
SAFE OR SORRY?

PROSPECTS FOR BRITONS IN THE EUROPEAN UNION AFTER BREXIT



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By Meghan Benton

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EXECUTIVE SUMMARY

Approximately 1 million UK citizens¹ live in the European Union and around 3 million EU nationals live in the United Kingdom² on a permanent basis. Both groups are facing an uncertain future amid thus-far unresolved Brexit negotiations over their status. While this report focuses on the UK population in the European Union, the fates of the two groups are inextricably linked through negotiations on citizens' rights, and EU nationals in the United Kingdom are the subject of other work by the Migration Policy Institute Europe.

Although the stereotype of pensioners retiring in the sun has captured media attention following the independence referendum, Britons abroad in Europe are a much more diverse group.

Even if European and UK negotiators come to an agreement on paper, this initial deal is unlikely to resolve the full spectrum of consequences UK residents of other Member States could face when they are no longer EU nationals. Some groups, such as pensioners and part-time workers, may struggle to prove continuous residence or may find that they are no longer entitled to certain benefits and services. Understanding who this population is and how Brexit is likely to affect them is thus crucial, both as policymakers engage in exit negotiations and for identifying challenges that may linger even if a deal is agreed.

A. Who are the Britons in the European Union?

It is notoriously difficult to estimate the true size of EU migrant populations throughout Europe. EU nationals are not always required to register with the municipalities in which they reside, and many move back and forth between countries on a temporary or seasonal basis. As a result, they often do not show up in official statistics. Data on British permanent residents in EU Member States suggest that the largest numbers live in Spain, Ireland, France, and Germany, although UK nationals also make up a notable share of the much smaller populations of Malta and Cyprus.

Although the stereotype of pensioners retiring in the sun has captured media attention following the independence referendum, Britons abroad in Europe are a much more diverse group. They include workers and business owners, students and lifestyle migrants, retirees and children, and are spread across age groups, income levels, and economic statuses. These Britons span the age spectrum and are engaged in many different areas

- 1 There are two ways of calculating immigrant populations: by country of birth and by country of citizenship. Generally, data on the foreign born are more complete, and the United Nations (UN) makes available estimates of foreign-born populations from 2015—estimating the UK-born population in either European Economic Area (EEA) or European Union (EU) Member States at 1.2 million. However, these data are not ideal for assessing which Britons could lose the right to stay in their EU country of residence after Brexit—something predicated largely on the citizenship(s) they hold. There were an estimated 900,000 UK nationals living elsewhere in the European Union as of 2011, according to data from the UK Office of National Statistics. Figures based on country of birth exclude naturalised UK citizens and UK citizens born elsewhere, while including UK-born people who hold citizenship of another EU country. This report uses citizenship data where possible, but also relies heavily on foreign-born data because they are more complete. Because naturalisation rates have been low among the UK population in Europe, discrepancies between the two datasets are usually relatively small; data on the UK-born population in another Member State are thus generally an adequate proxy.
- 2 The United Kingdom includes England, Scotland, Wales, and Northern Ireland, but not the Isle of Man or Jersey and Guernsey, which are crown dependencies and not part of the European Union. Following common practice, this report uses 'United Kingdom' and 'British' interchangeably, although Great Britain does not include Northern Ireland.

of work. The United Kingdom is the fifth largest sender of professionals in regulated occupations such as teaching, architecture, and medicine, after Germany, Poland, Spain, and Romania.

In Germany, most UK nationals are highly educated and appear to have moved for work; more than half have a university degree.

The characteristics of UK nationals living in Europe or ‘Brexpats’ vary by country—a point that may signal problems further down the line in the Brexit negotiations, since different Member States have widely divergent interests in the future of their UK residents. In Germany, most UK nationals are highly educated and appear to have moved for work; more than half have a university degree, and a further 20 per cent have some kind of postsecondary qualification. By contrast, most UK nationals in Spain are so-called lifestyle migrants, as is reflected in the number of retirees and people living in coastal holiday regions (e.g., Alicante and Malaga) and in the high proportion of economically inactive residents. Regardless of their precise conditions, many are highly mobile and move between homes or work opportunities on a seasonal basis, making it hard to plan for their needs because of their limited history interacting with local authorities and uneven presence in official data.

B. Issues facing UK nationals following Brexit

Since UK-EU negotiations on citizens’ rights only began in earnest in June 2017, the prospects for and likely shape of a deal remain unclear. But many of the challenges facing Brexpats in the European Union are likely to arise regardless of what is agreed in Brussels. These problems fall into four main categories:

- ***Legal status.*** Depending on the shape of the future deal, UK nationals could face considerable demands to document their current and past financial status in order to qualify for continued residence.³ Those who have been in a country for less than five years⁴ are especially likely to find it difficult to meet new residency requirements, as are people who have split their time between two countries or have not maintained address or financial records. If national and EU laws default to treating them as third-country nationals (i.e., non-EU migrants), even those who have lived in a country for five years or more could be required to prove their income status and fulfil integration requirements, including language tests.
- ***Access to the labour market.*** As third-country nationals, Britons would lose their current employment privileges, such as the right to enter any job without a prospective employer having to first undergo the labour market tests some countries impose.⁵ Yet labour-market access appears to be an afterthought in the present negotiations. For instance, policymakers have thus far put the question of how some workers’ qualifications will be recognised after Brexit in the ‘for later discussion’ bucket.

3 Even if granted special status, economically inactive people (such as retirees or homemakers) could have to prove that they have maintained a certain income level for the duration of their residence. And although the status of long-term third-country nationals is governed by EU law, Member States retain considerable discretion, meaning that Britons in EU countries could be subject to 27 widely different legal regimes.

4 Five years of continuous legal residence is the ‘golden number’ for both EU citizens and third-country nationals, after which they can acquire permanent residence in a Member State; third-country nationals are, however, often subject to certain conditions while EU nationals generally are not.

5 Such tests generally require employers to offer or advertise jobs to local/EU workers before granting a work permit to a third-country national.

- **Access to social security.** While likely to be a priority of any future agreement, existing grey areas in EU law could make agreeing on who is entitled to which benefits difficult. Such decisions are often governed by ill-defined terms such as ‘continual residence’, ‘habitual residence’, or ‘sufficient resources’. Member State officials already have considerable scope to interpret these terms, leaving the implementation of a future deal and local decision-making about entitlements open to confusion.
- **Access to health care.** Relatedly, the ability of Britons to access national health-care systems after Brexit is likely to depend heavily on how long individuals have been in a country and whether their status has been regularised. But like social security, coordinating health-care access at the EU level is problematic given existing differences between Member State health systems. Moreover, not all intra-EU migrants are entitled to health care—indeed, most Member States consider holding comprehensive insurance a precondition of continued legal status. A lack of comprehensive health insurance going back over the period of residence could become a reason for rejecting residence applications from certain economically inactive groups of UK nationals.

Both sides have been advancing a myth that citizens’ rights are a singular issue, with the status of UK nationals in the European Union and EU nationals in the United Kingdom broadly equivalent.

Despite progress on negotiations, a ‘no-deal’ Brexit looks possible for several reasons. First, the political constraints are overwhelming: highly technical negotiations such as these rarely play out in such a public setting. Some commentators have predicted that the unity of the other 27 Member States could crumble, derailing a deal, while others point to the instability of UK Prime Minister Theresa May’s government as the main challenge. And since the deal is being addressed as a single package (encompassing a number of migration and nonmigration-related areas), disagreement on anything from the financial settlement to the Irish border could derail progress on citizens’ rights. Second, both sides have been advancing a myth that citizens’ rights are a singular issue, with the status of UK nationals in the European Union and EU nationals in the United Kingdom broadly equivalent. But the fact that mobile UK nationals will be protected by future EU law, while the United Kingdom is offering no supranational legal guarantees to its EU residents (namely, protection by the European Court of Justice), shows how asymmetrical the situation is.

Finally, negotiators have not yet begun to consider how immigration enforcement systems and local authorities in all 27 Member States would put a prospective agreement on citizens’ rights into practice. Implementation of any new system—and its likely costs—could derail a deal, once they emerge. And both sides have thus far ignored the implications of different legal scenarios for the nature of citizenship itself in the long run. Creating a ‘super group’ of UK nationals who retain their free-movement rights (and can pass these on to their children) may not be well received by members of the British public, especially those who are too young to have made the most of their free-movement rights and who voted to remain in the European Union. As these issues begin to percolate into the media and popular debates around Brexit, public appetite for a done-deal may wane.

C. Key questions for the future

Regardless of what happens with the deal on citizens' rights, there is likely to be a massive increase in UK nationals who find themselves in legal limbo, either *de facto* unauthorised, waiting to have their residence application processed, or in the process of appealing an unfavourable decision about their status. This could lead to unintended consequences, such as the emergence of a legal industry supporting people with their claims or an increase in sham marriages for the purpose of securing one party's legal status. Returns of Britons to the United Kingdom, applied in a heavy-handed way, could trigger a public backlash. But allowing people to remain while in a state of legal limbo could significantly increase Member State unauthorised populations, barring them from accessing services and forcing some into economic hardship.

It is also worth attending to the broader spillover effects for the Member States in which Britons live. If Brexit creates additional labour-market barriers, some UK nationals may feel more locked into their jobs for fear of losing them and, with them, residence. Local housing markets and communities in regions with a high concentration of UK nationals may also be affected, especially as future flows into such areas dwindle. As these populations age and become more isolated, the ramifications for health- and elder care could be costly for both receiving countries and the United Kingdom.

*There is likely to be a massive increase in UK nationals who find themselves in legal limbo, either *de facto* unauthorised, waiting to have their residence application processed, or in the process of appealing an unfavourable decision about their status.*

Finally, the UK government may wish to weigh carefully the potential proliferation of different categories of UK nationals, with different entitlements vis-à-vis the European Union. As early evidence emerges of an uptick in Britons applying for citizenship in other Member States and the likelihood that a sizeable portion of the British population abroad will retain free-movement rights in some form, this risks creating one class of super-mobile UK nationals and another, second tier with much more limited rights. As a result, Brexit could initiate seismic changes in how UK nationals understand their citizenship and common identity, how cohesive and loyal the British diaspora feel, and how Britons feel about mobility itself.

I. INTRODUCTION

The free movement of persons is one of the four fundamental freedoms of the European Union's single market.⁶ The architects of free movement originally saw it playing a primarily economic role. Allowing people to move freely oils the wheels of the European labour market: in downturns, people can move to where jobs are available without undue costs or red tape. But as the European Union matured, mobility evolved to offer EU nationals much more. For many mobile citizens of the United Kingdom, a change of lifestyle is the real draw.⁷ While some go abroad to work or run businesses, studying abroad for a year has become a rite of passage for many students, and pensioners have long enjoyed the opportunity to live out their later years in the

6 European Parliament, 'Fact Sheets on the European Union—Free Movement of Persons', updated June 2017, www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuld=FTU_2.1.3.html.

7 Michaela Benson and Karen O'Reilly have coined the term 'lifestyle migration' to refer to people who move for a different way of life, something they argue is especially prominent among intra-EU movements. See Michaela Benson and Karen O'Reilly, 'Migration and the Search for a Better Way of Life: A Critical Exploration of Lifestyle Migration', *The Sociological Review* 57 no. 4 (2009): 608–25.

sun.⁸ Over time, what started as a freedom for workers evolved into a freedom for people—including those out of work, retired, or economically inactive.⁹

Britons in the European Union have been among the greatest beneficiaries of this gradual expansion of EU mobility rights. More than 1.2 million UK-born individuals live elsewhere in Europe,¹⁰ and many of these mobile Britons choose to live in a different country for lifestyle reasons, rather than work. In Spain, for instance, Britons are the second-largest group of EU nationals (after Romanians), and one-third of this group are pensioners. Overall, Britons living in other EU Member States are a mixed bunch, comprising workers, self-employed people, students, family members of Member State nationals, and pensioners. Some have been living abroad for decades, while others have only recently taken advantage of their free-movement rights.

With Brexit negotiations solidly underway, much remains uncertain for the Britons who have built lives partly or entirely in another European country.

In the wake of the 2016 referendum that saw a slim majority of UK voters opt to leave the European Union, and with Brexit negotiations solidly underway, much remains uncertain for the Britons who have built lives partly or entirely in another European country. The same holds true for many of the nearly 3 million EU nationals living in the United Kingdom,¹¹ who are the subject of other work by the Migration Policy Institute Europe.¹² This report sets out to analyse the UK population living abroad in Europe and to assess their prospects following Brexit. It first looks at who these Britons are, where they live, and what occupations they hold. Next, it considers what kind of deal may (or may not) come out of exit negotiations between EU and UK policymakers, identifying potential sticking points. In its final two sections, the report examines the challenges that are likely to remain even if a deal is agreed, potential unintended consequences, and gaps in what is known about what the future holds for Britons abroad in Europe.

- 8 Roughly 593,000 mobile EU nationals (of 16 million total) are self-employed across the European Union. The data do not allow disaggregation by nationality, so it is impossible to tell how many UK nationals are self-employed. See Eurostat, 'Self-Employment by Sex, Age and Citizenship (1000) [lfsa_esgan]', updated 9 August 2017, http://ec.europa.eu/eurostat/web/products-datasets/-/lfsa_esgan.
- 9 Under the 1957 Treaty of Rome, free movement could be exercised by workers and the economically active. Subsequent treaties, secondary legislation, and domestic and European Court of Justice case law gradually expanded free-movement rights to include students and people who were financially self-sufficient, including retirees. See 'Council Directive 90/364/EEC of 28 June 1990 on the Right of Residence', *Official Journal of the European Communities* 1990 L 180/26, 13 July 1990, <http://eur-lex.europa.eu/eli/dir/1990/364/oj>; 'Council Directive 90/365/EEC of 28 June 1990 on the Right of Residence for Employees and Self-Employed Persons Who Have Ceased Their Occupational Activity', *Official Journal of the European Communities* 1990 L 180/28, 13 July 1990, <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1505759937875&uri=CELEX:31990L0365>; 'Council Directive 90/366/EEC of 28 June 1990 on the Right of Residence for Students', *Official Journal of the European Communities* 1990 L 180/30, 13 July 1990, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31990L0366>. The 1992 Maastricht Treaty introduced the concept of 'Union citizenship', which included the right to move and reside freely in Member States. Later, the Free Movement Directive consolidated the rights of European Union citizens and their family members (spouse or registered partner and dependents under the age of 21 or direct relatives in the ascending line of the EU citizen or those of the spouse or registered partner). Non-EU nationals from the European Economic Area (EEA)—Iceland, Liechtenstein, and Norway—can work in the European Union under the same terms as EU nationals.
- 10 United Nations, Department of Economic and Social Affairs, Population Division, 'Trends in International Migration Stock: Migrants by Destination and Origin' (dataset, December 2015), www.un.org/en/development/desa/population/migration/data/estimates2/data/UN_MigrantStockByOriginAndDestination_2015.xlsx.
- 11 As of 2015, an estimated 2,900,000 EEA-born migrants were living in the United Kingdom. See *ibid*.
- 12 See, for example, Meghan Benton et al., *Building the Post-Brexit Immigration System: An Analysis of Shortages, Scenarios and Choices* (London: Recruitment and Employment Confederation, 2017), www.rec.uk.com/data/assets/pdf_file/0005/376160/Buiding-the-Post-Brexit-Immigration-System-09.06.17.pdf.

