

Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community

PART TWO

CITIZENS' RIGHTS

TITLE II

RIGHTS AND OBLIGATIONS

Chapter 1

RIGHTS RELATED TO RESIDENCE, RESIDENCE DOCUMENTS

Article 13

Residence rights

1 Union citizens and United Kingdom nationals shall have the right to reside in the host State under the limitations and conditions as set out in Articles 21, 45 or 49 TFEU and in Article 6(1), points (a), (b) or (c) of Article 7(1), Article 7(3), Article 14, Article 16(1) or Article 17(1) of Directive 2004/38/EC.

2 Family members who are either Union citizens or United Kingdom nationals shall have the right to reside in the host State as set out in Article 21 TFEU and in Article 6(1), point (d) of Article 7(1), Article 12(1) or (3), Article 13(1), Article 14, Article 16(1) or Article 17(3) and (4) of Directive 2004/38/EC, subject to the limitations and conditions set out in those provisions.

3 Family members who are neither Union citizens nor United Kingdom nationals shall have the right to reside in the host State under Article 21 TFEU and as set out in Article 6(2), Article 7(2), Article 12(2) or (3), Article 13(2), Article 14, Article 16(2), Article 17(3) or (4) or Article 18 of Directive 2004/38/EC, subject to the limitations and conditions set out in those provisions.

4 The host State may not impose any limitations or conditions for obtaining, retaining or losing residence rights on the persons referred to in paragraphs 1, 2 and 3, other than those provided for in this Title. There shall be no discretion in applying the limitations and conditions provided for in this Title, other than in favour of the person concerned.

Article 14

Right of exit and of entry

1 Union citizens and United Kingdom nationals, their respective family members, and other persons, who reside in the territory of the host State in accordance with the conditions set out in this Title shall have the right to leave the host State and the right to enter it, as set out

in Article 4(1) and the first subparagraph of Article 5(1) of Directive 2004/38/EC, with a valid passport or national identity card in the case of Union citizens and United Kingdom nationals, and with a valid passport in the case of their respective family members and other persons who are not Union citizens or United Kingdom nationals.

Five years after the end of the transition period, the host State may decide no longer to accept national identity cards for the purposes of entry to or exit from its territory if such cards do not include a chip that complies with the applicable International Civil Aviation Organisation standards related to biometric identification.

2 No exit visa, entry visa or equivalent formality shall be required of holders of a valid document issued in accordance with Article 18 or 26.

3 Where the host State requires family members who join the Union citizen or United Kingdom national after the end of the transition period to have an entry visa, the host State shall grant such persons every facility to obtain the necessary visas. Such visas shall be issued free of charge as soon as possible, and on the basis of an accelerated procedure.

Article 15

Right of permanent residence

1 Union citizens and United Kingdom nationals, and their respective family members, who have resided legally in the host State in accordance with Union law for a continuous period of 5 years or for the period specified in Article 17 of Directive 2004/38/EC, shall have the right to reside permanently in the host State under the conditions set out in Articles 16, 17 and 18 of Directive 2004/38/EC. Periods of legal residence or work in accordance with Union law before and after the end of the transition period shall be included in the calculation of the qualifying period necessary for acquisition of the right of permanent residence.

2 Continuity of residence for the purposes of acquisition of the right of permanent residence shall be determined in accordance with Article 16(3) and Article 21 of Directive 2004/38/EC.

3 Once acquired, the right of permanent residence shall be lost only through absence from the host State for a period exceeding 5 consecutive years.

Article 16

Accumulation of periods

Union citizens and United Kingdom nationals, and their respective family members, who before the end of the transition period resided legally in the host State in accordance with the conditions of Article 7 of Directive 2004/38/EC for a period of less than 5 years, shall have the right to acquire the right to reside permanently under the conditions set out in Article 15 of this Agreement once they have completed the necessary periods of residence. Periods of legal residence or work in accordance with Union law before and after the end of the transition period shall be included in the calculation of the qualifying period necessary for acquisition of the right of permanent residence.

Article 17

Status and changes

1 The right of Union citizens and United Kingdom nationals, and their respective family members, to rely directly on this Part shall not be affected when they change status, for example between student, worker, self-employed person and economically inactive person. Persons who, at the end of the transition period, enjoy a right of residence in their capacity as family members of Union citizens or United Kingdom nationals, cannot become persons referred to in points (a) to (d) of Article 10(1).

