

# Movement between the UK and EU after Brexit

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European Union: MW 421

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## Summary

1. Movement between the UK and the EU should remain largely unhindered except for those who wish to work for whom a number of specific schemes should be made available. This should result in a very positive outcome as far as our long term relationship with Europe is concerned.

## Introduction

2. The focus on citizens' rights during the first phase of the Brexit negotiations has obscured the broader picture of the eventual outcome that we might envisage for the movement of people between the UK and the EU.

3. We should now make it clear that our broad aim is to preserve, encourage and develop the many personal and professional links that we have established with our friends and allies in Europe, often over centuries. To this end we intend that movement of EU citizens should be subject to the minimum of restrictions, except for those who wish to work. Visitors, business visitors, tourists and students should be free to move to and from Britain with a passport but without any visa or permit. However, migration for work should take place in defined categories and under specific conditions.

## Visitors

4. Visitors to and from the EU should be free to come and go without visas or other restrictions. Of course, they will need to have reliable proof of their identity – that means a passport rather than an I.D. card which is often more easily forged. Visitors would be admitted for a period of several months and would not normally need to have their passports stamped. The EU and UK are working on separate schemes for improving border technology. The degree to which visitors travelling in both directions after Brexit will be subject to new requirements resulting from these changes will doubtless form part of the negotiations (see Annex A).

## Tourists

5. Tourists from the EU would fall under arrangements similar to those for visitors with no limitations on numbers.

## Students

6. EU students would be free to come and study but, if they wished to stay on and work, they would need a permit. Ideally, existing schemes such as Erasmus would continue largely unaffected.

## Business visitors

7. Business visitors would be allowed entry without restriction.

## Migration for work

8. The major change would be in migration for work. We envisage seven categories:

a) **Very highly skilled**

Those who meet the requirements of the current Tier 2 scheme for non EU citizens would be admitted under a very similar scheme. There would be no cap on the numbers as highly skilled EU workers have shown a tendency to move on after a few years. Over time, therefore, their contribution to net migration would be very small. Arrangements for settlement, for those who so desired, would be the same as currently for non-EU citizens.

b) **Intra Company Transfers (ICTs)**

The present scheme for non-EU citizens which permits the transfer of senior staff to and from international companies based in the UK would be extended to EU citizens.

c) **Shortage occupation list**

Those with the relevant skills would qualify for work permits in the same way as non EU candidates can now. The list of shortage occupations would be decided by the independent Migration Advisory Council (MAC). At present this list would include some categories of nurses and teachers.

d) **Intermediate skills**

Those who have intermediate skills such as bricklayers and plumbers should also be admitted but for a time-limited period of two to three years and there should be a charge, increasing annually, on the employers to encourage them to train British replacements. There would be no access to public funds and no route to settlement.

e) **Self-employed**

There would be provision for the self-employed but with strong safeguards against abuse.

f) **Youth mobility**

The existing youth mobility scheme, which applies to Australians and New Zealanders and a few far Eastern countries, should be expanded to the whole of the EU. This would allow young EU citizens aged between 18 and 30 to come and work in Britain for two years but with no ability to extend that period. (This route would not be open to dependent children and there would be no access to benefits).

g) **Seasonal agricultural workers (SAWS)**

A revival of the previous SAWS scheme would be one way of dealing with the needs of some parts of agriculture and horticulture. New Zealand has a successful scheme of this kind.

## Blue Card scheme

9. The EU is developing its flagship Blue Card scheme to achieve a considerable increase in highly skilled workers from outside the EU. Its provisions are broadly similar to our own Tier 2 but the salary levels required vary from country to country and the use of the scheme varies widely between member states of the EU. In the five member states where the most British nationals work and which implement the Blue Card (Spain, France, Germany, the Netherlands and Belgium), the salary threshold range would be £17,800-£48,000 a year (based on 2014 Eurostat figures). This is to be compared with the UK's current Tier 2 threshold of £30,000 a year for experienced workers so our Tier 2 requirements would be in the middle of their range (See Annex B).

## Transition period

10. A transition period of two years or so would provide the opportunity to put the necessary arrangements in place under UK legislation for EU visitors, tourists and students. Meanwhile, migration for work could well arise in the context of the Brexit negotiations. The obvious outcome to aim for is that EU migrants would fall under our regime for work permits, while highly skilled British immigrants to the EU would be able to apply under the EU's Blue Card scheme.

11. Arrangements for EU workers who would not qualify under Tier 2 will need to be in place by the end of the transition period. Large gains in reducing net migration from the EU lie in these areas. About 80% of EU migrants fall outside the very highly skilled category of Tier 2. There is, therefore, potential for a reduction of about 100,000 a year.

