

Committee: EU Council of Ministers

Issue: The political-economic and social rights of EU citizens living in the UK and UK citizens living in the EU

Student Officer: Dimitris Drakakis

Position: President

PERSONAL INTRODUCTION

Dear Delegates,

My name is Dimitris Drakakis and I'm more than glad and excited to be serving as your President for the EU Council of Ministers in the 1st DSTMUN. I'm 17 years old, a senior in the IB Diploma program and I've been a part of the MUN Community for 5 years now. I want to congratulate you all for participating in this conference, as MUN is a great opportunity to be informed about intergovernmental issues, provide solutions, practice your public-speaking skills and to make new friends! The topics for this year's Council are "The political-economic and social rights of EU citizens living in the UK and UK citizens living in the EU" and "Reviewing the Schengen Agreement". As the topics are currently at the forefront of the world timeliness, they require careful and detailed manipulation for mutually satisfying agreements to be reached, as the two issues don't only impact the Union, but the humankind as a whole. This study guide acts as a starting point for your research but you need to conduct your own thorough investigations too, to find out more about your delegation's views on the matters.

Remember to pay a lot of attention to some of the extra Rules of Procedure the Council operates with in the "Rules of Procedure and Conduct" which you can find at the DSTMUN website (dstmun.com). For further questions or information needed I'm always available through email at drak.dimitris@gmail.com.

I look forward to meeting you all at the conference.

Sincerely,

Dimitris Drakakis

TOPIC INTRODUCTION

On the 23rd of June 2016, with a vote of 51.9% in favor, the British people decided to withdraw from the European Union in a referendum that changed history as the United Kingdom is the first country about to exit the Union. On 29th March 2017, the United Kingdom also evoked the 50th article of the Treaty on the European Union in order to officially begin the negotiation period and the formal procedure for the UK's departure from the EU. The initial withdrawal of the UK was set for March 2019, but it was extended to the 31st of December 2020. The future exit has arisen a debate regarding the EU citizens' rights living in the UK and the UK citizens living in the EU, as well as conflict regarding the EU citizenship. One school of thought claims that once the citizens of EU member-states have been granted the citizenship, they shouldn't lose it just because the country is exiting the Union¹, while another one supports that the EU citizenship is an additional benefit that only EU member-states can have, therefore when a state withdraws from the Union, so should the citizenship.²

DEFINITION OF KEY TERMS

EU Citizenship

Every person holding the nationality of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to and not replace national citizenship. The EU citizenship gives rights to its holders, such as but not limited to, the right to move freely across the Union's member-states, reside and seek employment anywhere within the Union.³

Article 50 of the Treaty on Functioning of the European Union

The right of a Member State to withdraw from the European Union was introduced for the first time with the Lisbon Treaty; the possibility of withdrawal was highly controversial before that. Article 50 TEU does not set down any substantive conditions for a Member State to be able to exercise its right to withdraw, rather it includes only procedural requirements. It provides for the negotiation of a

¹ Rieder Clemens. "The Withdrawal Clause of the Lisbon Treaty in the Light of EU Citizenship (Between Disintegration and Integration)", *Fordham International Law Journal*, Article 9, 2013.

² "Article 50 TEU: Withdrawal of a Member State from the EU", *European Parliament*, February 2016, [http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/577971/EPRS_BRI\(2016\)577971_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/577971/EPRS_BRI(2016)577971_EN.pdf)

³ "Consolidated Version of the Treaty on the Functioning of the European Union", *Official Journal of the European Union*, 26 Sept. 2012.

withdrawal agreement between the EU and the withdrawing state, defining in particular the latter's future relationship with the Union⁴.

EU27

The rest of the 27 European Union countries during the negotiations for the withdrawal of the United Kingdom from the Union.

BACKGROUND INFORMATION

Treaties Regarding the EU Citizenship

The framework of the EU Citizenship is included in the articles: 2, 3, 7, 9 to 12 in the Treaty on the European Union, in articles: 19 to 22 in the Treaty on the Functioning of the European Union, as well as in the articles: 36 to 46 in the EU Charter of Fundamental Rights. They create a number of legal rights which can be used in court in individual-individual cases or in individual-state cases. The EU member-states have to abide by the treaties otherwise they could face sanctions. Additionally, the above articles create and enforce freedom, equality and anti-discrimination in the Union.

