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Technical Note: Citizens' Rights – Administrative Procedures in the UK

This information sheet discusses **the latest proposal** issued by the UK Government on the rights of EU nationals after Brexit. The technical note was issued jointly by the Home Office and Department for Exiting the European Union on 7 November 2017. The document provides a consolidated statement of the policies the UK Government has announced to date concerning EU nationals currently in the UK. Please note, **these policies will ultimately be influenced by negotiations with the EU**, and will be set out in the Withdrawal Agreement.

Proposed Application System

The system the UK Government is proposing to implement for EU nationals and their family members residing in the UK prior to the specified date will be two staged. The first stage will involve the voluntary registration of individuals. The intention is that this phase will be rolled out before the UK leaves the EU and will allow EU nationals and family members to acquire the new status on a voluntary basis. Following this, the UK Government has foreshadowed that EU nationals and family members will have approximately two years after the UK's exit from the EU to make an application. If not acquired during the voluntary period, the acquisition of settled status after Brexit is compulsory.

The UK Government is intending that the application process will be highly streamlined, digital, and will draw on existing Government data. For example, employment records will be established through verification with HMRC. There will also be an even more simplified process for individuals who already hold a valid EEA permanent residence document. These applicants will be able to swap their existing document for a settled status document on the provision of ID verification and submission of a photo, a security check and confirmation of ongoing residence. Previous residence assessments will not be redone.

For persons who do not currently hold permanent residence, these individuals will need to show five years continuous and lawful residence as a worker, self-employed person, student, self-sufficient person, or family member of an EU national. For applicants who resided in the UK prior to the specified date, but are not able to demonstrate five years residence by the end of the transition period will be given temporary status. This will enable them to remain in the UK until they have built up five years continuous residence and therefore qualify for settled status.

Key Features of Settled Status

- It is intended that there will be an **'assisted digital service'** for individuals that need support to complete the application.
- The fee for applying for settled status will **not exceed the cost of a British passport**.
- Whether an applicant held **comprehensive sickness insurance** (CSI) throughout their period of residence in the UK will not be considered in an application for settled status.
- Applicants will not be asked to account for **undocumented periods** where, overall, the residence requirements have been met. Therefore, applicants will not have to account for every trip in and out of the UK.
- Other than a photograph, EU citizens will not be asked for **biometric data**, such as fingerprints.
- UK authorities will not be able to **refuse an application** if it meets the minimum residence requirements, other than on the basis of the refusal grounds which will be set out in the Withdrawal agreement.
- Applicants will be asked to **self-declare UK or foreign criminal convictions**. With respect to convictions, the approach the Government will take to individual cases will vary depending on when the most recent conviction took place. Those who are considered a threat to public order or security will continue to be subject to expulsion in accordance to the Directive 2004/38 (which currently applies). The current legislation and guidance with respect to **deportation**, which currently applies to third country nationals, will be extended to EU citizens 'whose post-exit conducts fall within the scope of that guidance, including those convicted of criminal offences'.
- An **administrative review mechanism** will be established to resolve case working errors. Applicants will also have a statutory right of appeal. Unless a deportation order is made, all appeals will be undertaken in the UK.

What will happen next?

As noted above, these policy proposals are indicative of what the UK Government is planning to implement. Ultimately, there are likely to be changes to the policy depending on the EU's acceptance of elements of the plan. To this end, until the Withdrawal Agreement is released, the intended approach summarised above could change.

Further Information

For further information and ongoing updates on the status of EU citizens and family members in the UK, keep an eye on the ILPA website. Other relevant organisations which provide analysis of the technical note and other key developments include: The3million <https://www.the3million.org.uk/>; New Europeans <https://neweuropeans.net/>.