

## **5 TAKEAWAYS ON BREXIT:** Outlining Possible Scenarios for a New UK-EU Relationship and their Impact on Citizens



## ABOUT THIS PUBLICATION

---

This study has been coordinated and produced by the European Citizen Action Service (ECAS), in partnership with the EU Rights Clinic, New Europeans and the European Disability Forum (*read more about the partners below*).

### Authorship

The key ECAS staff involved in this study are Assya Kavrakova (Director, Editor-in-Chief) and Marta Pont (Membership and Outreach Manager, Co-editor), supported by intern Connor Brown (Law Department, University of Sheffield). Samia Badani (Director of Campaigns, New Europeans) contributed to the analysis on voting rights and An-Sofie Leenknecht (Human Rights officer, European Disability Forum) drafted the sections relevant to non-discrimination rights, focusing in particular on disabled people. The study was edited Professor Anthony Valcke at the University of Kent in Brussels and Supervising Solicitor at the EU Rights Clinic. It has been proofread by Huw Longton (ECAS).

### Linguistic version

This publication was originally published in English. A shorter digest will be published and translated into six languages (DE, ES, FR, IT, PL and RO). All versions will be available to download at: <http://ecas.org/publications/studies/>

### Financial support

ECAS is supported by an operating grant from the Europe for Citizens Programme, through which this publication has been funded. This publication has also benefitted from the support of the Joseph Rowntree Charitable Trust for its dissemination.



This document is copyright of ECAS © ECAS 2017. All rights reserved.

Any redistribution or reproduction of part or all of the contents in any form is prohibited other than the following:

- you may print, copy or download to a local hard disk the file for your personal and non-commercial use only;
- you may copy the content to individual third parties for their personal use, but only if you acknowledge the authors as the source of the material.

You may not, except with the express written permission of the author, distribute or commercially exploit the content.

Cover design: François Bellens - Managing Director of 2B.COM S.P.R.L

ISBN number: 2-87451-030-0

## TABLE OF CONTENTS

---

Abbreviations .....	6
Executive summary .....	8
Introduction .....	18
<i>The partners</i> .....	21
Part I: Brexit and Citizens' Rights .....	23
<i>Scenario 1: 'Bremain Option': UK Remains in the EU</i> .....	23
The right to enter an EU Member State .....	25
The right to reside in an EU Member State .....	25
The right to work in an EU Member State.....	26
Social security rights.....	27
The right to do business and provide cross-border services .....	28
Consumer protection and passenger rights .....	29
The right to non-discrimination.....	32
Voting and political rights.....	33
Access to EU institutions .....	34
<i>A Word on the Abandoned 'New Settlement for the UK'</i> .....	34
<i>Scenario 2: The 'Norway Option': EEA membership of the Single Market</i> .....	37
The right to enter an EEA State .....	39
The right of residence in the EEA .....	39
The right to work in the EEA.....	39
Social security rights in the EEA.....	39
The right to do business and provide cross-border services in the EEA .....	40
Consumer protection and passenger rights in the EEA .....	40
The right to non-discrimination.....	40
Voting and political rights.....	41
Access to EU institutions .....	42
<i>So what is different between membership of the EU and the EEA?</i> .....	42
<i>Scenario 3: The 'Switzerland Option': Bilateral Agreements with the EU</i> .....	44
The right of entry .....	46
The right of residence .....	47
The right to work.....	47
Social security rights.....	48

The right to do business and provide cross-border services .....	48
Consumer protection and passenger rights .....	49
The right to non-discrimination.....	49
Voting and political rights.....	50
Access to EU institutions .....	50
<b><i>So what is different between EU membership and EU-Swiss bilateral arrangements? .....</i></b>	<b><i>50</i></b>
<b><i>Scenario 4: The ‘Canada Option’: Free Trade Agreement with the EU.....</i></b>	<b><i>51</i></b>
The right of entry .....	52
The right of residence .....	53
The right to work.....	54
Social security rights.....	55
The right to do business and provide cross-border services .....	56
Consumer protection and passenger rights .....	56
The right to non-discrimination.....	57
Voting and political rights.....	58
Access to EU institutions .....	58
<b><i>So what is different between membership of the EU and a free-trade agreement such as CETA? .....</i></b>	<b><i>58</i></b>
<b><i>Scenario 5 - The ‘Turkey Option’: Association Agreement with the EU .....</i></b>	<b><i>59</i></b>
The right of entry .....	61
The right of residence .....	61
The right to work.....	63
Social security rights.....	64
The right to do business and provide services .....	64
Consumer protection and passenger rights .....	65
The right to non-discrimination.....	66
Voting and political rights.....	66
Access to EU institutions .....	67
<b><i>So what is different between EU membership and Turkey’s Association Agreement? .....</i></b>	<b><i>67</i></b>
<b>Conclusions: EU Rights .....</b>	<b>69</b>
<b>Part II: Brexit and access to EU funding .....</b>	<b>73</b>
<b><i>Scenario 1 - The ‘Bremain Option’: The UK Remains in the EU .....</i></b>	<b><i>75</i></b>
<b><i>Scenario 2 - The ‘Norway Option’: EEA Membership of the Single Market .....</i></b>	<b><i>78</i></b>
<b><i>Scenario 3 - The ‘Switzerland Option’: Bilateral Agreements with the EU .....</i></b>	<b><i>79</i></b>
<b><i>Scenario 4 - The ‘Canada Option’: Free Trade Agreement with the EU.....</i></b>	<b><i>82</i></b>
<b><i>Scenario 5 - The ‘Turkey Option’: Accession State with Association Agreement .....</i></b>	<b><i>84</i></b>



<i>Scenario 6 - The 'EU Neighbourhood' Option</i> .....	86
<i>Scenario 7 - EU's Development and Cooperation Programmes</i> .....	89
Conclusions: EU Funding .....	93
Bibliography .....	94
List of tables .....	116
List of figures .....	120



## ABBREVIATIONS

---

ACP	African, Caribbean and Pacific Group of States
AFMP	Agreement on the Freedom of Movement of Persons (with Switzerland)
AMIF	Asylum, Migration and Integration Fund
CAP	Common Agricultural Policy
CEF	Connecting Europe Facility
CETA	Comprehensive Economic and Trade Agreement (with Canada)
CF	Cohesion Fund
CU	Customs Union
DCI	Development and Cooperation Instrument
EAFRD	European Agricultural Fund for Rural Development
EAGF	European Agricultural Guarantee Fund
EaSI	European Employment and Social Innovation Programme
ECHR	European Convention on Human Rights
ECI	European Citizens' Initiative
EDF	European Development Fund
EEA	European Economic Area
EFTA	European Free Trade Association
EIDHR	European Instrument for Democracy and Human Rights
EMFF	European Maritime and Fisheries Fund
ENI	European Neighbourhood Instrument
ENP	European Neighbourhood Policy
ERDF	European Regional and Development Fund
ESF	European Social Fund
ESIF	European Structural and Investment Funds
ETIAS	European Travel Information and Authorisation System
EU	European Union
EUCFR	Charter of Fundamental Rights of the European Union
FTA	Free Trade Agreement
FYROM	Former Yugoslav Republic of Macedonia
GCC	Gulf Cooperation Council
GNI	Gross National Income
HIPC	Highly Indebted Poor Countries
ICI	Instrument for Cooperation with Industrialised Countries
IcSP	Instrument contributing to Stability and Peace
ICT	Information and Communication Technology
IPA	Instrument for Pre-Accession Assistance

ISF	Internal Security Fund
LDC	Least Developed Countries
OCT	Overseas Countries and Territories
ODA	Official Development Assistance
OECD	Organisation for Economic Co-operation and Development
PI	Partnership Instrument
REC	Rights, Equality and Citizenship Programme
SEPA	Single Euro Payments Area
TEU	Treaty of the European Union
TFEU	Treaty on the Functioning of the European Union
UCPM	Union Civil Protection Mechanism
UK	United Kingdom
WTO	World Trade Organisation
YEA	Your Europe Advice





## EXECUTIVE SUMMARY

---

Eight months on from the EU referendum in the UK, it is still not clear what shape the new relationship between the country and its EU partners will take. These will be the subject of negotiations that are expected to start following the triggering of Article 50 of the Treaty of the European Union (TEU), which is anticipated to occur in March 2017.