Rights of the EU Citizens

The 20th article of the Treaty on the Function of the European Union establishes the EU Citizenship and the following ones outline the rights it comes with. Those are: a) The right to move and reside freely within the territory of the Member States, b) The right to vote and to stand as a candidate in elections to the European Parliament and in municipal elections in the Member State in which they reside, under the same conditions as nationals of that State, c) The right to diplomatic protection in the territory of a third country (non-EU state) by the diplomatic or consular authorities of another Member State, if their own country does not have diplomatic representation there, to the same extent as that provided for nationals of that Member State, d) The right to petition the European Parliament and the right to apply to the Ombudsman appointed by the European Parliament concerning instances of maladministration in the activities of the EU institutions or bodies, e) The right to write to any EU institution or body in one of the languages of the Member States and to receive a response in the same language, f) The right to access European Parliament, Council and Commission documents, subject to certain conditions.

⁴Article 50 TEU: Withdrawal of a Member State from the EU", *European Parliament*, February 2016.

December 8th 2017 Negotiators' Report

The negotiations between the EU and the UK started right after the UK triggered the "Article 50". The two sides which are negotiating are the European Commission and the UK Civil Service, with two very important names in charges of the negotiations, the now resigned Brexit Secretary David Davis and the Prime Minister's personal Brexit advisor, Oliver Robbins . Both sides have strongly stated that when it comes to the Brexit deal "nothing is done until everything is done". The Brexit periods are separated into two. In the first one will cover the "divorce bill", the rights of the EU and UK citizens and the case of the border between Northern Ireland and the Republic of Ireland, while the second period will be about the negotiations regarding the post-Brexit UK and EU relations. During the first period, the negotiators of the EU and the UK's government published a joint report. The main topics of the report are the EU and UK citizens, the Irish border and UK's payment for the EU budget. Regarding the EU citizens the common base is that they will be allowed to stay, the rights of the children will be guaranteed and that the UK courts would be the ones enforcing the rights of the citizens, but for complex cases the European Court of Justice could be contacted for eight years after the UK's departure. There will be no hard border between Northern and the Republic of Ireland. And, lastly, the UK will continue funding the EU budget up to 2020 and liabilities will continue to be paid normally.

Draft Withdrawal Agreement on the 28th of February

On the 28th of February the first Draft Withdrawal Agreement was published by the EU. It is not very different than the December 2017 report, but it is mostly its translation to a formal legal proposal. It is a draft produced by the EU and not the UK and it was letter revised and republished in March, with the agreed points and the debatable ones⁵. This draft agreement strongly portrays the EU's goal to protect the rights of the EU citizens in the UK⁶.

- **Settled Status:** With the new agreement if you are a EU citizen who has arrived in the UK before Brexit day, there are two status you could apply for depending on the years of residence. If somebody has been living "lawfully (they are a worker, self-employed, self-sufficient, a student or a family member) and continuously" for

⁵ "Draft Withdrawal Agreement", *European Union*, 19 March 2018, https://ec.europa.eu/commission/sites/beta-political/files/draft_agreement_coloured.pdf

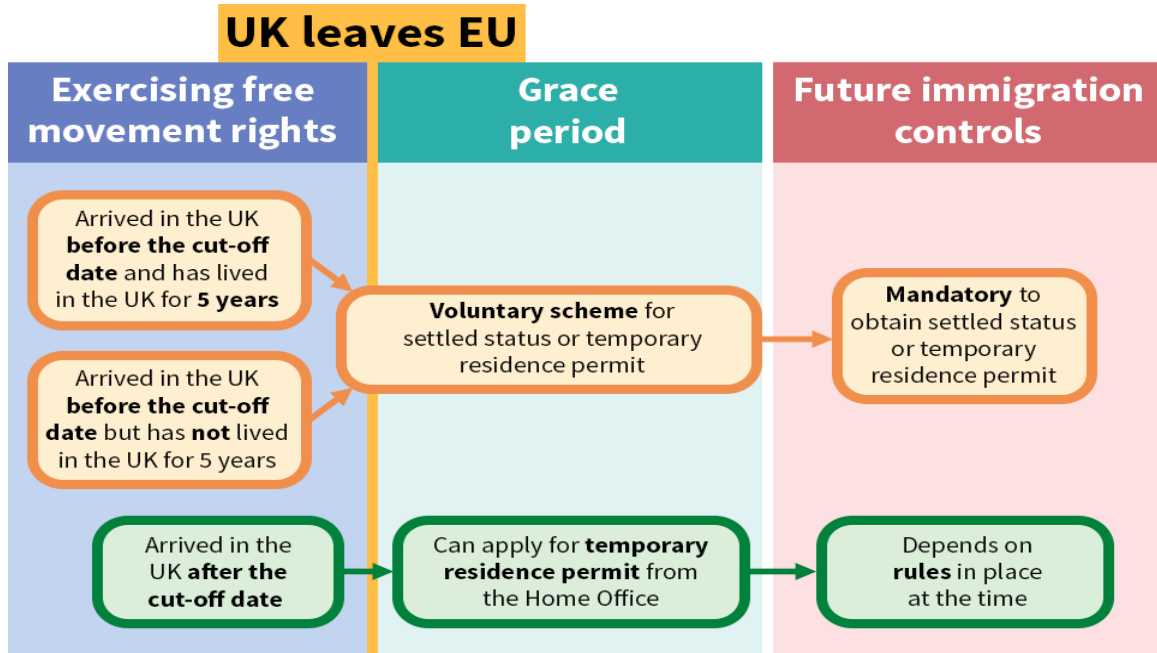
⁶ Green, David Allen. "Brexit: 10 Observations on the Draft Withdrawal Agreement", *Financial Times*, 28 Feb. 2018, <https://www.ft.com/content/9cf07fbc-1c8f-11e8-aaca-4574d7dabfb6>

