



**Who will remain after Brexit?**  
**Ensuring protection for all persons resident under EU law**

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**Summary**

This briefing paper addresses the possibility that some categories of person with EU free movement rights, and who have been resident in the United Kingdom, will be left without a right to reside in the United Kingdom after Brexit. Assuming that there is a withdrawal agreement which includes provision for “citizens’ rights”, it is likely that that will guarantee a right to remain to the large majority of such persons. This paper will however identify a number of gaps, concerning both EU citizens and third country nationals. It will indicate solutions that could be pursued, within the withdrawal agreement and at the United Kingdom level.

Its recommendations may be summarised as follows:

- All rights of residence conferred upon family members under the Citizens Directive should be protected, irrespective of nationality (section 1).
- All rights of residence which flow from Articles 20 or 21 of the Treaty on the Functioning of the European Union (‘TFEU’), should be protected, irrespective of nationality (section 2).
- Provision for continuing cross-border employment and self-employment should be underpinned by an explicit right of residence (section 3).
- Third-country posted workers should be permitted to complete an employment in the United Kingdom which is ongoing at the date of Brexit (section 3).
- The right of residence deriving from Regulation 492/ 2011 on the free movement of workers should be expressly protected (section 3).
- The United Kingdom should commit to treat EFTA-4 nationals on the same basis as EU-27 nationals (section 4).
- The United Kingdom should commit to permit Turkish self-employed persons and workers, and their family members, who are resident by virtue of EU law, to remain (section 4).
- All persons with post-Brexit rights to remain should have access to a permanent status after an appropriate period of continuous residence (section 5).
- Effective provision should be made for out-of-country applications for evidence of a right of permanent residence or settlement (section 6).
- EU-27 citizens and family members should be permitted to resume residence where they previously held a right of extended or permanent residence (section 6).
- A continuing right of residence should be guaranteed to all EU-27 citizens who have a place of residence in the United Kingdom (section 6).
- There should be a route to long-term stay for non-qualifying EU-27 citizens and family members who can provide evidence of an appropriate period of actual residence (section 7).

## Introduction

In order to consider possible gaps in protection, this paper starts from the most recent ‘joint technical note’ summarising the state of play in the citizens’ rights negotiations, published on 28 September 2017.<sup>1</sup> Reference will also be made to the Council’s negotiation directives to the Commission, published in May 2017<sup>2</sup>, the UK Government’s policy paper entitled *Safeguarding the Position of EU citizens in the UK and UK nationals in the EU*, published in June 2017<sup>3</sup>, and the UK Government’s *Technical Note: Citizens’ rights - Administrative procedures in the UK*, published in November 2017.<sup>4</sup>

It will be assumed that the free movement of persons regime will cease at the moment of Brexit itself, which is likely to be 0000 on 30 March 2019 (Brussels time).<sup>5</sup> It remains possible that some or all free movement of persons rights will continue after that point, as part of a transitional arrangement between the EU-27 and the United Kingdom. That eventuality would affect the time at which the analysis here became relevant, but not its substance.

The discussion will start with gaps linked to the main sources of EU law rights of residence: the Citizens Directive, the citizenship provisions of the Treaty on the Functioning of the European Union (‘TFEU’), the single market provisions of the TFEU and secondary legislation, and international agreements between the EU and third states. It will go on to consider three cross-cutting issues which will potentially arise after Brexit: access to rights of long-term stay; the position of persons resident outside the United Kingdom; and the position of EU-27 nationals and family members who are resident in the United Kingdom at Brexit, but who do not qualify for a right of residence.

### 1. Rights under the Citizens Directive

The EU-UK joint technical note shows agreement between the two sides to protect all the rights of residence set out in the Citizens Directive which concern EU citizens alone.<sup>6</sup> The provisions in question confer an unrestricted right of *initial* residence for up to three months (Article 6(1)), rights of *extended* residence, based on substantive qualifying criteria (Articles 7(1) and 14), and rights of *permanent* residence, which arise after five years’ qualifying residence, or shorter periods for former workers and self-employed persons (Articles 16 and 17).<sup>7</sup>

The joint technical note also shows that there is agreement to protect rights of residence under various provisions of the Directive which concern family members. The section on ‘current family members’ refers to rights of extended residence (Article 7(2)) and permanent residence (Articles 16) for third country family members.<sup>8</sup> That section also refers to Article 17 of the Directive, which confers a right of permanent residence upon family members, irrespective of nationality, of workers or self-employed persons who have ceased working, or who have died.

