

## The rights of non-UK EU citizens living here are not a 'done deal'. This is why



*The issue of the post-Brexit rights of EU citizens living in the UK was settled at the end of Phase 1 of the negotiations – or was it? **Alexandra Bulat (SSEES, University of London)** says many people are still 'in limbo' – worried that a lack of sickness insurance, past criminal convictions or even civil fines will lead to their deportation. For those with the right resources, obtaining settled status will probably not be difficult, though they may not enjoy the same rights as they did. The more vulnerable risk being left without the means to prove their right to live in the UK, open a bank account or get a job.*

How many times have you heard that the deal on the rights of non-UK EU citizens in the UK and British citizens in other EU states is 'done and dusted'? I have lost count. Unfortunately, the 'done deal' is a myth.

As I have argued in a previous [blog post](#) for LSE Brexit, during the referendum campaign, different 'types' of migrants were used to advance arguments for continued freedom of movement (on one side) or for restricting further EU migration (on the other). Migrants themselves were almost absent from the debate, and were denied a vote in a referendum affecting them. Nonetheless, Leave campaign material assured those already in the UK that their rights will be protected. Perhaps the most widely-circulated [statement](#) mentioning the issue of citizens' rights was published on 1 June 2016 by Vote Leave:

'There will be no change for EU citizens already lawfully resident in the UK. These EU citizens will automatically be granted indefinite leave to remain in the UK and will be treated no less favourably than they are at present'.

The technical detail is, as in many other campaign statements, confusing. While emphasising that EU migrants will be 'treated no less favourably than they are at present', the statement refers to 'indefinite leave to remain' (ILR). If used in the sense of how ILR applies to non-EU migrants, the statement is contradictory, as ILR does not provide the same rights as non-UK EU citizens currently enjoy. In addition, 'lawfully resident' is debatable, as not all categories of EU migrants are straightforward. For example, will a student without comprehensive sickness insurance (CSI) be considered lawfully resident? Although the government said CSI will not be required for settled status, it is still needed for students and self-sufficient people if they chose to apply for permanent residency before the new settled status scheme. Nevertheless, the political message from Vote Leave was clear: all those already in the UK before Brexit day would continue to 'live their lives as before'. In addition, their rights would be granted 'automatically' – in other words, existing rights would be recognised and would not have to be proven. Settled status is not 'automatic', as one has to qualify and pay for it.



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Later on, after the referendum, the Home Office started communicating with EU migrants through a variety of media, underlining how obtaining settled status would be easy, streamlined and digital. In October 2017, the Prime Minister herself even signed [a letter to non-UK EU citizens](#) appreciating their 'huge contribution' and giving further assurances on their rights.

But the myth of a 'done deal' was created in official communications after 'sufficient progress' had been made in the Phase 1 Brexit negotiations. In January, I heard it while I was in a BBC Question Time audience. A government minister on the panel assured the audience that the citizens' rights deal was 'done and dusted'. I challenged his statement, later discovering that my intervention could not be broadcast due to time constraints. The new myth even persuaded some friends and family, British and non-British alike. The 'done deal' on citizens' rights usually goes unchallenged in media discourses and everyday conversations.

But this nicely-packaged myth does not persuade many of those affected, who on 13 February marked 600 days living 'in limbo'. It is important to note that UK citizens living in the other 27 EU member states are also in limbo, and there is even less clarity on how each EU member state will consider their status. One day later, 601 days in limbo, while many mixed EU-UK couples celebrated Valentine's Day, the Home Affairs Select Committee published a [report](#) criticising the Home Office's ability to deal with Brexit, including concerns regarding the more than three million settled status applications from non-UK EU citizens that will have to be processed in a short time. The Home Office published a [response](#), claiming adequate resources have been allocated:

'It is wrong to say that there is uncertainty for EU citizens living in the UK.'

It might be naïve to believe that Vote Leave's promise of automatic guarantees should be respected. After all, claims were made on all sides of the debate without campaigners putting much thought into how they would be implemented. Since non-UK EU citizens and UK citizens living on the 'wrong side of the channel' were turned into 'bargaining chips' in the Brexit negotiations, most expected there would be some concessions. For example, obtaining settled status involves a criminal check. Although the [government's website](#) says EU migrants will only be refused this status on the grounds of 'serious criminal convictions or for security reasons', in practice, there could be a number of EU migrants, particularly from more vulnerable groups, who will not apply for settled status on time or at all. They could therefore easily become illegal migrants, and have problems accessing employment, housing, bank accounts, and other services until their status is 'regularised'. For instance, at a Polish event I recently attended concerns were raised that some people will not apply for settled status because they have parking tickets or other minor fines, and will choose to live 'off the radar' rather than risk deportation if they fail the new checks.

This anecdotal evidence suggests access to quality information is key. Settled status may be easy for those who have good access to resources and fall within 'the brightest and the best' category of migrants, but what we need is a solution that works for everyone. For vulnerable groups of non-UK EU citizens (those working in precarious conditions, with limited English language skills, or who are less likely to have access to accurate information), there need to be efforts and solidarity at the local level to ensure everyone affected receives up-to-date information and follows the necessary steps.

The myth of a 'done deal' is not only problematic because it deliberately deceives the public, or because settled status does not guarantee exactly the same rights as EU migrants enjoy now – contrary to the promises made during the EU referendum campaign. It is part of a wider, ongoing crisis around politicians' accountability and people's mistrust in politics. Over the past few weeks I have spoken to British people, from Green Party to UKIP supporters, for my PhD research, listening to a variety of views on migration and post-Brexit migration policy. So far one issue seems to arise in each interview: the lack of trust in politicians to deliver on their promises, be it delivering a good Brexit deal, delivering any kind of deal on time, or respecting specific promises made in the campaign. The citizens' rights myth only contributes further to the erosion of trust in politics. If the promise on citizens' rights had been written on a red campaign bus, and criticism of it encouraged in mainstream media, perhaps even fewer people would have faith in the current negotiations – and more would start questioning whether the deal was in fact 'done and dusted'.

I will end by rephrasing the Home Office's comment, to illustrate the lived reality for millions of migrants such as myself:

It is not wrong to say that there is still uncertainty for non-UK EU citizens in the UK, and also British citizens in other EU member states. Millions of people are still in limbo and the clock is ticking on citizens' rights. It's time someone took responsibility for the promises made in the EU referendum campaign that affect millions of people, their families, friends and future plans.

*This post represents the views of the author and not those of the Brexit blog, nor the LSE.*

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Also by Alexandra:

['The brightest and best', us – and the rest: desirable and undesirable migration in EU referendum leaflets](#)