a minimum of 5 years before Brexit, then they can obtain “settled status”. This status provides “indefinite stay”, unless the person spends 5 years continuously outside the UK.

- **Pre-settled Status:** If on Brexit day a person has been living in the UK for less than 5 years, then they could apply for a “pre-settled status” and give them the opportunity to live until they complete the 5-year period and apply for a “settled status”. A period of a continuous 6-month stay within the UK is necessary to obtain either statuses.
- **Permanent Residence:** If a permanent residence was obtained by an EU citizen, the application for “settled status” is still necessary, but free of charge⁷

Issues

To be a “lawful” citizen in the UK you need to have Comprehensive Sickness Insurance (CSI). This puts in jeopardy approximately 3 million EU citizens in the EU to be considered ineligible to obtain a “settled status” due to the fact that they may be unemployed, disabled or stay-at-home parents⁸.

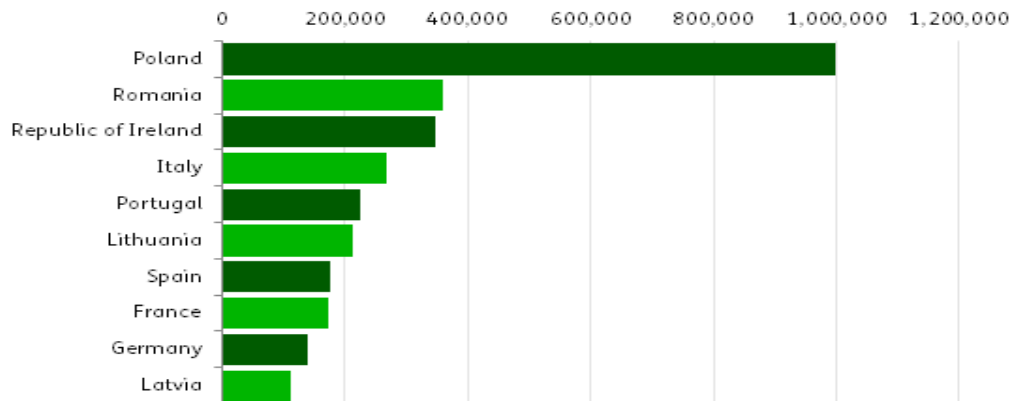


LELondonRep: video about EU citizens' rights, settled status in the UK & Brexit", 28 Feb. 2018, <https://www.youtube.com/watch?v=jmoaS78eCDo>

⁸ Bock, Paulina. "EU citizens' rights are not a done deal: the "settled status" explained", *NewStatesman*, 2 March 2018, <https://www.newstatesman.com/politics/brexit/2018/03/eu-citizens-rights-are-not-done-deal-settled-status-explained>

EU citizens living in the UK

Top 10 non-British EU nationalities living in the UK, July 2016 to June 2017



* Countries with smaller estimates have relatively large margins for error, so the order of countries in the table isn't reliable.

