Evidence by the 3million

submitted to the Immigration and Social Security Co-ordination (EU Withdrawal) Public Bill Committee

represented at Committee meeting by Prof. Stijn Smismans (Cardiff University)

Executive summary:

- In order to limit future immigration the Bill ends free movement of persons, but at the same time removes the rights of EU citizens already in the UK, without providing alternative protection. Given the uncertainty about the Withdrawal Agreement and the Withdrawal Agreement Bill, the Immigration and Social Security Co-ordination Bill should offer resident EU citizens proper protection enshrined in primary legislation, rather than leaving their fate decided in secondary legislation.
- We propose the following amendments:
  - a provision making clear that repeal of EU law will take effect only on 30 June 2021
  - a clause providing guarantees regarding a simple registration procedure
  - a provision defining acceptable proof for registration
  - a provision requiring a physical document attesting settled status
  - a provision defining settled status and pre-settled status
  - a provision defining the grounds for loss of settled status
  - a provision clarifying that once acquired, settled status does not need to be renewed
  - a provision protecting children with British nationality with parents who are EU citizens.
  - a provision to limit Henry VIII powers under Clause 4
  - amendment to remove Clause 5
- We equally support the amendment requiring a right of appeal, proposed by Public Law Project; and call Members of Parliament to ring-fence the Withdrawal Agreement.

Organisation and authors: The3million is a non-partisan grassroots organisation focused on protecting EU citizens' rights in the UK.

The document has been prepared by the legal team of the3million (Stijn Smismans (Professor of EU Law, and Director of the Centre for European Law and Governance at Cardiff University), Joelle Grogan (Senior Lecturer in law at Middlesex University London) and Luke Piper (Solicitor at South West Law)).

Need for a protective status in primary legislation for resident EU citizens

1. The stated aim of the Immigration and Social Security (EU Withdrawal) Bill (further Immigration Bill) is to end free movement of persons. Its objective is to change future immigration from the EU by bringing EU citizens under the standard rules of UK immigration law. However, by doing so it creates profound collateral damage. By removing all EU rules on free movement of persons, the Bill does not only affect future immigration but also wipes out the rights and status on which more than three million EU citizens already residing in the UK have built their lives. While depriving these citizens of the dense and comprehensive set of rights provided by EU citizenship the Bill does not provide them with any solid alternative protective framework. In fact, the Bill is mute on the status of these citizens. This is highly remarkable since the Government has always claimed that EU citizens already residing in the UK will not be negatively affected by Brexit, a position shared across the political spectrum.

2. Irish citizens are the only EU citizens who are protected by the Bill from the negative consequences of removing all free movement law.[1] There are obviously historic reasons for the special status of Irish citizens. However, over the last decades, EU citizens and Irish citizens have held nearly identical rights in the UK. It is difficult to argue why among people who have built up their life in the UK, holding nearly identical rights, only one category is protected from the removal of rights by this Bill while the other category is not. This is not to say that future immigration from the EU should benefit from the same solution as provided for Irish citizens, but the Bill should provide for protection for the three million EU citizens already residing in the UK.

3. One cannot stress enough that we are witnessing an extraordinary deprivation in rights both in terms of the comprehensive set of rights that is lost and the number of people affected. Three million EU citizens have built up their lives in the UK thanks to a comprehensive set of rights provided by EU free movement and citizenship, including not only the right to reside, but equally the right to work, right to establishment, access to healthcare and welfare, and a general principle of non-discrimination. Moreover, these rights were supranationally protected. The Bill wipes all this out. Most strikingly, this comprehensive set of supranationally protected rights is not replaced by a new status guaranteed in primary legislation but by a status largely dependent on, and amendable by, secondary legislation.[2]

[1] Although the solution offered by this Bill does not guarantee they keep all their current rights, particularly in relation to family reunion.

[2] The proposed settled status refers to Indefinite Leave to Remain (ILR). ILR is defined in primary legislation in regard to the right of residence in a strict sense. However, additional rights which are attached to that status, such as access to public services, are partially set out in secondary legislation. This is a strongly inferior status to the supranationally protected principle of non-discrimination EU citizens have always held under EU law.

Moreover, this status is not even automatically granted, but people will have to apply for it, under conditions which, again, are not set out in primary but secondary legislation. This puts many people at risk, despite living in the UK for years.

4. **Recommendation 1:**

The Bill should include a specific clause (or potentially a full part) providing protection for resident EU citizens. The Bill should guarantee and define both their status and the process through which they can prove they hold that status.

