, or a lack of publicly available information on the pages of the relevant ministries of the respective EEA EFTA States. A number of the communications originated from third country nationals with UK family members who fell outside the personal scope of the Agreement. In addition, ESA received two communications from Royal Mail in the United Kingdom, which seemingly believed that ESA was responsible for sending residence cards to EEA EFTA nationals resident in the UK.

There were also a number of communications from UK nationals resident in one of the EEA EFTA States who had contacted ESA concerning certain ongoing issues affecting them (in particular, long-running disagreements with national authorities). Prior to the end of the Transition Period, such individuals would have addressed themselves to ESA on the basis of the EEA Agreement. However, since 2021, they make reference to the Separation Agreement. During 2022, those individuals who contacted ESA under this umbrella also addressed themselves to national administrations – as well as other international organs – in tandem with ESA, and raised issues pertaining to several legal issues, including human rights law, access

to justice, and national administrative law. While ESA examines every communication from a member of the public carefully, such UK nationals who contacted ESA during 2022 raised a number of overlapping issues, and ESA determined that it was not the best placed organ to take these issues forward.

As in 2021, it is noteworthy that the number of communications received from members of the public was low in 2022. However, given that, as noted in the 2021 Annual Report, the performance of the EEA EFTA States with respect to transitional issues between the end of the Transition Period and the period thereafter appears to have generally been smooth and comparatively problem-free for UK nationals and their families, it is perhaps unsurprising that the amount of correspondence received in relation to issues pertaining exclusively to the Separation Agreement has been small. In addition, the absolute number of UK nationals falling within the personal scope of the Agreement and living in the EEA EFTA States is quite low, meaning that in any event, complaints are likely to be quite infrequent.¹³

Moreover, the Separation Agreement and the EEA Agreement did not substantially diverge from one another in almost any relevant area (with perhaps the sole significant exception of vaccination certificates) during 2021 or 2022. This means that ESA did not need to open separate own initiative cases into issues pertaining to the Separation Agreement, rather incorporating issues under the Separation Agreement into cases principally opened and progressed on the basis of the EEA Agreement.

Despite the above, it might perhaps be argued that greater awareness of the Separation Agreement might potentially result in a greater volume of correspondence. However, ESA notes that Article 35 of the Agreement, entitled “Publicity”, which is modelled on Article 34 of Directive 2004/38/EC, imposes an obligation on the EEA EFTA States and the UK to disseminate information and create awareness of the Agreement. It does not impose any obligation on others, such as on employers, the Joint Committee, or indeed ESA. Notwithstanding this,

¹³ Given the similar number of EEA EFTA nationals living in the UK and subject to the personal scope of the Separation Agreement, it is perhaps germane to note that UK IMA’s 2022 Annual Report under the Separation Agreement notes that UK IMA has yet to receive any complaints from nationals of Iceland or Liechtenstein. See p. 13 of *IMA’s Annual Report to the Specialised Committee on Citizens’ Rights established under the Withdrawal Agreement and the Joint Committee established under the EEA EFTA Separation Agreement [2022]*, available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1166133/ima-annual-report-2022-web.pdf

ESA has provided a portal on its website,¹⁴ and issues press releases for each Annual Report compiled under the Separation Agreement.¹⁵

5.2 Parallel cases

As was the case during 2021, during 2022 ESA pursued a number of cases, principally on the basis of the EEA Agreement, that involved significant consideration of rights under the Separation Agreement. Such cases are important, as it is considered likely that, at least in the initial years of the Separation Agreement's existence, this will constitute the bulk of ESA's case work in relation to the Separation Agreement.

In particular, the most complex of these cases, *Case 85895: Own initiative case concerning Norwegian entry restrictions and COVID-19*, was kept open by ESA during 2022.

This case was opened – initially solely on the basis of the EEA Agreement – in November 2020. The case concerned the (then constantly and rapidly evolving) suite of measures imposed by the Norwegian Government in order to counter the COVID 19 pandemic. These measures, justified by Norway on the basis of the protection of public health, included entry restrictions to Norway and quarantine restrictions that differentiated, in law and in fact, between EEA nationals on the one hand, and Norwegian nationals on the other.

By the time ESA sent a Letter of Formal Notice (Doc No 1199663) in May of 2021, it was necessary to consider parallel impacts upon UK nationals covered by the Separation Agreement as well as EEA nationals as falling within the scope of the case, as such persons were, in many cases, similarly impacted. For example, UK nationals resident in Norway who had travelled back to the UK and who wished to re-enter Norway, were often impeded from doing so, in a manner that contradicted their rights, *inter alia*, under provisions of the Separation Agreement mirroring the rights provided for under Articles 5, 6, 7, 8, 27, 28, 29, 30 and 31 of Directive 2004/38/EC, although the frame of reference for EEA nationals in the case was significantly broader, also entailing *inter alia*, rights with no analogues under the

¹⁴ <https://www.eftasurv.int/internal-market/eea-efta-separation-agreement-uk>

¹⁵ The press release for the 2021 Annual Report is available at <https://www.eftasurv.int/newsroom/updates/esa-satisfied-protection-rights-uk-citizens-eea-efta-states>

Separation Agreement, including Article 36 of the EEA Agreement, and Articles 9 and 16 of Directive 2006/123/EC.

The facts of the case – in particular those related to measures adopted by Norway – are quite complex due to the fact that the measures in question evolved so often and were regulated by a multi-layered system of permanent and temporary laws, administrative regulations, circulars, and administrative practices. However, they significantly impeded the free movement of persons, both for EEA nationals and for UK nationals falling under the scope of the Separation Agreement.

It was determined by ESA that there was no need to open a new case with respect to the issues faced by UK nationals falling under the Separation Agreement (largely Articles 11, 12-17, and 23-25 thereof). Rather, all rights enjoyed by UK nationals would also be enjoyed by EEA nationals under the EEA Agreement (who, as noted above, also enjoyed certain rights not enjoyed by UK nationals, due to the EEA Agreement's broader scope). As such, it was decided instead to broaden the case – initially opened solely on the basis of the EEA Agreement – to cover the Separation Agreement – via the insertion of an explanatory paragraph into the Letter of Formal Notice:

“For the purposes of the present case, it should be noted that [ESA] is also responsible for oversight of the rights of UK nationals covered by the Agreement on arrangements between Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland following the withdrawal of the United Kingdom from the European Union, the EEA Agreement and other agreements applicable between the United Kingdom and the EEA EFTA States by virtue of the United Kingdom's membership of the European Union (“the Separation Agreement”). In general, UK nationals covered by the Separation Agreement are in an equivalent situation to EEA nationals with respect to the rules in question. As such, the conclusions expressed above in relation to EEA nationals under the EEA Agreement should be seen to cover UK nationals who fall under the Separation Agreement mutatis mutandis.”

