



DEBATE PACK

Number CDP-2018/0061 | 6 March 2018

European Union citizenship

Main Chamber

Wednesday 7 March 2018

Opposition Day Debate: Plaid Cymru

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The House of Commons Library prepares a briefing in hard copy and/or online for most non-legislative debates in the Chamber and Westminster Hall other than half-hour debates. Debate Packs are produced quickly after the announcement of parliamentary business. They are intended to provide a summary or overview of the issue being debated and identify relevant briefings and useful documents, including press and parliamentary material. More detailed briefing can be prepared for Members on request to the Library.

1. Background

Does EU 'Associate Citizenship' exist?

'European citizenship' is currently defined in the EU Treaties in Articles 20 - 25 of the Treaty on the Functioning of the European Union (TFEU), and once the EU Treaties no longer apply to the UK, European citizenship will not apply to UK citizens - unless the withdrawal agreement provides otherwise.

Currently, 'associate(d) membership' of the EU does not exist, so a new 'fee-paying' status of 'associate(d) membership' could only be introduced for UK citizens by amending the EU Treaties. This would be likely to require the unanimous approval of all EU Member States and could take a while to achieve.

But the withdrawal agreement could include elements of EU citizenship that would work for non-EU citizens. Other elements of EU citizenship clearly would not be possible for a country outside the EU (e.g. the right to petition the European Parliament).

EU citizenship under Article 20 TFEU

Article 20 TFEU provides for citizenship of the EU for individuals with the nationality of an EU Member State:

1. Citizenship of the Union is hereby established. 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.**
2. Citizens of the Union shall enjoy the rights and be subject to the duties provided for in the Treaties. They shall have, *inter alia*:
 - (a) the right to move and reside freely within the territory of the Member States;
 - (b) the right to vote and to stand as candidates in elections to the European Parliament and in municipal elections in their Member State of residence, under the same conditions as nationals of that State;
 - (c) the right to enjoy, in the territory of a third country in which the Member State of which they are nationals is not represented, the protection of the diplomatic and consular authorities of any Member State on the same conditions as the nationals of that State;
 - (d) the right to petition the European Parliament, to apply to the European Ombudsman, and to address the institutions

and advisory bodies of the Union in any of the Treaty languages and to obtain a reply in the same language.

These rights shall be exercised in accordance with the conditions and limits defined by the Treaties and by the measures adopted thereunder.

Other Articles in this part of the TFEU provide for free movement throughout the EU, the right to vote and stand in European Parliament (EP) and municipal (local) elections, diplomatic or consular protection in the authorities of any EU Member State, the right to petition the EP and apply to the European Ombudsman and write to any of the EU institutions.

No EU membership, no EU citizenship?

The TFEU asserts in the last paragraph of Article 20 that the rights of citizenship “shall be exercised in accordance with the conditions and limits defined by the Treaties and by the measures adopted thereunder”. In other words, EU citizenship as defined in Article 20 applies only within the context of EU Treaty provisions. It is acquired automatically by virtue of being a national of an EU Member State. If the UK leaves the EU, it follows that its citizens – unless they have dual nationality - will no longer be citizens of the EU within the terms of the EU Treaties.

However, there has been a debate about the possibility that citizens of a withdrawing State have ‘acquired rights’ in certain Treaty areas,¹ and reciprocal rights for EU and UK citizens post-Brexit are currently being discussed by those negotiating the EU withdrawal agreement. This discussion is about continuing to guarantee certain rights currently enjoyed by EU and UK citizens, such as freedom of movement, social security and health care, pensions, benefits etc. But these guarantees are likely to be transitional and/or conditional (e.g. applying only to people already living in the EU or UK on Brexit day).

A future relations agreement between the UK and the EU might include elements of the current citizenship provisions, but the negotiations have not yet progressed to discussing future relations.