Several studies have looked into the potential economic and financial impact of Brexit considering different scenarios, as well as into the consequences of the UK withdrawing from the Single Market under potential new arrangements with the EU. None of them has, however, thoroughly analysed the impact of the UK's withdrawal on the rights of the estimated 4 million citizens who are likely to be directly affected by the outcome of the negotiations on the new UK-EU relationship, including the 3 million EU citizens residing in the UK and the 1.2m British citizens living across the EU.

### Partnership and objectives

The European Citizen Action Service (ECAS), in partnership with the EU Rights Clinic, the European Disability Forum (EDF) and the New Europeans, has produced a thorough analysis which considers how citizens' rights will be impacted under different scenarios, in an attempt to shed light on the consequences of this political event, which is unprecedented in the EU's history, and to provide some clarity in a climate of high political and legal uncertainty. Indeed, while the EU withdrawal procedure is foreseen by Article 50 TEU, this will be the first time that a Member State has ever contemplated invoking it. Only with an in depth knowledge of the different options available will citizens and civil society be able to identify the best possible deal for them to advocate for, both before and during Brexit negotiations. It is the purpose of this study to support them in doing so.

### Structure and methodology

This study is divided into two parts. The **first part** analyses the impact of Brexit on the main series of socioeconomic and political rights that are bestowed on citizens by virtue of their EU citizenship, including the right of entry, the right of residence, the right to work, social security rights, the right to establish a business and to provide services, consumer protection rights, passenger rights, the right to non-discrimination, voting rights and the rights of access to EU institutions. The **second part** looks into the impact of Brexit on the ability of UK-based organisations to continue to access EU public funding streams, an issue which has raised a lot of concern, especially from UK universities and research-driven entities, which are among the top beneficiaries of EU funding in the UK.



## Impact of Brexit on EU rights: Main findings

With regard to the impact on EU Rights (first part), the analysis considers five scenarios, including a baseline scenario of no Brexit and four other scenarios based on existing arrangements with other countries:

1. The 'Bremain Option' – The UK remains in the EU (baseline scenario)
2. The 'Norway Option' – European Economic Area (EEA) membership of the Single Market
3. The 'Switzerland Option' – Bilateral agreements with the EU
4. The 'Canada Option' – A Free Trade Agreement (FTA) with the EU
5. The 'Turkey Option' – An Association Agreement with the EU

The first scenario of no Brexit, which entails retaining full EU membership, is taken as the baseline scenario to allow for a comparison with the other four, as it reflects the situation at the time of writing. Under this scenario, Cameron's failed deal for a New Settlement for the UK in the EU is also examined. While this option is no longer plausible, as it was abandoned following the 23 June referendum, it already contained some of the key 'red lines' expressed publicly by the British government and it is, therefore, worth analysing for forecasting purposes. The other four scenarios include two 'soft Brexit' options (EEA membership and Swiss 'bilaterals') and two 'hard Brexit' options (a customs union, as in the case of Turkey, or a free trade agreement, like the one the EU has recently concluded with Canada). The fifth scenario that could have been envisaged and which qualifies as the hardest version of Brexit – trading under World Trade Organisation rules – has not been included as it does not bestow any rights on citizens to enter, reside or work in other countries.

### Analysis by scenario

Of all the five scenarios considered, the best possible deal for citizens' rights would be one based on Norway's membership of the EEA (*scenario 2*), which would allow the UK to retain full access to the Single Market. This would ensure the free movement of people, goods, services and capital. As shown in the comparative table below, UK citizens would retain most of the rights they currently enjoy as EU citizens under this scenario. UK citizens under this scenario would, however, lose the rights to vote and stand in European and local elections, to participate in an ECI and to seek diplomatic or consular protection from another EU country in a third country where the UK does not have a consular presence, since these political rights are only bestowed on EU citizens. The right to address and to correspond with EU institutions would only be kept by UK nationals legally residing in the EU. Finally, under Norway's model, the UK would not be bound by all standards of protection against discrimination laid down by EU law.

The second best option would be Switzerland's model based on bilateral arrangements (*scenario 3*), which would oblige the UK to essentially preserve freedom of movement rights (including the rights relating to residence, work and social security), albeit with some potential limitations concerning permanent residence

and the right to non-discrimination. The EU passenger rights package would also be maintained for the most part, while there would be some important limitations concerning freedom of establishment and the provision of cross-border services, as well as in the area of consumer protection. Both of these scenarios would, however, oblige the UK to guarantee freedom of movement of people, which, the British Prime Minister has acknowledged, represents a “red line” in the exit negotiations. Therefore, neither of these options, which would correspond to a so-called “soft Brexit”, would currently meet what is presently known about the UK’s negotiating position.

Comparative table: EU-UK models for a new relationship									
	Right of entry	Right of residence	Right to work	Social security rights	Right to do business and provide services	Consumer protection & passenger rights	Right to non-discrimination	Voting & political rights	Access to EU institutions
EU Membership (baseline scenario)									
Draft New Settlement for the UK									
Norway Option									
Switzerland Option									
Canada Option									
Turkey Option									

Full Access	
Partial/Voluntary/Special Arrangement	
None	

The now-abandoned 'New Settlement for the UK' with the EU (analysed under *scenario 1*), which formed the basis upon which the former Prime Minister asked the British electorate to cast their vote in the referendum, is also not considered a viable option. Not only was this rejected by the UK electorate in the June referendum, but it would also imply the UK remaining a full member of the Single Market. This arrangement would have essentially consisted of amendments being made to EU rules on free movement, which would have permitted limited discrimination between EU citizens and UK nationals regarding access to “in-work” benefits. However, other EU rights would have remained unaffected. Although this option is no longer viable at the time of writing, it does provide some indication of the nature that future restrictions on the freedom of movement could take in the event that the UK was to somehow accept limited free movement of EU citizens in the UK post-Brexit.