During 2022, Norway significantly relaxed its restrictive measures adopted to deal with the COVID-19 pandemic, and in particular, withdrew the measures with which ESA had taken issue in its Letter of Formal Notice in the case in question. ESA kept the case open and the situation under review. A number of affected persons

continued to contact ESA with respect to issues pertaining to this case – including access to justice and follow-up in the Norwegian courts. In addition, ESA took cognizance of the Norwegian Corona Commission’s 2nd report on the handling of the pandemic in Norway, delivered in May 2022.

Further, during 2022, Norway corresponded with ESA concerning issues that ESA had raised at the 2021 Package Meeting in Oslo pertaining to the case. In particular, Norway provided clarifications concerning its usage of a regionalized colour coding system for Finland, Sweden and Denmark, whereas a national colour coding system was employed for other EEA States. In addition, Norway dealt with concerns raised by ESA concerning the access of holiday property owners to their properties (chiefly in Sweden), compensation for lost income, public consultation, suitable locations for undertaking quarantine, and the issuance of vaccine certificates.

Conversely, another case pertaining to the COVID restrictions was closed during 2022. This case, *Case 86978: Own initiative case concerning the obligation of air carriers to inspect COVID-19 certificates in international flights to Iceland*, was opened in June 2021, again, initially purely on the basis of the EEA Agreement. Here, ESA took issue with the compatibility of Law No 41 of 28 May 2021 amending Act No 60/1998 (“*Lög um breytingu á lögum um loftferðir, nr. 60/1998, með síðari breytingum (skyldur flugrekenda vegna COVID-19)*”) concerning the obligations of air carriers to take measures due to COVID-19, in tandem with the related national Regulation No 650/2021 of 1 June 2021 (“*Reglugerð um skyldu flugrekenda til að kanna vottorð vegna COVID-19 í millilandaflugi*”), with EEA law. In particular, ESA’s concerns pertained to the obligation of air carriers to deny boarding to passengers who did not possess the required documentation relating to COVID-19, and the fact that the Icelandic domestic legal provisions in question stated that denial of boarding in such circumstances was not to constitute “denial of boarding” under Article 4 of Regulation (EC) No 261/2004.

While the case was initially opened on ‘narrow’ transport grounds (outside the scope of the Separation Agreement), the remit of the case broadened following correspondence with Iceland. After having examined the relevant legislation and regulations, as well as the explanations received from Iceland, ESA determined that by maintaining in force the rules in question, Iceland had failed to fulfil its obligations arising from EEA law, specifically Article 4 of the EEA Agreement, Articles 5, 6 and

7 of Directive 2004/38/EC, and Article 4 in combination with Article 2(j) of Regulation (EC) No 261/2004. Articles 5, 6 and 7 of Directive 2004/38/EC have been implemented into Articles 12-17 of the Separation Agreement, while Article 4 of the EEA Agreement is substantially replicated by Article 11 of the Separation Agreement (though the latter is reduced in substantive scope). As such, UK nationals resident in Iceland and covered by the Separation Agreement could potentially have been impacted by the Icelandic rules, in violation of their rights under the Separation Agreement.

These issues were noted by ESA, though it was decided not to refer to them explicitly in the Letter of Formal Notice. It was also noted that a supplementary Letter of Formal Notice, noting the concerns with respect to the Separation Agreement, could always be sent if the proposed legislative amendments enacted by Iceland did not address the issues raised in the context of the case. Ultimately, these issues (including those related to the Separation Agreement) were resolved by the legislative amendments in question.

The legislative amendments in question were followed by correspondence between ESA and Iceland during the first half of 2022. Ultimately, the case was closed in June 2022.¹⁶

A further case that raised issues under the Separation Agreement, and that was closed in 2022, is *Case 87307: Own initiative case concerning eligibility and procedures applicable to certain categories of EEA nationals in Norway who wish to receive a COVID-19 vaccination certificate*. This case, opened in September 2021, on the basis of both the EEA Agreement and the Separation Agreement (though with the EEA Agreement constituting the principal frame of reference), concerned the application of the procedures pertaining to the acquisition of a certificate providing proof of having been vaccinated against COVID-19 for EEA nationals in Norway. It may properly be described as a ‘hybrid’ case, having both characteristics of a parallel case and of a divergent case (see the typology in Section 3.1, above), and may point at the complexities that may arise in respect of the EEA Agreement’s interaction with the Separation Agreement moving forward as the two legal orders diverge.

¹⁶ Decision No 145/22/COL of 23 June 2022 (Doc No 1283121).

Here, ESA was concerned about situations involving EEA nationals living in Norway who did not have either a National Identification Number, or a D-number. Such persons were ineligible for the same facilitated procedures for acquiring vaccination certificates as Norwegian citizens. Indeed, an initial assessment by ESA indicated that such EEA nationals, while offered the opportunity to receive a vaccine while living in Norway, were unable to acquire a vaccination certificate using *any* of the methods provided by the Norwegian Government. Given the increasing requirement for such certificates to be presented in order to travel throughout the EEA and receive services, ESA then noted that the lack of such a certificate has the potential to restrict the free movement of EEA nationals. On this basis, ESA drew the attention of the Norwegian Government to *inter alia* Articles 28 and 36 of the EEA Agreement, and Articles 5, 6 and 7 of Directive 2004/38/EC. These provisions are, in part, replicated by the Separation Agreement.

However, complicating the case was the fact that post-2021 secondary legislation was also applicable in the context of the EEA Agreement, specifically Articles 3(1) and (2), and 5(1) of Regulation (EU) 2021/953. This Regulation, dealing with the parameters for, and mutual recognition of, vaccine certificates in the European Union (extended to the EEA EFTA States), had been enacted after the end of the Transition Period. As such, UK nationals falling under the scope of the Separation Agreement were not covered by the Regulation and could not derive rights on the basis of the Separation Agreement from the Regulation. However, such UK nationals would still have more general free movement and residence rights under Articles 12-17 and 23-25 of the Separation Agreement (largely replicating the provisions of Articles 28 and 36 of the EEA Agreement, and Articles 5, 6 and 7 of Directive 2004/38/EC), that would still be relevant to the case. As such, the two frames of reference would have been significantly different enough, in ordinary circumstances, to justify the opening of a second, 'divergent', case on the basis of the Separation Agreement.

