

## **All Party Parliamentary Gypsies, Travellers, Roma and Migration:**

### **'Brexit: The Impact on Roma Communities in the UK'**

Cholmondley Room, House of Lords

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A transcript of the presentation given by Chris Desira:

Thank you and thank you for inviting me here to speak.

My name is Christopher Desira and I'm an immigration solicitor. I also work with the European Commission Representation Office in London. I have been dealing a lot with settled status as it is right now and working with EU27 on how to protect EU citizens. Our work with the EU Representation Office has been mainly policy and advice and we have been advising the Representation Office.

The settled status process is based on the draft UK-EU Withdrawal Agreement that was published on the 19th March this year broadly protecting EU citizens who were resident here before the end of the transition period which is 31st December 2020 and also protecting some close family members who are not in the UK by that date.

The draft Withdrawal Agreement allowed for two processes to protect EU citizens and British citizens living in the EU. One is a residence system, so you just register your residence and your rights are protected. And the second system, a constative system, which is an application process: if you don't apply then your rights are not protected. It is no surprise that the UK has taken the latter.

The Home Office EU Statement of Intent on 21st June this year gives us a bit more detail on what settled status would be and gives us some draft immigration rules on what it will look like. Settled status so far will protect people who have been living here continuously for five years. For those that have not been living here continuously for five years they will get something called pre-settled status which is temporary residence to allow them to acquire five years' worth of residence and then acquire the right to settle here permanently.

Now the Home Office says that this process is going to be streamlined, it is going to take into account existing Government data and it is meant to reduce the burden on individuals making these applications. There are some good points to the settled status process – they have dropped the requirement for sickness health insurance and they are not going to assess what someone has been doing while they have been in the UK. They are not going to assess whether someone has exercised Treaty rights. They won't check whether someone has been working or self-employed. So, those have been dropped.

The three key main requirements are: prove EU nationality, prove residence and undergo a criminal check to ensure that they are not serious or consistent offenders.

The process so far will be online only. The Home Office are intending to have a paper application available for those who are not connected online but they are encouraging people to engage with the online process because it will be easier for them to deal with.

There will be a mobile application that can be downloaded to certain phones, mostly android phones, which will allow them to upload identity documents. The mobile application will scan biometric residence permits, national identity cards and transmit that data to the Home Office. EU citizens won't have to post their identity documents to the Home Office.

When an individual makes an application, there will be live checks with HMRC and DWP. The purpose of these checks is not see if someone is receiving benefits or if someone is working, but it is to check that records exist with those two departments. If they do, that will be deemed evidence of residence. Those that don't have relationships with HMRC and/ or DWP or have sporadic relationships with them and have gaps in residence, the applicant will have to prove residence by scanning and uploading additional proof of residence. The Home Office's intention is to change the way that they engage with applicants, so it is going to be a grant process – they will be looking to grant applications and looking to assist people through the application process and their intention is not to refuse on the first basis. They are indicating that it is going to be a very straightforward and helpful process.

Applications are going to cost £65 per adult, £32.50 for people under sixteen and free for those who have indefinite leave to remain and permanent residence. For those with indefinite leave to remain and permanent residence it will be a straight swap and they will not be charged a fee for that.

The deadline is going to be 30th June 2021. The process is going to be open in beta form by the end of 2018 and there are going to be select groups that are invited to apply. It will be open for everyone else by 30th March 2019.

Those who do not apply by the deadline will be given an opportunity to apply later on but they will have to have a good reason for why they have applied late. At present, we do not know what those good reasons will be. The period between applying late and accepting the good reason will be a period of unlawful residence.

The Home Office have said that they have engaged closely with EU citizens on this and have worked with stakeholder groups and have listened closely but there are some elements of the policy which do not indicate that they have really listened, and it is going to impact on the Roma communities. A lot of EU communities will already have one or two issues with settled status, but the Roma groups are going to encompass all of the issues that EU citizens are going to face throughout this process. It is going to be quite a tricky task to get 100% of the Roma and vulnerable groups engaged with this process and through the process by 30th June 2021. The different social backgrounds and different settlement bodies and different nationalities, different language and dialects and different levels of language and literacy skills are going to be huge obstacles for them to get through this process. And that is without factoring in some of the fears that more vulnerable groups will have when dealing with authorities and also having to deal with discriminatory attitudes towards them.

The Roma community have always fallen outside of authority groups – children are often not in school, they are not on electoral registers, they may not have identity documents, some may even

be stateless. We already see that there is going to be an element of difficulty for some of these communities, especially with the documentary requirements that will be placed on them.