Source: ONS, population by country of birth and nationality underlying datasheets July 2016 to June 2017, table 2.3

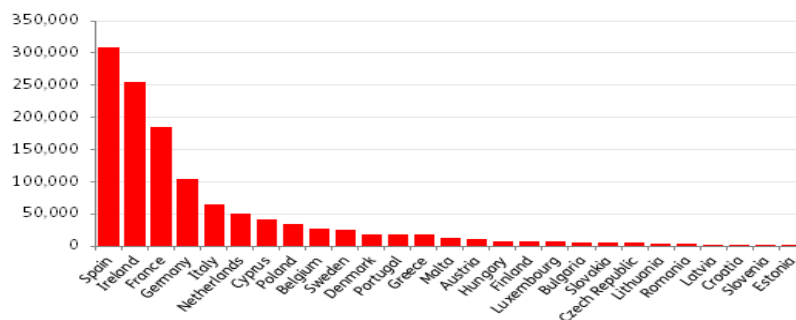


UK citizens in the EU

Putting an end to the free movement between the UK and the EU has risen a big question on whether the UK residents in the Union will be able to continue to move freely in the rest EU27. The absence of Article 32, on free movement, from the current proposal puts at risk the 1.2 million Britons living in the EU at risk, as there is uncertainty and no clarity as to whether they will be able to continue the free movement post-Brexit. The EU Parliament's Brexit steering group, though, is trying hard to secure the rights of UK citizens in the EU⁹.

Brits abroad in the EU

Number of UK born people living in other EU member states, 2015 estimates



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Source: United Nations, "Trends in International Migrant Stock: Migrants by Destination and Origin", 2015 revision, table 16



COUNTRIES AND ORGANISATIONS INVOLVED

United Kingdom

The United Kingdom is the country that decided to leave the EU and because of this decision did the issue arise. The UK wishes to preserve the rights of its citizens, living in other EU countries and as a result it urges the EU to publish concrete plans on that. Concerning the EU citizens living in the UK, the country maintains a positive approach and has already made specific suggestions.

EU27

The EU27 are all the countries, which are members of the EU, after the UK decided to leave. As a whole, they also try to preserve the rights of EU citizens in the UK, as well as define the rights of UK citizens, living abroad. Even though, each country may have a slightly different approach on the matter, they all cooperate, in order to find the best solution.

Germany

The role of the EU-idealistic Germany is very important. Germany has clearly stated in the past that the EU-UK relations should be the same as other non-EU countries and that it is not seeking to weaken the EU politically, in order to enjoy the benefits from an elastic UK deal. Germany would try as hard as possible to secure the rights of the EU citizens living in the UK.

France

France appears to be one of the most opposing countries to the decision of Brexit. It has expressed its opinion both by making statements on the matter, as well as by obstructing the agreements on a final Brexit deal, claiming that it is possible for the UK to eventually leave the EU without a deal. This specific stance of France has left the country “isolated” within the EU27.

BLOCS EXPECTED

The bloc positions on the matter are varying and are not clearly stated. The two axes the topic circulates around are the traditional diplomatic relations between some EU members and the UK and their economic situation and relations. Thus, the bloc positions the committee will strongly depend on the positions you, the delegates, will choose to support in the committee. Some of the EU member-states have been very clear when it comes to the positions they are going to follow, while others might even seem indifferent. In a case where the diplomatic relations and the economic situation of a state are contradicting when it comes to the support a

country would provide to the UK, it is up to the delegate to critique and choose which approach and stance they would like to take.

When it comes to diplomatic relations, many countries in the EU, such as Greece, Denmark and the Visegrad countries (Czech Republic, Hungary, Poland and Slovakia) have been having traditional ties with the UK and have been supporting and considering each other important allies for decades. If the countries were to act in a diplomatic manner, they would do their best to support the rights of the UK citizens in the EU as much as possible.

The economic situation the countries are in could also be crucial on the matter. Despite the fact that some countries have traditional ties with the UK, it doesn't necessarily mean that they will support the UK in its search for a good deal. Some countries' economies, such as Greece, Italy and Portugal are very Germany-dependent and there is a high probability that they would support the "leader" of the Union on this topic.

Still the EU Commission and many of the Brexit negotiators, despite of the national interest of their countries, support that a deal with a solution that would keep the EU and the UK close, is the most beneficial for all the parties.

TIMELINE OF EVENTS

Date	Description of event
23 June 2016	Brexit Referendum
29 March 2017	Article 50 is evoked
8 December 2017	Joint Report on Brexit
28 February 2018	Draft Withdrawal Agreement
19 March 2018	Revised Draft Withdrawal Agreement

RELEVANT RESOLUTIONS, TREATIES AND EVENTS

Treaty on the European Union (Maastricht Treaty)

The Treaty on the European Union, also known as the Maastricht Treaty was entered into force on 1st November 1993. It introduced elements of a political union, such as citizenship and common foreign and internal affairs policy and

established the European Union. Apart from that, the treaty also led to the creation of the euro.