Despite the above, no second case was opened. Rather, the two issues were addressed in parallel (though it should be noted that the case was not escalated beyond a Request for Information, Doc No 1224350). This was due to the fact that the secondary legislation adopted under the EEA Agreement post-2021 – rather unusually – created parallel rights for Third Country Nationals (“TCNs”) largely identical to those for EEA nationals. These rights included identical rights for

residents of EEA States, whether EEA nationals or TCNs, to receive a vaccination certificate that would be accepted for travel and other purposes by the governments of EEA States. This essentially entailed that UK nationals resident in the EEA EFTA States were considered TCNs under the Regulation, but that, in essence, their rights were identical to those of EEA nationals. It represented a rare instance in which UK nationals could derive rights from the EEA Agreement after the end of the Transition Period. As a result, via a combination of the Separation Agreement (substantively replicating the rights under the EEA Agreement until 31 December 2020) and the EEA Agreement (and Regulation (EU) 2021/953, adopted thereunder), the rights of UK nationals falling under the scope of the Separation Agreement were substantively the same as those of EEA nationals.

On the basis of the foregoing, the following text was inserted into ESA's Request for Information:

“The Directorate further notes that the obligations flowing from the EEA Agreement itself, as well as Directorate 2004/38/EC also apply in respect of UK Nationals in an analogous position to EEA nationals who are covered by the UK-EEA Separation Agreement, and that in respect of such persons, Regulation (EU) 2021/954 is further applicable.”

This passage obviated the necessity to open a second “divergent” case exclusively under the Separation Agreement, and the two legal frameworks were instead addressed in tandem via a single parallel case.

The issues arising in the case were resolved by Norway during 2022, and the case was closed in December of that year.¹⁷

5.3 Correspondence not meeting the threshold for being treated as a complaint

Most instances of correspondence received from members of the public ostensibly in relation to the Separation Agreement have not reached the threshold to be treated as complaints. Nor have such instances prompted ESA to undertake an inquiry on its own initiative. This has been for a number of reasons.

¹⁷ Decision No 237/22/COL of 15 December 2022 (Doc No 1332377).

Firstly, some correspondence raised issues that did not fall within the scope of the Separation Agreement. TCNs with no legal link to either the EEA EFTA States or the UK contacted ESA to ask about their rights under the Agreement. This happened particularly with respect to a number of persons from Nepal, Bangladesh and India. The same trend had been observed during 2021. This reflects a misunderstanding about the normative provisions of the Separation Agreement. ESA replied to these individuals, clarifying its mandate.

Secondly, there were some instances of individuals seeking independent legal advice, something which ESA does not dispense. In such circumstances, ESA typically replies with a standard email to inform members of the public that this is not its role. Again, this reflected a trend observed during 2021.

Thirdly, ESA was contacted by UK nationals and families of UK nationals who had visas refused on the basis of having forms filled out incorrectly. ESA took the view that these were instances of maladministration (which would potentially have been covered by SOLVIT under the EEA Agreement, although there is no similar mechanism under the Separation Agreement), and outside its competence. In a number of instances, ESA telephoned the national administrative offices in question by way of courtesy, and in such cases, the issues in question were quickly resolved.

Fourthly, ESA has been contacted by UK nationals falling outside the scope of the Separation Agreement (for example, by UK nationals living in EU States who wish to move to the EEA EFTA States) to ask about their right to work and provide services under the Agreement. This again reflected a trend observed during 2021.

As noted in the 2021 Annual Report, such lines of correspondence are slightly concerning, as they indicate some misunderstanding about the substantive content of the Separation Agreement on the part of UK nationals and others. ESA again notes that Article 35 of the Agreement, entitled “Publicity”, imposes an obligation on the EEA EFTA States and the UK to disseminate information and create awareness of the Agreement. The number of enquiries received by ESA from such individuals is, in any event, rather low, not constituting a significant administrative burden.

5.4 SOLVIT

ESA maintains strong links with the SOLVIT networks in the EEA EFTA States, and also liaises with the European Commission and the SOLVIT centres of the EU Member States in this regard. The UK had been a member of SOLVIT until the end

of the transition period, and therefore, there were a number of cross-border cases that had been initiated involving UK nationals that were already in train at that stage. While the Separation Agreement does not explicitly mention SOLVIT, nor does the Withdrawal Agreement. However, the European Commission has contemplated SOLVIT cases in its 2022 Annual Report, and thus ESA will also append a few brief remarks in this regard, for the purpose of comparability, and with the homogeneity objective contemplated by the Separation Agreement in mind.

The United Kingdom SOLVIT centre closed on 31 December 2020. Before the end of the Transition Period, it had been one of the most active centres within the SOLVIT network: the UK SOLVIT centre handled 24 % of the overall SOLVIT cases in 2020. In 2022 SOLVIT recorded 111 United Kingdom related cases. These cases comprise of problems of UK beneficiaries in exercising their Withdrawal Agreement rights in EU Member States and Separation Agreement rights in EEA EFTA States, but also problems EEA nationals experienced in EEA States in relation to having exercised their single market rights in the United Kingdom.

Data received by ESA from the European Commission shows that, of these cases, SOLVIT had to reject two thirds of the cases (74 cases), as the resolution of these cases would have required the intervention of the United Kingdom administration.

Out of 36 accepted cases that could be resolved without any intervention of the UK administration, 21 cases concerned Chapter 1 (residence), 2 cases concerned Chapter 3 (professional qualifications), 9 cases concerned Title III (Coordination of social security schemes) and 5 cases concerned other related issues, such as vehicles and driving licences.

By the end of April 2022, 32 cases have been successfully resolved and only four are still pending.

The vast majority of these cases likely pertain to the Withdrawal Agreement, rather than the Separation Agreement, but it was not possible to access disaggregated data on this issue.

6 Exercise of ESA's Functions

6.1 Early Case Resolutions

As has been the case for UK IMA, ESA has endeavoured to resolve issues identified as quickly as possible, so that UK nationals are not disadvantaged, and are denied their rights for as short a time as possible. This particularly pertains to transitional cases (as defined in Section 3.1, above), where there has been no need to escalate correspondence received to the level of a formal complaint, and where cases have, thus far, been concluded via correspondence with ministries and public bodies in the EEA EFTA States in order to resolve issues as quickly as possible. It should be noted in this regard, that the volume of transitional issues – already low in 2021 – was still lower in 2022, with only one issue arising (relating to the correct office to which a UK national in Norway should have recourse when seeking to regularise a family member's residence, and whether this would differ from the previous regime as the family member of an EEA national).

This has been done by undertaking early case resolutions which are agreed interventions with public bodies to make improvements or changes to overcome potential issues.