II. THE BRITISH IN EUROPE

Britons living in one of the 27 other EU Member States are a diverse and growing population. Moving abroad offers UK nationals a wide array of opportunities, especially when it comes to retiring comfortably or pursuing higher education with a more limited budget. This group thus includes both Britons moving to coastal and rural areas for retirement or a change of lifestyle, as well as those clustered in the hubs of Berlin, Hamburg, Barcelona, and Paris, working in high-skilled jobs and start-ups.

Yet building a detailed portrait of Brexpat— and of those most likely to be affected by Brexit—is a difficult undertaking (see Box 1). While data on immigrant populations by country of birth (i.e., UK-born persons) are often more complete than those on immigrants’ countries of citizenship (i.e., UK citizens), citizenship data more directly reflect the population likely to experience a change in legal status after Brexit.¹³ This report uses data on UK citizens where available, but also draws on data about UK-born individuals in Europe to offer a more complete picture. Because naturalisation rates have historically been low among UK citizens living in Europe, discrepancies between the two are usually relatively small; data on the UK born can thus generally be considered a good proxy for the affected population.¹⁴

A. How large is the UK population abroad?

As of 2015, an estimated 1,216,000 UK-born individuals were living abroad in the European Union (see Figure 1).¹⁵ A further 21,000 lived in the broader European Economic Area (which also includes Iceland, Liechtenstein, and Norway), enjoying the rights to live and work in these countries as EU nationals. This population has grown over time, nearly doubling between 1990 and 2015.

More recently, the flow of UK nationals abroad has increased dramatically. According to the 2016 edition of the European Commission’s *Annual Report on Intra-EU Labour Mobility*, the number of UK citizens to move to another EU-28/EEA country increased by 37 per cent between 2014 and 2015 alone.¹⁶ Conversely, return mobility of UK nationals declined 13 per cent between 2009 and 2015, suggesting fewer UK nationals who live abroad are interested in returning.¹⁷

13 Figures based on country of birth are not a perfect match for those likely to experience a change in legal status after Brexit as they exclude naturalised UK citizens and UK citizens born elsewhere, while including UK-born individuals who hold citizenship of another EU country. Yet data on the citizenship of EU migrants is incomplete because only some countries collect such data, while all EU countries collect data on the foreign born.

14 For instance, between 2008 and 2015, there were fewer than 3,000 naturalisations of UK citizens in the top five receiving countries for Britons in the European Union combined (France, Germany, Ireland, Italy, and Spain), compared to the more 3 million naturalisations to occur in these countries overall. See Eurostat, ‘Acquisition of Citizenship by Age Group, Sex and Former Citizenship [migr_acq]’, updated 4 October 2017, http://ec.europa.eu/eurostat/web/products-datasets/-/migr_acq.

15 Slightly older data compiled by the UK Office of National Statistics estimate the UK-citizen population of other EU Member States to have been approximately 900,000 as of 2011. See UK Office of National Statistics, ‘What Information Is There on British Migrants Living in Europe?: Jan 2017—Table 1: The Age of British Citizens Living in Europe in 2011’, updated 27 January 2017, www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/articles/whatinformationisthereonbritishmigrantslivingineurope/jan2017#number-of-british-citizens-living-in-europe-in-2011-by-age.

16 Elena Fries-Tersch, Tugce Tugran, and Harriet Bradley, 2016 *Annual Report on Intra-EU Labour Mobility* (Brussels: European Commission, 2017), <http://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=7981&furtherPubs=yes>.

17 Ibid.

Box 1. Confusion over numbers

It is notoriously difficult to estimate the size of mobile EU populations. Member States do not always require EU nationals to register in the municipality where they live, and the administrative practices that govern how noncitizens are counted vary from country to country.

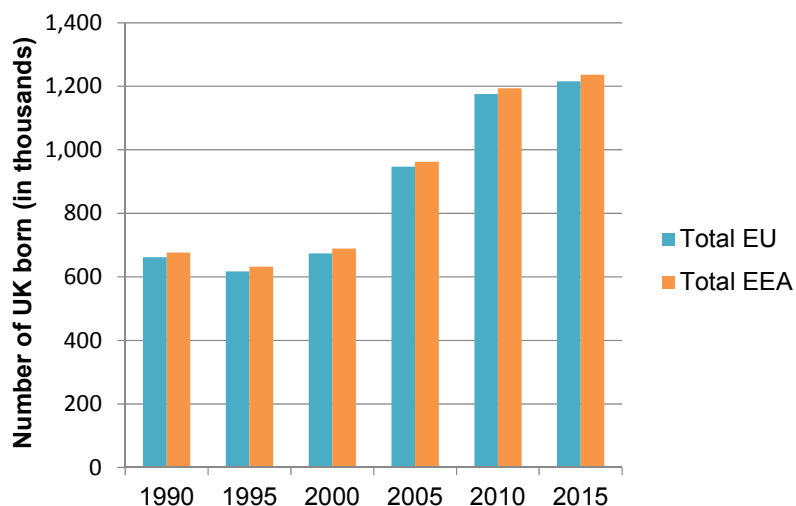
Official figures may overestimate the number of UK nationals living in Europe who will be affected by Brexit because they count the UK born (who may hold another European Economic Area [EEA] citizenship), rather than the UK-citizen population. A portion of this population, therefore, is likely to have the automatic right to stay in the country of residence (and, indeed, to reside elsewhere in the European Union after the United Kingdom has left it). At the same time, because the census and population register data upon which official estimates often are based usually only include people who have lived in a country for a year or more, these estimates likely undercount the most recent arrivals.

Additionally, since many mobile EU nationals move back and forth on a temporary basis (sometimes called ‘swallows’), they may float beneath the radar by not registering with local municipal services or not being present during surveys of long-term migration. The size of this population of intra-EU migrants who go unregistered is, however, similarly difficult to pinpoint. A study published in 2010 that has since been widely cited and used in policy discussions estimated that only one-third of Britons who spent some time in Spain were registered, and as a result concluded that there were 808,000 people in Spain in 2008 (1,050,000 including those who live abroad for part of the year)—yet these figures were not based on official data or rigorous methodology. Other estimates of under-registration of British residents in Spain range from 13 per cent among all British residents to 50 per cent among economically inactive Britons specifically. And while studies have suggested using data on state pensions drawn abroad to estimate the degree of under-registration, these data also offer a somewhat flawed figure as they include foreign nationals entitled to receive a UK state pension, while excluding British nationals who are not eligible for one as well as those who return home to claim their pension.

Finally, even where more complete data are available on the size of British populations in other Member States or specific localities, it remains difficult to tell what share of their lives is spent there versus the United Kingdom.

Sources: Tim Finch with Holly Andrew and Maria Latorre, *Global Brit: Making the Most of the British Diaspora* (London: Institute for Public Policy Research, 2010); Rafael Durán Muñoz, ‘Atractivo de España para los jubilados europeos: del turismo a la gerontoinmigración’, *Panorama Social* 16, no. 2 (2012): 151–65, www.gerontomigracion.uma.es/sites/default/files/usuarios/file/Documentos/GIC_RdM_PanoramaSocial2012.pdf; ICF GHK, *A Fact Finding Analysis on the Impact on the Member States’ Social Security Systems of the Entitlements of Non-Active Intra-EU Migrants to Special Non-Contributory Cash Benefits and Healthcare Granted on the Basis of Residence* (Brussels: European Commission, 2013), http://ec.europa.eu/employment_social/empl_portal/facebook/20131014%20GHK%20study%20web_EU%20migration.pdf; UK Office for National Statistics, ‘Living Abroad: Migration between Britain and Spain’, updated 29 June 2017, www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/articles/living-abroad/migrationbetweenbritainandspain.

Figure 1. UK-born population living in current EU/EEA countries, 1990–2015

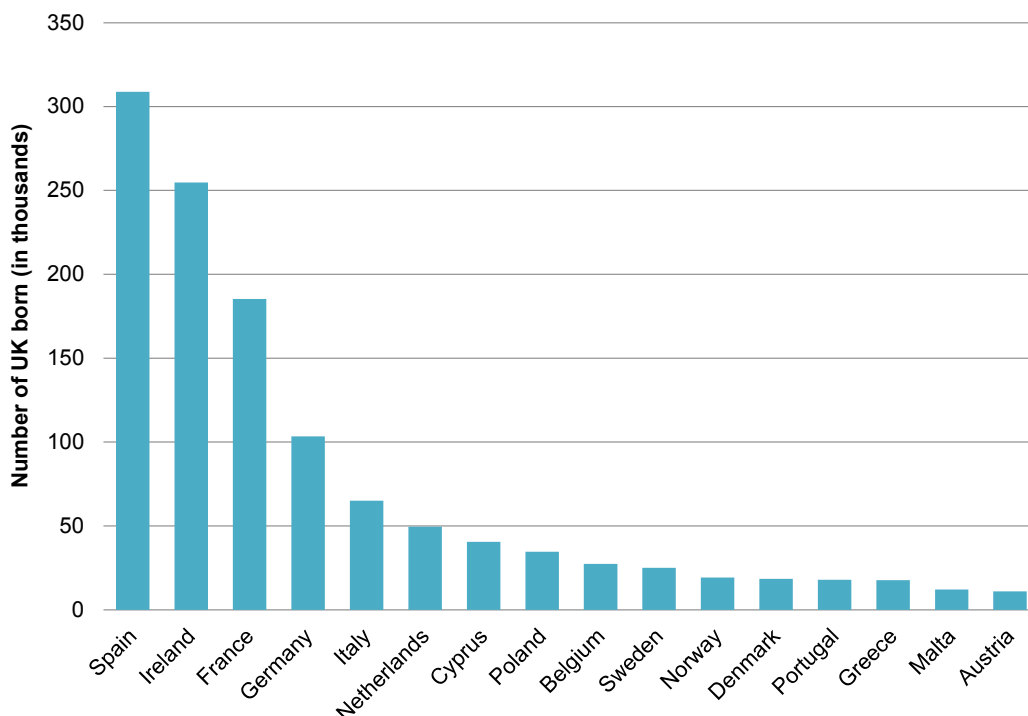


Note: The data in this table include the 27 current EU Member States (excluding the United Kingdom) plus those in the broader EEA (Iceland, Liechtenstein, and Norway) for all years.

Source: United Nations, Department of Economic and Social Affairs, Population Division, 'Trends in International Migration Stock: Migrants by Destination and Origin' (dataset, December 2015), www.un.org/en/development/desa/population/migration/data/estimates2/data/UN_MigrantStockByOriginAndDestination_2015.xlsx.

While the overall population has grown over time, Britons have come to cluster more in some Member States than others. Figure 2 shows the top EU destination countries for UK-born individuals as of 2015, according to United Nations data. The largest numbers are in Spain (309,000), Ireland (255,000), France (185,000), and Germany (103,000).

Figure 2. Top EEA destinations for UK-born persons, 2015



Note: Only countries with more than 10,000 UK-born residents are displayed.

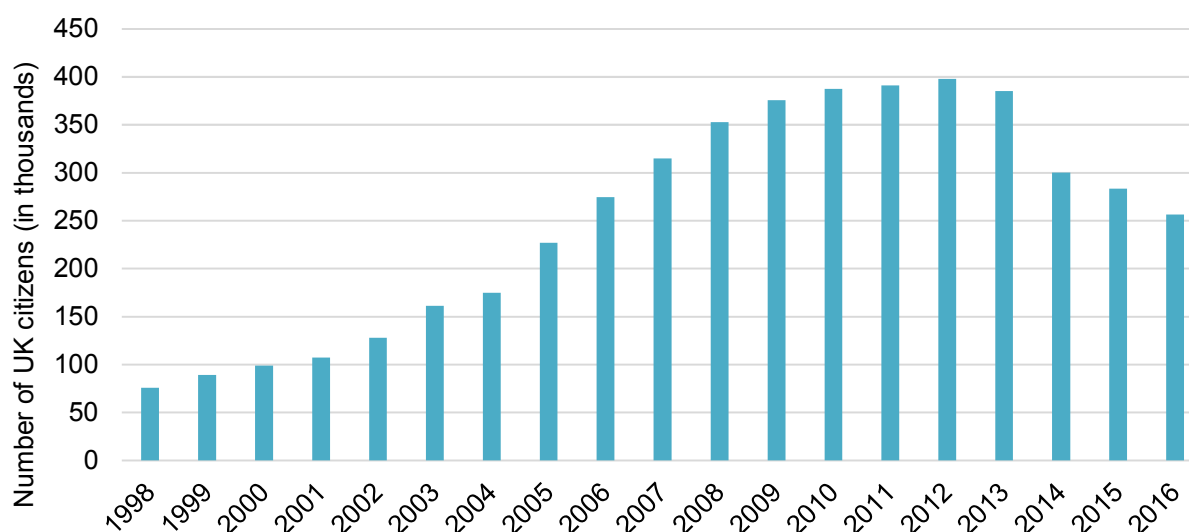
Source: United Nations, Department of Economic and Social Affairs, Population Division, 'Trends in International Migration Stock'; Eurostat, 'Population on 1 January by Age and Sex [demo_pjan]', updated 14 September 2017, http://ec.europa.eu/eurostat/web/products-datasets/-/demo_pjan.

When looking at the UK-born share of the overall population in destination countries, several Member States stand out. Britons make up nearly 6 per cent of the population of Ireland and, despite considerably smaller actual numbers, 5 per cent of the population in Cyprus and 3 per cent in Malta. By comparison, UK nationals make up less than 1 per cent of the overall population in Spain and France, and a small share of the total foreign-born population in these two countries (5 per cent and 2 per cent, respectively).¹⁸

B. Trends over time and within destination countries

While the UK population across the European Union has increased over the decades, this growth belies more varied trends within specific receiving countries. In recent years, the British population in Spain has dramatically fallen, by 34 per cent between 2011 and 2016 (see Figure 3). The largest decline was seen in the province of Valencia, which lost 42 per cent of its British population (61,000 people) between 2011 and 2016.¹⁹ Valencia was especially hard hit by the economic crisis that began in 2008 and by the related bursting of its property bubble. Between 2012–13 and 2013–14, the number of English households with a second home in Spain fell from 85,000 to 66,000, a decline of 22 per cent.²⁰

Figure 3. UK citizens in Spain, 1998–2016



Source: Spanish Statistical Office, 'Población extranjera por Nacionalidad, sexo y año', accessed 4 May 2017, www.ine.es/jaxi/Tabla.htm?path=/t20/e245/p08/10/&file=02005.px&L=0.

18 Eurostat, 'Population on 1 January by Age Group, Sex and Country of Birth [migr_pop3ctb]', updated 14 September 2017, http://ec.europa.eu/eurostat/web/products-datasets/-/migr_pop3ctb.