The next option contemplated the UK and the EU negotiating a comprehensive free trade agreement, such as the one with Canada (*scenario 4*). This would only provide UK citizens living in the EU and EU citizens residing in the UK with some of the rights that they currently enjoy. The EU-Canadian free trade agreement (CETA) does not provide for the freedom of movement of persons or freedom of establishment, but it does allow temporary work-related migration of key employees and the self-employed between the EU and Canada without requiring prior approval, provided it is for a limited duration, ranging from a year to three years depending on the nature of their activity. EU rules already facilitate the mobility of third country nationals like Canadians who come to the EU to undertake highly-skilled work or engage in research, studies or seasonal work. In all other cases, though, rights of entry, residence and work are subject to national immigration rules of the host country. The EU rules also provide a visa exemption for Canadian citizens who stay in the Schengen area for short stays of up to 90 days. In addition, EU free movement rules also bestow rights of entry, residence and work on foreign family members of EU citizens. By virtue of CETA, Canadian citizens and EU citizens would also enjoy some right to equality of treatment in limited fields. EU rules on consumer protection and passenger rights are not exclusively dependent upon holding EU citizenship and can therefore also be claimed by non-EU nationals living in the EU. The same is true for rights of access to EU institutions, to which all persons who are resident in the EU are entitled. These rights would, therefore, be partially maintained if the UK were to follow Canada’s model. Under such a scenario, EU rights relating to the coordination of social security would be fully lost, as well as those relating to voting and political participation.

Finally, if the UK and EU were to move into an association involving a customs union, as is the case for Turkey (*scenario 5*), UK citizens and EU citizens could still partially enjoy some of their current rights. The EEC-Turkey Association Agreement does not foresee freedom of movement of people. Unless they are family members of an EU citizen, Turkish citizens have to abide by the immigration rules of the EU country where they seek to relocate in respect of residence formalities and access to work, or, alternatively, with the harmonised EU

rules relating to research, studying, seasonal work, highly-skilled work or intra-corporate transfers. In addition - unlike Canadian citizens - Turkish citizens are required to hold a valid visa to enter the EU. The EU and Turkey are, however, currently negotiating a visa liberalisation policy, which could emerge in the foreseeable future and would ease travel requirements between the two countries. Nonetheless, the Association Agreement does provide for the gradual accumulation of residence rights by Turkish workers who are legally employed in an EU country and are duly registered as belonging to its labour force, as well as their family members. Like other third country nationals, Turkish citizens also benefit from EU rules on the coordination of social security in the EU. Although the Association Agreement does not cover consumer protection and passenger rights, Turkey has sought to align its laws with the EU's rules on consumer protection and passenger rights in anticipation of its future accession to the EU. In addition, rights of access to EU institutions, which are not dependent upon holding EU citizenship, would also be retained, since these can be exercised by all persons legally residing in the EU.

### Analysis by right

Of all the scenarios considered, the **right of entry** is only fully secured, on equal terms with full EU membership, under the Norway and Switzerland models, as well as under the abandoned New Settlement with the UK. Neither Canada's free trade agreement with the EU nor Turkey's Association Agreement provide for the free movement of persons. Therefore, the right of entry of EU citizens into Canada and Turkey remains subject to their respective immigration laws. Likewise, the right of entry into the EU of citizens from these two countries is subject to the common rules on entry into the Schengen area or to national immigration rules if entering a non-Schengen Member State.

As for the **right of residence**, EU membership is the only scenario where this right can be fully enjoyed. While the right of residence is guaranteed under the EU's agreements with Norway and Switzerland, it is subject to particular arrangements. The abandoned New Settlement with the UK would also have placed further restrictions on the right of residence of EU citizens. Under the agreements with Canada and Turkey, there is only a partial access to this right through the existing EU migration rules that provide for the right of residence for third country nationals who are highly-skilled workers, seasonal workers and workers on intra-corporate assignments, as well as those engaging in research, studies, pupil exchanges, unremunerated training or voluntary service.



In the figures below, green shading implies full access to a particular right; orange shading implies either partial or voluntary access or that special arrangements/restrictions are in place, and red shading implies no access.

Figure 1: Right of entry

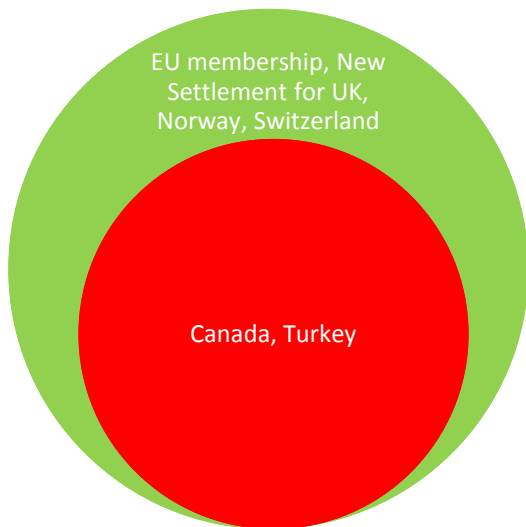
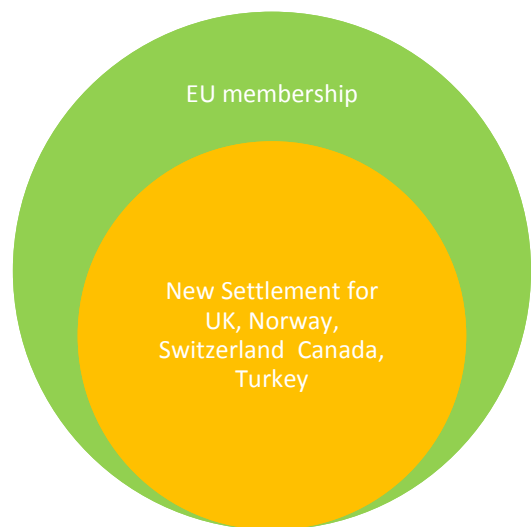


Figure 2: Right of residence



As for the **right to work**, Norway's and Switzerland's arrangements provide for the free movement of workers on parallel terms to EU membership. Under all other scenarios this right is guaranteed only to a partial extent. The New Settlement with the UK would have introduced significant restrictions to in-work benefits for newly arrived EU migrant workers to the UK. Neither Canada's nor Turkey's agreements guarantee a general right to work for the benefit of EU citizens in these countries and vice versa as regards Canadians and Turkish nationals wishing to work in the EU. However, Canada's FTA with the EU does seek to facilitate the exchange of key professionals such as specialists or senior managers on a temporary basis. The right of Turkish nationals to move to an EU country to take up their first employment is governed by the laws of the country of work, unless they are family members of an EU national, in which case they benefit from the same rights as their EU relative. However, after being legally employed in an EU country for at least a year, Turkish workers start accumulating working rights in the EU.

