

## UNDERGRADUATE LAWS BLOG

# BREXIT

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Hello everybody my name is Andrea Biondi I'm a Professor of European Union law at King's College London and the topic today is surprise surprise Brexit.

The decision of the United Kingdom government to trigger the procedure under Article 50 of the treaty that started the process of withdrawal from the European Union, has many repercussions and implications. One of the most pressing question is obviously the status of European Nationals living in the UK and vice versa of the British citizen's residents in one of the 27 member states.

After months of discussions worries uncertainty I think we start getting some kind of solutions. The European Union UK withdrawal agreement in its draft form tries to give us some answers. Let's just focus a little bit on this first document. As you may know the main points for discussion are the financial settlement, the status of goods in transit, the question of Northern Ireland and as I said finally the status of EU Nationals in the UK. Together with the specific substance, the agreement also deals with one other issue - transition. It has been decided that although the exit day of the United Kingdom is still set for March 2019 the EU and the UK have agreed to extend the application of European Union law up till December 2020. In other words despite the fact that the UK will become a third country from March 2019 for a little bit of an extended period, European Union Law will still continue to apply to the UK.

Now let's go back to the question of citizens. The agreement fully recognise that European citizens living in the UK will continue to enjoy and all the rights that they acquire as EU citizens, which means that any kind of rights, remedies which was available to those nationals will continue to be applicable for the whole transition period as well. It is to be noted that the agreement also recognised that those EU nationals that actually moved to the United Kingdom after the referendum on the remain or leave will still be protected by European law. So once again it means that even if let's say an Italian or a Latvian or a Finnish national moved to the UK after the referendum he or she will be still considered as depository of EU rights. I think it's also important to note that the UK government also acknowledge in a separate note that the government will try to do as much as possible as to ensure the peaceful continuations of those rights. For instance the UK government has accepted that it will try everything possible as to simplify any kind of destructive procedure as to either provide full citizenship or as to provide settled status for EU nationals. So it will endeavour to make the transition as smooth as possible. Also the UK government has accepted that the certain kind of controversial issues which have been heatedly discussed in previous months have been should be resolved. For instance the UK government has accepted that it will not insist as the government is doing now that in order to benefit from certain rights EU Nationals will have to show that they have a private medical insurance. That is a requirement that will go. So in short it seems to me that we have started to at least have little bit of certainty on the kind of Rights that EU nationals reside in the UK will continue to enjoy.

The other side of the coin that is to say the status of UK citizens living and residing in the rest of European Union is far from being settled. The draft agreement does no actually deal with these issues. Perhaps some solution will come through Amsterdam. A group of UK nationals has brought an action before the Dutch Court complaining and arguing against actually the Dutch government that any kind of future arrangement should try to respect their rights let me try to explain a little

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bit better. Obviously as all you students know the possession the acquisition of the EU citizenship is linked to nationality, in other words article 20 provide or the treaty provides that any Nationals of one of the 28 member states can also become a European citizen and as you know from your studies the status of you citizenship the citizens also means possession of certain kind of rights the right to move, to reside freely in other member states, to study, the right of family life in the case of the court in this respect has been particularly innovative. So what is a group of the UK citizens are actually arguing. That in the absence of any kind of agreement between the EU and the UK, they should still continue to enjoy their rights as EU citizens. In other words it seems to me that they're trying to argue that once you become a European citizen you always be a European citizens.

Just some very short comments on this on this action. Obviously it is true that the treaty makes a very clear link between European citizenship and nationality of one of the member states, but doesn't say anything about extensions of these nationalities of these of the status of citizens. Also it has to be said that obviously by exercising your right as an EU citizen for instance by simply deciding to move to another member state any kind of individual start to enjoy certain kind of rights you have the right as to get a job, to bring your family with you and the idea that those rights would be simply be taken away from you I think it's by repellent to any kind of Western legal tradition. As you probably know there's a general theory of Rights which says that any kind of acquired rights any kind of Rights that you acquire legally they should also be continued to be protected by any kind of legal system. So obviously we don't know exactly how the case will end up but you have to remember one thing that the Dutch judge accepted to refer the question to the European Court of Justice. So the European Court of Justice which is so far has been immune from any kind of Brexit controversy is bound to be dragged into this discussion.

So obviously watch this space and we'll see how on the one side how the EU-UK withdrawal agreement will shape up and then we'll see also how this Dutch case will terminate thank you very much for listening and enjoy your studies.