European Parliament support for ‘associate’ citizenship status

EP Constitutional Affairs Committee report

On 10 December 2016, the European Parliament’s chief Brexit negotiator, Liberal Democrat Guy Verhofstadt, considered a form of EU ‘associate citizenship’ status which would allow individuals to “keep free movement to live and work across the EU, as well as a vote in European Parliament elections”.² Politico [reported](#) on 12 December that MEPs in the EP’s Constitutional Affairs Committee (AFCO) supported an ‘associate status’.

¹ ‘Acquired rights’ are discussed in section 4.4 of Commons Briefing Paper 7551, [Brexit: how does the Article 50 process work?](#) 30 June 2016.

² [Independent, 9 December 2016.](#)

Pointing out that the EU's "founding fathers" had imagined a type of "associate status," MEPs called for "a partnership," which "should be defined and developed in order to set up a ring of partners around the EU for states who cannot or will not join the Union, but nevertheless want a close relationship with the EU."

This would involve making "a financial contribution" and respecting the Union's "fundamental values and the rule of law."

AFCO's [draft report](#) of July 2016 by Mr Verhofstadt on "Possible evolutions of and adjustments to the current institutional set-up of the European Union", although probably attractive to Remainers, would appear to contradict the spirit if not the letter of Article 50 TEU: if a Member State decides to leave the EU, how could it at the same time retain EU citizenship?

The Goerens amendment

In November 2016 the Luxembourg MEP, Charles Goerens (Alliance of Liberals and Democrats Group), proposed [Amendment 882](#) to the AFCO own initiative report on Possible evolutions of and adjustments to the current institutional set-up of the European Union. Goerens proposed adding an amendment to paragraph 37 which read:

37a. Advocates to insert in the Treaties a European associate citizenship for those who feel and wish to be part of the European project but are nationals of a former Member State; offers these associate citizens the rights of freedom of movement and to reside on its territory as well as being represented in the Parliament through a vote in the European elections on the European lists;

Charles Goerens' [blog](#) provided further information on the purpose of the amendment:

This associate membership should provide rights such as the freedom of movement and the right to reside in the EU Member States. Following the reciprocal principle of 'no taxation without representation', these associate citizens should pay an annual membership fee directly into the EU budget. In return, EU associate citizens will be able to stand and vote in the European elections on trans-national European lists.

And:

48% of British voters wished to remain European citizens with all the advantages that this brings. The EU should facilitate associate voluntary EU citizenship for those who, against their will, are being stripped of their European identity. Individual EU associate citizenship could provide a practical solution for UK citizens aggrieved by Brexit.³

³ See also article by Charles Goerens, [If you don't want to leave the EU, you don't have to – become an associate citizen](#), The Independent, 14 November 2016.

I believe he eventually withdrew the amendment because it would require Treaty change, which would take a long time.

EP Brexit resolution

The EP [motion for a resolution](#) on UK withdrawal, 29 March 2017, implied in paragraph 27 that the EP supported a form of continued citizenship for those who did not want to leave the EU:

[The EP] Takes note that many citizens in the United Kingdom have expressed strong opposition to losing the rights they currently enjoy pursuant to Article 20 TFEU; proposes that the EU-27 examine how to mitigate this within the limits of Union primary law whilst fully respecting the principles of reciprocity, equity, symmetry and non-discrimination;

Mr Verhofstadt has also called for the UK Government to be “open” to a plan to help British people who want to retain EU citizenship after the UK leaves. Writing in *The Independent* on 8 April 2017, he [said](#):

After much debate within the European Parliament, the parliament’s resolution also notes that many citizens of the UK have expressed strong opposition to losing the rights they currently enjoy as European Union citizens and “proposes that the EU 27 examine how to mitigate this within the limits of Union primary law”. I fought hard in the parliament for this provision to be maintained and hope in the coming months to continue to push for such an offer from the EU to British Europeans.