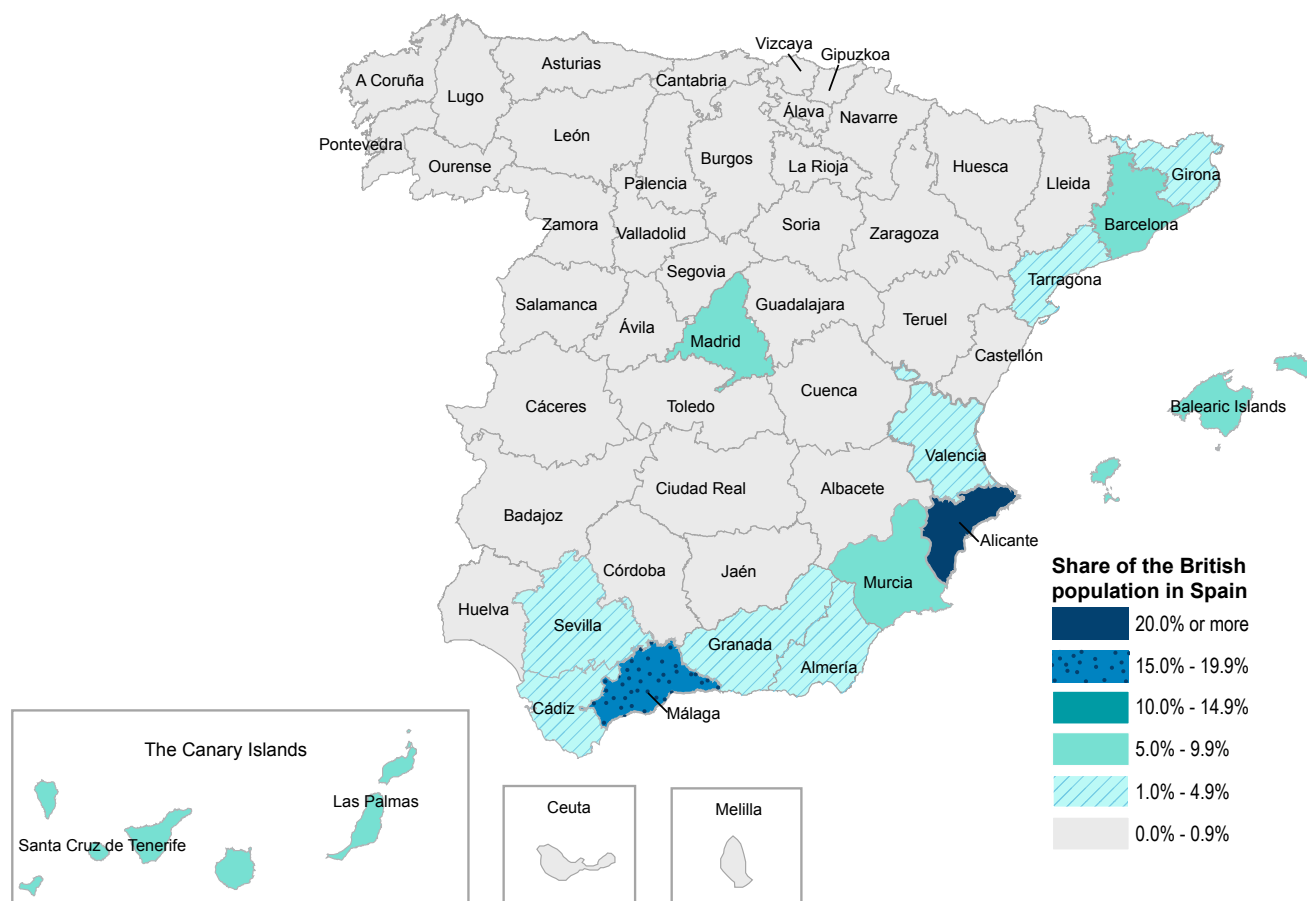
19 Author tabulation of data from the Spanish Statistical Office, 'Población extranjera por Nacionalidad, sexo y año', accessed 4 May 2017, www.ine.es/jaxi/Tabla.htm?path=/t20/e245/p08/10/&file=02005.px&L=0.

20 UK Department for Communities and Local Government, 'English Housing Survey—Table FT2611: Location of Second Homes' (dataset, updated August 2016), www.gov.uk/government/uploads/system/uploads/attachment_data/file/548252/FT2611_Location_of_second_homes.xlsx.

Data on trends over time are somewhat more patchy elsewhere in Europe. However, in Belgium and the Netherlands the UK-born population remained constant during this same period.²¹ This relative stability likely reflects the fact these countries were less dramatically affected by the economic crisis and that their resident Britons tended to be employed in high-skilled occupations, and thus likely insulated from some of the job shedding following the crisis (see Section III.C.2).

In several EU countries, the UK-born population is highly regionally concentrated. For instance, the UK population in Spain is concentrated in its coastal regions (see Figure 4). And in the Netherlands, almost all UK nationals live in the Randstad region (made up of Amsterdam, Rotterdam, The Hague, and Utrecht), in which many international organisations are located.²² In France, by comparison, the UK population is more dispersed (see Figure 5).

Figure 4. Distribution of UK citizens registered and living in Spain, by province, 2011

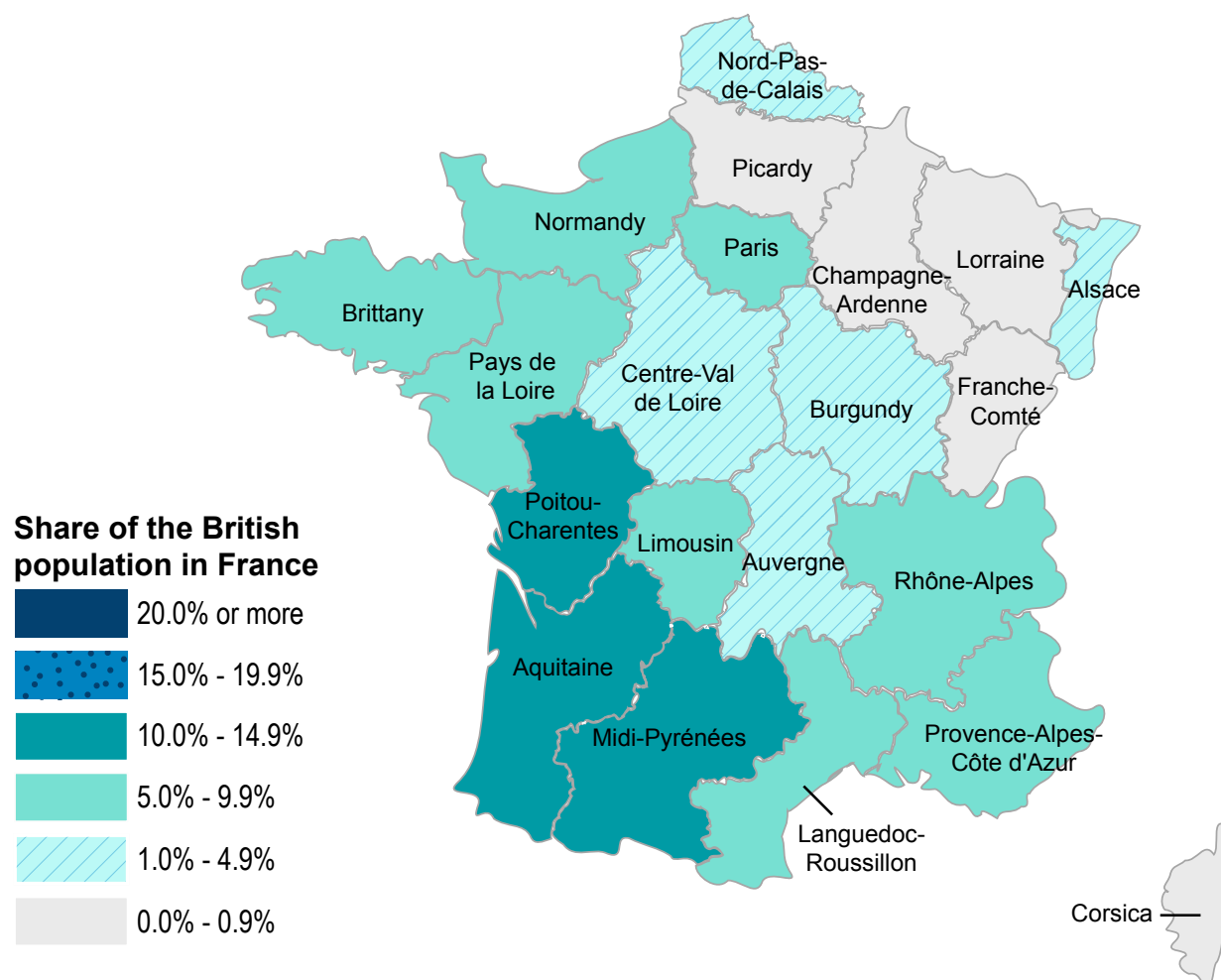


Source: Spanish Ministry of Employment and Social Security, *Extranjeros Residentes en España a 31 de Diciembre de 2016—Principales Resultados. Anexo de Tablas* (Madrid: Spanish Ministry of Employment and Social Security, 2017), Table C.7, http://extranjeros.empleo.gob.es/es/Estadisticas/operaciones/con-certificado/201612/Residentes_Tablas_PR_31-12-2016.pdf.

²¹ Eurostat, 'Population on 1 January by Age Group, Sex and Country of Birth [migr_pop3ctb]'.

²² Netherlands Central Bureau of Statistics, 'Britten in Nederland hebben hoge lonen', updated 2 November 2016, www.cbs.nl/nl-nl/nieuws/2016/44/britten-in-nederland-hebben-hoge-lonen.

Figure 5. Distribution of UK nationals living in France, by region, 2013



Note: In 2014, the French Parliament reduced the number of metropolitan regions from 22 to 13, effective 1 January 2016. Because the data are from 2013, this figure shows the pre-2016 regional structure.

Source: French National Institute of Statistics and Economic Studies, 'Étrangers - Immigrés en 2013—NAT1 Population par sexe, âge et nationalité en 2013—Nationalité détaillée - Sexe: Ensemble', updated 30 June 2016, www.insee.fr/fr/statistiques/2020954?sommaire=2106113&geo=FRANCE-1#NAT1_V3_ENS.

C. What are the characteristics of this population?

Although the stereotype of British pensioners tanning along the Spanish coast have captured the attention of the media following the referendum vote, Britons abroad in Europe are a much more diverse group. They are spread across age groups, income levels, and economic statuses—further complicating the task of negotiating a long-term solution for those who remain in the European Union post-Brexit.

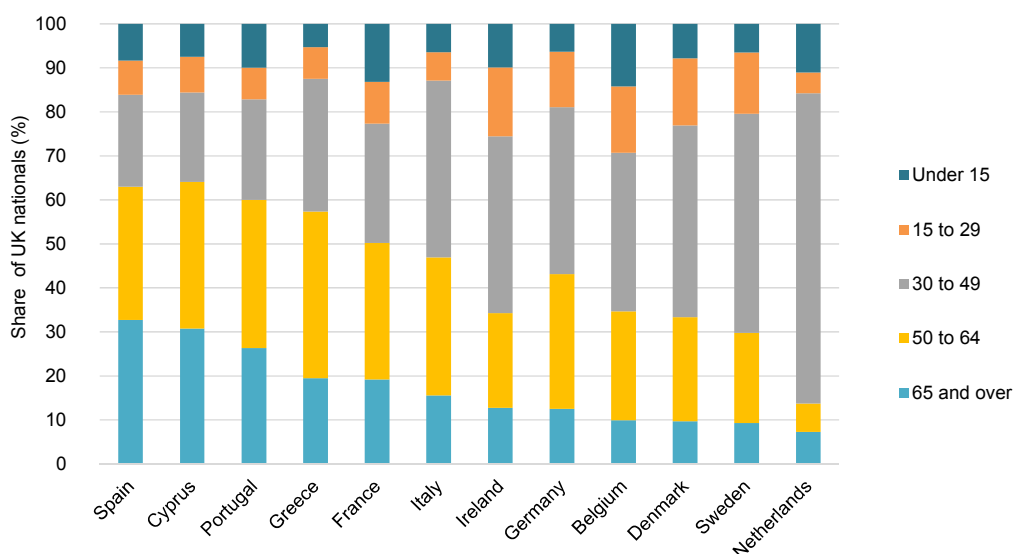
1. Age

The age breakdown of Britons differs among the most common EU destination countries. As of 2016, the largest over-65 UK-born populations appeared to be in Spain (117,400 people) and Ireland (43,800), though data are missing for several key countries, including France and Germany.²³ Data on the age of UK-citizen populations are also patchy, though they indicate that Germany had 14,700 UK-citizen residents over the age of 65.²⁴ For Ireland, pinpointing the share of British residents in different age brackets is made more difficult by discrepancies between data on the UK-citizen and UK-born populations in the country; for example, compared to the 43,800 UK-born residents over age 65 in the country, official data only record 17,500 UK-citizen residents for this age bracket.²⁵

The age breakdown of Britons differs among the most common EU destination countries.

As a share of the British population in each country, this pensioner-heavy age bracket made up more than 30 per cent of Britons in Spain and Cyprus, 26 per cent in Portugal, and 19 per cent in Greece and France as of 2011 (see Figure 6). On the other end of the age spectrum, a small share of UK nationals in each country are children, who are more likely to also hold the citizenship of their country of residence. For families whose members hold a different combination of UK and host-country citizenships, Brexit could result in some having more secure claims than others to continued residence either in their country of residence or the United Kingdom.

Figure 6. Age breakdown of the UK-national population in top EU destinations, 2011



Notes: 2011 is the most recent year for which complete data are available. This figure includes the 12 EU countries with the largest total UK-citizen populations; these countries also all have an over-65 population of more than 1,000 Britons.
Source: UK Office of National Statistics, "What Information Is There on British Migrants Living in Europe?": Jan 2017—Table 1: The Age of British Citizens Living in Europe in 2011," updated 27 January 2017, www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/articles/whatinformationisthereonbritishmigrantslivingineurope/jan2017#number-of-british-citizens-living-in-europe-in-2011-by-age.

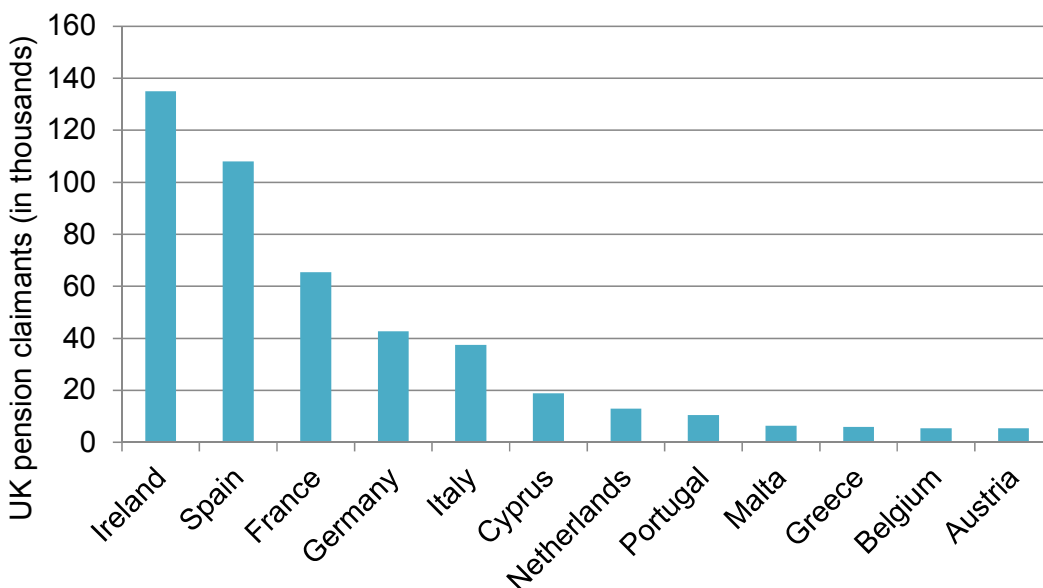
23 Eurostat, 'Population on 1 January by Age Group, Sex and Country of Birth [migr_pop3ctb]'.