Figure 3: Right to work

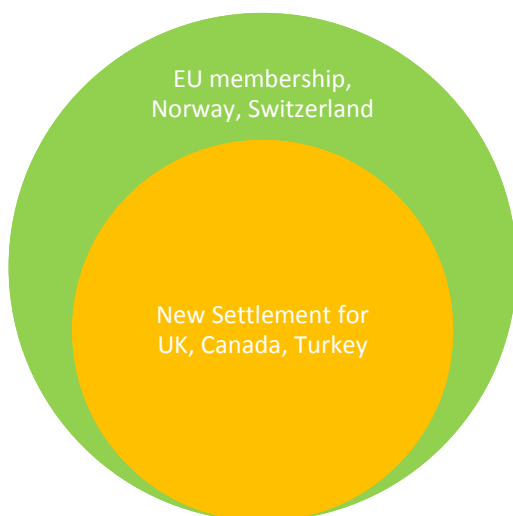
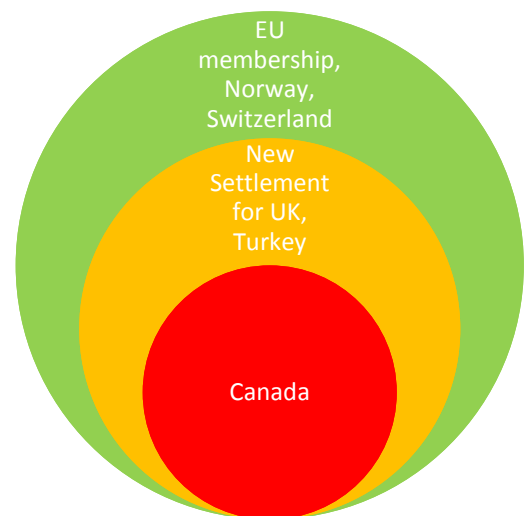


Figure 4: Social security rights



**Social security rights** provide for three different models of participation. The Norway and Switzerland models fully incorporate the EU's rules on the coordination of social security rights for the benefit of both EU citizens residing in these countries and Norwegian and Swiss citizens residing in the EU. The New Settlement with the UK would have allowed the British government to restrict access to benefits by EU migrants who were newly arrived in the UK, but without such restrictions automatically applying to UK citizens living elsewhere in the EU. Turkey's Association Agreement also extends the benefit of EU rules on social security coordination to Turkish workers in the EU. Although the rules are not fully implemented, the EU has also extended the benefit of its rules to all third country nationals residing in the EU. In addition, EU citizens living in Turkey are not able to enjoy the full benefit of EU rules on the coordination of social security. On the contrary, Canada's FTA with the EU does not contain any rules on the coordination of social security. Therefore, the social security rights of EU citizens in Canada are solely determined by Canada's legislation, and the social security rights of Canadian citizens in the EU are determined by the legislation of the country where they work or reside, subject to compliance with EU rules on the coordination of social security.

The **right to do business** and to **provide services** in the EU, together with the rules on **consumer protection** and **passenger rights** offer two degrees of participation across the scenarios considered. Only EU membership and Norway's arrangement provide citizens with the right to establish themselves on a permanent basis in another country for professional purposes or to provide services there on a temporary basis. Likewise, the full package of EU consumer rules and passenger rights are secured through EU membership and Norway's participation in the EEA. In all other scenarios, there is only partial access to these rights. The New Settlement with the UK would not have affected these rights.

Switzerland's bilateral arrangements with the EU do not provide for Swiss companies to freely establish themselves in the EU and vice versa. However, they do allow individuals to establish themselves in Switzerland on a self-employed basis or to provide services to customers residing there. Switzerland has also chosen to voluntarily comply with some EU rules on consumer protection and it fully applies the EU air passenger rights package.

Canada's FTA with the EU enables cross-border trade in services by companies and individuals, although some sensitive sectors are excluded. Canadian companies wishing to supply services and goods in the EU and vice versa have to comply with the relevant consumer rules of the country where they trade. In addition, the benefits of EU rules on consumer protection are not restricted to EU citizens, but also apply to any person buying goods or services in the EU, which would, for instance, include Canadian and Turkish citizens living in the EU. Finally, Canada is not bound by the EU passenger rights package, but the rules apply to passengers travelling with Canadian carriers when they start their journey within EEA territory, as well as to any Canadian air carrier holding a valid license to operate in an EEA country.

Turkey's Association Agreement contains provisions on the right of establishment and the freedom to provide services, but they are yet to be implemented. For the time being, the conditions under which Turkish citizens can establish a business or provide services in an EU Member State are determined by national law, and vice versa as regards doing EU citizens doing business in Turkey. In the area of consumer protection, Turkey has sought to align its rules with those adopted by the EU. For instance, Turkey has adopted a regulation on air passenger rights that is modelled upon the EU passenger rights package. EU rules also apply to passengers travelling on any flight landing in Turkey that originates within the EEA.

Figure 5: Right to do business, provide services, consumer protection and passenger rights

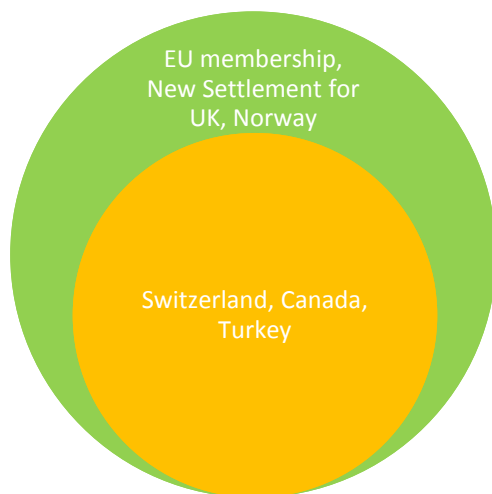
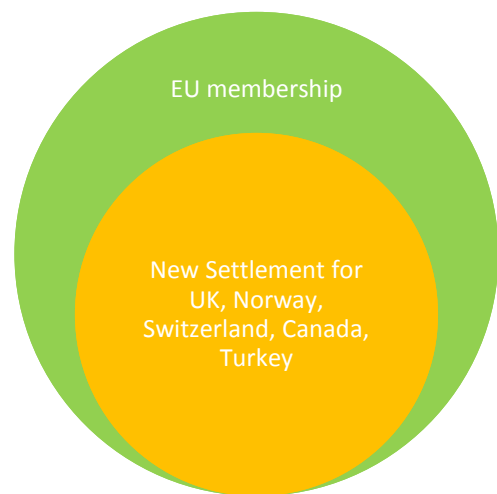


Figure 6: Right to non-discrimination



The **right to non-discrimination** on the grounds of nationality, racial or ethnic origin, religion or belief, disability, age or sexual orientation is only fully guaranteed through EU membership. Under all other scenarios, there are some reciprocal provisions which prohibit discrimination, essentially on nationality grounds, between citizens from these countries and citizens from the EU, but the majority of EU legal instruments that actively aim to combat discrimination are not applicable to them.

Figure 7: Voting and political rights

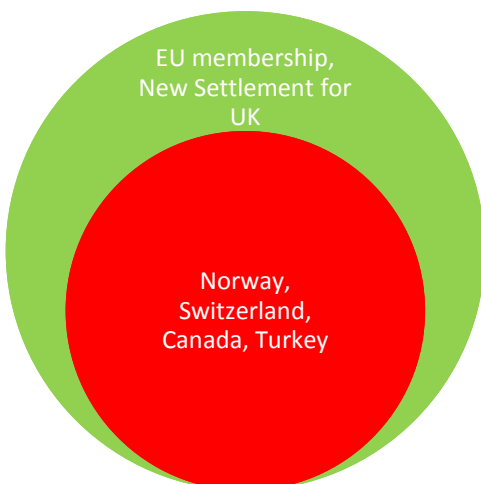
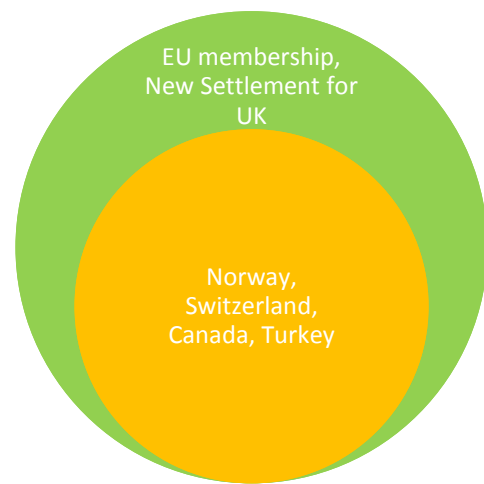


Figure 8: Access to EU institutions





**Voting and political rights** (including the right to stand and vote in EU parliamentary and local elections, to seek consular protection from another EU country abroad and to participate in a European Citizens' Initiative) are limited to EU membership. The New Settlement with the UK would not have affected these rights. Under all other scenarios none of these rights can be exercised by nationals from these countries living in the EU or vice versa, because these rights are conditional upon holding EU citizenship.