## Negotiability

12. It has been suggested that any restrictions on EU immigration could preclude any agreement between the UK and the EU on free trade in services. However, this is to ignore its previous position in trade negotiations (both those already agreed and those still under negotiation) which is that free movement is not a requirement of trade, neither in principle nor in practice in order to facilitate that trade.

13. That can be seen in the agreements actually concluded with South Korea, Canada and Ukraine, which contain only limited provisions for the movement of persons in order to deliver services and also provisions allowing for some access to each others' labour markets at the higher end. The issue of free movement of people has not arisen in the context of the ongoing negotiations with the United States on TTIP.

14. Therefore, based on previous agreements on trade that the EU has entered into, the arrangements sketched out above should be broadly acceptable to the EU27. They share an interest in the free movement of visitors and tourists. They will also value access for students, especially as it would enable them to achieve fluency in English – the primary language of business, medicine and science. They should also welcome the suggested youth mobility scheme for similar reasons.

15. In principle, the EU should have no grounds for objecting to UK arrangements focused on attracting highly skilled workers since their flagship Blue Card scheme does just that and FTAs between the EU and other third countries also include limited provisions for the movement of highly skilled workers. Meanwhile, it may be relevant that immigration arrangements in Germany appear geared towards restricting unskilled and low-skilled migration from outside the EU (See Annex B).

16. Two thirds of the lower skilled migrants from the EU come from Eastern Europe and a further third come from the EU14. The member states most affected if the admission of low skilled workers is sharply cut back will therefore be the East Europeans. However, a SAWS scheme could be a source of employment for some East European workers.

## Presentation

17. In explaining our intentions to the EU, we should stress that we wish to see movement between the UK and the EU as unhindered as possible, provided that it is consistent with a significant reduction in net migration. We could accept and welcome the fact that most EU migrants will remain in Britain but we must also address the very large and continuing net inflow which has been a source of considerable public concern and has played such a significant part in the referendum result.

18. As regards British industry, it needs to be clearly explained that, even if zero net migration from the EU were to be achieved, it would mean that those who left had all been replaced so that the size of the EU workforce in the UK would be unchanged. Put simply, it would result in "one in, one out". There is certainly no question of a sudden loss of the existing EU workforce as a result of actions by the UK government. What would be changed would be a significant driver of our population increase and the resultant pressure on our public services and on our society.

25<sup>th</sup> October 2017

# Annex A: Electronic pre-authorisation and biometric checks

Both the EU and the UK are currently working on measures to strengthen checks at their borders. They are also working on schemes to ensure advance notice of passenger arrivals. These matters are bound to arise in the Brexit negotiations.

## Checks on arrival

The EU is in the process of introducing both fingerprint and photographic checks on all travellers on entry to the Schengen Area. The Commission are planning for their introduction in 2020.

Whether UK travellers would be exempt from fingerprint and photograph checks at the external Schengen border post-Brexit will depend on the course of the negotiations.

However, as regards the UK, a leaked draft of immigration proposals indicates that the UK government is not currently considering the introduction of similar biometric checks on arriving EU passengers. That could change.

## Advance Passenger Information

Both the EU and the UK are planning to introduce electronic pre-authorisation systems which would include visa-exempt travellers.

Under the latest EU proposals, which were adopted in October 2017 by the European Parliament's Civil Liberties Committee, the European Travel Information and Authorisation System (ETIAS) would cost each visa-exempt passenger planning a trip to the Schengen Area just under €9 (ten Euros). Persons younger than 18 and older than 60 would not be required to pay this fee, nor would family members of EU citizens, students and science personnel. Authorisation would allow unlimited trips of up to 90 days in a 180-day period and last three years.<sup>1</sup>

Obtaining ETIAS approval is likely to involve a ten-minute online procedure, requiring information on the applicant's identity, contact details, journey purpose and itinerary, as well as education and occupational status.

The European Council has called on the European Parliament and the Council to agree on ETIAS by the end of 2017<sup>2</sup> for implementation by 2020.

The UK government's plans for a similar scheme were recently confirmed in a leaked document on possible post-Brexit immigration arrangements, which said: "We also intend to put in place electronic pre-clearance processes which, longer-term may minimise the need for additional checks at the border. We will discuss with the EU their application to EU citizens."<sup>3</sup>

If the UK followed the model of the United States' Electronic Travel Authorisation (ESTA) as has been

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1 European Parliament press release, 19<sup>th</sup> October 2017, URL: <http://www.europarl.europa.eu/unitedkingdom/en/media/news/2017/october17/visaexemptedtravellers.html>

2 EU Parliament Briefing on ETIAS, March 2017, URL: [http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/599298/EPRS\\_BRI\(2017\)599298\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/599298/EPRS_BRI(2017)599298_EN.pdf).