24 Eurostat, 'Population on 1 January by Age Group, Sex and Citizenship [migr_pop1ctz]', updated 14 September 2017, http://ec.europa.eu/eurostat/web/products-datasets/-/migr_pop1ctz.

25 Eurostat, 'Population on 1 January by Age Group, Sex and Country of Birth [migr_pop3ctb]'; Eurostat, 'Population on 1 January by Age Group, Sex and Citizenship [migr_pop1ctz]'.

These data may undercount pensioners more than other groups, since they are thought to be less likely to register with municipal authorities and more likely to move back and forth on a seasonal basis, meaning they may not be captured in some surveys. Indeed, hints of the discrepancies between official population data and reality can be seen by examining data on pension recipients. According to the UK Department for Work and Pensions (DWP), 135,000 people living in Ireland are claiming a state pension, a much larger number than either the 43,800 UK-born individuals living in Ireland or the 17,500 UK citizens there.²⁶ While some of these recipients may be people of other nationalities who have worked in the United Kingdom, it is also likely that many are UK nationals who are not counted in the official immigration data. In other countries, this gap was narrower. For example, DWP data report that 108,000 people in Spain are claiming a state pension, a figure closer to the size of the over-65 UK-born population living there (117,400).²⁷

Figure 7. UK state pension claimants in top EU retirement destinations, 2016



Note: Only countries with more than 5,000 pension claimants are displayed.

Source: UK Department for Work and Pensions, 'Benefit Claimants – State Pension', updated February 2017, www.nomisweb.co.uk/query/construct/summary.asp?reset=yes&mode=construct&dataset=117&version=0&anal=1&initset.

Finally, it is worth noting that much of the growth in these UK pensioner populations has been recent. For instance, while the overall UK population in Spain shrank between 2007 and 2016, particularly following the recession (see Figure 3), the number of UK nationals over the age of 65 almost doubled, from 60,000 to nearly 118,000.²⁸ Data on retired EU-28 movers more broadly suggest that the retired UK population in Spain generally moved there as retirees rather than as workers who later stayed into retirement, as is more common elsewhere in the European Union; relatedly, pensioners make up a larger share (and workers a smaller share) of new arrivals compared to other countries.²⁹ Thus, for countries such as Spain, the negotiation of status for UK nationals after Brexit is deeply intertwined with questions of access to pensions and health care.

²⁶ UK Department for Work and Pensions, 'Benefit Claimants – State Pension', updated November 2016, www.nomisweb.co.uk/query/construct/summary.asp?reset=yes&mode=construct&dataset=117&version=0&anal=1&initset; Eurostat, 'Population on 1 January by Age Group, Sex and Country of Birth [migr_pop3ctb]'; Eurostat, 'Population on 1 January by Age Group, Sex and Citizenship [migr_pop1ctz]'.

²⁷ Eurostat, 'Population on 1 January by Age Group, Sex and Country of Birth [migr_pop3ctb]'.

²⁸ Eurostat, 'Population on 1 January by Age Group, Sex and Citizenship [migr_pop1ctz]'.

²⁹ Data published by the European Commission as part of the 2016 *Annual Report on Intra-EU Labour Mobility* show that more than one-third of UK retirees living in Cyprus, Malta, and Spain arrived within the past ten years. See Fries-Tersch, Tugran, and Bradley, 2016 *Annual Report on Intra-EU Labour Mobility*.

2. Economic activity

UK nationals living in other EU countries are employed across the skills spectrum, and a large number are students. Data from the European Regulated Professions Database (which records the number of EU nationals looking to get their qualifications recognised in order to practise their profession abroad) show that workers with UK qualifications submitted 35,800 requests between 1997 and 2016, of which 29,149 were approved. This represents 6 per cent of requests filed by individuals from all EU countries (585,883) and 6 per cent of all requests approved (491,000).³⁰ The largest number of applications came from secondary school teachers (5,940), primary school teachers (3,761), and nurses (3,270). While it is unclear from these data how long professionals resided and worked abroad, it does indicate that UK professionals are among the most mobile—after those from Germany, Poland, Spain, and Romania.

For UK students looking to complete part or all of their studies abroad, European universities are a common choice. EU Member States made up six of the top ten most popular overseas destinations for these students in the 2015/16 academic year.³¹ France was the most popular, with 3,980 UK students, followed by Spain (3,805)—both of which outrank the United States (with 3,615 students). Germany was the fourth most popular with 2,405 British students.³² British students at European universities who have not completed their courses before the March 2019 deadline for exit negotiations may find themselves subject to higher tuition fees for non-EU students.³³

*For UK students looking to complete part or all of their studies abroad,
 European universities are a common choice.*

The draw of economic and academic opportunities appears to hold more weight for UK migrants to some major EU destinations than others. Most UK nationals in Ireland, Germany, and the Netherlands appear to have moved for work and are in relatively high-skilled jobs. In Ireland, 37 per cent of the 112,000 UK nationals who reported being in work at the time of the 2011 census were in ‘professional’ jobs (e.g., employers and managers, higher or lower professionals).³⁴ In Germany, 58 per cent of British immigrants (approximately 49,000 people) had an academic or professional qualification as of 2016, suggesting that much of this population is also engaged in skilled work.³⁵ And in the Netherlands, more than half of British workers earn more than 3,000 euros a month (and 40 per cent earn more than 4,000 euros), meaning they are among the highest-paid foreign workers in the country.³⁶

30 These data record applications by the country in which credentials were acquired, and thus include applications from people from other countries who hold UK qualifications. As such, they can only be read as a proxy. See European Commission, ‘The EU Single Market Regulated Professions Database—Statistics: Professionals Moving Abroad (Establishment)’, accessed 1 May 2017, http://ec.europa.eu/growth/tools-databases/regprof/index.cfm?action=stat_overall&b_services=false.

31 Go International, ‘Instances of UK Domiciled Student Mobility by Destination’, updated 27 April 2016, www.go.international.ac.uk/destination.

32 ‘British students’ refers to students whose permanent residence is in the United Kingdom, as recorded by the Higher Education Statistics Agency (HESA). See Ibid.

33 Annette Schrauwen, Tesseltje de Lange, and Jan Kraak, *Britse Amsterdammers na de Brexit* (Amsterdam: University of Amsterdam, Centre for European Law and Governance, 2017), www.scienceguide.nl/media/1947090/britse-amsterdammers-na-de-brexit-def_2_.pdf.

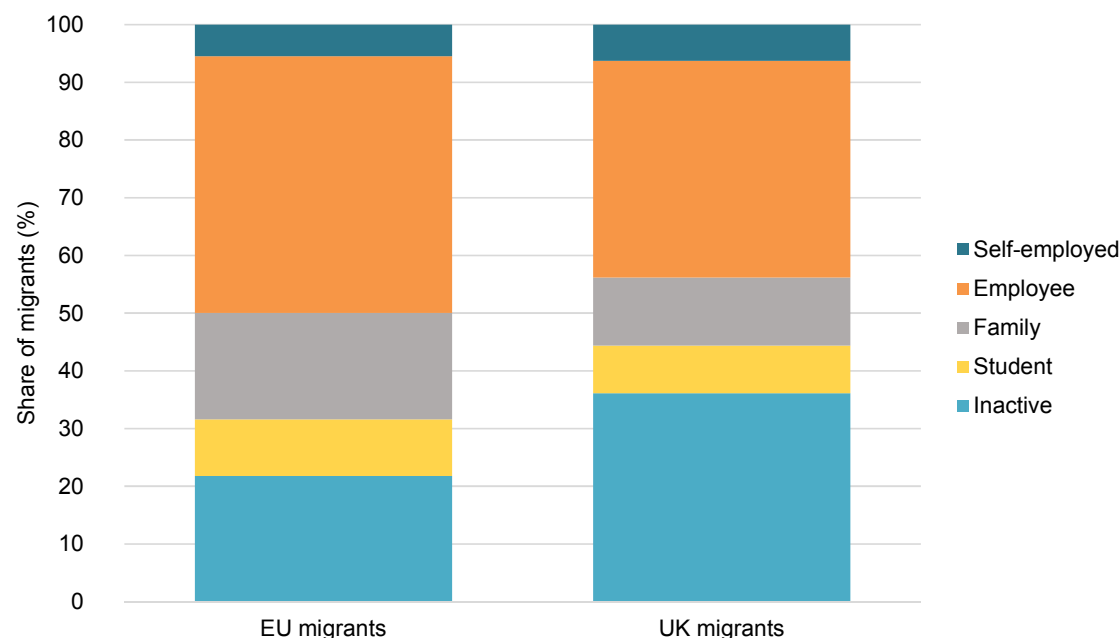
34 European Commission, ‘The EU Single Market Regulated Professions Database’.

35 German Federal Statistics Office, *Bevölkerung mit Migrationshintergrund: Ergebnisse des Mikrozensus 2016* (Wiesbaden: German Federal Statistics Office, 2017), Table 9, www.destatis.de/DE/Publikationen/Thematisch/Bevoelkerung/MigrationIntegration/Migrationshintergrund.html.

36 They earn more, on average, than EU workers as a whole and more than Belgian and German workers specifically. See Netherlands Central Bureau of Statistics, ‘In buitenland geboren werknemers; wel/niet ingeschreven, loon’, updated 27 January 2017, <http://statline.cbs.nl/Statweb/publication/?VW=T&DM=SLNL&PA=82307NED&D1=a&D2=0&D3=0&D4=a&D5=a&D6=0&D7=l&HD=161019-0933&HDR=T&STB=G1,G2,G3,G4,G5,G6>.

By contrast, in Spain, 69,300 British residents reported being in work in the 2011 census out of a population of 391,000—approximately 18 per cent. Among these workers, 19 per cent were teachers and 17 per cent worked in hospitality.³⁷ Since 2012, the Spanish authorities have asked EU migrants to give a reason for migration upon entry, shedding additional light on UK nationals' motivations for moving to the country. According to the data collected between 2012 and 2016, more than one-third (36 per cent) registered as economically inactive, meaning they did not intend to participate in the labour market (see Figure 8). An additional 8 per cent registered as students and 12 per cent as family arrivals. All told, if all three groups do not at some later point take up employment, the inactivity rate for these recent arrivals could be as high as 56 per cent, higher than the average for EU migrants (50 per cent).

Figure 8. Reasons for migrating cited by newly arrived EU and UK migrants in Spain, 2012–16



Note: These figures only include migrants who arrived in Spain after 2012, as those who arrived prior to that date were not required to give a reason for migrating.

Source: Spanish Ministry of Employment and Social Security, 'Extranjeros con certificado de registro o tarjeta de residencia en vigor', Table 4, updated 31 December 2016, <http://extranjeros.empleo.gob.es/es/Estadisticas/operaciones/con-certificado/201612/detalle/DetalladosTNacional2016.xls>.

Clearly then, quality of life and other factors unrelated to employment drive many UK migrants' decisions to move to Spain—something they seem to share with other immigrants to the country. In 2016, 74 per cent of foreign residents said they had achieved a better quality of life by moving to Spain.³⁸ And a survey of EU pensioners found that more than 90 per cent of those residing in the Spanish Costa del Sol cited climate as the reason for their move and 60 per cent the Mediterranean way of life, compared to 8 per cent who moved for work and 33 per cent for financial reasons.³⁹ The role of lifestyle can also be seen in UK nationals' top five

³⁷ Data from the Spanish Statistical Office, as discussed in UK Office for National Statistics, 'Living Abroad: Migration Between Britain and Spain', updated 29 June 2017, www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/articles/livingabroad/migrationbetweenbritainandspain.

³⁸ HSBC, *Expat Explorer: Achieving Ambitions Abroad* (London: HSBC Holdings PLC, 2016), https://expatexplorer.hsbc.com/survey/files/pdfs/overall-reports/2016/HSBC_Expat_Explorer_2016_report.pdf.

³⁹ Respondents in this study could select more than one reason. See ICF GHK, *A Fact Finding Analysis on the Impact on the Member States' Social Security Systems of the Entitlements of Non-Active Intra-EU Migrants to Special Non-Contributory Cash Benefits and Healthcare Granted on the Basis of Residence* (Brussels: European Commission, 2013), http://ec.europa.eu/employment_social/empl_portal/facebook/20131014%20GHK%20study%20web_EU%20migration.pdf.

choices of location within Spain, home to approximately 60 per cent of all Britons, which include the preferred holiday destinations of Alicante, Malaga, and Barcelona.⁴⁰

D. How likely is the population to obtain permanent residence or citizenship in the country of residence?

While much is still uncertain, some British nationals already hold secure status in another EU Member State in the form of citizenship or permanent residence, and others who have lived in the country for five years or more are also likely to be able to stay. This section considers trends in long-term settlement, before the next (Section III) discusses who may fall through the gaps during and after Brexit.

1. How settled is the population?

In some EU countries, a significant share of Britons may either already hold or qualify for permanent residence because they have lived in there for five years or more.⁴¹ Others may have a prima facie entitlement to stay based on their family situation (e.g., being married to a national). However, the data on how many UK nationals fall into these categories are patchy, offering hints at the scale of these populations rather than conclusive evidence.

Although most countries lack data on UK nationals' length of residence, data from Spain suggests that a large portion of its British residents have lived there for more than five years. Following the administrative shift in 2012 to record new arrivals' reasons for migrating to Spain (see Section II.C.2), official data list 'reason unknown' for noncitizens granted a residence certificate prior to 2012. This group of pre-2012 newcomers, who numbered 132,000 as of 2016, have now been in the country for more than five years. Combined with the individuals recorded in the same year as permanent residents, a total of approximately 242,000 British residents (or 81 per cent of all Britons in Spain) will have a de facto right to stay (see Figure 9).⁴²

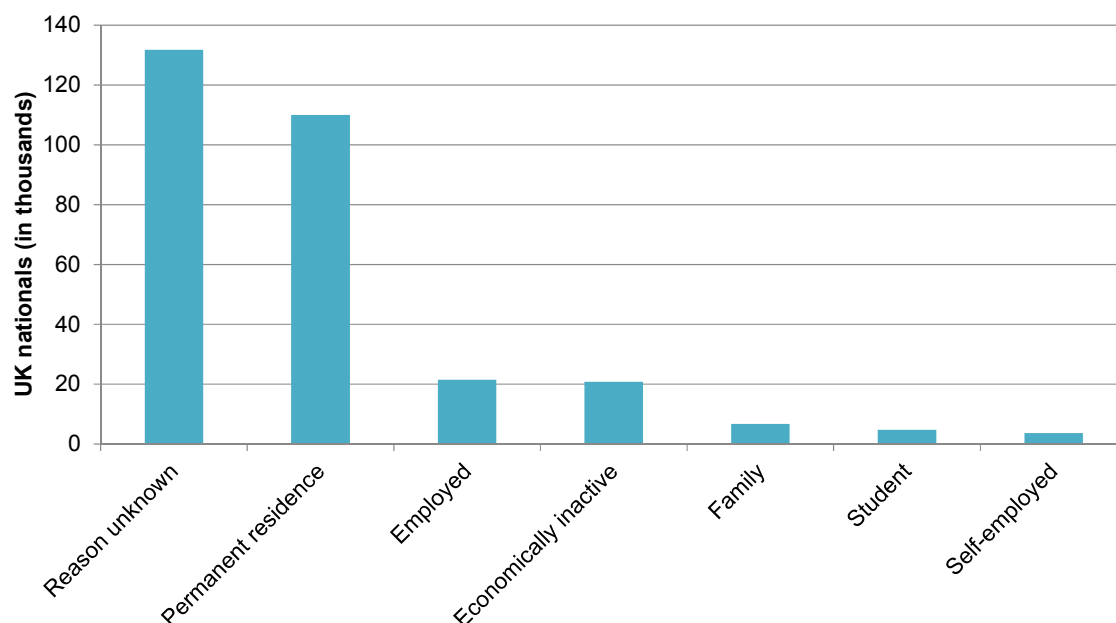
In some EU countries, a significant share of Britons may either already hold or qualify for permanent residence because they have lived in there for five years or more.