Finally, what is referred to in this study as **"access to EU institutions"** concerns the rights enabling citizens to interact with EU institutions, by filing petitions with the European Parliament, submitting complaints to the European Commission, requesting access to EU public documents or, in cases of maladministration by EU institutions, seeking redress before the European Ombudsman. These rights would have remained untouched under the New Settlement with the UK. In addition, such rights of access can be exercised by citizens from any non-EU country provided that they reside within the EU. With the exception of Norway's model, the other models do not grant any right of correspondence with national institutions to EU citizens residing in Switzerland, Canada or Turkey.

## Conclusions

As our analysis demonstrates, there is no "best alternative" to EU membership where all EU rights currently enjoyed by EU citizens in the UK and UK citizens in the EU can be fully preserved. Under each of the scenarios presented, these rights are guaranteed to varying degrees. A choice will therefore have to be made in the course of the exit negotiations as to which rights should be retained. It should, however, be noted that this study only analyses existing models of agreements that have been concluded between the EU and other countries. It should not be excluded that, in the course of exit negotiations, other kinds of arrangements could be considered. While the softer Brexit options with full or almost full preservation of the free movement of persons do not seem realistic at the time of writing, efforts should be made to protect the acquired rights of EU citizens already living in the UK and UK citizens living elsewhere in the EU in order to address the legal uncertainty faced by these groups. In addition, schemes should be discussed to facilitate mobility and exchanges between the EU and the UK, taking into account that freedom of movement is still seen as the most positive EU achievement by citizens from across the EU, including the UK.

Finally, whatever choices are ultimately made, these should be arrived at in close consultation with citizens, social partners and elected representatives, and should not be driven solely by governments without sufficient regard to the concerns of those who will be most affected: the citizens of Europe.



## Access to EU funding: Main findings

The **second part** of the study, which analyses the impact of Brexit on access to EU funding by UK-based entities, also considers all the above scenarios, as well as two additional ones. The first additional scenario concerns the EU Neighbourhood countries, which enjoy a privileged position as regards their access to EU funds compared to other regions in the world due to their proximity to the EU. The second additional scenario concerns the EU's development and cooperation programmes, whose key beneficiaries are developing countries.

It follows from our analysis that Brexit should not have dramatic consequences on access to EU public funds if the UK were to agree to contribute to the EU budget in order to maintain the participation of its organisations and citizens in the different EU funding programmes. This could be achieved through an all-encompassing agreement that would enable the UK to secure its participation in a majority of EU programmes or, alternatively, on the basis of bilateral agreements concluded with the EU in respect of individual programmes. The only EU funding programmes where the UK will automatically be excluded from participation following Brexit are the funding schemes under the European Structural and Investment Funds, as well as those relating to the EU's common agricultural and fisheries policies, which are only open to participation by EU Member States. Nonetheless, considering the recent experience of Switzerland following its referendum calling for immigration controls on EU migrants, the imposition of restrictions on the freedom of movement, or its outright repeal, could mean that UK organisations will no longer be eligible for participation in some funding programmes on the same terms as they are today.

Whatever formula is agreed, it is in the interest of both the UK and the EU to ensure that the UK continues to contribute to the EU budget so that UK-based entities can maintain their participation in EU projects in partnership with their peers across the EU.

Further information about the different models of participation in EU funding programmes can be consulted in the full study.



## INTRODUCTION

---

It has been eight months since the United Kingdom (UK) voted in its referendum on membership of the European Union (EU). The details of the UK's future relationship with the EU still have to be worked out. These will be the subject of negotiations that are expected to start following the triggering of Article 50 of the Treaty of the European Union (TEU), which is anticipated to occur in the first quarter of 2017.<sup>1</sup>

A myriad of studies have been published assessing the economic impact of Brexit both before and since the referendum. Such studies have tended to focus on trade within Europe<sup>2</sup>, foreign direct investment<sup>3</sup>, financial services<sup>4</sup> and sectoral industries<sup>5</sup>, as well as the consequences of the UK withdrawing from the Single Market under potential new arrangements with the EU.<sup>6</sup> While many of these studies also touch upon the 'free movement of persons' as a cornerstone of the European Single Market, they have either done so in general terms, by focusing on labour migration<sup>7</sup>, or presented it mainly as a "bargaining chip" in the negotiations<sup>8</sup>.

None of these studies has provided an in-depth analysis of the practical implications that different Brexit scenarios could have on the various rights that come with EU citizenship. The issue is of considerable importance given that there are an estimated 4 million citizens, including the 3 million EU citizens residing in the UK<sup>9</sup> and the 1.2m British citizens<sup>10</sup> living across the EU, who will see their rights directly impacted by the outcome of the negotiations on the new UK-EU relationship.

There is ample evidence that citizens are deeply concerned about the outcome of the exit negotiations and its effects on their future lives. The large number of enquiries submitted by citizens to the European

---

<sup>1</sup> Department for Exiting the European Union, (2016), *Information about the UK leaving the EU*, 22 November 2016. [online] Available at: <https://www.gov.uk/government/news/frequently-asked-questions>.

<sup>2</sup> Global Economic Dynamics (2015), *Costs and benefits of a United Kingdom exit from the European Union*. [online] Available at: [http://www.bertelsmann-stiftung.de/fileadmin/files/BSt/Publikationen/GrauePublikationen/NW\\_BREXIT\\_EN.pdf](http://www.bertelsmann-stiftung.de/fileadmin/files/BSt/Publikationen/GrauePublikationen/NW_BREXIT_EN.pdf); Emmerson, C., Johnson, P.; Mitchell, I. (2016), *The EU Single Market: The Value of Membership versus Access to the UK*. [online] Available at: <https://www.ifs.org.uk/uploads/publications/comms/R119%20-%20The%20EU%20Single%20market%20-%20Final.pdf>

<sup>3</sup> Morillas, P et al. (2016), "The Brexit Scenarios: Towards a New UK-EU Relationship", in *Documents CIDOB*. [online] Available at: [http://www.cidob.org/en/publications/publication\\_series/documents/cidob\\_new\\_era/the\\_brexit\\_scenarios\\_towards\\_a\\_new\\_uk\\_eu\\_relationship](http://www.cidob.org/en/publications/publication_series/documents/cidob_new_era/the_brexit_scenarios_towards_a_new_uk_eu_relationship)

<sup>4</sup> Global Counsel (2015), *BREXIT: the impact on the UK and the EU*. [online] Available at: [https://www.global-counsel.co.uk/sites/default/files/special-reports/downloads/Global%20Counsel\\_Impact\\_of\\_Brexit.pdf](https://www.global-counsel.co.uk/sites/default/files/special-reports/downloads/Global%20Counsel_Impact_of_Brexit.pdf)

<sup>5</sup> Emerson, M. (2016), "Which model for Brexit?", in *CEPS Special Report*, n0 147, 14 October 2016. [online] Available at: <https://www.ceps.eu/publications/which-model-brexit>

<sup>6</sup> Ibid.