2 The rights provided for in this Title for the family members who are dependants of Union citizens or United Kingdom nationals before the end of the transition period, shall be maintained even after they cease to be dependants.

Article 18

Issuance of residence documents

1 The host State may require Union citizens or United Kingdom nationals, their respective family members and other persons, who reside in its territory in accordance with the conditions set out in this Title, to apply for a new residence status which confers the rights under this Title and a document evidencing such status which may be in a digital form.

Applying for such a residence status shall be subject to the following conditions:

- a the purpose of the application procedure shall be to verify whether the applicant is entitled to the residence rights set out in this Title. Where that is the case, the applicant shall have a right to be granted the residence status and the document evidencing that status;
- b the deadline for submitting the application shall not be less than 6 months from the end of the transition period, for persons residing in the host State before the end of the transition period.

For persons who have the right to commence residence after the end of the transition period in the host State in accordance with this Title, the deadline for submitting the application shall be 3 months after their arrival or the expiry of the deadline referred to in the first subparagraph, whichever is later.

A certificate of application for the residence status shall be issued immediately;

- c the deadline for submitting the application referred to in point (b) shall be extended automatically by 1 year where the Union has notified the United Kingdom, or the United Kingdom has notified the Union, that technical problems prevent the host State either from registering the application or from issuing the certificate of application referred to in point (b). The host State shall publish that notification and shall provide appropriate public information for the persons concerned in good time;
- d where the deadline for submitting the application referred to in point (b) is not respected by the persons concerned, the competent authorities shall assess all the circumstances and reasons for not respecting the deadline and shall allow those persons to submit an application within a reasonable further period of time if there are reasonable grounds for the failure to respect the deadline;

- e the host State shall ensure that any administrative procedures for applications are smooth, transparent and simple, and that any unnecessary administrative burdens are avoided;
- f application forms shall be short, simple, user friendly and adapted to the context of this Agreement; applications made by families at the same time shall be considered together;
- g the document evidencing the status shall be issued free of charge or for a charge not exceeding that imposed on citizens or nationals of the host State for the issuing of similar documents;
- h persons who, before the end of the transition period, hold a valid permanent residence document issued under Article 19 or 20 of Directive 2004/38/EC or hold a valid domestic immigration document conferring a permanent right to reside in the host State, shall have the right to exchange that document within the period referred to in point (b) of this paragraph for a new residence document upon application after a verification of their identity, a criminality and security check in accordance with point (p) of this paragraph and confirmation of their ongoing residence; such new residence documents shall be issued free of charge;
- i the identity of the applicants shall be verified through the presentation of a valid passport or national identity card for Union citizens and United Kingdom nationals, and through the presentation of a valid passport for their respective family members and other persons who are not Union citizens or United Kingdom nationals; the acceptance of such identity documents shall not be made conditional upon any criteria other than that of the validity of the document. Where the identity document is retained by the competent authorities of the host State while the application is pending, the host State shall return that document upon application without delay, before the decision on the application has been taken;
- j supporting documents other than identity documents, such as civil status documents, may be submitted in copy. Originals of supporting documents may be required only in specific cases where there is a reasonable doubt as to the authenticity of the supporting documents submitted;
- k the host State may only require Union citizens and United Kingdom nationals to present, in addition to the identity documents referred to in point (i) of this paragraph, the following supporting documents as referred to in Article 8(3) of Directive 2004/38/EC:
 - (i) where they reside in the host State in accordance with point (a) of Article 7(1) of Directive 2004/38/EC as workers or self-employed, a confirmation of engagement from the employer or a certificate of employment, or proof that they are self-employed;
 - (ii) where they reside in the host State in accordance with point (b) of Article 7(1) of Directive 2004/38/EC as economically inactive persons, evidence that they have sufficient resources for themselves and their family members not to become a burden on the social assistance system of the host State during their period of residence and that they have comprehensive sickness insurance cover in the host State; or
 - (iii) where they reside in the host State in accordance with point (c) of Article 7(1) of Directive 2004/38/EC as students, proof of enrolment at an establishment accredited or financed by the host State on the basis of its legislation or administrative practice, proof of comprehensive sickness insurance cover, and a declaration or equivalent means of proof, that they have sufficient resources for themselves and their family members not to become a burden on the social assistance system of the host State during their period of residence. The host

State may not require such declarations to refer to any specific amount of resources.