There are however three gaps in the provisions concerning the rights of residence of family members contained in the Directive:

- *Initial right of residence.* There is no mention of the initial right of residence of third country nationals, set out in Article 6(2) of the Directive. This is anomalous, given that there is agreement to recognise Article 6(1), which is the equivalent provision for EU citizens (including family members). **The withdrawal agreement ought to recognise Article 6(2) as well.**

- *Children in education.* Where a previously resident EU citizen has died, or has left a Member State, Article 12(3) confers a right of residence upon a child who is in education, and upon a parent who has custody of them, irrespective of nationality in either case. While the section of the joint technical note on EU citizens refers to Article 12(3), there is no reference to it in the section concerning family members. **It ought to be made clear in the agreement that rights of residence under Article 12(3) will be protected irrespective of nationality.**
- *Former family members.* The joint technical note does not protect the ‘retained’ rights which the Directive confers upon former third-country family members, after the death of the EU citizen through whom they qualified (Article 12(2)), and after the termination of a marriage or registered partnership with an EU citizen (Article 13(2)). Furthermore, the joint technical note does not refer to the right of permanent residence acquired by former family members after five years’ qualifying residence (Article 18). There is no obvious reason to discriminate against third-country family members with existing rights of residence in this way. **Rights of residence held by third country nationals as former family members at the time of Brexit should be recognised in the withdrawal agreement.**<sup>9</sup>

## 2. Rights of residence based upon EU citizenship (Articles 20 and 21 TFEU)

Articles 20 and 21 TFEU have been held to confer rights of residence in the following situations:

- Article 20 implies a right of residence for family members, irrespective of nationality, where their stay in a Member State is necessary to ensure that an EU national can remain within the EU (the *Ruiz Zambrano* principle).<sup>10</sup>
- Where a minor EU citizen is self-sufficient in another member state within the meaning of the Directive, their primary carer has a right of residence under Article 21, irrespective of nationality (the *Chen* principle).<sup>11</sup>
- Where an EU citizen returns to their own member state after at least three months’ qualifying residence in another Member State, Article 21 TFEU requires that both they and their family members who resided with them (irrespective of nationality) have the benefit of the Directive “by analogy” (*Singh/ O and B* principle).<sup>12</sup>
- Where a person acquires the nationality of a Member State after exercising free movement rights, Article 21 TFEU requires that both they and their pre- and post-acquisition family members (irrespective of nationality), are entitled to the benefit of the Directive “by analogy” (*Lounes* principle).<sup>13</sup>

The joint technical note shows agreement to protect the rights of *EU citizens* which flow from *Article 21 TFEU*, but only those.<sup>14</sup> It has these three limitations:

- The United Kingdom’s commitment in relation to EU citizens’ rights under Article 21 is “subject to further study of legal scope”.<sup>15</sup>
- There is no mention of the Article 20 right of residence, i.e. the *Ruiz Zambrano* principle.
- There is no suggestion that the residence of *third country* national family members will be protected under *any* of these principles.

These limitations open the possibility that protection will be denied to the third-country national family members of British citizens who are resident under these principles in the United Kingdom at Brexit. It is not clear however what justification there can be for treating this group of current residents differently to others. **In order to ensure a comprehensive outcome, the agreement should protect all of the rights of residence of current residents which flow from Articles 20 or 21.**

### 3. Rights of entry and residence linked to economic activity

For those within the personal scope of the withdrawal agreement, the right to engage in employment under Article 45 TFEU, and in self-employment under Article 49 TFEU, and the rights of workers set out in Regulation 492/ 2011, will be guaranteed.<sup>16</sup> This applies to EU-27 nationals who are engaged in economic activity *and resident* in the United Kingdom at the date of Brexit, and their family members, as they are covered by the Citizens Directive. There are nevertheless gaps in protection in three less typical cases.