<sup>7</sup> Global Counsel, *op. cit.*

<sup>8</sup> HM Government (2016): *Alternatives to membership: possible models for the United Kingdom outside the European Union*, March 2016. [online] Available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/504604/Alternatives\\_to\\_membership\\_-\\_possible\\_models\\_for\\_the\\_UK\\_outside\\_the\\_EU.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/504604/Alternatives_to_membership_-_possible_models_for_the_UK_outside_the_EU.pdf)

<sup>9</sup> Eurostat (2017), *Population on 1 January by five year age group, sex and citizenship*. [online] Available at: [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_pop1ctz&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_pop1ctz&lang=en) (last update: 5 January 2017).

<sup>10</sup> Gower, M. (2016), "Leaving the EU: How might people currently exercising free movement rights be affected?", *Commons Briefing papers* CBP-7525, 27 June 2016. [online] Available at: <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7525>.

Commission's 'Your Europe Advice' (YEA)<sup>11</sup> service since the Brexit vote on 23 June bears witness to their concerns about the impact of Brexit on their rights. The proportion of YEA enquiries concerning the UK rose by 18% between May and July 2016. In the month following the referendum, over two-thirds of YEA enquiries relating to the UK concerned entry and residence rights, compared to an annual average of 55% in the twelve months that preceded the referendum. These concerns are already being acted upon by EU citizens living in the UK. The UK's Home Office is bracing itself for an unprecedented rise in residency applications by EU citizens living in the UK.<sup>12</sup> In anticipation of an expected surge in applications, the UK's Home Office has developed a fast-track online system to simplify the process.<sup>13</sup>

It is also clear that these concerns are shared by British citizens living in other EU countries, as borne out by enquiries sent to the YEA service. The number of YEA enquiries submitted by British citizens concerning entry and residence rights in other EU countries rose by 20% over the two-month period from June to July 2016, compared to the average number of enquiries made by British citizens in the twelve months that preceded the referendum. The Irish government has reported an upsurge of almost 20% in the number of applications for Irish citizenship originating in the UK with 7,518 applications made in September 2016 compared to 3,431 applications received in the same month in 2015.<sup>14</sup> Citizenship applications by Britons have also soared in other EU countries, in particular in Denmark and Sweden, which have registered an almost tenfold increase during the first eight months of 2016 compared to 2015.<sup>15</sup> There is also a growing sense of unease among the 32,195 British citizens living in Gibraltar, who run the risk of being disenfranchised in spite of their overwhelming 96% vote in favour of the UK remaining in the EU.<sup>16</sup>

However, concern is not limited to the loss of citizens' rights following the UK's departure from the EU. Fears have been expressed by civil society about future access to EU public funding streams.<sup>17</sup> The UK is currently

---

<sup>11</sup> 'Your Europe Advice' is an EU advice service provided by ECAS on behalf of the European Commission. The service provides advice to citizens on their rights under EU law in all 24 official EU languages and covers all 28 EU Member States. The service provides advice on social security, residence and visas, employment and taxes among other issues. In 2015, ECAS legal experts responded to over 20,000 enquiries from citizens. Further information can be found at: <http://europa.eu/youreurope/advice/>.

<sup>12</sup> Travis, A. (2016), "Home Office prepares for rise in residency applications from EU migrants", in *The Guardian*, 1 September 2016. [online] Available at: <https://www.theguardian.com/politics/2016/sep/01/home-office-prepares-for-rise-in-residency-applications-from-eu-migrants>.

<sup>13</sup> Yeo, C. (2016), "Online EEA permanent residence and European passport return service now available", in *Free Movement*, 4 October 2016. [online] Available at: <https://www.freemovement.org.uk/online-eea-permanent-residence-european-passport-return-service-now-available>.

<sup>14</sup> Duncan, P. (2016), "Applications for Irish citizenship continue to surge post-Brexit", in *The Irish Times*. [online] Available at: <http://www.irishtimes.com/news/ireland/irish-news/applications-for-irish-citizenship-continue-to-surge-post-brexit-1.2838659>. See also: Irish Department of Foreign Affairs and Trade (2016), *Passport statistics*. [online] Available at: <https://www.dfa.ie/passports-citizenship/passport-express/passport-statistics/> (figures last consulted in October 2016).

<sup>15</sup> Schirmer, S. (2016), "Huge increase in Britons seeking citizenship in EU states as Brexit looms", in *The Guardian*, 19 October 2016. [online] Available at: <https://www.theguardian.com/politics/2016/oct/19/huge-increase-britons-seeking-citizenship-eu-states-brexit-looms>.

<sup>16</sup> Buch, T. (2016), "Gibraltar calls for second Brexit vote", in *Financial Times*, 10 July 2016. [online] Available at: <https://www.ft.com/content/bea8ecf4-452a-11e6-9b66-0712b3873ae1>

<sup>17</sup> Sample, I. (2016): "UK scientists dropped from EU projects because of post-Brexit funding fears", in *The Guardian*, 12 July 2016. [online] Available at: <https://www.theguardian.com/education/2016/jul/12/uk-scientists-dropped-from-eu-projects-because-of-post-brexit-funding-fears>.



one of the largest recipients of research and innovation funding in the EU, second only to Germany<sup>18</sup>. This situation is likely to change when the UK withdraws from the EU, since certain EU funding programmes that channel funds to these policy priorities are only open to EU Member States (*see chapter on EU funding below*). In response to the growing concerns regarding the future of EU-funded projects in the UK, the UK Treasury issued a statement on 13 August 2016 in the hope of ending the uncertainty.<sup>19</sup> The Treasury concretely promised to underwrite funding for EU projects awarded while the UK is still a member of the EU, thereby hoping to encourage UK organisations to continue to compete for EU funds. This followed reports that doubts over the UK's ability to participate in future EU projects had already led partners in other Member States to exclude UK institutions from their bids for EU funds.<sup>20</sup>

In a political climate of profound uncertainty, there is an urgent need for an objective resource to be made available to EU citizens and to citizens' advice organisations that can provide them with evidence-based analysis on the practical implications of the different possible Brexit scenarios. Such a resource will help citizens to plan for their future and enable advisers to identify the best course of action to safeguard their rights. This is precisely what this study aims to do. It is also hoped that this study will help to ensure that sensible political choices are made when negotiations for exiting the EU begin.

The study is structured in two parts. The **first part** analyses the impact of Brexit on the main series of socioeconomic and political rights that are bestowed on citizens, including the right of entry, the right to residence, the right to work, social security rights, the right to establish a business and to provide services, consumer protection rights, passenger rights, the right to non-discrimination, voting rights and rights of access to the EU institutions. The analysis is based on five scenarios, including a baseline scenario and four other scenarios based on existing arrangements with other countries, namely:

1. The 'Bremain Option' – The UK remains in the EU (baseline scenario)
2. The 'Norway Option' – EEA membership of the Single Market
3. The 'Switzerland Option' – Bilateral agreements with the EU
4. The 'Canada Option' – A free trade agreement with the EU
5. The 'Turkey Option' – An Association Agreement with the EU

The first scenario of 'Bremain', which entails the UK retaining a full member of the EU, is taken as the baseline scenario to allow for a comparison with the other four, as it reflects the situation at the time of writing. The other four scenarios include two 'soft Brexit' options (EEA membership and the Swiss model of

---

<sup>18</sup> The Royal Society (2015), *UK research and the European Union: The role of the EU in funding UK research*, December 2015. [online] available at: <https://royalsociety.org/~media/policy/projects/eu-uk-funding/uk-membership-of-eu.pdf>, p. 3.