Previous inquiries received during 2021 included issues pertaining to the acquisition and maintenance of European Health Insurance Cards (EHIC), documentation required for a change of status from EEA nationals to UK nationals covered under the Separation Agreement, and website issues, including a lack of clear information in the English language and a lack of guidance on where to find such information. Typically, these were resolved at a very early stage via telephone contact. The fact that such issues did not arise during 2022 indicates that the three EEA EFTA States have made a strong effort to ensure that the (relatively minor) issues that had arisen in relation to transitional cases have generally been resolved.

6.2 Legislation Monitoring

ESA does not engage in formal legislation monitoring. However, if ESA is alerted by a member of the public or another actor to any issues with a particular piece of legislation falling under the Separation Agreement, or with relevance to the Agreement, ESA will certainly scrutinise it, as is the case with respect to any information submitted by any inquirer. It should be noted that ESA is occasionally

consulted for *ex ante* review of draft legislation by the EEA EFTA States in its role under the EEA Agreement. In this regard, it is germane to note that ESA is certainly willing to continue this activity with respect to any issues that may potentially arise under the Separation Agreement.

6.3 Litigation

As noted above in Section 2.3, ESA has yet to exercise its powers to bring a matter pertaining under the Separation Agreement before the EFTA Court pursuant to the SCA. It seems quite unlikely that a divergent or transitional case will give rise to such proceedings in the near future, though the likelihood of this may change over time. With respect to parallel cases, as further noted in Section 2.3, it will be for the EFTA Court to determine whether the two agreements require separate proceedings or joined cases.

7 Reports from the EEA EFTA States

As previously noted, in relation to this Annual Report, ESA for the first time solicited statistical and other information from the three EEA EFTA States. This reflected the approach adopted by UK IMA, as well as by the European Commission under the Withdrawal Agreement. A pro-forma template document was sent to the three States, which largely reflected equivalent templates used by UK IMA and the European Commission.

Reporting on Measures Taken by Public Authorities to Implement or Comply with the Separation Agreement under Article 64(3) of the Separation Agreement – Norway Report (Doc No 1371947).

Reporting on Measures Taken by Public Authorities to Implement or Comply with the Separation Agreement under Article 64(3) of the Separation Agreement – Liechtenstein Report (Doc No 1385824).

Reporting on Measures Taken by Public Authorities to Implement or Comply with the Separation Agreement under Article 64(3) of the Separation Agreement – Iceland Report (Doc No 1387297).

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**REPORTING ON MEASURES TAKEN BY PUBLIC
AUTHORITIES TO IMPLEMENT OR COMPLY WITH THE SEPARATION
AGREEMENT UNDER ARTICLE 64(3) OF THE SEPARATION
AGREEMENT**

ICELAND

Report for 2022

1) Residence rights

Iceland operates a constitutive residence scheme in accordance with Article 17(1)/17(4) of the EEA EFTA Separation Agreement. The residence scheme opened for applications on 4 January 2021. Residence documents have been issued since 1 January 2021. Residence documents are issued free of charge.

The deadline for application under Article 17(1)(b) of the EEA EFTA Separation Agreement was 31 December 2021.

Iceland has not put in place more favourable residence conditions.

Iceland has not made use of derogations from equal treatment under Article 22(2) of the Separation Agreement.

a. Key legislative instruments implementing the Separation Agreement

Provisions governing residence rights are implemented in accordance with articles 84, 85 and 86 of the immigration act and in particular with reference to the temporary provisions III-XI. <https://www.althingi.is/lagas/nuna/2016080.html>

Only available in English as of 2018 – amendments related to UK citizens are implemented later: https://www.government.is/library/04-Legislation/Foreign_Nationals_Act.pdf

b. Key legislative instruments adopted or amended in the reporting year

None

c. Key administrative documents giving guidance on the implementation of the Separation Agreement

Information on residence right of UK nationals and their family members: <https://island.is/en/uk-nationals>

d. Key domestic jurisprudence from the reporting year

None

e. Statistical data

Please provide statistical data on:

A	Estimated number of resident beneficiaries of the Separation Agreement	1352
B	Number of residence applications made in the reporting year	3
B1	Number of in time residence applications made in the reporting year	n/a
B1a	Number of applications granted as pre-permanent residence	14
B1b	Number of applications granted as permanent residence	1
B1c	Number of applications refused	0
B1c1	Out of B1c, number of applications that were invalid	0
B1c2	Out of B1c, number of applications that were withdrawn by applicants	0
B1d	Total number of in time applications pending at the end of the reporting year	*0
Next section is for constitutive EEA EFTA States only		
B2	Number of late residence applications made in the reporting year	0
B2a	Number of applications where national authorities concluded that there were reasonable grounds for not respecting the application deadline	0
B2b	Number of applications where national authorities concluded that there were no reasonable grounds for not respecting the application deadline	0
B2c	Number of applications where national authorities are still assessing there were reasonable grounds for not respecting the application deadline	0
B2a1	Number of applications granted as pre-permanent residence	0
B2a2	Number of applications granted as permanent residence	0
B2a3	Number of applications refused	0
B2a3a	Out of B2c3, number of applications that were invalid	0
B2a3b	Out of B2c3, number of applications that were withdrawn by applicants	0
B2d	Total number of late applications pending at the end of the reporting year	*0
C	Number of entry visa applications made in the reporting year by family members seeking to join the beneficiary under Article 13(3) of the Separation Agreement	2
C1	Number of entry visas granted	2
C2	Number of entry visas applications refused	0
C3	Total number of entry visa applications pending at the end of the reporting year	0

* If this cannot be distinguished, please provide aggregate data on pending applications.

The first report compiled on this basis should cover data not only for the reporting year, but also for preceding years (if applicable). Note from Iceland: Only data for reporting year was provided by the relevant institutions.

2) Rights of employed and self-employed frontier workers

In Iceland, UK nationals that had the right to reside in Iceland prior to 1 January 2021 have to apply for a residence permit card. UK nationals, who have not had the right to reside in Iceland since before 1 January 2021, must apply for a residence permit if they want to reside in Iceland for longer than 90 days. UK nationals who want to recede or

work in Iceland for less than 90 days can do so without a work or residence permit if conditions are fulfilled.

a. Key legislative instruments implementing the Separation Agreement

Due to Iceland's geographical location Iceland does not implement a special system on work permits for frontier workers. General conditions for residence authorisation and work permit apply.

