BRITISH IN EUROPE
THE COALITION OF UK CITIZENS IN EUROPE

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To: Prime Minister Alexis Tsipras

16 November 2017

Dear Mr Tsipras,

We wrote to you in April on behalf of **the3million**, a grassroots organisation representing EU citizens in the UK, and of **British in Europe**, a coalition of groups representing UK citizens living in the EU27. In that letter, we asked your government to ensure that the EU's negotiating guidelines gave first priority to citizens' rights and that any agreement on citizens' rights should be binding on the parties, whatever the ultimate outcome of the negotiations. We read the negotiating guidelines as preserving all of our existing rights but it would now appear that the mandate is being interpreted narrowly, in such a way that many of our existing rights would no longer be protected.

Since our April letter, British in Europe and the3million have followed the negotiations on citizens' rights very closely. We have made detailed submissions after each round of negotiations and welcome the de-briefing and consultation by both sides following each round.

We are now at a critical phase in those negotiations in the run-up to the December European Council, at which a decision must be reached whether "sufficient progress" has been made in Phase 1 of the negotiations and Phase 2 discussions can start.

The view has been advanced that a deal on citizens' rights is within 'touching distance'. However, the3million and British in Europe consider that there are fundamental stumbling blocks to reaching an agreement which truly reflects the stated aim as expressed by both sides that 'Brexit does not alter the nature of people's daily lives'. We set out below our roadmap to overcome those stumbling blocks and achieve a comprehensive agreement on citizens' rights that will preserve all our current rights under EU law.

Ensure "sufficient progress" and ring-fencing are effective safety nets for citizens

We would not wish to see a confirmation of "sufficient progress" on citizens' rights simply to enable talks to move on to the next phase if there is in fact no agreement on all fundamental issues. If that were to happen we would be bargaining chips in the fullest sense, with some of our key rights being bartered against future trade access by either side. *None* of the issues we mention below should be deferred to Phase 2, running the real risk of getting lost in an ever more heated debate on the future relationship between the EU and the UK. Moreover any agreement reached on Citizens' Rights must be protected so that it cannot be opened up later for use as leverage to gain some collateral benefit. The current state of the negotiations poses a clear risk of there not being any agreement on all the Phase 1 issues.

Roadmap to an agreement that preserves our rights

The negotiations have not yet put forward a workable solution as regards the rights of EU citizens in the UK that embraces the principle of EU Citizenship. The UK 'settled status' proposal, as it stands would entail loss of existing EU law rights, including family reunification, as well as lack of protection against future government law changes, possible loss of status at a future date, limited appeal rights and many other potentially catastrophic consequences for EU nationals in the UK. **the3million unambiguously reject 'settled status' and have put forward a satisfactory and workable alternative**[1], which should be adopted by the negotiating parties.

This proposal avoids the UK's flawed attempt to fit EU citizens under existing UK immigration rules and their acknowledged "hostile environment". Instead it contains a reasoned plan to protect all existing rights of EU citizens in the UK. It argues that the rights of EU citizens living in the UK can only be protected by a UK-EU Treaty,

[1] https://bit.ly/t3m_AlternativeProposalFull

subsequently implemented in the UK via a Withdrawal Citizens Rights Act, which sets out a status, independent of UK immigration law, to cover this finite group of people. This Act must allow for **direct effect** and referral to the **CJEU**. We fully endorse the EU's demand that the rights of EU citizens in the UK covered by the Withdrawal Agreement be subject to ultimate decision by the CJEU to ensure consistency of decision-making and so that these citizens have equal protection with UK citizens in the EU.

Continued **free movement for British citizens in the EU** should be ensured, including **cross-border working** rights, **recognition of professional qualifications** and **economic rights**. It is not sufficient for British citizens in the EU to maintain their rights of residence in the country of residence at Brexit without also retaining their free movement rights: these are a composite right conferred by Art.21 of the TFEU. These citizens moved within the EU, a territory without internal boundaries, and fences should not be erected along these boundaries now simply to confine them to one State. Those who have exercised their free movement rights should keep all their existing rights under EU law. We have put together real-life examples of citizens working and living in multiple countries, whose lives will change dramatically if they cannot move to other EU27 countries[2].

The **UK's offer** of a lifelong right of return in exchange for free movement should be accepted. It will ensure a balanced reciprocity between the two groups of citizens. EU citizens in the UK will keep free movement within the EU27 and ought to be entitled to a right of return to the UK to preserve all their existing rights even if they leave the country for more than 2 years. The free movement right of UK citizens in the EU, if lifelong so that they do not lose all rights by moving (e.g. back to the UK), for over 2 years, would ensure the same.

Ensure **all current family reunification rights in the UK**, the loss of which would affect not only EU citizens in the UK by preventing them in the future from bringing a spouse or elderly parent needing care to the UK, but also UK citizens in the EU who might need to return to the UK at some date after Brexit, accompanied by their non-British family members.

Children born to citizens covered by the Withdrawal Agreement after Brexit **should have life-long rights**, though we accept these rights cannot be passed onto future generations.

Export of benefits has been agreed for pensions and health benefits, but this needs to be extended to other benefits which the UK proposes to exclude despite receiving the tax and social security contributions which fund them.

Voting rights for British citizens in the EU, both at local and European Parliamentary elections, which are an essential aspect of the right to live in a democratic country, should be retained.

As you gather with your fellow European leaders for the Social Summit in Gothenburg we call upon your Government to show its commitment to the social, political and work rights of 5 million EU citizens who have put their faith in the European project. We ask you to help reach a constructive consensus on all outstanding issues on the EU side in the negotiating time remaining before the December European Council summit. As Jean Claude Juncker said to the European Parliament on 24 October 2017, "*We have to ensure that the social dimension of Europe does not remain pious words but (is) filled with substance*." Securing our citizens' rights post-Brexit will help to ensure that is the case.

On both sides of the Channel, citizens need to be able to plan their next steps, whether it be in respect of their children's education and qualifications, their own professional lives or the future of their family members. For the nearly 5 million citizens directly affected by Brexit, most of whom did not have a vote in the 2016 referendum, we urge you to put People before Politics, and ensure our rights are indeed secured as soon as possible.

Yours sincerely,

Costanza de Toma
Chair - EU27 Working Group, the3million

Jane Golding
Chair - British in Europe

[2] https://britishineurope.org/wp-content/uploads/2017/08/British-in-Europe_Free-Movement_Master-Case-Studies_EC.pdf