<sup>19</sup> UK Treasury (2016), *Chancellor Philip Hammond guarantees EU funding beyond date UK leaves the EU*, 13 August 2016. [online] Available at: <https://www.gov.uk/government/news/chancellor-philip-hammond-guarantees-eu-funding-beyond-date-uk-leaves-the-eu>.

<sup>20</sup> Sample, *op. cit.*

bilateral agreements) and two ‘hard Brexit’ option (a customs union, as in the case of Turkey, or a free trade agreement, like the EU has recently concluded with Canada). The sixth scenario that could have been envisaged and which qualifies as the hardest version of Brexit – namely trading under World Trade Organisation (WTO) rules – has not been included as it does not bestow any rights on citizens to enter, reside or work in other countries.

The **second part** analyses the impact of Brexit on the UK’s access to EU funding under each of the above scenarios, in addition to two additional scenarios. The first additional scenario concerns the EU Neighbourhood countries, which enjoy a privileged position as regards their access to EU funds compared to other regions in the world due to their proximity to the EU. The second additional scenario concerns the EU’s development and cooperation programmes, whose key beneficiaries are developing countries.

This study has been compiled on the basis of relevant legislative instruments in force at EU level relating to freedom of movement, social security coordination, consumer and passenger rights, cross-border healthcare and equal treatment, as well as other rights affecting citizens enshrined in EU Treaties and the specific EU legislation benefiting disabled people. In addition, for each of the individual scenarios, the EU agreements in force with the relevant countries have also been consulted. As for the second part of the study, devoted to EU funding, the legislative instruments establishing the different funding programmes have been used as the main sources of reference. All the sources used for this study have been individually referenced in the bibliography.

## The partners

This study has been coordinated and produced by the European Citizen Action Service (ECAS), in partnership with the EU Rights Clinic, New Europeans and the European Disability Forum.

The **European Citizen Action Service** (ECAS) is an international non-profit organisation based in Brussels, with a pan-European membership and 25 years of experience of empowering citizens to exercise their rights and promoting open and inclusive decision-making. ECAS has a long track record of 20 years in providing tailor-made advice for citizens to exercise their rights as Europeans, focusing in particular on freedom of movement as one of the cornerstones of the Single Market. Its framework contract with the European Commission for the ‘Your Europe Advice’ Service, through which it gives free legal advice to more than 22,000 citizens annually, provides it with an in-depth knowledge and expertise of the obstacles faced by EU mobile citizens.

**New Europeans** was founded in 2013 as a citizen-led association that promotes the rights of European Union citizens living and working in the UK and UK citizens living and working in other EU Member States. They

work in partnership with a number of leading migrant organisations, primarily in England, Wales and Scotland. They host the secretariat of the All-Party Parliamentary Group (APPG) on Freedom of Movement<sup>21</sup>, which aims to promote informed parliamentary and public debate about the value of free movement to British society and the UK economy and to conduct research into the impact of free movement on individuals and their communities, and related issues.

The **European Disability Forum** is the European umbrella of national and European organisations led by persons with disabilities and their families. Its mission is to represent the interests of 80 million persons with disabilities in Europe to ensure that they can fully access fundamental and human rights, including through their active involvement in EU policy-making. EDF was created in 1996 by its member organisations to ensure that decisions at the EU level concerning persons with disabilities are taken with and by persons with disabilities. With around 100 members from across Europe, EDF advocates for the implementation of the UN Convention on the Rights of Persons with Disabilities at European Union level, in the variety of policy areas concerned, and supports its members through capacity-building at national and transnational level.

The **EU Rights Clinic** is a law clinic specialising in EU free movement law. The Clinic was launched in January 2013 as a joint venture between ECAS and the University of Kent in Brussels. It helps EU citizens and their family members to overcome problems they encounter when moving within the EU. This assistance is provided by volunteer law students, PhD researchers and law firms providing pro bono support. The Clinic works in collaboration with several non-governmental organisations across the EU that assist citizens in upholding their free movement rights before the national authorities.

---

<sup>21</sup> Parliament UK (2016), *Register Of All-Party Parliamentary Groups* (as of 12 October 2016). [online] Available at: <http://www.publications.parliament.uk/pa/cm/cmallparty/161012/freedom-of-movement.htm>



## PART I: BREXIT AND CITIZENS' RIGHTS

---

### Scenario 1: 'Bremain Option': UK Remains in the EU

1.1 This scenario describes the status of the UK in the EU under the present terms of the UK's EU membership (i.e. pre-Brexit) and reflects the rights that both UK citizens living elsewhere in the EU and EU citizens living in the UK currently enjoy. It therefore provides a baseline for comparing the rights that they would have under the other four possible post-Brexit scenarios.

1.2 It should be noted that, at the time of writing, the British Prime Minister Theresa May has confirmed the UK government's plans to trigger Article 50 TEU and notify the European Council of the UK's decision to withdraw from the EU by the end of March 2017.<sup>22</sup> Although the possibility of the UK government remaining in the EU indefinitely by holding off from making a notification under Article 50 TEU remains theoretically possible,<sup>23</sup> the government's announcement that it will repeal the 1972 European Communities Act, which gives direct effect to all EU law<sup>24</sup>, and the recent Parliamentary motion in favour of the government makes this an unlikely outcome at this point in time.<sup>25</sup> The purpose of including the 'Bremain' model therefore provides a basis for comparison with the other scenarios.

1.3 Although the UK is not part of the Schengen Agreement, which provides for the abolition of internal border checks between the participating countries, it fully applies the rules relating to the Single Market<sup>26</sup>, including the free movement of persons<sup>27</sup>, as given further expression by the Citizenship

---

<sup>22</sup> Prime Minister Theresa May (2016), "Britain after Brexit: A Vision of a Global Britain", speech delivered at the Conservative Party conference, Birmingham, 2 October 2016. [online] Available at: <http://press.conservatives.com/page/3>.

<sup>23</sup> This possibility has also been raised by several European politicians, see for example: "Austrian Finance Minister suggests UK may never leave the EU", in *Open Europe*, 5 July 2016. [online] Available at: <http://openeurope.org.uk/daily-shakeup/austrian-finance-minister-suggests-uk-may-never-leave-eu/>; "Waszczykowski: It's in Poland's interest for UK to stay longer in EU", in *EurActiv*, 29 November 2016. [online] Available at: <http://www.euractiv.com/section/central-europe/news/waszczykowski-its-in-polands-interest-for-uk-to-stay-longer-in-eu/>; Eaton, G. (2016), "The Remainers aim to beat Brexit by playing a long game", in *New Statesman*, 30 November 2016. [online] Available at: <http://www.newstatesman.com/politics/uk/2016/11/remainers-aim-beat-brexit-playing-long-game>. It should also be noted that in *Santos v Miller v Secretary of State for Exiting the EU* (2016), EWHC 2768 (Admin), 3 November 2016, the High Court held that the referendum was only consultative and the result was not binding, although the judgment has been appealed to the Supreme Court.