Other views on retaining EU citizenship

The former Director General of the EU Council’s Legal Service, **Jean-Claude Piris**, believes that withdrawing from the EU would not be compatible with continued EU citizenship:

I would not think that one could build a new legal theory, according to which “acquired rights” would remain valid for millions of individuals ... who, despite having lost their EU citizenship, would nevertheless keep its advantages for ever (including the right of movement from and to all EU Member States? Including the right to vote and to be a candidate in the European Parliament?). Such a theory would not have any legal support in the Treaties and would lead to absurd consequences.⁴

Professor Gareth Davies has argued that the Court of Justice of the EU (CJEU) could, if asked, find that it would be disproportionate to deprive the UK population of its rights as EU citizens through the process of withdrawal.⁵ But as Stephen Coutts of Dublin City University has pointed out, “An argument that Union law could intervene to ‘protect’ the rights of individuals in the UK that are being dragged from the Union and denied Union citizenship against their will would amount

⁴ Robert Schuman Foundation, European issues n°355, 5 May 2015. [Should the UK withdraw from the EU: legal aspects and effects of possible options.](#)

⁵ G. Davies, [Union citizenship – still Europeans’ destiny after Brexit?](#) 7 July 2016.

to an argument that the United Kingdom acting under Article 50 TEU is not competent as a democratic political community to bind its own minority".⁶

The former ALDE MEP, **Andrew Duff**, pointed out in a [blog](#) on 11 July 2017 that there is no such thing as 'associate membership' of the EU, but "There is however the possibility for a third country, which the UK will be, to seek an association agreement with the Union ...".

A report commissioned by Jill Evans MEP and published in July 2017⁷ looked at 'associate' EU citizenship. The report's findings are summarised as follows:

First, the key question in relation to providing this protection is whether Union Citizenship continues post-Brexit, or whether Brexit extinguishes Citizenship. The report considers that Continuity Union Citizenship ("Continuity") is the more convincing interpretation of European Union law and international law as it stands, but it also considers the alternative of creating the new status of Associate Union Citizenship of the European Union for British nationals ("Associate Union Citizenship") with related rights.

Second, the report identifies two possible means of realising these models: i) legislation by the Union to clarify Continuity and ii) the Withdrawal Agreement between the EU and the UK enshrining Associate Union Citizenship or Continuity.

Third, it is established that no revision of the Founding Treaties is needed, irrespective of the model followed.

Fourth, UK citizenship law is highly flexible in line with the principle that individuals ought not to be stripped of citizenship against their will.

Fifth, devolution in the UK entails that Wales may have a considerable responsibility to protect Union Citizenship rights post-Brexit.

⁶ S. Coutts, [Brexit and Citizenship: The Past, Present and Future of Free Movement](#), 12 September 2016.

⁷ [The Feasibility of associate EU citizenship for UK citizens post-Brexit](#), Prof Volker Roeben, Prof Jukka Snell, Dr Petra Minnerop, Dr Pedro Telles and Mr Keith Bush QC, Swansea University.

2. Press Articles

The following is a selection of press and medial articles relevant to this debate.

Please note: the Library is not responsible for either the views or accuracy of external content.

[Our rights to EU citizenship are worth fighting for – despite Brexit](#)

The Guardian
Jolyon Maugham
1 March 2018

[Britons shouldn't get their hopes up about keeping EU citizenship after Brexit](#)

The Conversation
Adrienne Yong
21 February 2018

[A creative court case could lead to Brits retaining their EU citizenship despite Brexit](#)

Quartz
Akshat Rathi
8 February 2018

[U.K. Open to Talking About Associate Citizenship after Brexit](#)

Bloomberg Politics
Svenja O'Donnell
2 November 2017

[David Davis says he will consider plans for Brits to keep opt-in EU citizenship after Brexit](#)

The Independent
Jon Stone
2 November 2017

[How you could keep your rights as an EU citizen after Brexit](#)

Wales Online
David Williamson
20 June 2017

[The case for individual associate citizenship of the European Union](#)

Another Europe Is Possible
Mary Kaldor
6 March 2017

[The problems associated with associate citizenship of the EU](#)

Eutopia Law
Dr Adrienne Yong
18 November 2016

3. Press Releases

[Associate citizenship for Brits was not included in final resolution draft.](#)

European Parliament

European Parliament Liaison Office in London

13 December 2016

Contrary to what you might have read, associate citizenship is not on the European Parliament's table.