- *Frontier workers.* The joint technical note shows agreement to protect “frontier workers”, who work in one Member State, and reside in another.<sup>17</sup> There is also agreement to protect any other person who is “pursuing genuine and effective work as an employed or self-employed person in one or more host states and who resides in another state”.<sup>18</sup> These clauses will protect an EU-27 national who resides in an EU-27 state, and who either works or engages in self-employment in the United Kingdom. There is however a gap in relation to the *right to reside* in the United Kingdom of such persons. Prior to Brexit, it is likely that these persons will have benefitted from the three-month initial right of residence upon each entry to the United Kingdom. After Brexit, the risk is that they will be classed merely as EU-27 visitors, which will in turn limit their ability to work, to rent accommodation, to hold a bank account, etc. **The provisions in the withdrawal agreement for continuing cross-border employment and self-employment should be underpinned by an explicit right of residence in the agreement and/or in United Kingdom legislation.**
- *Posted workers.* Article 56 TFEU permits service-providers established in one Member State to transfer employees to carry out work on a temporary basis in another Member State, irrespective of the nationality of the employee concerned. After Brexit, a posted worker who is an EU citizen should be able to continue in employment as a pre-Brexit resident under the withdrawal agreement. Third-country national posted workers will not however be able do so. **Provision should be made in the agreement for third-country posted workers to complete an employment in the United Kingdom which is ongoing at the date of Brexit.**
- *Children in education of former migrant workers.* Article 10 of Regulation 492/ 2011 provides for the education of the children of migrant workers.<sup>19</sup> When an EU worker ceases to qualify as such in a given Member State, that provision has been held to imply rights of residence for the child, and for their parent(s) who are their primary carer(s), while the child completes their education, irrespective of the nationality of those persons.<sup>20</sup> While the joint technical note contemplates that rights under Regulation 492/ 2011 will continue for those within the agreement’s personal scope, it does not specify that this includes the case where the Regulation *is itself* the source of a right of residence. **Rights of residence under Regulation 492/ 2011 should be expressly protected by the withdrawal agreement.**

### 4. Rights under international agreements

Nationals of the four ‘EFTA’ states (Iceland, Liechtenstein, Norway and Switzerland) benefit from the free movement of persons regime at the EU level.<sup>21</sup> They are also treated equally with EU-27 nationals in the implementation of the EU free movement of persons regime in the United Kingdom.<sup>22</sup> After the

2016 referendum, the UK Government stated that it expected nationals of these four countries to benefit from any arrangements put in place for EU-27 nationals.<sup>23</sup> In its June 2017 policy paper, however, it indicated that it would “discuss ... arrangements with Iceland, Liechtenstein, Norway and Switzerland ... on a reciprocal basis”.<sup>24</sup> As new agreements would be needed with those states, that approach risks delay, and may disrupt a smooth transition to post-Brexit arrangements. **It would be preferable for the United Kingdom to offer a unilateral commitment to treat EFTA-4 nationals on the same basis as EU-27 nationals, without waiting for new agreements.**

Turkish nationals and their family members also have extensive immigration rights protected by EU law. By virtue of the 1970 Association Protocol with Turkey, Turkish nationals are entitled to the benefit of the immigration policy for self-employed persons which applied on the day that the United Kingdom joined the European Union (1 January 1973).<sup>25</sup> Under Decision 1/80 of the EU-Turkey Association Council, Turkish workers who have been admitted to work are entitled to continue in employment after one year, to switch between employers in the same area after three years, and to take up any employment after four years.<sup>26</sup> There has been no mention of these rights in the joint technical note, or in the UK Government’s policy statements. **The UK Government should make clear that Turkish self-employed persons and workers, and their family members, who are resident in the United Kingdom on Brexit day, will be permitted to remain.**

## 5. Access to rights of long-term residence

One cross-cutting issue for the post-Brexit period is whether some persons with EU law rights of residence will be left without access to a right of permanent right of stay. In this regard, the current legal position may be summarised as follows.

- Rights of permanent residence in Articles 16, 17 and 18 of the Citizens Directive are probably accessible only through periods of extended residence under Articles 7, 12(2) or 13(2) of the Directive.<sup>27</sup>
- Periods spent with the initial right of residence (Article 6), as a jobseeker (Article 14), or while a child completes their education (Article 12(3) and Regulation 492/ 2011), probably do not count towards permanent residence under Articles 16, 17 and 18 of the Citizens Directive.<sup>28</sup>
- Residence on the basis of EU citizenship (Articles 20 and 21 TFEU) probably does not count towards permanent residence.<sup>29</sup>
- Beyond its EU obligations, the United Kingdom implementation permits periods spent with the initial right of residence, as a job-seeker, under Article 12(3), or within the *Singh/O and B* principle to count towards permanent residence.<sup>30</sup>
- Periods under the *Ruiz Zambrano* principle, the *Chen* principle and Regulation 492/ 2011 do not count towards a right of permanent residence in the United Kingdom.<sup>31</sup> There is also uncertainty as to whether time spent within these excluded categories counts towards the entitlement to indefinite leave to remain after ten years’ lawful residence in the United Kingdom.<sup>32</sup>
- Turkish self-employed persons and their family members are entitled to indefinite leave to remain after four years in the United Kingdom.<sup>33</sup> Turkish workers and their family members do not have a corresponding entitlement, but are eligible for indefinite leave to remain after ten years’ residence.<sup>34</sup>