40 These Spanish data were published by the Central Registry of Foreigners, which is managed by the General Directorate of Police. The statistics refer to UK nationals residing in Spain who have a registration certificate or residence card in force on 31 December of 2016. See Spanish Ministry of Employment and Social Security, *Extranjeros Residentes en España a 31 de Diciembre de 2016—Principales Resultados. Anexo de Tablas* (Madrid: Spanish Ministry of Employment and Social Security, 2017), Table C.7, http://extranjeros.empleo.gob.es/es/Estadisticas/operaciones/con-certificado/201612/Residentes_Tablas_PR_31-12-2016.pdf.

41 Five years of continuous legal residence is the 'golden number' for both EU nationals, who acquire a right to permanent residence after this time, and for third-country nationals, because the Long-Term Residency Directive requires signatory Member States to make it possible for residents who have lived in the country for five years or more to become permanent residents, subject to certain conditions. See Section III for further discussion.

42 While more complete than the data available in many EU countries, these figures still only include people who are registered, meaning they may undercount the total population and particularly people who split their time between two countries (as discussed in Box 1).

Figure 9. UK nationals' recorded reasons for residence in Spain, 2016



Notes: 'Reason unknown' ('Motivo de residencia no determinado') describes people who arrived before 2012, before migrants were required to give a reason for migration upon registration. Among the post-2012 immigrants who selected the option 'economically inactive' ('Residencia no lucrativa'), some may have since gotten jobs or set up businesses. Source: Spanish Ministry of Employment and Social Security, *Extranjeros Residentes en España a 31 de Diciembre de 2016—Principales Resultados. Anexo de Tablas*, Table C.3.

Similarly, the 2016 microcensus in Germany suggested that 74 per cent of UK nationals have been in the country for five years or more; 53 per cent for 20 years or more; and 23 per cent for 40 years or more.⁴³

Although EU-wide comparative data are not available, the limited snapshot offered by German and Spanish data suggest it is possible that a large share of Britons in the European Union—permanent movers more so than people who move on a seasonal basis—may have lived in their country of residence for five years or more. The next section will discuss whether this *prima facie* entitlement is likely to translate into the right to stay in practice.

2. Citizenship acquisition

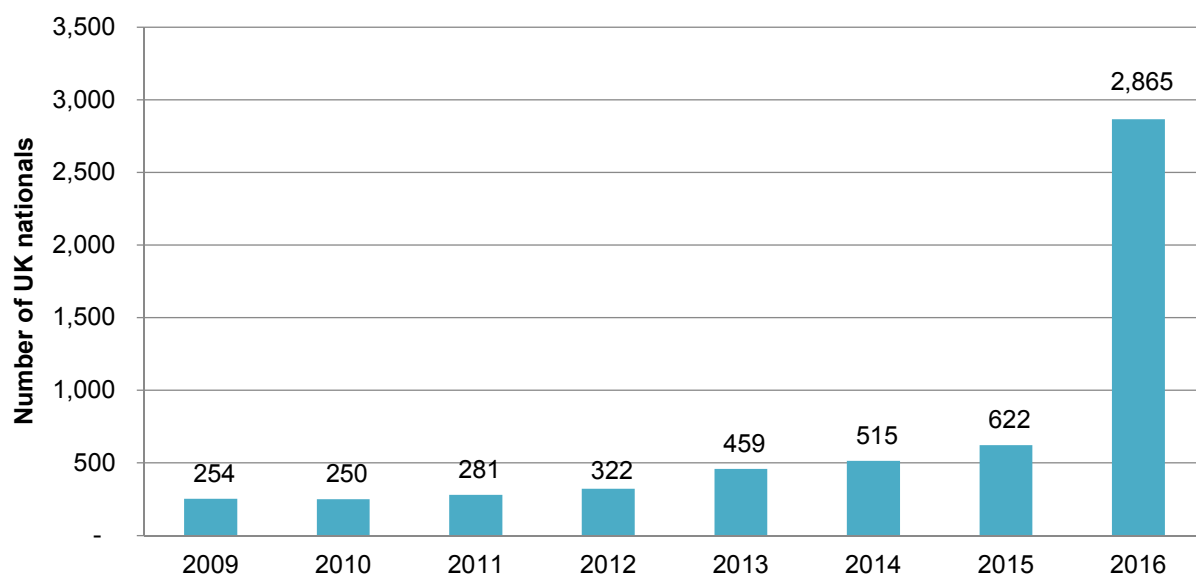
Uncertainty about the shape Member State permanent residence statuses will take in the future has prompted some UK nationals to use the period since the Brexit referendum to apply for citizenship. It is, however, difficult to gauge the extent of this trend as data on citizenship rates may not yet reflect recent naturalisations. While newspapers have anecdotally reported upticks in citizenship acquisition—including among long-term residents who had not considered it prior to the referendum⁴⁴—absolute numbers in countries where data are available suggest that even as the number of naturalising UK nationals rises, these figures may still be smaller

43 German Federal Statistics Office, 'Bevölkerung mit Migrationshintergrund: Ergebnisse des Mikrozensus 2016' (dataset, German Federal Statistics Office, Wiesbaden, Germany, August 2017), Table 3I, www.destatis.de/DE/Publikationen/Thematisch/Bevoelkerung/MigrationIntegration/Migrationshintergrund2010220167005.xlsx?__blob=publicationFile.

44 See, for example, Thi Diem Quach, 'Brexit: ces Britanniques qui veulent obtenir la nationalité belge', RTBF, 11 February 2017, www.rtf.be/info/belgique/detail_brexit-ces-britanniques-qui-veulent-devenir-belges?id=9527512; Katy Connolly, 'Record Number of Brits Become German Citizens amid Brexit Fears', *The Guardian*, 13 June 2017, www.theguardian.com/world/2017/jun/13/germany-reports-rise-in-britons-taking-citizenship; Charlie Cooper, 'Sacré Britons! Look Who Wants to Be French Now', *Politico*, 6 April 2017, www.politico.eu/article/brexit-sacre-britons-look-who-wants-to-be-french-now-nationality-passport-citizenship/.

or comparable to nationals of other EU countries. Sweden, for example, granted citizenship to 960 Britons in 2016, compared to 444 in 2015—a 116 per cent increase; by comparison, 2,702 Poles and 858 Germans received Swedish citizenship that year—figures that were only slight increases over previous years.⁴⁵ Recent data from Germany also suggest an uptick in naturalisations in 2016 (see Figure 10), though the absolute number of UK nationals to acquire German citizenship each year remains small relative to the size of the British population in the country.

Figure 10. Number of UK nationals acquiring German citizenship, 2009–16



Source: German Federal Statistics Office, *Einbürgerungen* (Wiesbaden: German Federal Statistics Office, 2017), Tables 3a and 3b, www.destatis.de/DE/Publikationen/Thematisch/Bevoelkerung/MigrationIntegration/Einbuengerungen.html.

The laws governing access to citizenship, unlike those for long-term residence, are not subject to EU law and vary between Member States. Some EU countries, such as Estonia, Lithuania, the Netherlands, and Spain, have strict rules for who may hold dual citizenship.⁴⁶ The Netherlands, for instance, only tolerates dual citizenship if the second citizenship is of another EU country, meaning Britons in the Netherlands and Dutch-UK dual nationals in the United Kingdom may face a difficult choice in the coming years. UK nationals in Spain face a similarly unenviable dilemma: Spanish restrictions on dual citizenship mean British residents considering naturalisation may only be able to secure their right to continued residence in Spain at the cost of losing their right to return to the United Kingdom in the future. And while citizenship acquisition rates were already low in Spain among UK nationals, data from the Spanish Statistical Office suggest they may have in fact decreased from 2015 to 2016, at a time when they rose in other countries, though these numbers are too low to draw definitive conclusions.⁴⁷ On top of restrictions on dual nationality, some countries do not grant automatic

45 Statistics Sweden, 'Number of Persons in Sweden Who Have Acquired Swedish Citizenship by Country of Citizenship, Sex and Year', accessed 1 April 2017, www.statistikdatabasen.scb.se/pxweb/en/ssd/START_BE_BE0101_BE0101N/MedborGarByteLandR/?rxid=8d42bafd-8dc2-43c9-b6b9-3d0fa9802674.

46 For example, in Spain, naturalised citizens are only allowed to hold dual citizenship if they are also nationals of Ibero-American countries, Andorra, the Philippines, Equatorial Guinea, or Portugal. See Spanish Ministry of Justice, 'Tener la doble nacionalidad', accessed 1 August 2017, www.mjusticia.gob.es/cs/Satellite/es/1215198282690/EstructuraOrganica.html.

47 Spanish Statistical Office, 'Estadística de adquisiciones de nacionalidad española de residentes', accessed 1 April 2017, www.ine.es/jaxiT3/Tabla.htm?t=15798&L=0.

citizenship to children born in the country to noncitizen parents (e.g., France, Italy, and the Netherlands).⁴⁸ Children born to British parents after Brexit could therefore face an arduous process to become citizens of the country in which they grow up in order to make their status more secure and access certain rights afforded to citizens and EU nationals, but not third-country nationals.

Economically inactive residents (including pensioners) in southern European holiday destinations may find themselves vulnerable to changes in residency rules after Brexit.

Other barriers can be less visible. In France, for instance, a host of bureaucratic requirements makes naturalisation a time-consuming process; applicants must get documents translated into French by a court-approved translator and submit them to the local Préfecture de Police by registered mail, obtain a form from the French tax authorities certifying that their income tax and residency tax payments are up to date, and then wait months or even a year to be called for interview.⁴⁹ However, France has also removed barriers for certain groups. The length of required residence in France, for example, is reduced from the standard five years to two years for students who have completed at least two years of higher education in the country.⁵⁰

All told, the limited data that are available seem to suggest that a large share of the UK population in the European Union is relatively settled, but that many people may face administrative challenges to securing or proving their status after Brexit. While UK nationals in many countries are highly qualified and in high-skilled jobs, the economically inactive residents (including pensioners) in southern European holiday destinations may find themselves vulnerable to changes in residency rules after Brexit. Britons who largely float below the radar, either because they are working ‘cash in hand’ or because they are formally resident and paying taxes elsewhere, are also likely to face challenges, particularly when it comes to proving their eligibility for residence. Of course, this all depends on what deal is ultimately agreed—if there is a deal at all.

48 For instance, everyone born in Ireland before 2005 was automatically entitled to Irish citizenship, while this is now only the case for children born to a British parent or a parent who is entitled to live in Northern Ireland or Ireland without residency restrictions. Children born in Ireland to other non-nationals are entitled to citizenship only if their parents were resident in Ireland for at least three out of the four years preceding their birth. For children born outside Ireland, having either a parent or grandparent with Irish citizenship can also qualify them for citizenship starting from the date their birth is entered in the Foreign Births Register; these children’s parent may hold Irish citizenship as a result of ancestry, marriage, adoption, or naturalisation, while the grandparent must have been an Irish citizen born in Ireland. See *Irish Nationality and Citizenship Act 1965* (unofficial consolidation, Irish Department of Justice and Equality, Dublin, August 2011), www.inis.gov.ie/en/INIS/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202011%20informal%20consolidation.pdf/Files/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202011%20informal%20consolidation.pdf.

49 French Ministry of the Interior, ‘La nationalité française’, accessed 2 October 2017, www.immigration.interieur.gouv.fr/Accueil-et-accompagnement/La-nationalite-francaise.

50 Paris Préfecture de Police, ‘La naturalisation ou la réintégration dans la nationalité française (procédure par décret)’ updated 18 October 2017, www.prefecturedepolice.interieur.gouv.fr/Demarches/Particulier/Ressortissants-etrangers/Ressortissants-etrangers/La-naturalisation-ou-la-reintegration-dans-la-nationalite-francaise-procedure-par-decret.

III. THE FUTURE OF UK NATIONALS IN THE EUROPEAN UNION

Politicians in Brussels and Westminster alike have signalled the undesirability of the United Kingdom exiting the European Union with no agreement in place on the future status of UK nationals in Europe.⁵¹ Much, however, remains unclear. Prime Minister Theresa May has said publicly that no deal would be better than a bad deal, and a number of different options lie between no deal and the full exit-plus-trade deal for which UK policymakers are hoping.⁵² Although recent statements by May and her cabinet members pave the way for a transitional period, this does not in itself guarantee the status of UK nationals in the European Union since such transitional provisions themselves would have to be the subject of an agreement. EU negotiators have made clear that ‘sufficient progress’ on the exit deal (including the question of citizens’ rights) is a prerequisite for an agreement on the future relationship or such interim arrangements; equally discussion on this future relationship could derail progress on the question of citizens’ rights.

A. Challenges following Brexit

Even with a deal in place, it is likely that some groups will face bureaucratic obstacles to securing status in Europe. While a question mark hovers over those who have lived in their country of residence for less than five years, even those who have achieved this standard length-of-stay requirement may struggle to document their residence, employment status, or health-insurance coverage over a prolonged period of time. Contingent workers (e.g., freelancers and independent contractors), people who have moved in and out of work and economic inactivity, part-time workers, and carers may all find it difficult to qualify for legal residence if they are unable to document their income, self-sufficiency, or health insurance.⁵³ Others may struggle to prove

51 For instance, the European Commissions’ negotiating directives state that ‘safeguarding the status and rights of the EU-27 citizens and their families in the United Kingdom and of the citizens of the United Kingdom and their families in the EU-27 Member States is the first priority for the negotiations’. See European Commission, ‘Negotiating Directives for Article 50 Negotiations (directives from the General Secretariat of the Council to the delegations, 22 May 2017), https://ec.europa.eu/commission/publications/negotiating-directives-article-50-negotiations_en. But commentators have suggested that the EU budget bill might be a dealbreaker, as might or the requirement to continue with free movement in some form or to retain jurisdiction of the European Court of Justice. See John Springfield and Simon Tilford, ‘Why No Deal Would Be Much Worse than a Bad Deal’, Centre for European Reform, 24 May 2017, www.cer.org.uk/publications/archive/bulletin-article/2017/why-no-deal-would-be-much-worse-bad-deal.

52 Charles Grant, ‘Mrs May’s Emerging Deal on Brexit: Not Just Hard, but Also Difficult’ (policy brief, Centre for European Reform, London, 20 February 2017), www.cer.org.uk/publications/archive/policy-brief/2017/mrs-mays-emerging-deal-brexite-not-just-hard-also-difficult.