Treaty on the Functioning of the European Union

The Treaty on the Functioning of the European Union entered into force on 1st January 1958. It defines the objectives of the European Union, as well as the structure and the responsibilities of its institutions. The Article 20 of this Treaty established EU citizenship, mentioning the rights and the duties of an EU citizen. This Treaty and the Treaty of the European Union constitute the treaties on which the Union was founded.

European Union Charter of Fundamental Rights

The EU Charter of Fundamental Rights came into force on 7th September 2000. It was created to define and enshrine certain social, political and economic rights for people, who are EU citizens. The Charter is based on the common values of member states of the EU and it aims at preserving peace, justice and freedom. Brexit will affect the applicability of this Charter in Britain and as a result many concerns appear.

PREVIOUS ATTEMPTS TO SOLVE THE ISSUE

As an agreement on Brexit has not been reached, the closest attempt to a solution is the revised Draft Withdrawal Agreement published on the 19th of March 2018, by the European Commission. The Draft Withdrawal Agreement sets out the terms of UK's withdrawal from the EU. It includes agreed legal text on specific matters, among others, also the UK citizens' rights in the EU and the EU citizens' rights in the UK. The entire Withdrawal Agreement is planned to be finalized by October 2018.

POSSIBLE SOLUTIONS

Some models the UK and the EU relationship post-Brexit could take would be some of the following:

European Economic Area (EEA) Model

If the EU and the UK decide to base their relationship on such an agreement, it would follow the path of Iceland, Liechtenstein and Norway, as a non-EU country with this model. This model gives the non-EU countries the same rights in the Single Market as the EU members. Additionally, though, EEA countries have to follow the same legislation regarding the “four freedoms” (free movement of goods, persons and capital and the jurisdiction of the ECJ). The UK was opposing to such an agreement as it wanted a stricter migration policy, which this agreement would not allow for, but in 2018 the possibility of such an agreement is increasing highly. The countries are also obliged to make contributions to the EU Budget.

European Free Trade Association (EFTA)

Such a model gives the opportunity to a non-EU state to have access to most of the Single Market only under the condition that the state has to accept the free movement of people. The country is also obliged to make contributions to the EU Budget.

Association Agreement






Such an agreement provides the non-EU country a tariff-free access to some EU markets. It does not require the country to accept free movement, but the country is still under the jurisdiction of the ECJ or EU regulations.

Customs Union

Such a membership would allow the UK to have customs free trade, while it would not have to contribute to the EU Budget, accept free movement or EU regulation. Such a case would mean that the UK is limited to have the same trading agreements with the EU without being able to negotiate or have the same access as EU members would. Additionally it does allow for the creation of trading deals with states the EU is not collaborating with¹⁰.

Issue

¹⁰“The model for Brexit - is it Norway, Switzerland, Ukraine, Turkey or Canada?”, *Association of Gide Loyrette Nouel*, 1 March 2018, <https://www.gide.com/en/news/the-model-for-brexit-is-it-norway-switzerland-ukraine-turkey-or-canada>

	EU	EEA	EFTA	Association Agreement	Customs Union
					
<u>UK Objectives</u>					
No financial contribution	✗	✗	✗	✓	✓
Control of immigration	✗	✗	✗	✓	✓
Customs free trade	✓	✓	✓	✓	✓
No ECJ jurisdiction	✗	✗*	✗*	✗	✓
No EU regulation	✗	✗	✗	✗	✓**
Bilateral free trade agreements	✗	✓	✓	✓	✗

* In theory ECJ does not have jurisdiction, replaced by EFTA Court, which follows EU precedents
 ** In practice goods must comply with EU regulations to enter the market

Picture 4: Possible Agreements and Models

As the Withdrawal Agreement is not signed yet, “nothing is decided until everything is decided”, neither the future of EU citizens in the UK and UK citizens in the EU are guaranteed. If the UK and the EU decide upon one of the models which allow for free movement, no further negotiations would be needed, but if they agree on one which does not allow for free movement, then the system proposed in the Draft Withdrawal Agreement is the most likely to occur, but this puts an extra roadblock regarding the free movement of Britons living in the EU.

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- Picture 3: “14 April's BBC Question Time, factchecked”, *Full Fact (GB)*, 14 April 2016, <https://fullfact.org/europe/14-aprils-bbc-question-time-factchecked/>
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