

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 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.