53 For instance, the proposals on the table for a deal on citizens’ rights refer to ‘continuous legal residence’, which could be interpreted to mean that applicants must prove that they had a right to reside for the entirety of their period of residence. Such a right is contingent on having ‘sufficient resources’, so some countries claim that EU nationals lose their right to reside automatically if they claim social assistance—it is, however, contentious whether this is compatible with EU law. In fact, EU law provides for EU citizens losing the right to reside if they become ‘an unreasonable burden on the social assistance system’ of the host State. See ‘Directive 2004/58/EC of the European Parliament and of the Council of 29 April 2004 on the Right of Citizens of the Union and Their Family Members to Move and Reside Freely within the Territory of the Member States Amending Regulation (EEC) No 1612/68 and Repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC’, Article 14(1), *Official Journal of the European Union* 2004 L 229/35, 29 June 2004, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:229:0035:0048:en:PDF>.

continuous residence, particularly if they have had regular absences, a common trend among those who maintain houses in two different countries or move around for work.⁵⁴

1. Regularising status

Regardless of whether a deal is agreed, regularising status will be a high priority for many Britons abroad. Permanent residence in EU Member States is governed by two directives. The Long-Term Residency Directive grants long-term resident status to third-country nationals who have lived in the country legally and continuously for five years and who meet other application requirements.⁵⁵ The second, the Citizenship Directive, states that EU citizens who have resided legally in another EU Member State for a continuous period of at least five years automatically acquire a right of permanent residence in that country.⁵⁶

Applying EU law designed for third-country nationals to UK nationals who up until now have held a more privileged status could create a great deal of legal confusion.

Without an agreement, UK nationals would default to becoming third-country nationals. However, legal analysts disagree about what protection they could qualify for under EU law as such. Some believe it would be illegal to deprive former EU nationals of ‘acquired rights’, and therefore claim these citizens are entitled to keep the rights they currently hold as EU nationals living in another EU Member State.⁵⁷ Others argue that those who have lived in the country for five years or more will be covered only by the more minimal level of protection granted to third-country nationals under the Long-Term Residency Directive.⁵⁸ However, even this proposed outcome is muddy: applying EU law designed for third-country nationals to UK nationals who up until now have held a more privileged status could create a great deal of legal confusion; the relevant directives were not designed with their unique position in mind and may be ill equipped to resolve the situations in which many find themselves after Brexit.

Amid such uncertainty, one possible scenario is that long-term resident UK nationals could have to fulfil the requirements of both directives, which pull in different directions. For instance, they could be required to show that they fulfilled the retrospective requirements for the Citizenship Directive for EU citizens, which ties legal residence to either economic activity (working, jobseeking, or being self-employed) or to having had sufficient resources to support oneself and one’s family. Plus, they could be required to fulfil the prospective requirements for third-country nationals who wish to become permanent residents, which vary between

⁵⁴ The definition of ‘continuous residence’ in EU law allows for temporary absences not exceeding six months per year. Residents are also allowed one long absence of a maximum of 12 months for reasons such as study, job postings in another country, or pregnancy/childbirth. See European Commission, *Freedom to Move and Live in Europe: A Guide to Your Rights as an EU Citizen* (Brussels: European Commission, 2013), http://ec.europa.eu/justice/citizen/document/files/guide-free-mo-2013_en.pdf.

⁵⁵ ‘Council Directive 2003/109/EC of 25 November 2003 Concerning the Status of Third-Country Nationals Who Are Long-Term Residents’, Article 4, *Official Journal of the European Union* 2004 L 16/44, 23 January 2004, <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32003L0109&from=EN>.

⁵⁶ ‘Directive 2004/58/EC’.

⁵⁷ Sionaidh Douglas-Scott, ‘What Happens to “Acquired Rights” in the Event of a Brexit?’, UK Constitutional Law Association blog, 16 May 2016, <https://ukconstitutionallaw.org/2016/05/16/sionaidh-douglas-scott-what-happens-to-acquired-rights-in-the-event-of-a-brexite/>.

⁵⁸ Steve Peers, ‘All of Life is Changed: The Impact of Brexit on UK Nationals Living in Other EU Member States’, EU Law Analysis blog, 7 July 2017, <http://eulawanalysis.blogspot.com/2017/07/all-of-life-is-changed-impact-of-brexite.html>.

Member States, but tend to include a mix of income, good character, and language/integration requirements.⁵⁹ Alternatively, UK nationals could fall under neither legal framework and instead enter a legal limbo. In this situation, a great deal of discretion would fall to national and European courts, which could end up creating a new status for former EU nationals through case law.

Among those who have lived in the country for fewer than five years, the situation is likely to be much direr. Some could qualify for alternative migration channels, such as Blue Cards for high-skilled professionals, seasonal worker programmes, or intracorporate transfers. However, these channels are hugely oversubscribed already.

Clearly, whether the future status of UK nationals abroad is shaped around existing rules for third-country nationals or for EU nationals will determine many Britons' chances of acquiring permanent residence. But regardless of whether a deal is agreed, the following groups are likely to face significant challenges in regulating their status:

- ***Retired and economically inactive people.*** As described above, retirees and other economically inactive people who have resided in another EU country for more than five years are likely to have to prove that they were self-sufficient for this period of time and that they have enough resources to support themselves in the future whether or not a deal is agreed. In practice, the test of self-sufficiency is usually whether people have repeatedly claimed social assistance benefits.⁶⁰
- ***Seasonal and multiple movers.*** Whatever legal architecture becomes the basis for the post-Brexit status of UK nationals in Europe, seasonal and temporary migrants may struggle to prove residence. While it remains to be seen how this residence is defined, two legal terms are likely to be relevant: 'Continuous residence' is usually defined as not having breaks of more than six months per year (or 12 months in five years), with some exceptions. 'Habitual residence', meanwhile, means that a person has made one particular country his or her primary home. Depending on where the burden of proof lies—whether the onus is on UK nationals to show that they have been resident or on governments to show they have not—it may be difficult to document in a way that meets either set of criteria. Many UK nationals will lack historic proof of address, since they moved on the understanding that their right to live abroad was reasonably unconditional and had no incentive to document.⁶¹ Finally, the right to permanent residence can be lost after more than two successive years of absence, so people whose main base is in a European country but who have nonetheless lived elsewhere more recently (e.g., for work or study) could find themselves 'locked out' of a place they call home.

59 While the Long-Term Residency Directive requires Member States to grant third-country nationals residence status after five years, it gives Member States considerable latitude to set other application requirements, such as having 'stable and regular resources' and health insurance and complying with integration requirements (e.g., demonstrating language skills). According to Article 5 of the directive, in order to acquire long-term resident status, Member States shall require third-country nationals to prove that they have (present/future) 'stable and regular resources which are sufficient to maintain himself/herself and the members of his/her family, without recourse to the social assistance system of the Member State concerned'. See 'Council Directive 2003/109/EC', Article 5.

60 'Sufficient resources' is defined in Article 8(4) of the Citizenship Directive, which states that 'Member States may not lay down a fixed amount which they regard as "sufficient resources", but they must take into account the personal situation of the person concerned. In all cases this amount shall not be higher than the threshold below which nationals of the host Member State become eligible for social assistance, or, where this criterion is not applicable, higher than the minimum social security pension paid by the host Member State.' See 'Directive 2004/58/EC'. In this context, the European Court of Justice has clarified that the Citizenship Directive 'lays down no requirement whatsoever' as to the origin of the 'sufficient resources'. See *Adzo Domenyo Alokpa, Jarel Moudoulou, and Eja Moudoulou v. Ministre du Travail, de l'Emploi et de l'immigration*, C-86/12 (European Court of Justice, 2013), <http://curia.europa.eu/juris/document/document.jsf?text=&docid=142826&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=490651>.

61 This is especially the case among those who maintained a primary residence in the United Kingdom in order to continue to access the UK National Health Service, for instance. See Keleigh Coldron and Louise Ackers, '(Ab)Using European Citizenship? EU Retired Migrants and the Exercise of Healthcare Rights,' *Maastricht Journal of European and Comparative Law* 14, no. 3 (2007): 287–302.

- **Family members.** Non-EU family members of UK nationals are likely to face a unique set of challenges. Even if a UK national receives the right to stay in an EU Member State (for instance, through work authorisation or length of stay), his or her non-EU dependent partners may be subject to family unification requirements, such as integration tests or income requirements. This could even be the case for family members of permanent residents.⁶² The United Kingdom has stated its intention to impose income requirements on resident EU nationals who wish to bring in family members in the future, which could prompt other European countries to impose ‘tit for tat’ income requirements on the family members of UK nationals.
- **Self-employed people and those employed in nontraditional work.** A number of people who split their lives between countries may be formally registered in one but essentially live in another. This group includes, for instance, English-speaking property managers who support retirees in southern Europe where they negotiate with local tradesmen and are often paid cash in hand, and self-employed freelancers who work in Brussels yet pay taxes in the United Kingdom. Both may be unable to fulfil the criteria set for legal residence. Another possible challenge lies in how a possible EU-UK agreement would interpret the term ‘worker’, which is not defined by EU law.⁶³ A number of European Court of Justice (ECJ) cases have examined whether people between jobs, paid less than the minimum wage, or employed on a part-time basis constitute ‘workers’ and therefore retain residence rights and benefits. People in nontraditional forms of work, including employment through digital platforms and the ‘gig economy’ may also find it harder to prove their continued legal status because they have income from multiple sources and breaks between contracts.

While it is unlikely that labour market tests would be imposed retrospectively on Britons already in jobs, they could make it more cumbersome for European employers to hire UK workers.

2. Access to the labour market

Mobile UK nationals currently have the right to look for employment, set up a business, or work in other European labour markets on the same terms as Member State nationals. This means that they cannot be subject to labour market tests, which employment agencies impose to determine whether a local (or EU) worker could do the job before it can be offered to a third-country national. While it is unlikely that labour market tests would be imposed retrospectively on Britons already in jobs, they could make it more cumbersome for European employers to hire UK workers in the future. Moreover, it is highly likely that UK nationals will no longer be able to work on jobs that are restricted to EU nationals, which include a large proportion of public-sector jobs in places such as France.

⁶² Currently, a number of countries, including Denmark, require permanent residents to meet a certain income threshold or show financial solvency before bringing in third-country national family members. See NewtoDenmark.dk, ‘Spouses and Cohabiting Partners’, updated 27 February 2017, www.nyidanmark.dk/en-us/coming_to_dk/familyreunification/spouses/.

⁶³ The Commission notes that EU labour law leaves it up to Member States to define ‘worker’. See European Commission, ‘Modernising Labour Law to Meet the Challenges of the 21st Century’ (COM [2006] 708 final, 22 November 2006), [www.europarl.europa.eu/meetdocs/2004_2009/documents/com/com_com\(2006\)0708/com_com\(2006\)0708_en.pdf](http://www.europarl.europa.eu/meetdocs/2004_2009/documents/com/com_com(2006)0708/com_com(2006)0708_en.pdf).

Another potential challenge arises from the fact that UK citizens who work in regulated professions (e.g., teachers and architects), as EU nationals, currently face few barriers to having their professional qualifications recognised in other Member States. In some of these professions (e.g., nurses, midwives, doctors, and nurses), EU countries have harmonised their national standards and are thus obliged to automatically recognise the qualifications of professionals trained in these fields in another EU country. In others (such as teachers) host countries are entitled to impose additional training requirements before granting recognition. Prospects for a deal on this topic look relatively promising since EU and UK negotiators have agreed that UK professionals currently resident in the European Union and EU professionals in the United Kingdom should receive fully equal treatment with national professionals going forward. However, a number of professions are still in the ‘to be discussed’ bucket (including, for example, train drivers, pilots, and sea farers).⁶⁴

But without a deal, a great deal of confusion could arise over whether UK nationals are legally able to practice across a host of occupations. It is unclear what status these professionals would hold if they had previously gained recognition under a law that no longer applies, or whether they would be required to temporarily cease work while they apply for recognition through another route. For instance, UK nationals could choose to have their qualifications recognised through procedures for third-country nationals, though these tend to be much more time-consuming and arduous, requiring assessment on a case-by-case basis (sometimes by professional associations and subnational governments) instead of automatic verification. And while there could be scope for bilateral agreements that put into place automatic- and general-recognition procedures, these tend to take a long time to negotiate.⁶⁵

Whether a deal is reached or not, such workers’ situation is likely to become much more complex after Brexit.

Many professionals, including medical professionals and architects, also rely on being able to move between countries for work, a freedom that could also be curtailed by Brexit.⁶⁶ Frontier workers (those who live in one country and work in another) are currently protected under EU law and social security coordination frameworks; if UK nationals default to being treated as third-country nationals, it may become difficult to decouple residence status from work permits (as would be necessary to maintain this approach). While recent negotiations have shown some progress on the status of frontier workers, the agreement is skeletal and would only guarantee continued rights in the Member States where an individual currently lives and works. Whether a deal is reached or not, such workers’ situation is likely to become much more complex after Brexit.

Finally, even before Brexit takes effect, British nationals could face discrimination in hiring and promotion processes. For example, employers may avoid hiring British nationals due to uncertainty about their future rights to work and reside in a Member State. Formal access may therefore mask broader labour market effects that are already taking place.

- ⁶⁴ EU and UK negotiators have agreed to grandfather in past recognition decisions for certain classes of qualifications, including doctors, lawyers, and statutory auditors, but have yet to agree on how new recognition requests might be processed going forward. The United Kingdom is pushing for continued recognition of other professional qualifications covered under other directives, while the EU position as of September 2017 was that recognition procedures for additional fields should be clarified at some future date. See UK Department for Exiting the European Union, Citizens’ Rights Working Group, ‘Comparison of EU/UK Positions on Citizens’ Rights’ (joint technical note, updated 28 September 2017), www.gov.uk/government/uploads/system/uploads/attachment_data/file/648148/September_-_Joint_technical_note_on_the_comparison_of_EU-UK_positions_on_citizens_rights.pdf.
- ⁶⁵ See Madeleine Sumption, Demetrios G. Papademetriou, and Sarah Flamm, *Skilled Immigrants in the Global Economy: Prospects for International Cooperation on Recognition of Foreign Qualifications* (Washington, DC: Migration Policy Institute, 2013), www.migrationpolicy.org/research/international-cooperation-recognition-foreign-qualifications.
- ⁶⁶ See, for instance, European Union of Medical Specialists (UEMS) et al., “Brexit” and the European Medical Profession’ (letter to Michel Barnier, 6 June 2017), www.bma.org.uk/-/media/files/pdfs/collective%20voice/influence/europe/brexit-and-the-european-medical-profession.pdf?la=en.

While there are likely to be a host of complications for UK nationals in EU labour markets following Brexit, direct access to employment is something that countries can legislate for unilaterally (unlike social security coordination, for instance, as the next section will discuss). In countries where UK nationals are employed in high-skilled jobs or are concentrated in particular sectors, policymakers have considerable incentives to make provision for their continued access to work.