Access to a permanent status is highly desirable for *all* persons with rights based on in EU law at Brexit, who obtain a right to remain after it, just as it is for other long-term residents. **The withdrawal agreement and/ or UK Government policy, should make clear that all persons with post-Brexit rights to remain will have access to a permanent status after an appropriate period of continuous residence.**

## 6. Persons resident outside the United Kingdom at Brexit

There is a risk that the Brexit arrangements will fail to protect persons who have resided in the United Kingdom, but whose only - or primary - place of residence is outside the United Kingdom on the date of Brexit. In this regard, the joint technical note refers to “EU citizens lawfully resident before the cut-off date”, while *Safeguarding the Position* focuses on “EU citizens lawfully resident here”.<sup>35</sup> Neither formulation appears to guarantee protection to persons who may wish, after Brexit either to *resume* residence, or to continue with secondary residence.

One such group are EU-27 nationals and family members *with a right of permanent residence* at Brexit, and who are within the permitted two-year period of absence, but who are currently resident elsewhere (e.g. as students, or while working temporarily elsewhere, or having recently moved from the United Kingdom). Persons in this group may encounter difficulties with the application process to assert the right of permanent residence, or a post-Brexit equivalent, if that process requires or presumes that the applicant is physically in the United Kingdom. **The agreement and the United Kingdom authorities should ensure that effective provision is made for out-of-country applications for permanent residence/ settlement.**

A second group are EU-27 nationals and family members who *previously held a right of permanent residence*, but who lost it through absence from the United Kingdom for more than two years. The joint technical note shows that the United Kingdom Government is willing to exempt persons with “strong ties” to the United Kingdom from the two-year rule, and to offer a guaranteed right to return for all those with a right of permanent residence.<sup>36</sup> **The withdrawal agreement, and/ or United Kingdom arrangements, should permit return by persons who previously held a right of permanent residence, within a specified period of years. Provision should also be made for the resumption of residence to be authorised in other cases, taking all the circumstances into account (including length of past residence, the person’s age during residence, and the length of time since residence).**

A third case concerns persons who *previously had a right of extended residence*. The Directive protects certain temporary absences from a Member State: those that do not exceed “a total of six months a year”, those for compulsory military service, and “one absence of a maximum of twelve consecutive months for important reasons such as pregnancy and childbirth, serious illness, study or vocational training, or a posting...” In these cases, Article 11(2) of the Directive preserves the validity of a residence card, while Article 16(3) provides that the periods in question count towards permanent residence. What is lacking however is a specific right to *resume* extended residence (as that is something for which there is no need, pre-Brexit). **The agreement should provide for a right to resume extended residence in the circumstances specified in Articles 11(2) and 16(3). Beyond that, it should make provision for the resumption of residence in other cases, taking all the circumstances into account (including length of past residence, the person’s age during residence, and the length of time since residence).**

A final group are EU-27 nationals who have their current primary residence in another Member State at Brexit, and also a second place of residence in the United Kingdom. Pre-Brexit, they can benefit from the ‘initial’ Article 6 right of residence for periods of short stay in the United Kingdom, without necessarily being eligible for extended or permanent residence. After Brexit, the risk is that this group

will be treated as EU-27 visitors, without rights of residence or economic activity. **One solution would be for the agreement to ensure that Article 6 rights will continue to apply to persons with places of residence in the United Kingdom. The agreement and/ or United Kingdom practice could go further, to state that such persons can also obtain rights of extended or permanent residence.**

## **7. Non-qualifying residents**

A final general issue concerns persons who may be classed as ‘non-qualifying’ residents under EU law in the United Kingdom. This category will include these groups in particular:

- Economically inactive EU-27 nationals who are resident without possessing comprehensive health insurance – e.g. as students, or as the family members of British citizens or third country nationals;
- Economically inactive EU-27 nationals whose incomes which are not considered to amount to “sufficient resources” so as not to become a burden on the social assistance system;
- Workers or self-employed EU-27 nationals whose work, and income from it, are deemed insufficient to amount to “effective and genuine” economic activity;
- An EU-27 national or third country family member who meets the requirements for a right of residence, but who is unable to prove that to the Home Office – e.g. because of a lack of proof of employment or earnings, or a family relationship, or of periods of residence in the United Kingdom.