Provisions governing residence rights are implemented in accordance with articles 84, 85 and 86 of the immigration act and in particular with reference to the temporary provisions III-XI. <https://www.althingi.is/lagas/nuna/2016080.html>

Only available in English as of 2018 – amendments related to UK citizens are implemented later: https://www.government.is/library/04-Legislation/Foreign_Nationals_Act.pdf

Provisions governing work permit for beneficiaries of the separation agreement are governed by temporary provision VI of the act “Lög um atvinnuréttindi útlendinga” (act on working permits for foreigners). The act has not been translated into English. See: <https://www.althingi.is/lagas/nuna/2002097.html>

b. Key legislative instruments adopted or amended in the reporting year

None

c. Key administrative documents giving guidance on the implementation of the Separation Agreement

<https://island.is/en/uk-nationals>

<https://www.vinnumalastofnun.is/en/employer/work-permits/exemptions-of-work-permit-requirement-due-to-short-term-projects>

d. Key domestic jurisprudence from the reporting year

None

e. Statistical data

No Statistical data is available on frontier workers.

A	Number of applications made in the reporting year	
A1	Number of applications granted	
A2	Number of applications refused	
A2a	Out of A2, number of applications that were invalid	
A2b	Out of A2, number of applications that were withdrawn by applicants	
A3	Number of applications that are still pending at the end of the reporting year	

The United Kingdom should provide disaggregated data by nationality, too. The first report should cover data not only for the reporting year, but also for preceding years (if applicable).

3) Co-ordination of social security schemes

a. Key legislative instruments implementing the Separation Agreement

Act on Social Security no 100/2007 article 64. See <https://www.althingi.is/lagas/nuna/2007100.html>

Currently the Parties are implementing an agreement on social security coordination.

Not available in English.

b. Key legislative instruments adopted or amended in the reporting year

None

c. Key administrative documents giving guidance on the implementation of the Separation Agreement

None in particular. Guidance for EEA citizens still applies for beneficiaries of the Separation Agreement.

d. Key domestic jurisprudence from the reporting year

None

e. Statistical data

Please provide relevant statistical data on:

- Applicable legislation (*inter alia*, Portable Document A1)
- Cross-border health care (*inter alia*, EHIC, Portable Documents S1 and S2)
- Pensions
- Unemployment benefits (*inter alia*, Portable Documents U1 and U2)
 No U1 documents issued in reporting year
- Family benefits

Information was received from the social insurance administration on A1 certificates, pensions and the number of pensioners.

A1 portable document

Fewer A1 certificates have been issued since the UK exited the EU. Nine certificates were issued in 2020 but no certificates were issued in 2021 and 2022. That however can be explained by Covid 19 when travels between countries were limited.

Pension payments

Number of old age pensioners in the UK have increased since Brexit, see numbers below:

Year 2020

Year 2021

Year 2022

Number of pensioners	31	34	57

Disability pension: Year 2020 Year 2021 Year 2022

Number of receivers	1	2	16

Total payments for old age and disability pension for 2020 was: 311.093 €

Total payments for old age and disability pension for 2021 was: 344.594 €

Total payments for old age and disability pension for 2022 was: 1.022.393 €

4) Recognition of professional qualifications

a. Key legislative instruments implementing the Separation Agreement

None apart from the act on the implementation of the separation agreement :
<https://www.althingi.is/altext/stjt/2019.121.html>

b. Key legislative instruments adopted or amended in the reporting year

None.

c. Key administrative documents giving guidance on the implementation of the Separation Agreement

The main issuing authorities for recognition of professional qualifications are the Directorate of Health for health care professionals and the Directorate of Education for industrial professionals and teachers. Both institutions have issued general instructions on application process but not on the implementation of the Separation Agreement in particular.

d. Key domestic jurisprudence from the reporting year

Administrative decision by the Ministry of Health invalidating a decision by the Directorate of Health. The Directorate of Health had refused a British citizen, who studied medicine in Poland, licence to practise medicine in Iceland because the applicant had not submitted a license to practise medicine from Poland nor the United Kingdom. The Ministry of Health instructed the directorate of health to review the application again. The basis for the decision was that when evaluating an application the Directorate of Health was not authorised to request that a license to practise medicine had been issued in the home state. Instead the authority should have evaluated the equivalence of the education. The Ministry of Health referred to regulation 510/2020 and judgment of the EFTA court in case E-3/20.

Link to the decision:

<https://www.stjornarradid.is/gogn/urskurdir-og-alit-/stakur-urskurdur/?newsid=ed4cecfb-5905-11ed-9bb2-005056bc4727&cname=%C3%9Arskur%C3%B0ir%20heilbrig%C3%B0isr%C3%A1%C3%B0uneytis>

Statistical data

Please provide statistical data on:

A	Number of applications under Article 27 of the Separation Agreement made in the reporting year	4
A1	Number of applications granted	3
A2	Number of applications refused	1
A2a	Out of A2, number of applications that were invalid	

A2b	Out of A2, number of applications that were withdrawn by applicants	
A3	Number of applications that are still pending at the end of the reporting year	1

LIECHTENSTEIN REPORT FOR 2022 PERSUADE TO ARTICLE 64(3) OF THE EEA-UK SEPARATION AGREEMENT

1) Residence rights

Liechtenstein operates a declaratory residence scheme in accordance with Article 17(4) of the EEA EFTA Separation Agreement.

United Kingdom nationals are not obliged to register as Separation Agreement beneficiaries/apply for a residence document attesting their new residence status. Such document must be issued upon voluntary application.

Third-country family members of United Kingdom nationals are not obliged to register as Separation Agreement beneficiaries/apply for a residence document attesting their new residence status.

United Kingdom nationals are able to use their old residence documents issued under EEA law on free movement of EEA nationals until they expire.

Liechtenstein has not put in place more favourable residence conditions.

Liechtenstein has not made use of derogations from equal treatment under Article 22(2) of the Separation Agreement.

a. Key legislative instruments implementing the Separation Agreement

The Separation Agreement is directly applicable in Liechtenstein and no implementing legislation is necessary due to Liechtenstein's monist system.

b. Key legislative instruments adopted or amended in the reporting year

none

c. Key administrative documents giving guidance on the implementation of the Separation Agreement

The Liechtenstein authorities adopted national guidelines for the implementation of the Separation Agreement to ensure uniform and correct implementation of the rules (internal document).

d. Key domestic jurisprudence from the reporting year

no cases in 2022

e. Statistical data

Please provide statistical data on: 2022 2021

A	Estimated number of resident beneficiaries of the Separation Agreement	57	53
B	Number of residence applications made in the reporting year	7	4