3. Access to social security

Currently, European regulations streamline coordination between social security systems. Because every system is different, four main principles guide eligibility determinations to ensure that people do not lose access to their benefits (or gain double benefits) by moving. The principles are:

- **Singularity.** People are only covered by the legislation of one country
- **Nondiscrimination.** People have the same rights and obligations as nationals of that country (unless there is a compelling reason why this should not be the case)
- **Aggregation.** When people claim a benefit, national authorities take their periods of work, insurance, and residence from other countries into account in determining eligibility and amount.⁶⁷
- **Exportability.** Social security benefits can be paid in whichever EU country people reside, and they can take these benefits with them wherever they move.⁶⁸

Taken together, these principles play out differently for different types of benefits.

- **Contributory benefits.** The principle of aggregation means that EU nationals are entitled to payment of these benefits—which include contribution-based pensions, disability benefit, and unemployed benefit—based on contributions made in any EU country.
- **Noncontributory benefits.** These include out-of-work benefits, such as means-tested social assistance, and universal benefits, such as support for children. Mobile EU nationals with a right to residence—meaning they are self-sufficient or have a genuine link to the local labour market⁶⁹—are generally entitled to these so long as they do not become an ‘unreasonable burden’ on public resources. An important exception is jobseekers, who are not entitled to social assistance.
- **Special noncontributory benefits (SNCBs).** A special system was created in 1992 to prevent Member States from having to export these benefits, which include pensions and disability supplements. Since the principle of nondiscrimination prevents states from restricting noncitizen access to these, mobile EU nationals are eligible for these benefits in their country of habitual residence. However, some countries, such as the United Kingdom, impose more stringent tests than others for determining habitual residence.

⁶⁷ Where a benefit has a minimum threshold, the host country totals all periods of contribution in other Member States.

⁶⁸ The exception is special noncontributory benefits.

⁶⁹ For an overview of recent case law interpreting Directive 2004/038, see Filip Van Overmeiren, Eberhard Eichenhofer, and Herwig Verschueren, *Social Security Coverage of Non-Active Persons Moving to Another Member State* (Ghent: Training and Reporting on European Security, 2011), www.tress-network.org/EUROPEAN%20RESOURCES/EUROPEANREPORT/TRESS_AnalyticalReport-NonActives_FINAL.pdf. Broadly, a ‘genuine link to the local labour market’ means being in work, having been in work, or actively seeking work.

If a deal is agreed that uses this existing legal infrastructure, UK nationals may still face barriers to accessing benefits. Many of these terms are already controversial. For instance, what constitutes ‘sufficient resources’ and an ‘unreasonable burden on the social security system’ are not strictly defined in EU law, leaving a wide margin for Member State interpretation.⁷⁰ The requirement that jobseekers have a ‘genuine chance of being engaged’ has also been subject to disagreement. While these ill-defined terms have already proven problematic (creating opportunities for abuse in some cases, while restricting mobility or denying legitimate benefits claims in others) they may take on new significance if they are used to determine whether British residents have the right to stay in EU Member States. Failure to fulfil the requirements of ‘habitual residence’ has, for instance, already been used by some countries to deny individuals benefits, and this concept is likely to take on new weight for UK nationals who split their time between countries.⁷¹ And the requirement that residents demonstrate having paid contributions in other Member States to qualify for certain benefits may disproportionately impact some groups, such as retirees (see Box 2).

Without an agreement, the United Kingdom could either fall back on bilateral social security agreements with Member States or seek to negotiate new ones with more favourable conditions, though this is dependent on political will (see Section III.B.). Currently, the UK government does not have bilateral agreements with all Member States, and those that were signed before EU law came into force are outdated and offer a more minimal level of coverage than EU standards. Since the first EU rules on social security were adopted in the 1970s and the United Kingdom joined the European Economic Community (EEC) in 1973, falling back on these existing mechanisms during a transitional period would create significant gaps in access to social security benefits until new bilateral agreements can be signed.

Lack of precision in defining residence-related legal terms at the EU level has led Member States to enshrine these terms in national laws in different ways.

Finally, if UK nationals are treated as third-country nationals, they are likely to face greater restrictions or longer waiting periods for certain benefits. For instance, a minimum period of residence is required of non-EU citizens seeking to claim maternity and paternity benefits in most EU countries. In some cases, only individuals with a long-term residence permit have access to the full range of social security benefits; in others, employment requirements apply.⁷² Lack of precision in defining residence-related legal terms at the EU level has led Member States to enshrine these terms in national laws in different ways, adding complexity to discussion of what types of residency qualify an

70 A number of cases have interpreted the term ‘social assistance’. For instance, in the case of *Peter Brey v. Pensionsversicherungsanstalt*, the court held that the fact that an EU national received social assistance was not enough to show that he or she constitutes an ‘unreasonable burden’; instead, each case should be determined on its individual merits. See *Peter Brey v. Pensionsversicherungsanstalt*, C-140/12 (European Court of Justice, 2013), <http://curia.europa.eu/juris/document/document.jsf?text=&docid=137784&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=474685>.

71 In the case of *Silvani Di Paolo v. Office National de l'Emploi*, the European Court of Justice clarified that ‘habitual residence’, in relation to the social security coordination mechanism (currently Regulations 883/2004 and 987/2009), means ‘the State where the worker, although occupied in another Member State, continues habitually to reside and where the habitual centre of his interests is also situated.’ See *Silvani Di Paolo v. Office National de l'Emploi*, C-76/76 (European Court of Justice, 1977), <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:61976CJ0076&from=EN>. In a more recent case (*Robin Swaddling v. Adjudication Officer*), the court stated that the following factors must be taken into account when determining whether an individual is a habitual resident of a Member State: ‘the employed person’s family situation; the reasons which have led him to move and the length and continuity of his residence; the fact (where this is the case) that he is in stable employment; and his intention as it appears from all the circumstances’. See *Robin Swaddling v. Adjudication Officer*, C-90/97 (European Court of Justice, 1999), <http://curia.europa.eu/juris/showPdf.jsf?sessionid=9ea7d2dc30dbe9daa49f6eae4265b549fb8c44a39c61.e34KaxiLc3qMb40Rch0SaxuLa3b0?text=&docid=101345&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=1103436>.

72 European Migration Network, *Migrant Access to Social Security and Healthcare: Policies and Practice* (Brussels: European Commission, 2014), https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn_synthesis_report_migrant_access_to_social_security_2014_en.pdf.

individual to receive benefits.⁷³ For instance, UK nationals may be required to demonstrate a certain degree of ‘attachment’ to the Member State in which they seek to claim benefits, something that is likely to be interpreted and operationalised very differently from one country to the next.⁷⁴

Box 2. The special case of pensioners

The declining value of the pound, combined with the possibility of a freeze on pension increases after Brexit, has raised a number of concerns about whether retirees will be able to afford their mortgages, basic needs, and health care. In the United Kingdom, state pensions increase according to the ‘triple lock’ principle. This means that pensions are increased each year by a minimum of either 2.5 per cent, the rate of inflation, or average earnings growth. And while pensioners who leave the country usually have their pension frozen on the date they leave, exceptions have been made for those who leave for EEA countries and Switzerland (along with a handful of other countries with whom the United Kingdom has a reciprocal agreement).

It is by no means a given that the United Kingdom will continue to uprate the pensions of Britons living abroad in Europe unless it has a clear incentive to do so. While the UK government is proposing to continue uprating the pensions of UK nationals in Europe, this is conditional on all Member States agreeing to do the same for their nationals in the United Kingdom. Based on current pension recipient rates (number of claimants and how much they are entitled to), British pensioners in the EEA and Switzerland could lose out on a total of GBP 511 million over five years (nearly GBP 25,000 per claimant) or GBP 8.1 billion over 20 years, assuming the average retiree has 20 years of retirement left. Choosing not to uprate pensions could thus have a detrimental effect on UK nationals abroad. But choosing to do so in the absence of a reciprocal agreement with other European countries would be hugely costly for the UK government.

Notes: In addition to EEA Member States and Switzerland, the United Kingdom currently has deals to upgrade pensions with Barbados, Bermuda, Bosnia-Herzegovina, Israel, Jamaica, Jersey, Guernsey, the Isle of Man, Kosovo, Macedonia, Mauritius, Montenegro, the Philippines, Serbia, Turkey, and the United States. It also used to have an agreement with Australia, but the United Kingdom refused to index pensions, so Australia responded in kind. Estimates of pension costs includes non-UK recipients of UK state pensions.

Sources: Lucy Burton, ‘Brexit: What Does It Mean for Expats, Here and in the EU?’, BBC News, 27 June 2016, www.bbc.com/news/business-36606847; Migration Policy Institute Europe calculations based on data from the UK Department of Work and Pensions, ‘State Pension Caseload (I)’, updated February 2017, <https://stat-xplore.dwp.gov.uk/webapi/jsf/tableView/tableView.xhtml>; UK Department for Exiting the European Union, Citizens’ Rights Working Group, ‘Comparison of EU/UK Positions on Citizens’ Rights’ (joint technical note, updated 28 September 2017), www.gov.uk/government/uploads/system/uploads/attachment_data/file/648148/September_-_Joint_technical_note_on_the_comparison_of_EU-UK_positions_on_citizens_rights.pdf.

⁷³ Ibid.

⁷⁴ Ibid.

4. Health care

Health systems vary widely across Europe. Most Member States use a mixed system that combines taxation and insurance-based contributions to finance health care.⁷⁵ In some, health care is funded primarily by general taxation (e.g., Spain), while in others it relies heavily on national insurance contributions by workers and employers (e.g., Germany)⁷⁶ or on voluntary/compulsory contributions made only by the employer (e.g., Luxembourg). Other Member States strike a more even balance between insurance-based contributions and general taxation (e.g., the Netherlands).⁷⁷ The variation in these systems will shape the experience of UK nationals who attempt to access health care in Europe after Brexit.

Currently, EU nationals' access to health care is complex and governed by a number of systems for different classes of individuals:⁷⁸

- **Temporary residents and students.** For students who are not working and people visiting another EU country, the European Health Insurance Card covers costs for a limited period of time. However, some countries require students who enter work to take out national health-care insurance, as in the Netherlands.⁷⁹
- **Economically active residents.** For employed and self-employed workers, jobseekers, and former contributors to the social security system, health care is usually accessed through business or employer insurance. Workers are usually covered by the Member State in which they work even if they have legal residence in another Member State, though special rules apply to frontier and posted workers. If someone works in more than one country, they are covered by the Member State to which they have the strongest links.⁸⁰
- **Retirees and posted workers.** For pensioners and other people (such as posted workers) who do not live in the country where they are insured, access to health care usually comes in the form of an S1 card. This system ensures that a portion of the health costs (those met by the state) are reimbursed by the country responsible for paying the individual's pension. The resident is liable for the remaining costs, which are either covered by private top-up health insurance or paid out of pocket. People in this category thus receive health care in their country of residence on the same terms as its citizens, but the costs are only borne by this country if they also draw their pension from it.

⁷⁵ Ibid.

⁷⁶ Under these systems, individuals who are not entitled to social insurance need to take out a private health insurance or request social assistance.

⁷⁷ European Migration Network, *Migrant Access to Social Security and Healthcare*.

⁷⁸ At the EU level, there are two main instruments that regulate cross-border access to health care: the coordination mechanism established by Regulation No 883/2004 and Implementing Regulation No 987/2009 and by Directive 2011/24/EU. The directive codified European Court of Justice jurisprudence on cross-border access to health care, establishing rules for accessing health care in another Member State. How these mechanisms work together is not always clear and has created some difficulties. See 'Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the Coordination of Social Security Systems', *Official Journal of the European Union* 2004 L 166/1, 30 April 2004, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:166:0001:0123:en:PDF>; 'Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 Laying Down the Procedure for Implementing Regulation (EC) No 883/2004 on the Coordination of Social Security Systems', *Official Journal of the European Union* 2010 L 284/1, 30 October 2010, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:284:0001:0042:en:PDF>; 'Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the Application of Patients' Rights in Cross-Border Healthcare', *Official Journal of the European Union* 2011 L 88/45, 4 April 2011, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:088:0045:0065:en:PDF>.

⁷⁹ European Commission, 'Your Health Insurance Cover', updated 12 October 2017, http://europa.eu/youreurope/citizens/health/when-living-abroad/health-insurance-cover/index_en.htm.

⁸⁰ 'Regulation (EC) No 883/2004', Article 11–13.

- **Permanent residents.** For permanent residents, health costs are met by the country of residence. This also applies in certain circumstances where individuals are economically inactive or low-income but are not covered by another health-care system. For instance, in Spain, a number of EU nationals are beneficiaries of Spanish health care because they are not covered by another insurance system and their earnings do not exceed a certain threshold.⁸¹

Access to health care in EU Member States is already fraught with grey areas and complex entitlement rules. For instance, to register as an inactive EU national, individuals are often required to show that they have comprehensive health insurance. However, many countries have historically been rather lax on this point. In Spain, it is estimated that many of the Britons who have been in the country since before 2012 (approximately 80 per cent of all UK nationals in the country) may still have a Spanish health-care card despite being economically inactive, allowing them to access health care in the country at the cost of the Spanish purse.⁸² According to a survey conducted in 2009, almost 80 per cent of EU pensioners had used the Spanish health system in the previous year, suggesting this regulatory gap comes at a significant cost.⁸³ In addition, the Spanish health-care system has not been systematic about seeking reimbursement from countries of origin for their citizens' expenditures in Spain, even when it is entitled to do so.⁸⁴ One study from 2013 estimated that supporting EU pensioners cost the Spanish government up to 300 million euros annually.⁸⁵

If no deal is reached, UK nationals unable to attain legal status will find it incredibly difficult to access health care abroad.

If no deal is reached, UK nationals unable to attain legal status will find it incredibly difficult to access health care abroad, since legal residence is a requirement for third-country nationals to access such services in all Member States (except for in emergencies).⁸⁶ And even among those able to qualify for long-term residence status, pensioners and economically inactive residents may find they have to purchase private health insurance. At the same time, long-term residents are generally entitled to the highest level of protection and have access to health-care benefits in almost all Member States under the same conditions as nationals.⁸⁷ Moreover, workers (assuming they were granted the right to stay) would likely retain health care, especially in insurance-based systems where employer contributions cover much of the cost.⁸⁸

81 ICF GHK, *A Fact Finding Analysis on the Impact on the Member States' Social Security Systems of the Entitlements of Non-Active Intra-EU Migrants*.

82 Prior to the introduction of a regulation in 2012, many EU nationals were granted a Spanish health-care card regardless of whether they had a registered residence permit. Anyone, including unauthorised third-country nationals, had merely to register in their municipality to access health care. Since more than 80 per cent of British residents registered with the municipality have been in Spain since before 2012, many are likely to have a health-care card. As of 2013, most had not had their health-care cards withdrawn. See *ibid*.

83 University of Málaga, Observatorio Europeo de Gerontomigraciones (OEG), 'Actualidad de la asistencia sanitaria en el marco de la gerontomigración' (research bulletin no. 2, University of Málaga, November 2011), www.gerontomigracion.uma.es/sites/default/files/usuarios/file/BoletinesOEG/BltnOEG_2.pdf.

84 For instance, a study by the Spanish Court of Auditors found that many noncitizens are likely to hold health insurance elsewhere, while a report by the Spanish National Institute of Social Security (Instituto Nacional de la Seguridad Social) found that the government did not know how many of the noncitizens accessing health care in Spain were entitled to do so. Cited in ICF GHK, *A Fact Finding Analysis on the Impact on the Member States' Social Security Systems of the Entitlements of Non-Active Intra-EU Migrants*.

85 *Ibid*.