Despite several reports in the weekend press that the European Union is considering granting Britons "associate citizenship status", the real story behind the headlines is quite different.

The papers are referring to a resolution drafted by the European Parliament's Constitutional Affairs Committee on EU reforms. One MEP had tabled an amendment in committee referring to EU citizenship but withdrew it before the vote was taken. The reference to EU citizenship is therefore not in the draft text which will be submitted for a vote by the full Parliament. The vote on the resolution is yet to take place.

4. PQs

EU Countries: British Nationals Abroad

05 Mar 2018 | HL5808

Asked by: Viscount Waverley

To ask Her Majesty's Government whether any UK minister, official, or embassy staff member has been in communication with any Netherlands minister, official, or embassy staff member, either directly or via a representative, regarding an interim appeal to the decision by the District Court of Amsterdam (case number: C/13/640244/KG ZA 17-1327) to refer the question of whether UK citizens living in EU countries are entitled to keep their EU citizenship rights after Brexit to the Court of Justice of the European Union; and if so, what was the outcome of those discussions.

Answering member: Lord Ahmad of Wimbledon

| Department: Foreign and Commonwealth Office

British Government officials have had limited conversations with Dutch counterparts on this case, principally in order to ascertain the factual details.

As regards the issue of UK citizens living in the EU after our exit from the European Union, the Government has secured a deal that will safeguard their rights, so that they can continue living their lives broadly as they do now. Our view is that EU treaty provisions state that only citizens of EU Member States are able to hold EU citizenship. Therefore, when the UK ceases to be a member of the European Union, British nationals will no longer hold EU citizenship, unless they hold dual nationality with another EU Member State.

British Nationals Abroad: EU Countries

13 Feb 2018 | 126675

Asked by: Hywel Williams

To ask the Secretary of State for Exiting the European Union, what assessment he has made of the potential merits of adopting EU associated citizenship for UK citizens as a negotiating position.

Answering member: Robin Walker | Department: Department for Exiting the European Union

We are content to listen to proposals from the EU on associated citizenship for UK nationals however, to date, this has not been formally proposed to the UK in negotiations. EU treaty provisions state that only citizens of EU Member States are able to hold EU citizenship. Therefore, when the UK ceases to be a member of the European Union, British nationals will no longer hold EU citizenship, unless they hold dual nationality with another EU Member State.

We have secured a deal that will safeguard the rights of UK nationals living in the European Union, so that they can continue living their lives broadly as they do now. Details of this agreement, which gives more

certainty about residence, healthcare, pensions and other benefits, can be found in the Joint Report published in December.

As we move forward into the next phase of negotiations we will continue to work to ensure the best possible outcome for the British people.

British Nationals Abroad: EU Countries

16 Jan 2018 | 121300

Asked by: Layla Moran

To ask the Secretary of State for Exiting the European Union, what discussions the Government has had with European Union negotiators on proposals for associate EU citizenship for British nationals who wish apply for that status in the event that the UK leaves the EU; and if he will make a statement.

Answering member: Robin Walker | Department: Department for Exiting the European Union

EU treaty provisions state that only citizens of EU Member States are able to hold EU citizenship. Therefore, when the UK ceases to be a member of the European Union, British nationals will no longer hold EU citizenship, unless they hold dual nationality with another EU Member State.

The Government is determined to get the best possible deal for UK nationals living in the EU and is considering very carefully the options open to it, however associate citizenship is not a matter within the scope of the current negotiations with the EU.

Free Movement of People

10 Jan 2018 | 120990

Asked by: Conor McGinn

To ask the Secretary of State for the Home Department, if the Government plans to introduce primary legislation on Irish citizens and immigration law after EU freedom of movement rules cease to apply to the UK.

Answering member: Caroline Nokes | Department: Home Office

Irish citizens enjoy a special status in the UK distinct from that enjoyed by virtue of EU citizenship, reflecting the close social and cultural ties between the UK and Ireland. These rights, enjoyed reciprocally by UK and Irish citizens in each state, are provided for by national legislation. The agreement reached in Brussels in December has confirmed that these rights are preserved after the UK has left the EU.