Non-qualifying residence has generally been tolerated by the United Kingdom authorities, who do not require resident EU citizens or family members to register their presence, and have not historically taken steps to remove such persons unless they were homeless. There is also no current legal obligation upon non-qualifying EU citizens or family members to obtain leave to remain under the immigration laws.<sup>37</sup> A final consideration, which concerns the comprehensive sickness insurance requirement, is that in practice resident EU citizens have been able to access NHS medical care, without having to prove qualifying residence under EU law.

The position of non-qualifying residents does not feature in the joint technical note. On the EU side, that may be because the negotiating directives emphasise protection for those with “status and rights derived from Union law”.<sup>38</sup> The UK Government has though announced that it will not require evidence of comprehensive sickness insurance, or that work is “effective and genuine”, in applications for post-Brexit settled status.<sup>39</sup> It has not though proposed to relax other requirements.

There are good reasons for non-qualifying residents to be protected further at the time of Brexit. The status of EU-27 nationals and their family members, who are in the United Kingdom after benefitting from free movement rights in the past, is a matter of legitimate concern for the EU-27. Moreover, all EU-27 nationals and family members resident in the United Kingdom fall within the ambit of Article 21 TFEU, which confers a right of movement and residence on EU citizens. The United Kingdom should also favour an agreement concerning such persons in order protect British citizens (and family members) in an equivalent situation in EU-27 states. It may also wish to avoid case-by-case assessment of the compatibility with Article 8 ECHR of the removal of non-qualifying EU-27 residents and family members. **Provision should be made in the withdrawal agreement, and/ or in UK implementation, for non-qualifying residents to have a route to long-term stay, if they can provide evidence of a relevant period of actual residence, and are not a threat to public order.**

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<sup>1</sup> Available at [https://ec.europa.eu/commission/sites/beta-political/files/table - citizens\\_rights.pdf](https://ec.europa.eu/commission/sites/beta-political/files/table_-_citizens_rights.pdf).

<sup>2</sup> Council document XT 21016/17 ADD 1 (22 May 2017).

<sup>3</sup> Cm 9464 (26 June 2017).

<sup>4</sup> Available at <https://www.gov.uk/government/publications/citizens-rights-administrative-procedures-in-the-uk> (7 November 2017).

<sup>5</sup> Council document XT 21016/17 ADD 1, para 8. This will be 23:00 on 29 March 2019 in the United Kingdom.

<sup>6</sup> Joint technical note, points 3 and 7 and Directive 2004/38 on the right of EU citizens and their family members to move and reside freely within the Member States, [2004] OJ L158/77.

<sup>7</sup> For an extended discussion of possible outcomes in this part of the Article 50 negotiations, see Bernard Ryan, 'Negotiating the Right to Remain after Brexit' (2017) 31 *Journal of Immigration Asylum and Nationality Law* 197-226, pp. 206-215, available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3037445](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3037445).

<sup>8</sup> Joint technical note, point 7.

<sup>9</sup> By extension, it should also be explicit that third country family members who are resident under Articles 6, 7 and 14 at Brexit will be permitted to acquire rights under Articles 12(2), 13(2) and 18 after Brexit.

<sup>10</sup> *Ruiz Zambrano*, Case C-34/09 [2011] ECR I-0117 and *Dereci*, Case C-256/11 [2011] ECR I-11315.

<sup>11</sup> *Chen*, Case C-200/02 [2004] ECR I-9951. It is arguable that this right also arises implicitly under the Citizens Directive.

<sup>12</sup> *Surinder Singh*, Case C-370/90 [1992] ECR 4265 and *O and B*, Case C-456/12, [2014] 3 CMLR 17.

<sup>13</sup> *Lounes*, CJEU judgment of 14 November 2017.

<sup>14</sup> Joint technical note, points 3 and 7.

<sup>15</sup> Joint technical note, point 3.

<sup>16</sup> Joint technical note, point 33.

<sup>17</sup> Joint technical note, point 5. If the term is defined in accordance with EU social security legislation, it will cover a worker who returns to their state of residence "as a rule daily or at least once a week: Regulation 883/ 2004 on the coordination of social security systems, OJ 2004 L 166/1, Article 1(f).