Relation between the Immigration Bill and the Withdrawal Agreement Bill (WAB)

5. A solution for protecting the status of resident EU citizens in the UK has been set out in the Withdrawal Agreement. One would therefore have expected that the Government would first draft a Withdrawal Agreement Bill (WAB) to implement that status in detail in national primary legislation, and only then draft an Immigration Bill removing free movement, while respecting that WAB. However, the Government has not yet introduced the WAB. While the Immigration Bill removes the status of EU citizens, it is not sure whether a WAB will provide protection.

6. Given the time pressure of the Brexit process, the Immigration Bill has now become the only chance to protect resident EU citizens from the dramatic consequences of removing their free movement rights. In case the Withdrawal Agreement gets adopted, the time for adopting the WAB will be extremely short, and it is likely its provisions on citizens' rights will not be detailed enough. This is partially due to the limitations of the Withdrawal Agreement itself. Despite promises by both the EU and the UK that resident EU citizens in the UK and British citizens in Europe would retain their rights, the Withdrawal Agreement does not provide a guarantee that registration of citizens would not lead to (a considerable number of) people failing to register successfully and therefore becoming illegal despite having lived legally in the country for years.[3] Guarantees regarding the registration process will therefore need to be set out in primary legislation, whether in the WAB or in the Immigration Bill. Given the speed with which the WAB will have to be adopted, it may well fail to do so. The Immigration Bill should therefore offer this protection. More dramatically, in case there is no Withdrawal Agreement, the Immigration Bill will be the only act of primary legislation in which resident EU citizens can be given protection against the removal of their rights by that act.

[3] See Stijn Smismans (2018), 'EU citizens' rights post-Brexit: why direct effect beyond the EU is not enough', *European Constitutional Law Review*, 14 (3), p.443-474

7. **Recommendation 2:**

> In an ideal world the Withdrawal Agreement would first be adopted, and the WAB would subsequently set out in detail the status of resident EU citizens, including detailed provisions of the registration procedure which go beyond the Withdrawal Agreement. The Immigration Bill would be drafted subsequently, removing free movement, but exempting resident EU citizens from the impact of such removal, in a similar way to the way in which Irish citizens are protected in the Bill, with reference to the specific status set out in the WAB. Unfortunately, this is not the route that has been taken.[4] Given the uncertainty about whether there will be a Withdrawal Agreement and how it will be implemented in the WAB, the Immigration Bill cannot simply wipe out the status of resident EU citizens and leave it entirely to secondary legislation to decide on that status. The Bill has to clarify their special status and provide guarantees on the registration process.

Coming into force of the Bill and of its clause 1 (repealing retained EU law)

8. The Bill is not explicit about the date it will come into force. If the Withdrawal Agreement is adopted, the Bill cannot repeal EU free movement provisions prior to the end of the transition period (31 December 2020) since all EU law needs to remain in force until that date. This protection is essential for resident EU citizens in the UK. Until the end of the registration period they cannot be distinguished from EU citizens newly arriving in the UK. Without the general application of free movement until the end of the registration period, EU citizens would face discrimination in practice.[5] The Withdrawal Agreement also provides for a grace period for registration extending six months beyond the transition period (and extendable with another year). Hence, in order to avoid discrimination of those not yet registered, retained EU law on free movement of persons will need to stay in place until the end of this grace period.[6]

9. In the case of no deal, there is no transition period and thus no continued application of EU law for two years on the basis of the Withdrawal Agreement. Yet, without continued application of free movement rules during the registration period, EU citizens will face discrimination, as again resident EU citizens who have not yet registered cannot be distinguished from EU citizens newly arriving in the UK. Hence, also in the case of no deal, the removal of retained EU law on free movement of persons should only take effect at the end of the grace period. The European Union (Withdrawal) Act 2018 keeps retained EU law on free movement in place as long as the Immigration Bill does not repeal it.

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[4] If the Withdrawal Agreement gets adopted the Immigration Bill will need to be amended or will have to be overridden by the WAB. The current disapplication of retained EU law also in relation to resident EU citizens is in contradiction with the Withdrawal Agreement.

[5] The continued application of free movement during transition does not impede the UK from introducing a compulsory registration system for those newly arriving since such registration is allowed under EU law (although those arriving before end of transition will be entitled to build up settled status).