B1	Number of in time residence applications made in the reporting year		
B1a	Number of applications granted as pre-permanent residence	1	4
B1b	Number of applications granted as permanent residence	6	0
B1c	Number of applications refused	0	0
B1c1	Out of B1c, number of applications that were invalid	0	0
B1c2	Out of B1c, number of applications that were withdrawn by applicants	0	0
B1d	Total number of in time applications pending at the end of the reporting year	0	0
Next section is for constitutive EEA EFTA States only			
B2	Number of late residence applications made in the reporting year		
B2a	Number of applications where national authorities concluded that there were reasonable grounds for not respecting the application deadline		
B2b	Number of applications where national authorities concluded that there were no reasonable grounds for not respecting the application deadline		
B2c	Number of applications where national authorities are still assessing there were reasonable grounds for not respecting the application deadline		
B2a1	Number of applications granted as pre-permanent residence		
B2a2	Number of applications granted as permanent residence		
B2a3	Number of applications refused		
B2a3a	Out of B2c3, number of applications that were invalid		
B2a3b	Out of B2c3, number of applications that were withdrawn by applicants		
B2d	Total number of late applications pending at the end of the reporting year	*	
C	Number of entry visa applications made in the reporting year by family members seeking to join the beneficiary under Article 13(3) of the Separation Agreement	0	
C1	Number of entry visas granted	0	
C2	Number of entry visas applications refused	0	
C3	Total number of entry visa applications pending at the end of the reporting year	0	

* *If this cannot be distinguished, please provide aggregate data on pending applications.*

The first report compiled on this basis should cover data not only for the reporting year, but also for preceding years (if applicable).

2) Rights of employed and self-employed frontier workers

In Liechtenstein, beneficiaries of the Separation Agreement are not obliged to apply for a document identifying their frontier workers' rights. Such documents must be issued upon application.

a. Key legislative instruments implementing the Separation Agreement

The Separation Agreement is directly applicable in Liechtenstein and no implementing legislation is necessary due to Liechtenstein's monist system.

b. Key legislative instruments adopted or amended in the reporting year

none

c. Key administrative documents giving guidance on the implementation of the Separation Agreement

The Liechtenstein authorities adopted national guidelines for the implementation of the Separation Agreement to ensure uniform and correct implementation of the rules (internal document).

d. Key domestic jurisprudence from the reporting year

no cases in 2022

e. Statistical data

Please provide statistical data on:

2022 2021

A	Number of applications made in the reporting year	24	16
A1	Number of applications granted	24	16
A2	Number of applications refused	0	0
A2a	Out of A2, number of applications that were invalid	0	0
A2b	Out of A2, number of applications that were withdrawn by applicants	0	0
A3	Number of applications that are still pending at the end of the reporting year	0	0

The United Kingdom should provide disaggregated data by nationality, too. The first report should cover data not only for the reporting year, but also for preceding years (if applicable).

3) Co-ordination of social security schemes

[In circumstances in which there are implementation choices provided by the Separation Agreement, please provide text describe their choices made].

a. Key legislative instruments implementing the Separation Agreement

The Separation Agreement is directly applicable in Liechtenstein and no implementing legislation is necessary due to Liechtenstein's monist system.

b. Key legislative instruments adopted or amended in the reporting year

none

c. Key administrative documents giving guidance on the implementation of the Separation Agreement

The Liechtenstein authorities adopted national guidelines for the implementation of the Separation Agreement to ensure uniform and correct implementation of the rules (internal document).

d. Key domestic jurisprudence from the reporting year

no cases in 2022

e. Statistical data

Please provide relevant statistical data on:

- Applicable legislation (*inter alia*, Portable Document A1)
- Cross-border health care (*inter alia*, EHIC, Portable Documents S1 and S2)
- Pensions
- Unemployment benefits (*inter alia*, Portable Documents U1 and U2)
- Family benefits

PD A1: In 2022 no PD A1 for beneficiaries of the Separation Agreement have been issued.

Pensions: 53 beneficiaries of the Separation Agreement received pensions from Liechtenstein in 2022.

Unemployment benefits: no unemployment benefits have been paid to beneficiaries of the Separation Agreement in 2022.

Family benefits: 6 (11 children) beneficiaries of the Separation Agreement received family benefits from Liechtenstein in 2022.

4) Recognition of professional qualifications

[If there are some implementation choices provided by the Separation Agreement, please provide text to prompt the reporting country to describe their choice].

a. Key legislative instruments implementing the Separation Agreement

The Separation Agreement is directly applicable in Liechtenstein and no implementing legislation is necessary due to Liechtenstein's monist system.

b. Key legislative instruments adopted or amended in the reporting year

none

c. Key administrative documents giving guidance on the implementation of the Separation Agreement

The Liechtenstein authorities adopted national guidelines for the implementation of the Separation Agreement to ensure uniform and correct implementation of the rules (internal document).

d. Key domestic jurisprudence from the reporting year

no cases in 2022

e. Statistical data

Please provide statistical data on:

A	Number of applications under Article 27 of the Separation Agreement made in the reporting year	0
A1	Number of applications granted	
A2	Number of applications refused	
A2a	Out of A2, number of applications that were invalid	
A2b	Out of A2, number of applications that were withdrawn by applicants	
A3	Number of applications that are still pending at the end of the reporting year	

REPORTING ON MEASURES TAKEN BY PUBLIC AUTHORITIES TO IMPLEMENT OR COMPLY WITH THE SEPARATION AGREEMENT UNDER ARTICLE 64(3) OF THE SEPARATION AGREEMENT

NORWAY

Report for 2022

1) Residence rights

Norway operates a constitutive residence scheme in accordance with Articles 17(1)/17(4) of the EEA EFTA Separation Agreement. The residence scheme opened for applications on 4. January 2021. Residence documents have been issued in the EU's uniform physical format form since 4. January 2021. Residence documents are issued free of charge.

The deadline for application under Article 17(1)(b) of the EEA EFTA Separation Agreement was 31. December 2021.

Norway has not put in place more favourable residence conditions.

Norway has not made use of derogations from equal treatment under Article 22(2) of the Separation Agreement.

a. Key legislative instruments implementing the Separation Agreement

This area of the Separation agreement is implemented in § 125a in the Immigration Act and Section 19 of the Immigration Regulation, more specific in §§19-33 to 19-37.