86 European Migration Network, *Migrant Access to Social Security and Healthcare*.

87 *Ibid*.

88 With respect to sickness cash benefits, third-country workers have access to those kinds of benefits in all Member States regardless of their resident-permit category, as long as they have made insurance contributions for a minimum period of time (which varies by Member State).

Finally, people who reside elsewhere in the European Union but return to the United Kingdom on a regular basis are also likely to be negatively affected. Currently, nonresidents are not entitled to use the National Health Service (NHS), but visiting EU and UK nationals are able to do so through the European Health Insurance Card (EHIC). EU negotiators have recently stated their commitment to enabling UK nationals to continue using the EHIC card, but this proposal remains vague, and it is unclear whether UK nationals will be allowed to use the EHIC in the United Kingdom. Surveys of UK nationals living in other Member States have shown health-care access to be among their top concerns in the wake of the Brexit referendum and amid continued uncertainty.⁸⁹

B. Prospects for a deal

Much is still uncertain about the prospects for a deal on citizens' rights. While a 2017 paper published by the UK government describes safeguarding the position of EU citizens living in the United Kingdom and of UK nationals living in the European Union as a priority,⁹⁰ May has also signalled her readiness to walk away from the negotiating table without an agreement. In April 2017, the Council of the European Union published its negotiating position, intended to 'ensure an orderly withdrawal of the United Kingdom from the European Union'.⁹¹ This argued that the exit agreement should safeguard the rights of both mobile EU and UK citizens, and the European Institutions have made clear that a deal on UK nationals abroad depends on what the UK government is willing to offer EU nationals in the United Kingdom.

Major sticking points include whether the United Kingdom will remain within the jurisdiction of the European Court of Justice (having no legal body to guarantee the rights of EU nationals in the United Kingdom is a dealbreaker for EU negotiators) and whether current EU residents of the United Kingdom or all mobile EU nationals (i.e., anyone who has ever lived there) will retain their rights to free movement and family unification in the country.

Amid complex negotiations, the following categories encapsulate some of the most likely reasons a deal may not be forthcoming:

- ***The difficulties of negotiating on a public stage.*** The issue of citizens' rights is part of a larger exit deal that is higher profile and has greater stakes than the average trade deal. The European Institutions must show that leaving the bloc is neither desirable nor without cost if it is to deter other countries from exiting in the future. But despite Member States presenting a united front, some commentators have raised doubts that the European Union can continue to negotiate as 'one voice' for the duration of the two years. If this is the case, negotiators may begin to engage in backroom meetings on bilateral agreements that could detract from formal EU negotiations. Meanwhile, the June 2017 UK parliamentary election left May's government weakened and beholden to very different constituencies to pass an eventual deal. If not firmly separated from other issues under negotiation, the question of UK nationals' future status in the European Union could be derailed by something as unrelated as a disagreement over the balance of payments outstanding.⁹² Finally, the high level of public scrutiny

89 Brussels and Europe Liberal Democrats, 'British Citizens Living in the EU: Views on Brexit' (survey results, 13 February 2017), <https://uklibdems.eu/en/article/2017/1201396/beld-survey-results>.

90 UK Home Office, 'The United Kingdom's Exit from the European Union: Safeguarding the Position of EU Citizens Living in the UK and UK Nationals Living in the EU' (command paper no. 9464, presented to the UK Parliament in June 2017), www.gov.uk/government/uploads/system/uploads/attachment_data/file/621848/60093_Cm9464_NSS_SDR_Web.pdf.

91 European Council, 'European Council (Art.50) Guidelines Following the United Kingdom's Notification under Article 50 TEU' (press release, 29 April 2017), www.consilium.europa.eu/en/press/press-releases/2017/04/29-euco-brexit-guidelines/.

92 *The Economist*, 'A Row over Money Could Derail Brexit Talks before They Have Begun', *The Economist*, 11 February 2017, www.economist.com/news/leaders/21716608-risk-talks-blowing-up-greater-many-realise-row-over-money-could-derail-brexit.

may make it especially difficult for negotiators to reach an agreement because it can encourage the parties to be adversarial to avoid showing their hands instead of looking for points of agreement.

- ***The myth of reciprocity.*** Both sides have presented the issue of EU nationals in the United Kingdom and of UK nationals in Europe as symmetrical. Yet it is precisely because they are logically distinct that this has become such a critical part of negotiations. For example, UK nationals living in Europe will continue to be covered by the jurisdiction of the European Court of Justice, while EU nationals in the United Kingdom—absent an agreement from the UK government—will not enjoy the same high level of legal protections going forward. A gulf is also emerging between the altruistic rhetoric of negotiators and their technical proposals as both sides jockey for a better deal for ‘their’ side.⁹³ For instance, a jointly published comparison of the two positions made clear for the first time that the European Union is not advocating that UK nationals currently resident in a Member State receive the right to move elsewhere, only to stay in their current country of residence.⁹⁴ This suggests that previous EU statements about preserving the existing rights for currently mobile EU nationals was meant selectively and with particular attention to EU nationals in the United Kingdom. Finally, the UK government has reportedly offered to grant EU nationals in the country permanent residence rights that cannot be lost by moving elsewhere in return for an agreement by the European Union to grant UK nationals onward movement rights—further demonstrating the need to treat these two populations as separate.⁹⁵
- ***Different visions of the shape and status of a deal.*** More important even than the complex and shifting public statements made on the substance of a deal, the façade of reciprocity ignores the vital issue of how a deal would be made legally binding in both contexts. The other countries in the European Union will remain bound by EU law after Brexit (including regulations on the treatment of third-country nationals), but the United Kingdom will not. So while negotiators can try to align their positions on the details, if there is no way to guarantee the future rights of EU citizens in the United Kingdom, the agreement will be meaningless.
- ***The lurking issue of fairness.*** Negotiators may face a tradeoff between being fair to mobile citizens (by not punishing people who exercised a right to move in good faith) and being fair to nonmobile citizens (by not giving one group rights the other does not have). Specifically, EU negotiators’ preferred deal would extend residence rights to anyone who has ever lived in another EU country (both EU migrants in the United Kingdom and UK migrants in another EU Member State), while granting no rights to move within Europe to other, nonmobile Britons. The UK government, by contract, have asserted that currently mobile UK nationals should not only receive the right to stay in the country where they currently live, but also to move freely within the European Union. Both of these positions seem intuitively over-inclusive, in that they extend beyond helping people continue to live their lives in their chosen country to offering the possibility of future movement. As the details are hashed out, negotiators may be forced to justify the lines they are drawing to those who will lose their free-movement rights. At a time when the United Kingdom is seeking to remove the privileges of EU citizenship from its nationals, creating a tier of cosmopolitan citizens with free-movement rights within the broader British public could create an acute sense of unfairness—especially among the young who overwhelmingly voted against Brexit and may not yet have had the chance to exercise their rights to free movement.

⁹³ According to a recent, jointly written analysis of the points of divergence, the main points of contention include (1) future family members (the European Union wants family members joining EU nationals in the United Kingdom to be exempt from the income requirements currently imposed on UK nationals who want to bring third-country national family members in); (2) how provisions are enforceable and the future role of the European Court of Justice in arbitrating disagreements and of the European Commission in monitoring compliance; and (3) whether EU nationals will have to apply for legal residence (or be considered to hold such status even without a permit). See UK Department for Exiting the European Union, Citizens’ Rights Working Group, ‘Comparison of EU/UK Positions on Citizens’ Rights’.

⁹⁴ Ibid.

⁹⁵ Daniel Boffey, ‘EU “Refusing to Engage on Rights of Britons Living in Europe”’, *The Guardian*, 12 October 2017, www.theguardian.com/politics/2017/oct/12/eu-refuses-to-engage-on-rights-of-britons-living-in-europe-after-brexite.

- ***The likely costs of implementation.*** Lurking on the horizon is a sense that getting this wrong could incur seismic implementation costs. Some countries already have overburdened systems for processing permanent residence and citizenship applications, which could be overwhelmed by the sudden task of processing applications from all (or most) UK nationals within their borders. Although this issue has not yet factored into the negotiations, the further into the details negotiators get (and the closer to the exit date), the more it will need to be addressed head on. For instance, the more complex the deal, the more pressure national administrative systems are likely to feel, but a ‘light-touch’ deal risks carving arbitrary divisions between populations. For countries already facing considerable immigration backlogs (e.g., in processing asylum claims) or whose work permit processes are archaic and cumbersome, it is difficult to see how the architecture of these systems could be quickly updated to manage a spike in demand. Finally, the question of what to do with people who lose the right to stay will have to be addressed. The expulsion of EU citizens from one Member State to another has been on the rise in recent years, but the large-scale removal of long-standing residents would be unprecedented.⁹⁶ If countries attempt to remove UK nationals on any scale, there would likely be a huge rise in ECJ and European Court of Human Rights (ECHR) cases.

IV. LOOKING AHEAD: ISSUES TO WATCH

Whatever shape a final deal takes, the next few years are likely to hold significant turmoil and uncertainty for UK nationals living abroad in Europe and for EU nationals in the United Kingdom. Even with a deal, there is a very real risk that a share of this population will become unauthorised or remain in legal limbo for an extended period. In countries that have a history of allowing unauthorised residents to access services, such as Spain, this may pose less of a problem. However, in places where legal residence (and having an official national ID, such as the Swedish personnummer) is the gateway to almost all public and private services, loss of status could have long-lasting negative effects on the lives and livelihoods of Brexpaters. People who have skirted the edges of legality through informal employment or paying their taxes in the United Kingdom for work done abroad may be plunged (further) into the shadow economy. Meanwhile, Britons who are elderly or disabled and who cannot access health- or domestic care may become more socially isolated.

If large volumes of British pensioners return, they could impose considerable and rising costs on the National Health Service, which is already strained by an ageing population.

Some UK nationals will be able to use alternative legal pathways, such as labour migration or family unification. But if such pathways to legal residence prove cumbersome for people whose lives are bound up in their country of residence, this could create added incentives for binational couples to marry to secure both parties’ status or for people to register as students on part-time courses to regain the right to work.

Whatever happens, it is likely that a not-insignificant share of Britons abroad will decide to return to the United Kingdom. The implications of this return migration will largely depend on the profile of the returnees. If large volumes of British pensioners return, they could impose considerable and rising costs on the National Health Service, which is already strained by an ageing population. The UK government will also have to start

⁹⁶ Few countries keep comprehensive data on expulsions by nationality, but Belgium has reported returning many EU citizens (mainly from Bulgaria and Romania) on the basis that they place an unreasonable burden on its social system. See Solange Maslowki, ‘The Expulsion of European Union Citizens from the Host Member State: Legal Grounds and Practice’, *Central and Eastern European Migration Review* 4, no. 2 (2015): 61–85. Expulsions have tended to be heavy-handed and focus on the most vulnerable groups, including EU migrants who are homeless. See, for example, European Federation of National Organisations Working with the Homeless (FEANTSA), ‘PRODEC – Protecting the Rights of Destitute EU Mobile Citizens (2017–2019)’, updated 2 May 2017, www.feantsa.org/en/project/2017/05/02/prodec-protecting-the-rights-of-destitute-eu-mobile-citizens.

paying top-up pensions in addition to state pensions, for which only UK residents are eligible; given that 85 per cent of retirees currently receiving a UK state pension abroad in Europe earn below the threshold for a pension credit, this could represent a significant cost.⁹⁷

Moreover, returnees may not find the process to be smooth sailing. The United Kingdom makes habitual residence a requirement for accessing certain benefits, and some returnees may face a waiting period before they can access them. Parents hoping to come back to the United Kingdom to allow their children to finish a degree at a UK university could find themselves hit with fees for international students if the current requirement that families be resident in the European Union for three years prior to beginning a course is replaced by a requirement that these years be spent in the United Kingdom specifically.

Another area to watch will be the spillover effects for Member State regions that are home to large number of UK nationals. Lack of clarity over who is eligible to work and whether their qualifications are considered valid could create extra friction in the labour market and reduce incentives to hire British workers.⁹⁸ Alternatively, Brexit may have the unintended effect of making some UK nationals more stuck in their jobs. For instance, labour market restrictions on third-country nationals that do not currently apply to UK nationals (such as labour market tests, restrictions on working in regulated professions, and limitations on working in public administration jobs) tend to govern admission; if British workers were to become subject to these restrictions, some could become locked into their positions, reducing the fluidity of the labour market in certain countries.

Lack of clarity over who is eligible to work and whether their qualifications are considered valid could create extra friction in the labour market and reduce incentives to hire British workers.

Finally, it is worth watching the long-term ramifications of restricting future free movement among UK nationals. Although many British residents of EU Member States do not live in ethnic enclaves, there are nonetheless some coastal regions in southern Europe that are heavily dominated by UK nationals. As these people age, the absence of new arrivals could have significant implications for the social, economic, and recreational infrastructure that has been built up around them. It is unclear how the uncertainty ahead will translate in certain neighbourhoods and communities, whether it will lead to a rapid churn or a slow burnout.

As these issues play out, a chasm is likely to open up between the winners and losers of Brexit. Those Britons who are able to fulfil the requirements of whatever deal takes shape (or meet current rules for long-term residence status for third-country nationals, if there is no deal) could retain their free-movement rights in some form. Given the early evidence that some Britons are exploring their options for claiming long-term residence or citizenship of other EU countries, the next few years may see these people—the affluent, resourceful, and cosmopolitan—retain EU citizenship while the majority of Britons lose it (and the free-movement rights it brings). This division may pose a considerable problem for the UK government as it seeks to rebuild a sense of common purpose and identity in the post-Brexit landscape.

⁹⁷ For instance, if one-third of current state pension claimants living in another EU country moved back to the United Kingdom and were eligible to claim pensions top-ups for single people with no private pension, this would represent 8.8 million euros annually in top-ups, based on calculations of current recipient numbers at different spending levels. Author tabulation of data from the UK Department of Work and Pensions, 'State Pension Caseload (I)', updated February 2017, <https://stat-xplore.dwp.gov.uk/webapi/jsf/tableView/tableView.xhtml>.

⁹⁸ It is possible that future qualification-recognition agreements will distinguish between qualifications attained before and after Brexit—something that would likely create confusion among employers. According to EU proposals, the withdrawal agreement 'should also ensure that professional qualifications (diplomas, certificates, or other evidence of formal qualification) obtained in a third country and recognized in any of the EU-28 Member States at the date of entry into force of the Withdrawal Agreement in accordance with Union law applicable before that date should continue to be recognised also after that date.' See European Commission, Task Force for the Preparation and Conduct of the Negotiations with the United Kingdom under Article 50 TEU, 'Essential Principles on Citizens' Rights' (position paper, European Commission, Brussels, 12 June 2017), https://ec.europa.eu/commission/sites/beta-political/files/essential-principles-citizens-rights_en_3.pdf.

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Migration Policy Institute Europe, established in Brussels in 2011, is a non-profit, independent research institute that aims to provide a better understanding of migration in Europe and thus promote effective policymaking. Building upon the experience and resources of the Migration Policy Institute, which operates internationally, MPI Europe provides authoritative research and practical policy design to governmental and nongovernmental stakeholders who seek more effective management of immigration, immigrant integration, and asylum systems as well as successful outcomes for newcomers, families of immigrant background, and receiving communities throughout Europe. MPI Europe also provides a forum for the exchange of information on migration and immigrant integration practices within the European Union and Europe more generally.

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