As announced in the Queens speech (27 June) an Immigration Bill will be introduced in the first session to allow for the repeal of EU law on immigration.

Brexit: EU Citizenship**11 Dec 2017 | 787 cc1367-9****Asked by: Lord Teverson**

To ask Her Majesty's Government what discussions they are having with the European Union concerning whether those United Kingdom citizens who wish to retain their European citizenship post-Brexit may do so.

Answered by: Lord Callanan | Department: Department for Exiting the European Union

My Lords, EU treaty provisions state that only citizens of EU member states are able to hold EU citizenship. Therefore, when the UK ceases to be a member of the European Union, British nationals will no longer hold EU citizenship unless they hold dual nationality with another EU member state. We are content to listen to proposals, but this is not a matter within the scope of the current negotiations with the EU.

Asked by: Lord Teverson

I thank the Minister for that extensive reply, although I find it disappointing. It is really important to many people in this country to retain the rights of their European citizenship—so, given the new and cordial relationship between the Government and the European Commission and institutions, would it be possible to open up this discussion to find a mutually beneficial way to move this agenda forward? We have a friend also in the European Parliament in this regard.

Answered by: Lord Callanan

We are content to listen to proposals on this; we are not ruling it out. The problem is, as the noble Lord will know very well, that you can only be an EU citizen if you are the citizen of an EU member state. To get what he wants would involve changing treaties—and he will know how difficult that is in the European Union. The other side has shown no interest whatever in doing it. I am aware of the proposals from the European Parliament, and we will look at any proposals, but our EU negotiating partners so far have not expressed any interest in it. It would be a long, difficult and complicated process and, I suspect, would set a precedent that they do not wish to set.

Asked by: Lord Pearson of Rannoch

My Lords, can the Government confirm that before last Christmas, we offered continuing residence to the 3.5 million EU citizens living here if our 1.2 million people living there also got it? The Eurocrats refused the offer, even having the nerve to accuse us of using their people as bargaining chips. Is this not further proof that Herr

Juncker and Co. are interested only in keeping their failing project afloat, however much it damages the real people of Europe?

Answered by: Lord Callanan

The noble Lord makes an important point, but it is not that helpful to look back over what might have happened in the past: best now to celebrate the excellent achievements that we have gained in reaching agreements last week, whereby EU citizens in the UK will have their rights guaranteed and vice versa.

Asked by: Lord Skelmersdale

My Lords, may I take my noble friend back to his original Answer, which presumably means that passports will be required? Have Her Majesty's Government decided whether that is so; secondly, whether a new one will be required; and, thirdly, whether it will be charged for?

Answered by: Lord Callanan

I think the noble Lord will have to wait for the Home Office's proposals on a new immigration system for an answer to that question.

Asked by: Lord Tomlinson

As the Minister said that the noble Lord, Lord Pearson, made an important point, perhaps he could spell out what the important point was to him—because, as far as I am concerned, I missed it.

Answered by: Lord Callanan

My Lords, all noble Members make important points in this House.

Asked by: The Earl of Clancarty

My Lords, is the Minister aware that an arrangement such as this would be hugely beneficial to many working in the creative industries, for whom free movement around Europe is essential?

Answered by: Lord Callanan

If the noble Earl means the proposal suggested by the noble Lord, Lord Teverson, I have said that we are happy to entertain proposals in this area. But I think it would be extremely difficult for the EU to concede that citizens from non-EU member states would have citizenship.

Asked by: Baroness Ludford

My Lords, the Government rightly value the integrity of the United Kingdom—as indeed do these Benches. Do they therefore think it is right that there will be an imbalance in that most citizens of Northern Ireland will be able to retain EU citizenship through their right to an Irish passport? Should the Government not therefore support the call my noble friend proposed making to the European Parliament, for the EU 27 to examine how all UK citizens can retain the benefits of EU citizenship?