3 *The Guardian*, September 2017, (p.5 of the document), URL: <https://www.theguardian.com/uk-news/2017/sep/05/the-draft-home-office-post-brexit-immigration-policy-document-in-full>

suggested in the press<sup>4</sup>, an application made online by a traveller planning to come to the UK would be made 72 hours prior to departure and would cost just over £10. Once granted, authorisation would be valid for multiple trips of up to 90 days during a two-year authorisation period. If confirmed by the European Parliament as a whole, EP negotiators would then open talks with EU Ministers on the final form of the legislation.

The introduction of a pre-authorisation system in the UK is to be welcomed as it would both strengthen border security and shorten waiting times at passport control. In addition, the EU has indicated that ETIAS 'will certainly apply to UK nationals after Brexit' so it would seem appropriate for the UK to reciprocate.<sup>5</sup>

## Annex B: The EU's Blue Card Scheme

The EU's current flagship Blue Card work permit scheme is geared towards attracting highly-skilled migrants and is therefore similar to the proposed post-Brexit arrangements for the UK outlined in para 8 above. Their scheme would provide good prospects for highly skilled British workers even if no special agreement were to be reached by March 2019.

Applicants are required to show evidence of a higher professional qualification or at least five years relevant professional experience.

Their job must be relevant to their qualification and must pay at least 1.5 times the average national salary (1.2 times if in a shortage occupation).

For example, the current Blue Card salary threshold in Germany ranges from £34,000 a year (for those in shortage occupations) to £43,000 a year compared to £30,000 a year for a highly skilled work permit in the UK. For low and unskilled non-EU workers, Germany only grants temporary work permits and does not allow them to settle.<sup>6</sup>

Blue Cards, which last between one and four years, can be obtained by those with a job contract of at least a year and allow the holder to relocate to a different EU country after only 18 months. Family members are allowed to join the holder immediately and a route to settlement becomes available after as little as two years.

Currently Blue Cards have seen an uneven take-up by the 25 participating states, with Germany issuing 86% of all cards in 2015.

## Planned changes

The Commission has proposed abolishing remaining national work permit schemes for the highly-skilled at the same time as expanding Blue Cards.

The Commission believes these changes could mean an extra 32,000-138,000 Blue Cards being issued each year, with the largest increases predicted in France, Italy, the Netherlands and Sweden.

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4 *Financial Times*, January 2017, URL: [https://www.ft.com/content/031d6ae6-dbf2-11e6-9d7c-be108f1c1dce?ftcamp=published\\_links%2Ffrss%2Fworld\\_uk\\_politics%2Ffeed%2F%2Fproduct](https://www.ft.com/content/031d6ae6-dbf2-11e6-9d7c-be108f1c1dce?ftcamp=published_links%2Ffrss%2Fworld_uk_politics%2Ffeed%2F%2Fproduct)

5 *Euractiv*, November 2016, URL: <http://www.euractiv.com/section/justice-home-affairs/news/eu-plans-online-screening-for-visa-free-visitors-from-outside-eu/>

6 German Federal Ministry of the Interior, URL: [http://www.bmi.bund.de/EN/Topics/Migration-Integration/Immigration/labour-migration/labour-migration\\_node.html](http://www.bmi.bund.de/EN/Topics/Migration-Integration/Immigration/labour-migration/labour-migration_node.html)

These changes would mean simpler arrangements across member states as national schemes for the highly skilled would be abolished.

In addition, the job contract would only need to be for six months, the holder would be able to relocate to another state after only a year, and it would also be easier for those already in the EU to apply for Blue Cards.

Furthermore, there would be lower Blue Card salary thresholds than currently. For instance, in the five member states where the largest numbers of British nationals live and which also implement the Blue Card (Spain, France, Germany, Netherlands and Belgium), the prospective new salary threshold range would be £17,800 a year - £48,000 a year (2014 Eurostat figures).

However, the proposed Blue Card changes are stuck in institutional EU infighting, with Sweden, France, Austria and the Czech Republic reportedly 'deeply reluctant' to give up their own national work permit schemes.<sup>7</sup>

The Council of the EU is expected to take a position on the matter later in 2017, although EU sources have indicated that 'there is a clear majority' in the Council in favour of retaining national systems.

If the changes do not become law, EU member states would be able to continue issuing national work permits to the highly skilled rather than Blue Cards.<sup>8</sup>

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7 *Politico.EU*, July 2017, URL: <http://www.politico.eu/article/why-europe-still-lacks-silicon-valleys-sex-appeal/>

8 For details of various EU national work permit schemes, see Annex C of Migration Watch UK paper, 'Arrangements for skilled Britons seeking to work in the European Union after Brexit', 11<sup>th</sup> April 2017, <https://www.migrationwatchuk.org/briefing-paper/406>