To summarise the main issues with this process:

1. Evidence of nationality – this will be a big issue for some of these communities. They will need to evidence their nationality by national passport or a national I.D. card. If you do not have those documents, you will need to try to find some other evidence of your nationality but if the Home Office does not accept your nationality, your application will be refused in that first instance. The Home Office say that the evidence of nationality is to limit fraud and abuse of the system but they haven't really engaged with how to resolve issues of those who are EU citizens but do not have any documents to prove that. This has been communicated with the Home Office and I personally, though I cannot speak on behalf of the European Commission Office, but I have been quite frustrated with their responses which are pretty much 'they will have to just find a way to evidence this. We are not asking for much and what we are asking for is what we need. If they cannot document themselves then they have to fall back on their Embassies and their Consulates to try and obtain documents themselves.' The EU27 have said that they are facing massive turnaround times on documenting and renewing passports – on average it is taking between one and two years to renew or apply for passports or national I.D. cards for many Embassies and Consulates. The documents have to be valid so if documents are expired then they are not going to be accepted as sufficient evidence of I.D. In addition, some Embassies may not have enough information to prove nationality. So those who could get a document may get it too late to apply and those who can try and get a document may not even have the assistance of their Embassies because they may not have enough information on them either. There is no real answer on how to resolve the issue of national identity documents.

2. Residence – Often vulnerable communities have no relationships or very little relationship with HMRC or DWP. Vulnerable communities will often lack documentation, are less likely to be engaged with the labour market or social assistance and are not aware of their rights. Even those who have the right documents to engage with the labour market may find obstacles to that because there are discriminatory attitudes towards them or they are vulnerable to employers. Even vulnerable groups that are employed may not have necessary documents to get through this process because their employers do not issue payslips, don't issue P60s or even fail to pay their tax, national insurance or PAYE. When the Home Office undergo their checks with HMRC it will come back as crosses and then they will have to fall back on trying to find other evidence of their residence. The Statement of Intent that was published on 21st has a long list of residence documents that the Home Office are likely to accept but it is all the usual stuff – P60s, bank statements, mortgage statements. All of the documents which the Roma communities may have difficulties supplying or may have very little of those documents to rely upon.

3. Communications – Vulnerable groups are often not aware of their legal rights now, let alone what they are going to need to do to secure their future rights. The Home Secretary in the House of Lords Sub-Committee on 21st of January said that email registration updates has only had two

hundred thousand registered emails addresses added. But two hundred thousand is a drop in the ocean, especially taking into account that huge numbers of those who registered will be lawyers, community groups and charities that have signed up to be updated. Therefore, the number of EU citizens who are engaging with this is smaller than the two hundred thousand who have signed up. In addition, communications is online – the Home Office are publishing adverts online – Spotify and several other apps – to publish adverts on settled status. They haven't thought about offline advertisements to reach more vulnerable communities. They have said that they are willing to consider this at a later date, if certain areas in the UK require this. Communications is a massive issue for even the most well-connected EU citizens – some are aware of settled status, they are aware of what is going on and look online to see what is going on but still they have many questions about what to do with this process, when to apply, what evidence they are going to need. So, we can only imagine what problems vulnerable communities will have if they are not online literate and not able to figure out what to do.

4. Absence of support for vulnerable groups – The Home Office have said that they are going to have some assistance, but it is going to be digital. People who cannot fill in the form or have difficulties filling in the form will be able to access online assistance. There may also be a telephone advice line to help people apply and they are considering face to face services to help people apply. But, that assistance will be limited to administrative assistance. The idea is that people will have a place to go and make the application and someone to help them fill in these details but there is no legal assistance available to these groups to advise them on what residence evidence they need when they do not have a national I.D. document or what they can do about that before they make the application. There is an absence of legal advice. Vulnerable groups require a lot more assistance than just administrative assistance – they are going to need outreach, they are going to need to get out there and identify the groups that are most vulnerable, and also provide legal assistance to help them fill in these forms because they are not going to understand what they are filling in and what is required. This is troubling as the Statement of Intent does not go far enough towards supporting vulnerable groups. Because Gypsy, Roma and Travellers of Irish heritage are ethnic minority communities, they are supposed to be protected under the Race Relations Amendment Act. In addition, the Every Child Matters Policy is meant to provide additional support for children who require additional needs because children have to make these applications themselves. The level of communications and the level of assistance does not meet those requirements that are placed on the UK Government.

The Statement of Intent is a good start, there are some positives, but we have a lot more work to do to try and make sure that it covers the most vulnerable people. So that is a rough summary from me.