[6] Unlike during the transition period (when EU law applies on the basis of the Withdrawal Agreement), EU free movement law during the grace period would remain in place on the basis of the European Union (Withdrawal) Act 2018. EU citizens arriving during this period would still profit from retained free movement law, but they will no longer have the right to build up settled status on basis of the Withdrawal Agreement.

10. **Recommendation 3:**

One could envisage that the Immigration Bill only takes effect at the end of the grace period. However, if the Bill is amended to include guarantees for the registration period, the Bill will need to come into force earlier. Therefore, ensuring protection until the end of the grace period is best realised via amending Clause 1, indicating repeal of free movement law will only take place at the end of the grace period.

11. **Proposed amendment 1:**

Insert at end of Clause 1: "The repeal of retained EU law relating to free movement shall take effect on 30 June 2021 or any later date constituting the end of the grace period".

The Bill needs to provide guarantees on the registration process to access settled status.

12. The Immigration Bill does not simply replace the status of EU citizens with a new (inferior) one. Most problematic is that resident EU citizens are not automatically granted that status but have to apply for it. Moreover, the conditions for application are not even set out in primary legislation but only in secondary legislation and can thus be easily changed through secondary instruments with little or no oversight. The application scheme set in motion by the Government requires proof of identity and residence, as well as a criminality check, to obtain 'settled status'. Since the criteria are not set out in primary legislation, statutory instruments can amend these criteria. For instance, one cannot exclude that some form of means-testing would be applied, either as an explicit new criterion or implicitly by the way in which proof of residence is checked. Equally, the exact nature of the evidence required to prove residence for a period of five years can have a huge impact on whether rejection of applications goes into the tens of thousands or hundreds of thousands.

13. the3million has expressed profound concerns about the settled status scheme. It particularly places vulnerable groups at risk of undocumented or illegal status. Some groups might not have applied prior to the end of the grace period because they are not properly informed or do not have the capacity, knowledge or awareness of how to apply. Many people will struggle with the application: particularly vulnerable groups including the elderly, children in care, and victims of trafficking and domestic violence. Compounded by the difficulty of gathering sufficient documentation, ascertaining their status is likely to cause problems in access to services soon after, particularly as a result of the application of the hostile environment policy. The settled status scheme is a constitutive registration scheme. Citizens will be deprived of their EU current status and they are not assumed to have settled status unless they are successful in the application process. If an EU citizen who is otherwise entitled to it has not obtained settled status by the deadline, she becomes an illegal immigrant at a stroke and faces the full force of the hostile environment.

14. The3million acknowledges the need for a registration scheme for EU citizens currently resident in the UK. This is the only way that they can be distinguished from EU citizens moving to the UK after 31 December 2020. However, the objective of the scheme should not be to deprive EU citizens already in the UK of their rights but to enable them to prove their existing status to public services and private actors after 30 June 2021. The registration process should therefore be as simple as possible, so its potential negative impact on the most vulnerable is reduced to the minimal. Guarantees should be set out in primary legislation, so that requirements are not gradually made more demanding by secondary legislation. Moreover, particularly to protect the most vulnerable, failure to register by 30 June 2021 should not lead to the threat of deportation. This could be done by a new Section to be included in the Bill after the Section protecting the status of Irish citizens.

15. **Proposed amendment 2**:

Insert after Clause 2:

(1) The right to enter and remain for EU citizens and their family members residing in the UK prior to 31 December 2020 shall be recognised through a system of registration for settled status.

EU citizens whose application was rejected can reapply until 30 June 2021.

EU citizens and their family members who have not successfully applied by 30 June 2021 will not be deemed to be illegal on the sole basis that they have not registered. At any moment in time after 30 June 2021 when their non-registration becomes apparent they will be given the opportunity, within a reasonable time, to apply for registration under the same conditions as were applicable prior to 30 June 2021. Until the end of that reasonable time, which includes a right to appeal, the EU citizen is deemed to hold settled status and will not be deprived of any rights of that status.

(2) The eligibility for residence under the settled status scheme may only be determined by: (a) proof of identity as an EU citizen or family member

(b) proof of residence within the UK prior to 31 December 2020, and

(c) criminality and security checks

State of employment or means testing cannot be used as criteria for eligibility, either directly or via the proof of residence.

(3) For the purpose of this section, 'family members' means;

(a) family members of Union citizens as defined by Article 2 subsection 2 of Directive 2004/38/EC of the European Parliament and of the Council; and

(b) persons other than those defined in Article 3(3) of Directive 2004/38/EC whose presence is required by Union citizens in order not to deprive those Union citizens or United Kingdom national of a right of residence granted by this section.

