Wednesday 15 January 2020

P9_TA(2020)0006

Implementing and monitoring the provisions on citizens' rights in the Withdrawal Agreement

European Parliament resolution of 15 January 2020 on implementing and monitoring the provisions on citizens' rights in the Withdrawal Agreement (2020/2505(RSP))

(2021/C 270/02)

The European Parliament,

— having regard to the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU),

— having regard to the Charter of Fundamental Rights of the European Union of 7 December 2000 ('the Charter'), which was proclaimed on 12 December 2007 in Strasbourg and entered into force with the Treaty of Lisbon in December 2009,

— having regard to its resolutions of 5 April 2017 on negotiations with the United Kingdom following its notification that it intends to withdraw from the European Union ([1]), of 3 October 2017 on the state of play of negotiations with the United Kingdom ([2]), of 13 December 2017 on the state of play of negotiations with the United Kingdom ([3]), of 14 March 2018 on the framework of the future EU-UK relationship ([4]), and of 18 September 2019 on the state of play of the UK's withdrawal from the European Union ([5]),

— having regard to the European Council (Art. 50) guidelines of 29 April 2017 following the United Kingdom's notification under Article 50 TEU and to the Annex to the Council Decision of 22 May 2017 which lays down the directives for the negotiation of an agreement with the United Kingdom of Great Britain and Northern Ireland setting out the arrangements for its withdrawal from the European Union,

— having regard to the European Council (Art. 50) guidelines of 15 December 2017 and to the Annex to the Council Decision of 29 January 2018 supplementing the Council Decision of 22 May 2017 authorising the opening of negotiations with the United Kingdom of Great Britain and Northern Ireland for an agreement setting out arrangements for its withdrawal from the European Union,

— having regard to the Joint Report of 8 December 2017 from the negotiators of the European Union and the United Kingdom Government on progress during phase 1 of negotiations under Article 50 TEU on the United Kingdom's orderly withdrawal from the European Union,

— having regard to the draft agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, as endorsed by the European Council on 25 November 2018, and the statements entered in the minutes of the meeting of the European Council of that date,

— having regard to the draft agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, as endorsed by the European Council on 17 October 2019 ('the Withdrawal Agreement') ([6]),

— having regard to the Withdrawal Agreement Bill laid before the UK Parliament on 19 December 2019,

— having regard to the political declaration setting out the framework for the future relationship between the European Union and the United Kingdom ([7]),

— having regard to Rule 132(2) of its Rules of Procedure,

([1]) OJ C 298, 23.8.2018, p. 24.
([2]) OJ C 346, 27.9.2018, p. 2.
([3]) OJ C 369, 11.10.2018, p. 32.
([4]) OJ C 162, 10.5.2019, p. 40.
([5]) Texts adopted, P9_TA(2019)0016.
([6]) OJ C 384 I, 12.11.2019, p. 1.
([7]) OJ C 384 I, 12.11.2019, p. 178.

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A. whereas the European Parliament represents all European Union (EU) citizens and will act, both before and after the withdrawal of the United Kingdom (UK) from the EU, to protect their interests;

B. whereas there are currently around 3,2 million citizens from the remaining 27 Member States (EU-27) resident in the UK, and 1,2 million citizens of the UK (UK citizens) resident in the EU-27; whereas those citizens took up residence in another Member State on the basis of rights they enjoy under EU law and on the understanding that they would continue to enjoy those rights throughout their lives;

C. whereas, in addition, there are 1,8 million citizens born in Northern Ireland who, by virtue of the Good Friday Agreement, are entitled to Irish citizenship, and are thereby entitled to EU citizenship and to EU citizenship rights where they reside;

D. whereas the EU and the UK have agreed, under Part Two of the Withdrawal Agreement, to a comprehensive and reciprocal approach to protecting the rights of EU-27 citizens living in the UK and of UK citizens living in the EU-27;

E. whereas the UK has anticipated application of the Withdrawal Agreement's provisions on the issuance of residence documents by means of its EU Settlement Scheme;

F. whereas a number of the EU-27 Member States still have to legislate on how they propose to implement Article 18 of the Withdrawal Agreement on the issuance of residence documents;

G. whereas, at the end of the transition period provided for in the Withdrawal Agreement, UK citizens will no longer enjoy the rights they enjoyed pursuant to Article 20 of the TFEU, in particular the right to free movement, unless the EU and the UK agree otherwise in any agreement on the future relationship between them;

H. whereas pursuant to Article 132 of the Withdrawal Agreement the transition period may only be extended by a single decision of the Joint Committee before 1 July 2020;

Part Two of the Withdrawal Agreement

1. Believes that Part Two of the Withdrawal Agreement is fair and balanced;

2. Notes that Part Two of the Withdrawal Agreement provides the following:

— that all EU-27 citizens legally residing in the UK and UK citizens legally residing in an EU-27 Member State, and their respective family members at the time of withdrawal, will enjoy the full set of rights set out in the Withdrawal Agreement as established in EU law and interpreted by the Court of Justice of the European Union (CJEU),

— that citizens' core family members and persons with whom they are in a durable relationship and who currently reside outside the host State will be protected by the Withdrawal Agreement, and that this will also be the case for children born to them in the future and outside the host State,

— that all social security rights under EU law will be maintained, including the export of all exportable benefits,

— that the continuation of citizens' rights will be guaranteed throughout citizens' lifetimes,

— that administrative procedures implementing Part Two of the Withdrawal Agreement will be transparent, smooth and streamlined, and that forms will be short, simple and user-friendly,

— that the citizens' rights provisions of the Withdrawal Agreement will be incorporated into UK law and that those rights have direct effect;