[Utlendingsforskriften \(udiregelverk.no\)](#) (not available in English)

b. Key legislative instruments adopted or amended in the reporting year

None

c. Key administrative documents giving guidance on the implementation of the Separation Agreement

Guideline from the Norwegian Directorate of Immigration UDI 2021-001 gives guidance and information about the right to residence for UK nationals and their family members, following Brexit:

[UDI 2021-001 \(udiregelverk.no\)](#) (not available in English)

Guidelines from the Ministry of Justice and Public Security on the entry into force of changes in the Immigration regulation on continued residence for UK nationals and their family members:

[G-37/2021](#) (revision of G-18/2021, not available in English).

d. Key domestic jurisprudence from the reporting year

None

e. Statistical data

Please provide statistical data on:

A	Estimated number of resident beneficiaries of the Separation Agreement	22 057
B	Number of residence applications made in the reporting year	1 688 late applications in 2022
B1	Number of in time residence applications made in the reporting year	0
B1a	Number of applications granted as pre-permanent residence	406
B1b	Number of applications granted as permanent residence	1 317
B1c	Number of applications refused	4
B1c1	Out of B1c, number of applications that were invalid	0
B1c2	Out of B1c, number of applications that were withdrawn by applicants	12
B1d	Total number of in time applications pending at the end of the reporting year	1 388 applications pending in the UDI per 31.12.2022
Next section is for constitutive EEA EFTA States only		
B2	Number of late residence applications made in the reporting year	1 688 late applications in 2022 (981 residence permits and 707 frontier workers)
B2a	Number of applications where national authorities concluded that there were reasonable grounds for not respecting the application deadline	N/A
B2b	Number of applications where national authorities concluded that there were no reasonable grounds for not respecting the application deadline	0
B2c	Number of applications where national authorities are still assessing there were reasonable grounds for not respecting the application deadline	0 (currently not assessing if there are reasonable grounds)
B2a1	Number of applications granted as pre-permanent residence	134
B2a2	Number of applications granted as permanent residence	457
B2a3	Number of applications refused	1
B2a3a	Out of B2c3, number of applications that were invalid	0
B2a3b	Out of B2c3, number of applications that were withdrawn by applicants	4
B2d	Total number of late applications pending at the end of the reporting year	303 residence applications pending in UDI per 31.12.2022 (and applied in 2022)
C	Number of entry visa applications made in the reporting year by family members seeking to join the beneficiary under Article 13(3) of the Separation Agreement	

C1	Number of entry visas granted	
C2	Number of entry visas applications refused	
C3	Total number of entry visa applications pending at the end of the reporting year	

* *If this cannot be distinguished, please provide aggregate data on pending applications.*

2) Rights of employed and self-employed frontier workers

In Norway, beneficiaries of the Separation Agreement are obliged to apply for a residence permit. The permit is valid for one year and can be renewed.

The frontier worker scheme opened for applications on 4. January 2021. The documents identifying their frontier workers' rights are issued in a physical form. The documents are issued free of charge.

a. Key legislative instruments implementing the Separation Agreement

This area of the Separation agreement is implemented in § 125a in the Immigration Act and Section 19 of the Immigration Regulation, more specific in §19-34.

[Utlendingsforskriften \(udiregelverk.no\)](#) (not available in English)

b. Key legislative instruments adopted or amended in the reporting year

None

c. Key administrative documents giving guidance on the implementation of the Separation Agreement

Guideline from the Norwegian Directorate of Immigration UDI 2021-001 gives guidance and information about the right to residence for UK nationals and their family members, following Brexit.

[UDI 2021-001 \(udiregelverk.no\)](#) (not available in English)

Guidelines from the Ministry of Justice and Public Security on the entry into force of changes in the Immigration regulation on continued residence for UK nationals and their family members:

[G-37/2021](#) (revision og G-18/2021, not available in English).

d. Key domestic jurisprudence from the reporting year

None

e. Statistical data

Please provide statistical data on:

A	Number of applications made in the reporting year	707
A1	Number of applications granted	813 granted in 2022 (of which 598 applied in 2022)
A2	Number of applications refused	3 refused (of which 2 applied in 2022)
A2a	Out of A2, number of applications that were invalid	0
A2b	Out of A2, number of applications that were withdrawn by applicants	11
A3	Number of applications that are still pending at the end of the reporting year	246 pending in UDI per 31.12.2022 (of which 58 applied in 2022)

3) Co-ordination of social security schemes

a. Key legislative instruments implementing the Separation Agreement

For Social Security Coordination, the key legal instrument implementing the Separation Agreement was originally the Act on transitional rules upon the UK's exit from the EU of 27 November 2020. As of 25 November 2022, the reference is for the sake of clarity moved to the National Insurance Act Section 1-3b (see answer to question 3 b).

Furthermore, chapter III of Annex VI, to the EEA Agreement (United Kingdom nationals) provides for the incorporation of the triangulation agreement, and the implementation into Norwegian legislation was originally done in Act on transitional rules upon the UK's exit from the EU of 27 November 2020. As of 25 November 2022, the reference was for the sake of clarity moved to the National Insurance Act Section 1-3b (see answer to question 3 b).

[Folketrygdloven - ftrl](#) (not available in English).

b. Key legislative instruments adopted or amended in the reporting year

Following the report from a Legal Commission (NOU 2021: 8 Trygd over landegrensene "Social Security across borders"), the National Insurance legislation was amended 25 November 2022 in order to clarify the importance of EEA law on Social Security Coordination. Section 1-3 of the National Insurance Act was amended. In addition, a direct reference to Regulations 883/2004 and 987/2009 was added to the legal text (section 1-3 a).

A direct reference to the Separation Agreement was inserted in Section 1-3b litra c, and a reference to the EEA Agreement Annex VI, chapter III (on United Kingdom nationals) was inserted in Section 1-3b, litra d).

The act is also amending Act 3 June 1983 No. 54 on public dental healthcare Section 1-8, Act 2 July 1999 No. 61 on specialist healthcare Section 1-3, Act 2 July 1999 No. 63 on patients and users rights Section 1-4 and Act 24 June 2011 No. 30 on municipal health and care services Section 1-3.

The provisions came in force from 25 November 2022.

[Lov om endringer i folketrygdloven mv. \(synliggjøring av folkerettslige forpliktelser til trygdekoordinering\) - Lovdata](#) (not available in English).

c. Key administrative documents giving guidance on the implementation of the Separation Agreement

In 2021, The Directorate of Labour and Welfare published a comprehensive circular on the interpretation of the Social Security agreements that has been in force between Norway and UK since UK left the EU. The primary function of the circular is to provide guidance to case handlers in the National Insurance Administration (NAV). The circular covers both the Separation Agreement and the revised bilateral agreement between Norway and the UK (originally from 1990, revised December 2020). In 2022, some minor amendments to the circular were published, both on the Separation Agreement and the bilateral agreement. The amendments are intended to clarify and exemplify certain questions, based on feedback from NAV case handlers, but have not lead to changes in the implementation of the Separation Agreement.

The circular has been made public, cfr. the link below.

[R20201127-131](#) (not available in English).