16. The amount of documentation required for application can make a major difference on how many people will be granted status and the ease with which EU citizens can apply. Given that registration is aimed at facilitating proof of status for EU citizens already resident in the UK rather than creating a selective mechanism to deprive people who have been legally resident in the UK of their right to reside, the burden of proof should be simple.

17. **Proposed amendment 3**:

> Insert after clause 2:
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> Applicants applying for settled status will show 5 years of residence. Evidence will show residence for at least a single moment in each of the five years. The evidence will cover a period of five successive years. This evidence can span a period of six years if the applicant has been absent for less than one full year.
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> Applicants providing evidence of residence for at least a single point in time prior to 31 December 2020, but less than five years, will be provided pre-settled status.

Need for a physical document attesting settled status.

18. One of the most problematic features of the settled status scheme is the absence of a physical document attesting the status. This is remarkable as holders of ILR, other than EU citizens, do receive such a document. The3million is extremely concerned about this aspect of the scheme. The most vulnerable will suffer most from a system that only relies on providing an electronic code instead of a physical document. This system is unsustainable for the majority, and far too complicated for more vulnerable groups. It remains to be seen to what extent all aspects of the public service will manage to make appropriate use of this system as it requires effective cross-departmental IT coordination. More problematically, there remain huge questions about how private actors, such a landlords renting to EU citizens, will effectively make use of this system. The system is bound to lead to discrimination in practice. Moreover, the3million has spoken with several IT specialists who warn of the high risk that errors in IT systems and hacking can lead to substantial loss of data. This is hugely problematic since EU citizens could find themselves at any moment in time becoming illegal overnight and faced with the hostile environment, without any physical proof of their status. IT systems can also be temporarily offline, which can cause negative consequences for citizens facing border control or a landlord wanting to make an rapid rental decision between several prospective applicants. As another example consider a situation in which a citizen requires healthcare but is unconscious or unable to remember or access their code, and their family have no way of accessing their details on a protected telephone.

19. Moreover, the system will also be administratively costly over time. The latest update on the Settled Status Scheme indicates that holders of settled status will be asked to inform the Home Office of any changes in mobile phone or email address at any moment in time; as these data are used for the electronic system to work. This

requires an administrative machinery to keep in place a system that creates a burden for individuals rather than a service.

20. **Proposed amendment 4:**

Insert after clause 2: "Successful applicants for settled status and pre-settled status will be provided with a physical document evidencing that status. This document on its own constitutes sufficient proof of that status. This document does not need to be renewed. People who have lost their document evidencing their status will be provided with a new document simply on the basis of proof of identity. The Government can offer additionally the opportunity to provide evidence of settled status via electronic means. "

Defining settled status and pre-settled status of resident EU citizens

21. For decades EU citizens residing in the UK have held some additional rights compared to the status of Indefinite Leave to Remain. The Withdrawal Agreement retains most of these rights. These include in particular that absence from the UK will only lead to loss of settled status if one has been absent for more than five years (compared to two years in ILR), and stronger rights of family reunion, as well as rights related to recognition of professional qualifications and to coordination of social security entitlements and transborder health provision. Overall the status provided by the Withdrawal Agreement is still inferior to the status EU citizens hold today (particular in relation to potential loss of status due to criminality post exit). At the same time, it is important that the extra rights compared to ILR, as provided by the Withdrawal Agreement and (to a more limited extent) promised by the Government in case of no deal, are set out in primary legislation.

22. It is remarkable that the Government has set in motion a 'settled status scheme' without exactly defining what this 'settled status' is. On the one hand, it sometimes uses 'ILR' and 'settled status' interchangeably. On the other hand, it commits to retaining for resident EU citizens some of the extra rights they have always held compared to ILR. The exact nature of 'pre-settled status' is even more unclear. In order for resident EU citizens not to be deprived further of their rights, it is important that their specific status (settled status and pre-settled status) is clearly defined in primary legislation, not least because the Government already makes confusing interchangeable use of 'settled status' and 'ILR'.

23. Even if the Withdrawal Agreement were to be adopted, it is important that primary legislation defines (pre-)settled status. The conceptual framework of the Withdrawal Agreement is largely defined by EU law. Primary legislation can provide the translation of these international commitments into the conceptual framework of national law. As we do not know whether the Withdrawal Agreement will be adopted, or how the WAB would implement it, the Immigration Bill is the only option to ensure this status is set out in primary legislation and EU citizens will not be (gradually) further deprived of their rights via secondary legislation. With the exception of social

security coordination and transborder health provision, these rights can be set out in primary legislation even in the absence of a Withdrawal Agreement.