Citizens' rights during the transition period

3. Notes that, during the transition period due to end on 31 December 2020, it will be for the Commission, by virtue of Article 131 of the Withdrawal Agreement, to monitor implementation of Part Two of the Withdrawal Agreement, including application schemes set up pursuant to Article 19 thereof, both in the UK and in the EU-27 Member States;

4. Notes that, during the transition period, EU-27 citizens will continue to enjoy rights to free movement, as derived from Article 20 of the TFEU and relevant EU law, in respect of the UK, as will UK citizens in respect of the EU-27;

5. Recalls that, during the transition period, the Commission will be responsible for ensuring that free movement rights are respected both in the UK and the EU-27, and asks the Commission to allocate enough resources to investigate and redress any cases of non-respect of those rights, in particular cases of discrimination against EU-27 citizens or UK citizens;

6. Highlights that the transition period is shorter than anticipated; calls, therefore, for the EU and the UK to operationalise those aspects of Part Two of the Withdrawal Agreement relating to citizens and their rights as a matter of priority;

Implementing Part Two of the Withdrawal Agreement

7. Stresses that its decision on consent to the Withdrawal Agreement will take into account experience gained and assurances given in relation to the implementation of key provisions of the Withdrawal Agreement, especially as regards the UK's EU Settlement Scheme;

8. Notes the high proportion of applicants to the EU Settlement Scheme who have only been accorded pre-settled status; recalls that this can be avoided if the UK opts for an administrative procedure which is declaratory in nature, as Article 18 (4) of the Withdrawal Agreement permits; urges the UK, therefore, to review its approach and further urges the EU-27 Member States also to opt for a declaratory procedure as provided for in Article 18(4);

9. Expresses its grave concern at recent and conflicting announcements in relation to EU-27 citizens in the UK who fail to meet the deadline for applying to the EU Settlement Scheme of 30 June 2021; notes that these announcements have generated unhelpful uncertainty and anxiety for the citizens concerned; urges the UK Government to be clear about how it will apply point (d) of the second subparagraph of Article 18(1) of the Withdrawal Agreement, in particular as regards what it considers as 'reasonable grounds for the failure to respect the deadline';

10. Points out that greater certainty and a greater sense of security would be generated for EU-27 citizens in the UK if they were issued with a physical document as proof of their right to reside in the UK after the end of the transition period; reiterates that the lack of such physical proof will further increase the risk of discrimination against EU-27 citizens by prospective employers or landlords who may want to avoid the extra administrative burden of online verification, or erroneously fear that they might place themselves in an unlawful situation;

11. Remains concerned at the limited number of EU Settlement Scheme ID scanning services, at the limited geographical spread of the assistance provided throughout the UK, and at the level of assistance to be provided to older and vulnerable citizens, including those who may have difficulty using digital applications;

12. Expresses its concern about the proposed set-up of the UK's independent authority provided for in Article 159 of the Withdrawal Agreement; expects the UK to ensure that the authority will be genuinely independent; recalls in that regard that the authority should be operational as of the first day following the end of the transition period;

13. Expects clarity from the UK Government on the issue of the applicability of the UK's EU Settlement Scheme in relation to EU-27 citizens in Northern Ireland who have not sought UK citizenship under the terms of the Good Friday Agreement;

14. Reiterates its commitment to monitoring closely how the EU-27 Member States implement Part Two of the Withdrawal Agreement, in particular Article 18(1) and (4), concerning the rights of UK citizens living on their territory;

15. Encourages the EU-27 to adopt measures that provide legal certainty for UK citizens resident in the EU-27; recalls its position that the EU-27 should pursue a consistent and generous approach in protecting the rights of UK citizens resident in the EU-27;

16. Calls on the UK and the EU-27 Member States to increase efforts to raise awareness among citizens on the effects of the UK's withdrawal from the EU and to initiate or step up targeted information campaigns to inform all citizens covered by the Withdrawal Agreement of their rights and any possible changes to their status;

Citizens' rights under the future EU-UK relationship

17. Welcomes the commitment in the political declaration setting out the framework for the future relationship between the EU and the UK that it 'should be a relationship that will work in the interests of citizens of the Union and the United Kingdom, now and in the future';

18. Regrets, in this context, that the UK has announced that the principle of the free movement of persons between the Union and the UK will no longer apply; considers that any agreement on the future relationship between the EU and the UK should include ambitious provisions concerning the movement of persons; reiterates that those rights should be commensurate with the degree of future cooperation in other areas; recalls that free movement rights are also directly linked to the three other freedoms integral to the internal market, and have particular relevance to services and professional qualifications;

19. Urges that future free movement rights across the whole EU for UK citizens covered by the Withdrawal Agreement be guaranteed, as well as a lifelong right for citizens covered by the Withdrawal Agreement to return to the UK or the EU; calls on the EU-27 Member States to ensure that voting rights in the local elections of the country of residence are provided for all citizens covered by the Withdrawal Agreement;

20. Recalls that many UK citizens, both those resident in the UK and those resident in the EU-27, have expressed strong opposition to losing the rights they currently enjoy pursuant to Article 20 of the TFEU; proposes that the EU-27 examine how to mitigate this within the limits of EU primary law while fully respecting the principles of reciprocity, equity, symmetry and non-discrimination;

21. Recalls that the Joint Committee referred to in Article 164 is to be responsible for the implementation and application of the Withdrawal Agreement;

22. Believes that joint European Parliament-UK Parliament scrutiny of the implementation and application of the Withdrawal Agreement would be beneficial, and would welcome it if joint structures to this end could be established;

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23. Instructs its President to forward this resolution to the European Council, the Council, the Commission, the parliaments of the Member States and the Government of the United Kingdom.