With regard to the condition of sufficient resources, Article 8(4) of Directive 2004/38/EC shall apply;

- l the host State may only require family members who fall under point (e)(i) of Article 10(1) or Article 10(2) or (3) of this Agreement and who reside in the host State in accordance with point (d) of Article 7(1) or Article 7(2) of Directive 2004/38/EC to present, in addition to the identity documents referred to in point (i) of this paragraph, the following supporting documents as referred to in Article 8(5) or 10(2) of Directive 2004/38/EC:
 - (i) a document attesting to the existence of a family relationship or registered partnership;
 - (ii) the registration certificate or, in the absence of a registration system, any other proof that the Union citizen or the United Kingdom national with whom they reside actually resides in the host State;
 - (iii) for direct descendants who are under the age of 21 or who are dependants and dependent direct relatives in the ascending line, and for those of the spouse or registered partner, documentary evidence that the conditions set out in point (c) or (d) of Article 2(2) of Directive 2004/38/EC are fulfilled;
 - (iv) for the persons referred to in Article 10(2) or (3) of this Agreement, a document issued by the relevant authority in the host State in accordance with Article 3(2) of Directive 2004/38/EC.

With regard to the condition of sufficient resources as concerns family members who are themselves Union citizens or United Kingdom nationals, Article 8(4) of Directive 2004/38/EC shall apply;

- m the host State may only require family members who fall under point (e)(ii) of Article 10(1) or Article 10(4) of this Agreement to present, in addition to the identity documents referred to in point (i) of this paragraph, the following supporting documents as referred to in Articles 8(5) and 10(2) of Directive 2004/38/EC:
 - (i) a document attesting to the existence of a family relationship or of a registered partnership;
 - (ii) the registration certificate or, in the absence of a registration system, any other proof of residence in the host State of the Union citizen or of the United Kingdom nationals whom they are joining in the host State;
 - (iii) for spouses or registered partners, a document attesting to the existence of a family relationship or a registered partnership before the end of the transition period;
 - (iv) for direct descendants who are under the age of 21 or who are dependants and dependent direct relatives in the ascending line and those of the spouse or registered partner, documentary evidence that they were related to Union citizens or United Kingdom nationals before the end of the transition period and fulfil the conditions set out in point (c) or (d) of Article 2(2) of Directive 2004/38/EC relating to age or dependence;

- (v) for the persons referred to in Article 10(4) of this Agreement, proof that a durable relationship with Union citizens or United Kingdom nationals existed before the end of the transition period and continues to exist thereafter;
 - n for cases other than those set out in points (k), (l) and (m), the host State shall not require applicants to present supporting documents that go beyond what is strictly necessary and proportionate to provide evidence that the conditions relating to the right of residence under this Title have been fulfilled;
 - o the competent authorities of the host State shall help the applicants to prove their eligibility and to avoid any errors or omissions in their applications; they shall give the applicants the opportunity to furnish supplementary evidence and to correct any deficiencies, errors or omissions;
 - p criminality and security checks may be carried out systematically on applicants, with the exclusive aim of verifying whether the restrictions set out in Article 20 of this Agreement may be applicable. For that purpose, applicants may be required to declare past criminal convictions which appear in their criminal record in accordance with the law of the State of conviction at the time of the application. The host State may, if it considers this essential, apply the procedure set out in Article 27(3) of Directive 2004/38/EC with respect to enquiries to other States regarding previous criminal records;
 - q the new residence document shall include a statement that it has been issued in accordance with this Agreement;
 - r the applicant shall have access to judicial and, where appropriate, administrative redress procedures in the host State against any decision refusing to grant the residence status. The redress procedures shall allow for an examination of the legality of the decision, as well as of the facts and circumstances on which the proposed decision is based. Such redress procedures shall ensure that the decision is not disproportionate.
- 2 During the period referred to in point (b) of paragraph 1 of this Article and its possible one#year extension under point (c) of that paragraph, all rights provided for in this Part shall be deemed to apply to Union citizens or United Kingdom nationals, their respective family members, and other persons residing in the host State, in accordance with the conditions and subject to the restrictions set out in Article 20.
- 3 Pending a final decision by the competent authorities on any application referred to in paragraph 1, and pending a final judgment handed down in case of judicial redress sought against any rejection of such application by the competent administrative authorities, all rights provided for in this Part shall be deemed to apply to the applicant, including Article 21 on safeguards and right of appeal, subject to the conditions set out in Article 20(4).
- 4 Where a host State has chosen not to require Union citizens or United Kingdom nationals, their family members, and other persons, residing in its territory in accordance with the conditions set out in this Title, to apply for the new residence status referred to in paragraph 1 as a condition for legal residence, those eligible for residence rights under this Title shall have the right to receive, in accordance with the conditions set out in Directive 2004/38/EC, a residence document, which may be in a digital form, that includes a statement that it has been issued in accordance with this Agreement.