24. **Proposed amendment 5**:

> Insert after clause 2, a new clause defining settled status of resident EU citizens. In the case of a Withdrawal Agreement being adopted this can be done with reference to the Withdrawal Agreement. In its absence, it should include those extra rights, additional to ILR, to which the Government has already committed. Such a clause should also define the material scope of rights of pre-settled status.

Loss of settled status.

25. The Withdrawal Agreement provides for different grounds that can lead to loss of settled status compared to ILR, particularly loss of settled status after five years of absence (instead of two for ILR), and different grounds for criminal behaviour prior to Brexit. The Government has committed to respecting this even in case of no deal. This should be set out in primary legislation. Given the potential absence of a WA, and limits of a WAB, this should be done in the Immigration Bill.

26. **Proposed amendment 6**:

> Insert after clause 2 a new clause defining grounds on which settled status can be lost, respecting commitments made in the Withdrawal Agreement.

27. Experience with Windrush and elements of the hostile environment has also shown that a residence status that is considered 'settled' appears not to provide the certainty it claims at all. To avoid similar dramas for the 3 million resident EU citizens, the following amendments are proposed:

28. The latest update on Settled Status proposes that holders of that status need to provide updates of new mobile phone number and email addresses, as well as submit the original of a passport whenever the latter is renewed. This appears to turn 'settled status' in a more precarious status, and the step from here to asking for evidence again or depriving people of a status if not complying with such update requirements is not a big step.

29. **Proposed amendment 7:**

> Insert after clause 2: "Once settled status has been acquired, EU citizens holding that status cannot be asked to renew it, or provide the Home Office with regular updates of their private status as a condition to upholding settled status. EU citizens holding settled status can only be asked to provide evidence again of the conditions that gave them settled status if there are strong indications that their application was fraudulent."

30. Many of the 3 million EU citizens in the UK are children of EU citizens. If they are born here they have British citizenship by birth if their parents had the required residence

at the moment of birth. Yet, this British citizenship is precarious if people can be asked even decades later to prove again that the parents complied with the requirements at the time.

31. **Proposed amendment 8:**

> Insert after clause 2: "Children who obtained British citizenship by birth, from parents who were resident in the UK prior to Brexit, cannot be deprived of their British citizenship on other grounds than British citizens by birth from British parents, even if they are holding dual nationality."

A right of appeal against decisions made under the Settlement Scheme

32. Currently, there is no right of appeal to a tribunal against decisions under the Settlement Scheme. Indeed, the Immigration and Social Security Co-ordination (EU Withdrawal) Bill will remove appeal rights against decisions under current EU law with no replacement. This creates unjust uncertainty. The only means of independent redress in the event of an error or mistake by the Home Office or the individual applying may be by means of judicial review, a costly and time-consuming course of action which would be out of reach for a majority of EU citizens. The availability of a right of appeal was agreed by both the UK Government and the EU in the draft Withdrawal Agreement, recognising the essential right of access to justice.

33. the3million supports the draft amendment to the Immigration and Social Security Co-ordination (EU Withdrawal) Bill proposed by the Public Law Project which calls for a right of appeal against decisions made under the Scheme. We ask that the amendment ensures that the right of appeal relates to all decisions arising from or in connection with an application under the settled status scheme - in particular those relating to allegations of misuse, marriages of convenience and exclusion. It additionally supports the arguments for the necessity of a right of appeal made by the Immigration Law Practitioners' Association.

34. **Recommendation 4:**

> The Bill should grant a right of appeal against decisions made under the settlement scheme.

Protecting rights from removal or modification through delegated powers

35. the3million, along with many others, are very worried about the unprecedented scope of legislative power delegated to the Secretary of State to completely reformulate the immigration system of the UK, with little or no limit, conditions, or scrutiny by Parliament. We support the recommendations of the Joint Council for the Welfare of Immigrants to restrict the power delegated to the Secretary of State via clause 4 to make immigration policy by way of secondary legislation.

36. The wide delegation of power to the Secretary of State is even more remarkable in relation to the status of EU citizens already residing in the country than in the case of the reformulation of immigration policy more generally. This is not about future immigration but about 3 million citizens already residing in the country who have always held a strong protective status, not only guaranteed nationally but even supra-nationally. These rights are being taken away, and instead of the supra-national protection, they would have to rely on a status that is not even set out in primary legislation. Moreover, the status is one that is not automatically given but has to be obtained via registration. The least one would expect when this supra-national protection falls away is that their rights and access to those rights are set out in primary legislation. The status, and in particular the conditions to obtain it, cannot simply be defined and amended by secondary legislation.