Guidance documents on the right to healthcare for UK nationals in Norway and EEA EFTA nationals in the UK, are available [here](#), [here](#) and [here](#). There is no specific guidance on benefits in kind (healthcare) according to the Separation Agreement.

d. Key domestic jurisprudence from the reporting year

None

e. Statistical data

Please provide relevant statistical data on:

- Applicable legislation (*inter alia*, *Portable Document A1*)
- Cross-border health care (*inter alia*, *EHIC*, *Portable Documents S1 and S2*)
- Pensions
- Unemployment benefits (*inter alia*, *Portable Documents U1 and U2*)
- Family benefits

Norway 2022

Sector / benefit	Description	Number of persons
Applicable legislation	PD A1 received from UK – Reg. 883/2004 art 11.4 and 11.5	46

Applicable legislation	PD A1 received from UK – postings (Reg. 883/2004 art 12)	271
Applicable legislation	PD A1 received from UK – working in two or more countries (Reg. 883/2004 art 13)	652
Applicable legislation	PD A1 received from UK – individual agreements (883/2004 art 16)	35
Applicable legislation	PD A1 sent from Norway to UK – postings and individual agreements under art. 12 and 16 of Reg. 883/2004 (1)	47
Disability benefits	Number of new recipients of disability benefit covered by the Separation Agreement residing both in Norway and outside Norway (UK or elsewhere)	26
Disability benefits	Number of decisions refusing disability benefits, residing in Norway and outside Norway	15
Old age pensions	Number of new old age pensioners covered by the Separation Agreement, residing in Norway	259
Old age pensions	Number of new old age pensioners covered by the Separation Agreement residing outside Norway (UK or elsewhere)	267
Old age pensions	Number of decisions refusing old age pension, residing in Norway and outside Norway (UK or elsewhere)	35
Survivor's pensions (2)	Number of new recipients of a survivor's pension covered by the Separation Agreement, residing in Norway	36
Survivor's pensions	Number of new recipients of a survivor's pension covered by the Separation Agreement, residing outside Norway (UK or elsewhere)	14
Survivor's pension	Number of decisions refusing survivor's pension, residing in Norway and outside Norway	3
Unemployment benefits (PD U1)	Number of migrant UK workers receiving unemployment benefits from Norway, based on a PD U1 from UK	21
Unemployment benefits (PD U2)	Export of unemployment benefits from Norway to UK in accordance with Article 64 of Regulation (EC) No 883/2004 (PD U2)	2
Family benefits	Persons residing in UK, receiving child benefits ("barnetrygd") from Norway. Average benefit: NOK 19 000 in 2022	300
Family benefits	Persons residing in UK receiving cash-for-care benefits ("kontantstøtte") from Norway in 2022. Average benefit: NOK 39 000,- in 2022	13

- 1) Number of persons receiving a PD A1 from Norway while working in two or more countries (Regulation 883/2004, art. 13) are not available. The reason is that it is not possible to distinguish between a PD A1 sent to the UK only, and a PD A1 sent to multiple countries, including the UK in the statistical data. App. 60 % of all PD A1 issued from Norway are issued according to Article . 13, so the actual number is higher than 47.
- 2) "Survivor's pensions" includes benefits for surviving spouses as well as for surviving children

No claims for pension benefits or family benefits were turned down for the reason that the claimant was *not covered* by the Separation Agreement. For unemployment benefits, it is

not possible to distinguish statistically between the different reasons for turning down a claim.

As far as the statistics mentioned below, extracts have been made from the case management systems of the Health Economic Administration (Helfo). The extract is restricted to UK nationals and rights where Norway is the competent state. The extract shows the number of EHICs (European Health Cards, PRCs (Provisional Replacement Certificates), and portable documents PD S1, PD S2, PD S3 and PD DA1 issued by Helfo in the reference year of 2022. It has not been possible to examine each individual case in order to verify that the extract matches the requested information from the Authority.

EHIC:	3 167
PRC:	12
PD S1:	8
PD S2:	0
PD S3:	0
PD DA1	0

4) Recognition of professional qualifications

a. Key legislative instruments implementing the Separation Agreement

The regulation for recognition of professional qualifications in the Separation Agreement was implemented in three different regulations (not available in English):

- For all regulated professions covered by the Professional Qualifications Directive, except health and animal health professions - Lov om godkjenning av yrkeskvalifikasjoner (yrkeskvalifikasjonsloven) § 2a, [Lov om godkjenning av yrkeskvalifikasjoner \(yrkeskvalifikasjonsloven\) - Lovdata](#)
- For health professions: Forskrift om autorisasjon, lisens og spesialistgodkjenning for helsepersonell med yrkeskvalifikasjoner fra andre EØS-land eller fra Sveits § 2, [Forskrift om autorisasjon, lisens og spesialistgodkjenning for helsepersonell med yrkeskvalifikasjoner fra andre EØS-land eller fra Sveits - Lovdata](#)
- For animal health professions: Forskrift om rett til å arbeide som dyrehelsepersonell eller seminpersonell etter EØS-avtalen mv. § 1-2, [Forskrift om rett til å arbeide som dyrehelsepersonell eller seminpersonell etter EØS-avtalen mv - Lovdata](#)

b. Key legislative instruments adopted or amended in the reporting year

None.

c. Key administrative documents giving guidance on the implementation of the Separation Agreement

For the professions teacher and kindergarten teacher there is information of the Separation Agreement, under «Frequently asked questions: Recognition of teacher qualifications – school and kindergarten», [Frequently asked questions – teacher | Nokut](#) (last question). The information is available in English and Norwegian.

The Ministry of Education and Research organizes twice a year meetings for the competent authorities covered by the professional qualification directive. In those meetings we have informed the authorities about the Separation Agreement.

The Separation Agreement regulation for recognition of professional qualifications was published in a different Royal Decrees when the Agreement entered into force, for example

- Health profession: [KM_C654e-20190410095142 \(regjeringen.no\)](#) (not available in English).

The Separation Agreement was also published in Prop 45 LS (2018-2019) *Lov om overgangsregler mv. ved Storbritannias uttreden fra Den europeiske union og samtykke til inngåelse av avtale om ordninger for borgernes rettigheter mellom EØS/EFTA-statene og Storbritannia som følge av Storbritannias uttreden fra Den europeiske union og EØS-avtalen*, [Prop. 45 LS \(2018–2019\) \(regjeringen.no\)](#). (in Norwegian and English)

d. Key domestic jurisprudence from the reporting year

None

e. Statistical data

A	Number of applications made in the reporting year	317
A1	Number of applications granted	146
A2	Number of applications refused	73
A2a	Out of A2, number of applications that were invalid	14
A2b	Out of A2, number of applications that were withdrawn by the applicants	0
A3	Number of applications that are still pending at the end of the reporting year	63