<sup>18</sup> Joint technical note, point 6. The scope of this clause is not entirely clear, and it is possible that it only covers persons in *three-country* situations (i.e. a national of one state, resident in a second, working in a third),

<sup>19</sup> Regulation 492/ 2011 on the freedom of movement for workers within the Union, [2011] OJ L 141/1.

<sup>20</sup> *Echternach and Moritz*, Cases 389/87 and 390/87 [1989] E.C.R. 723 and *Baubast and R*, Case C-413/99 [2002] E.C.R. I-7091. This right is broader than Article 12(3) of the Directive because it is not limited to death and departure, but also includes migrant workers who cease to qualify while remaining in the state in question.

<sup>21</sup> For nationals of Iceland, Liechtenstein and Norway, see Annex V of the EEA Agreement [1994] OJ L1/3, as amended by Decisions 158/ 2007 and 52/2012 of the EEA Joint Committee [2008] OJ L124/20 and [2012] OJ L207/32. For Swiss nationals, see the EU-Swiss Agreement on the Free Movement of Persons, (2002) OJ L114/6.

<sup>22</sup> Immigration (European Economic Area) Regulations 2016, and in particular the definition of 'EEA state' in its Reg. 2(1).

<sup>23</sup> 'The status of EU nationals in the UK', <https://www.gov.uk/government/news/statement-the-status-of-eu-nationals-in-the-uk> (11 July 2016).

<sup>24</sup> *Safeguarding the Position*, para. 11.

<sup>25</sup> *Savas*, Case C-37/98 [2000] ECR I-2927 and Home Office, *Business applications under the Turkish EC Association Agreement* (15 October 2015).



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<sup>26</sup> Home Office, *ECAA Turkish employed applications* (17 February 2015). Decision 1/80 has not been published in the Official Journal of the EU. Its text may be found here:

[http://www.inis.gov.ie/en/INIS/DECISION\\_No\\_1\\_80\\_eng.pdf/Files/DECISION\\_No\\_1\\_80\\_eng.pdf](http://www.inis.gov.ie/en/INIS/DECISION_No_1_80_eng.pdf/Files/DECISION_No_1_80_eng.pdf).

<sup>27</sup> *Ziolkowski and Szeja*, Cases C-424/10 and C-425/10 [2011] ECR I-14051

<sup>28</sup> See *Alarape and Tijani*, Case C-529/11 [2013] 3 CMLR 38, in relation to residence based on Regulation 492/2011.

<sup>29</sup> The recognition in the judgments in *O and B* and *Lounes* that Article 21 TFEU confers rights “by analogy” with Directive 2004/ 38 implies a possible argument that permanent residence may be based upon periods reliant upon citizenship rights. As that argument appears to conflict with the rulings in *Ziolkowski* and *Alarape*, however, its prospects of success must be considered uncertain.

<sup>30</sup> Immigration (European Economic Area) Regulations 2016, Regulation 15(1)(a).

<sup>31</sup> Immigration (European Economic Area) Regulations 2016, Regulation 15(2).

<sup>32</sup> The Home Office guidance on *Long Residence* (3 April 2017, p. 24) implies that indefinite leave to remain should be granted on a discretionary basis where “treaty rights” are exercised. Senior Home Office officials have however taken the position that that does not apply to these excluded rights: letter from Clive Peckover to Just Immigration Solicitors, 12 October 2017 (on file with ILPA).

<sup>33</sup> Home Office, *Business applications under the Turkish EC Association Agreement* (15 October 2015).

<sup>34</sup> Home Office, *ECAA Turkish employed applications* (17 February 2015) and Guidance on *Long Residence* (3 April 2017).

<sup>35</sup> Joint technical note, points 2 and 3; *Safeguarding the Position*, para. 15.

<sup>36</sup> Joint technical note, points 22 and 23. The United Kingdom has linked these proposals to a right of movement between EU-27 states for British citizens resident in any of those states.

<sup>37</sup> A provision of this kind was included in the Immigration (European Economic Area) Regulations 2006, Schedule 2, para 1, but is not to be found in the Immigration (European Economic Area) Regulations 2016.

<sup>38</sup> Council document XT 21016/17 ADD 1, para 21.

<sup>39</sup> *Safeguarding the Position*, para 22; UK technical note, para. 11.