37. **Recommendation 5:**

The Bill should introduce limitations on the discretion and use of legislative power delegated to the Secretary of state including a sunset clause, and the need to set out in detail the expected impact and necessity of regulations made; We recommend that the criteria and procedure of the registration process are set out in primary legislation. This can be done in a new clause, after Clause 2.

38. Proposed amendment 9:

Clause 4 on page 3 should be amended to include the following subsections (11) and (12): (11) Such statutory instruments as made under this section may not remove, modify or amend the rights of EU citizens and their family members who have been resident in the UK before 31 December 2020. (12) The Secretary of State may not make under this section changes to the fees, charges or conditions determining the status of EU citizens and their family members resident before 31 December 2020, or impose a fee for the application of that status.

39. Proposed amendment 9 equally prevents a fee from being re-introduced for the application for settled status. If amendment 9 is not adopted, a separate amendment could ensure the latter.

Secondary legislation is not the place to decide on social security entitlements

40. Clause 5 takes a different approach to EU retained law regarding the protection of social security entitlements (already built up) than it does to retained law affecting the right of residence. The latter is directly wiped out by the Bill. The former is not directly removed by the Bill. This recognises the fundamental nature of the social security rights people have acquired by already residing here. It would be outrageous that people are deprived of, for instance, their pension rights which they have built up after years of contributions; or equally, be deprived of future benefits, after having contributed for many years. Yet, the Bill does not prevent this from happening. In fact, it gives a wide delegation to secondary legislation to decide on these matters.

41. First of all, the Secretary of State can decide on who can still rely on this retained EU law and who can not. Secondary legislation could, for instance, state that these rights are reserved for those having settled status. This would de facto deprive some people of their rights (and entitlements already built up) as some people will fail to register. So although Clause 5 does not directly remove retained EU law on social security, it allows that to happen via secondary legislation. Moreover, while the Government gives positive examples on how the delegation will be used to protect those already residing here, there is no guarantee that the same provisions cannot be used to undermine existing entitlements. Given the most fundamental nature of entitlements already built up we believe this can simply not be decided via secondary legislation. We, therefore, support the amendment put forward by the Immigration Law Practitioners' Association, which asks to entirely remove the delegation offered by Clause 5.

42. **Proposed amendment 10:**

Remove clause 5.

43. In case Clause 5 is not removed, we propose an amendment that ensures existing rights cannot be removed by secondary legislation.

44. **Proposed amendment 11**:

Insert after Clause 5(4): Regulations adopted under this section may not remove, modify or amend the rights of EU citizens and their family members who have been resident in the UK before 31 December 2020.

45. Part of the objective of the EU's social security regulations is to provide rules on recognition of entitlements built up in more than one country. In theory one could include a unilateral commitment in primary legislation that such rules on aggregation of entitlements will be respected. However, in practice such arrangements are built on cooperation and exchanges of information between administrations in different countries, which requires an international treaty. The Withdrawal Agreement provides this protection. Although this goes beyond the scope of this Bill, we urge Parliamentarians to support the commitment to 'ring-fence' the citizens' rights provisions of the Withdrawal Agreement, namely to sign a separate UK-EU citizens'

rights agreement under Article 50 Treaty on European Union in case of no deal, as proposed by the House of Commons Exiting the EU Committee in its report adopted on 28th January 2019.[7] The Withdrawal Agreement, or such a separate citizens' rights agreement, provides reciprocal protection of EU citizens in UK and British citizens in EU which unilateral initiatives can never offer. However, such an agreement needs to be signed and implemented before Brexit day, after which the EU no longer has the competence to negotiate such an agreement, and one would depend on 27 unilateral agreements between the UK and individual EU countries.

46. **Recommendation 6:**

We ask Parliamentarians to require the Prime Minister to seek at the earliest opportunity a joint UK-EU commitment to adopt under Article 50 of the Treaty on European Union the Citizens' Rights part of the Withdrawal Agreement and ensure its implementation prior to exiting the European Union, whatever the outcome of the negotiations on other aspects of the Withdrawal Agreement.

[7] https://publications.parliament.uk/pa/cm201719/cmselect/cmexeu/1908/190802.htm