Answered by: Lord Callanan

As the noble Baroness is aware, special arrangements have always applied between Northern Ireland and the Republic of Ireland, given the troubled history of that island. I repeat that we are not ruling out the idea—but she will know, as well as I do, how difficult it would be to achieve consensus in the 27 to change the treaties to enable that to happen.

It would set a precedent that citizens from non-EU member states can have EU citizenship, with its rights and obligations. I am sure she will agree that it is difficult to see how that would come about.

Asked by: Baroness Hayter of Kentish Town

My Lords, on Thursday the noble Lord, Lord Ashton of Hyde, said in regard to the likely problems of our youth orchestras in travelling to the EU after March 2019:

“Much more important is the visa requirements that will be needed after Brexit”.—[Official Report, 7/12/17; col. 1156.]

Can the Minister update the House on such anticipated problems, of youth and amateur orchestras needing visas to go to the EU after Brexit, and outline the steps being taken to mitigate this problem?

Answered by: Lord Callanan

These are of course matters that will be discussed in the next phase of the negotiation. As I said in response to an earlier question, the noble Baroness will have to wait for the proposals for a new immigration system that the Home Office will announce in due course.

Asked by: Lord Dubs

My Lords, I am not sure that it would be a precedent to achieve what the noble Lord has suggested. For example, I remind the Minister that in Moldova, which is not an EU country, a large number of Moldovans have the right to Romanian passports and therefore entry into the EU—so the precedent is already there.

Answered by: Lord Callanan

I think that that is because they have Romanian passports. Romania is an EU member state and takes those obligations accordingly. As I said, it is very difficult to see how the treaties would be changed to enable this to happen. I am aware of the proposal from the European Parliament. We are not against the idea—we would be happy to consider it—but I think that there is very little chance of it happening.

Asked by: Lord Roberts of Llandudno

My Lords, I am very proud that I was born Welsh, and I am very proud that I was born British as well. By what right can the Government or anybody else deny those who are born after we joined the European Union of their citizenship in Europe? How can we deny it to them?

Answered by: Lord Callanan

Because, my Lords, we had a referendum on the subject of leaving the European Union and the people of the United Kingdom—and, indeed, the people of Wales—voted to leave.

Brexit

10 Jul 2017 | HL466

Asked by: Lord Taylor of Warwick

Her Majesty's Government whether they intend to negotiate to enable UK citizens to keep their EU citizenship and rights following Brexit.

Answering member: Baroness Anelay of St Johns

| Department: Department for Exiting the European Union

Our aim is to ensure people can broadly live their lives as they do now. At every step of negotiations we will work to ensure the best possible outcome for UK Citizens. We are proposing a reciprocal deal which is fair and serious, and we are approaching these negotiations constructively and respectfully, with a determination to secure a deal that works for both the UK and the EU.

EU: UK Settlement

08 Jun 2016 | 773 c740

Asked by: Lord Pearson of Rannoch

My Lords, I thank the noble Baroness for that Answer but she appears to forget the 1992 European Council in Edinburgh, which decided that national citizenship was superior to the new EU citizenship that had just been agreed at Maastricht. However, the Court of Justice overturned that, having merely taken it into account. How is the Prime Minister's deal anything approaching the root-and-branch reform of the EU that he promised in his Bloomberg speech? If the Minister cannot say, is it honest of the Government to pretend that this deal justifies our staying in a wholly unreformed and clearly failing European Union? I ask the noble Baroness yet again: why do the Government want us to stay on the "Titanic"?

Answering member: Baroness Anelay of St Johns

| Department: Department for Exiting the European Union

My Lords, my right honourable friend the Prime Minister successfully renegotiated a deal that is better for the UK than any before and means that we are stronger, better off, and safer within the European Union. He made sure that the agreement provided that we are protected by international law which means that this will be put into effect. That means we are in a better position than ever before. It is right that when those who go to vote make their minds up they bear all that in mind. I do not tell them how to vote. I certainly hope they will consider the facts carefully before they do so.

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