

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 I

GENERAL PROVISIONS

Article 10

Personal scope

- 1 Without prejudice to Title III, this Part shall apply to the following persons:
 - a Union citizens who exercised their right to reside in the United Kingdom in accordance with Union law before the end of the transition period and continue to reside there thereafter;
 - b United Kingdom nationals who exercised their right to reside in a Member State in accordance with Union law before the end of the transition period and continue to reside there thereafter;
 - c Union citizens who exercised their right as frontier workers in the United Kingdom in accordance with Union law before the end of the transition period and continue to do so thereafter;
 - d United Kingdom nationals who exercised their right as frontier workers in one or more Member States in accordance with Union law before the end of the transition period and continue to do so thereafter;
 - e family members of the persons referred to in points (a) to (d), provided that they fulfil one of the following conditions:
 - (i) they resided in the host State in accordance with Union law before the end of the transition period and continue to reside there thereafter;
 - (ii) they were directly related to a person referred to in points (a) to (d) and resided outside the host State before the end of the transition period, provided that they fulfil the conditions set out in point (2) of Article 2 of Directive 2004/38/EC at the time they seek residence under this Part in order to join the person referred to in points (a) to (d) of this paragraph;
 - (iii) they were born to, or legally adopted by, persons referred to in points (a) to (d) after the end of the transition period, whether inside or outside the host State, and fulfil the conditions set out in point (2)(c) of Article 2 of Directive 2004/38/EC at the time they seek residence under this Part in order to join the person referred to in points (a) to (d) of this paragraph and fulfil one of the following conditions:
 - both parents are persons referred to in points (a) to (d);

- one parent is a person referred to in points (a) to (d) and the other is a national of the host State; or
 - one parent is a person referred to in points (a) to (d) and has sole or joint rights of custody of the child, in accordance with the applicable rules of family law of a Member State or of the United Kingdom, including applicable rules of private international law under which rights of custody established under the law of a third State are recognised in the Member State or in the United Kingdom, in particular as regards the best interests of the child, and without prejudice to the normal operation of such applicable rules of private international law⁽¹⁾;
- f family members who resided in the host State in accordance with Articles 12 and 13, Article 16(2) and Articles 17 and 18 of Directive 2004/38/EC before the end of the transition period and continue to reside there thereafter.
- 2 Persons falling under points (a) and (b) of Article 3(2) of Directive 2004/38/EC whose residence was facilitated by the host State in accordance with its national legislation before the end of the transition period in accordance with Article 3(2) of that Directive shall retain their right of residence in the host State in accordance with this Part, provided that they continue to reside in the host State thereafter.
- 3 Paragraph 2 shall also apply to persons falling under points (a) and (b) of Article 3(2) of Directive 2004/38/EC who have applied for facilitation of entry and residence before the end of the transition period, and whose residence is being facilitated by the host State in accordance with its national legislation thereafter.
- 4 Without prejudice to any right to residence which the persons concerned may have in their own right, the host State shall, in accordance with its national legislation and in accordance with point (b) of Article 3(2) of Directive 2004/38/EC, facilitate entry and residence for the partner with whom the person referred to in points (a) to (d) of paragraph 1 of this Article has a durable relationship, duly attested, where that partner resided outside the host State before the end of the transition period, provided that the relationship was durable before the end of the transition period and continues at the time the partner seeks residence under this Part.
- 5 In the cases referred to in paragraphs 3 and 4, the host State shall undertake an extensive examination of the personal circumstances of the persons concerned and shall justify any denial of entry or residence to such persons.

- (1) The notion of rights of custody is to be interpreted in accordance with point (9) of Article 2 of Regulation (EC) No 2201/2003. Therefore, it covers rights of custody acquired by judgment, by operation of law or by an agreement having legal effect.