Article 19

Issuance of residence documents during the transition period

1 During the transition period, a host State may allow applications for a residence status or residence document as referred to in Article 18(1) and (4) to be made voluntarily from the date of entry into force of this Agreement.

2 Decisions to accept or refuse such applications shall be taken in accordance with Article 18(1) and (4). Decisions under Article 18(1) shall have no effect until after the end of the transition period.

3 If an application under Article 18(1) is accepted before the end of the transition period, the host State may not withdraw the decision granting the residence status before the end of the transition period on any grounds other than those set out in Chapter VI and Article 35 of Directive 2004/38/EC.

4 If an application is refused before the end of the transition period, the applicant may apply again at any time before the expiry of the period set out in point (b) of Article 18(1).

5 Without prejudice to paragraph 4, the redress procedures under point (r) of Article 18(1) shall be available from the date of any decision to refuse an application referred to in paragraph 2 of this Article.

Article 20

Restrictions of the rights of residence and entry

1 The conduct of Union citizens or United Kingdom nationals, their family members, and other persons, who exercise rights under this Title, where that conduct occurred before the end of the transition period, shall be considered in accordance with Chapter VI of Directive 2004/38/EC.

2 The conduct of Union citizens or United Kingdom nationals, their family members, and other persons, who exercise rights under this Title, where that conduct occurred after the end of the transition period, may constitute grounds for restricting the right of residence by the host State or the right of entry in the State of work in accordance with national legislation.

3 The host State or the State of work may adopt the necessary measures to refuse, terminate or withdraw any right conferred by this Title in the case of the abuse of those rights or fraud, as set out in Article 35 of Directive 2004/38/EC. Such measures shall be subject to the procedural safeguards provided for in Article 21 of this Agreement.

4 The host State or the State of work may remove applicants who submitted fraudulent or abusive applications from its territory under the conditions set out in Directive 2004/38/EC, in particular Articles 31 and 35 thereof, even before a final judgment has been handed down in the case of judicial redress sought against any rejection of such an application.

*Article 21***Safeguards and right of appeal**

The safeguards set out in Article 15 and Chapter VI of Directive 2004/38/EC shall apply in respect of any decision by the host State that restricts residence rights of the persons referred to in Article 10 of this Agreement.

*Article 22***Related rights**

In accordance with Article 23 of Directive 2004/38/EC, irrespective of nationality, the family members of a Union citizen or United Kingdom national who have the right of residence or the right of permanent residence in the host State or the State of work shall be entitled to take up employment or self-employment there.

*Article 23***Equal treatment**

1 In accordance with Article 24 of Directive 2004/38/EC, subject to the specific provisions provided for in this Title and Titles I and IV of this Part, all Union citizens or United Kingdom nationals residing on the basis of this Agreement in the territory of the host State shall enjoy equal treatment with the nationals of that State within the scope of this Part. The benefit of this right shall be extended to those family members of Union citizens or United Kingdom nationals who have the right of residence or permanent residence.

2 By way of derogation from paragraph 1, the host State shall not be obliged to confer entitlement to social assistance during periods of residence on the basis of Article 6 or point (b) of Article 14(4) of Directive 2004/38/EC, nor shall it be obliged, prior to a person's acquisition of the right of permanent residence in accordance with Article 15 of this Agreement, to grant maintenance aid for studies, including vocational training, consisting in student grants or student loans to persons other than workers, self-employed persons, persons who retain such status or to members of their families.