<sup>24</sup> Department for Exiting the European Union (2016), *Government announces end of European Communities Act*, 2 October 2016. [online] Available at: <https://www.gov.uk/government/news/government-announces-end-of-european-communities-act>; Department for Exiting the European Union (2016), *Information about the UK leaving the EU*, 22 November 2016. [online] Available at: <https://www.gov.uk/government/news/frequently-asked-questions>.

<sup>25</sup> Parker, G. (2016), "Parliament endorses Brexit: what does the vote mean?", in *Financial Times*, 8 December 2016. [online] Available at: <https://www.ft.com/content/851f6814-bd2f-11e6-8b45-b8b81dd5d080>. Further details on the motion can be found on Parliament's website: <https://www.parliament.uk/business/news/2016/december/mps-debate-the-governments-plan-for-brexit>.

<sup>26</sup> European Union (2016): *Consolidated version of the Treaty on the functioning of the European Union*, C 202/1 (TFEU), Article 26.

<sup>27</sup> Article 21 TFEU.



Directive 2004/38/EC<sup>28</sup>, as well as the associated regulations on social security coordination<sup>29</sup>, which set out common rules for the protection of social security rights of EU mobile citizens. In addition, the freedom of establishment<sup>30</sup> and the freedom to provide cross-border services<sup>31</sup> also apply to the UK as a full member of the EU. Furthermore, the EU's rules on consumer protection,<sup>32</sup> the right to equal treatment,<sup>33</sup> voting rights<sup>34</sup> and rights of access to the EU institutions<sup>35</sup> all fully apply to the UK.

1.4 Table 1<sup>36</sup> provides a graphical overview of the rights that UK citizens currently enjoy as a result of their status as EU citizens,<sup>37</sup> which all citizens possess by virtue of holding the nationality of an EU Member State. These rights are examined in further detail below.

Table 1.1: Bremain Option

Table 1.1: UK Remains in the EU									
	Right of entry	Right of residence	Right to work	Social security rights	Right to do business & provide services	Consumer & passenger rights	Right to non-discrimination	Voting & political rights	Access to EU institutions
EU Membership (baseline scenario)									

Full Access	
Partial/Voluntary/Special Arrangement	
None	

<sup>28</sup> European Parliament and Council Directive (EU) 2004/38/EC of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, OJ L 158/77.

<sup>29</sup> European Parliament and Council Regulation (EC) No 883/2004 of 29 April 2004 on the coordination of social security systems, OJ L 166/1.

<sup>30</sup> Articles 49-55 TFEU.

<sup>31</sup> Articles 56-62 TFEU.

<sup>32</sup> Articles 114 and 169 TFEU.

<sup>33</sup> Article 18 TFEU.

<sup>34</sup> Article 22 TFEU.

<sup>35</sup> Article 24 TFEU.

<sup>36</sup> This table was modelled on the graphs used in the study on alternative models to EU membership published by the UK Government in March 2016 (n.8).

<sup>37</sup> Article 20 TFEU.

## The right to enter an EU Member State

1.5 Directive 2004/38<sup>38</sup>, also known as the ‘Citizenship Directive’, fully applies to the UK. The Citizenship Directive gives EU citizens and their family members the right of entry into all EU Member States. EU citizens only need a valid identity card or passport and are not be required to hold an entry visa or to fulfil an equivalent formality.<sup>39</sup> Their family members who are not EU citizens have the right to obtain a visa free of charge and on the basis of an accelerated procedure.<sup>40</sup>

## The right to reside in an EU Member State

1.6 Under the Citizenship Directive, EU citizens and their family members have the right to reside in other EU Member States. Different conditions apply, according to the duration of their residence in a Member State.

1.7 For stays of up to three months: EU citizens and their family members do not need to fulfil any conditions besides being in possession of a valid national identity card or passport.<sup>41</sup> EU citizens and their family members may be required to register their presence in the country within a reasonable and non-discriminatory period of time.<sup>42</sup>

1.8 For stays of over three months: the right of residence is subject to certain conditions. EU citizens will have the right to reside if they work.<sup>43</sup> When not working, EU citizens must have sufficient resources and sickness insurance to ensure that they and their family members do not become a burden on the social services of the host Member State during their stay.<sup>44</sup> EU citizens do not need to hold a residence permit, although Member States may require them to register with the authorities<sup>45</sup> within three months of their arrival.<sup>46</sup> Family members of EU citizens who are not nationals of a Member State are required to apply for a residence card<sup>47</sup>, which must be valid for a five-year period or for the intended duration of their stay, if this is shorter than five years.<sup>48</sup>

---

<sup>38</sup> European Parliament and Council Directive (EU) 2004/38/EC of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, OJ L 158/77.

<sup>39</sup> Directive 2004/38/EC, Article 5(1).

<sup>40</sup> Ibid., Article 5(2).

<sup>41</sup> Ibid. Article 6(1).

<sup>42</sup> Ibid, Article 5(5).

<sup>43</sup> Ibid, Article 7(1)(a).

<sup>44</sup> Ibid, Article 7(1)(b) and (c).

<sup>45</sup> Ibid, Article 8(1).

<sup>46</sup> Ibid, Article 8(2).

<sup>47</sup> Ibid, Article 9(1).

<sup>48</sup> Ibid, Article 11(1).

1.9 Right of permanent residence: the Citizenship Directive also grants EU citizens the right of permanent residence in a host Member State after a five-year period of uninterrupted legal residence.<sup>49</sup> Once permanent residence has been acquired, EU citizens are no longer subject to any conditions.<sup>50</sup> The same rule applies to family members who are not nationals of a Member State and who have lived with a Union citizen for five years.<sup>51</sup> The right of permanent residence is lost only in the event of a period of absence from the host Member State in excess of two years.<sup>52</sup>

## The right to work in an EU Member State

1.10 Any national of an EU Member State has the right to seek employment in another Member State under the same conditions that apply to national workers.<sup>53</sup> An EU worker is entitled to receive the same assistance from the national employment office as nationals of the host Member State,<sup>54</sup> without any discrimination on the grounds of nationality, and also has the right to stay in the host country for a period long enough to look for work, apply for a job and be recruited.<sup>55</sup> This right applies equally to all workers from other Member States, whether they are employed on a part-time basis,<sup>56</sup> on a zero-hours contract,<sup>57</sup> as seasonal workers<sup>58</sup> or cross-border workers.<sup>59</sup> There are specific rules that provide for the recognition of professional qualifications.<sup>60</sup> Family members of EU citizens benefit from the right to work, regardless of their citizenship.<sup>61</sup>

1.11 EU workers may not be discriminated against,<sup>62</sup> for example, with regard to language requirements that go beyond what is reasonable and necessary for the job in question.<sup>63</sup> Similar rules also apply to the self-employed.<sup>64</sup> However, EU workers may be excluded from public employment that is connected to the exercise of official authority.<sup>65</sup>

---

<sup>49</sup> Ibid, Article 16(1). In some circumstances, EU citizens may acquire a permanent right of residence before having resided for five years, for example, if they suffer a permanent incapacity from work after having resided for at least two years; Ibid., Article 17.

<sup>50</sup> Ibid.

<sup>51</sup> Ibid, Article 16(2).

<sup>52</sup> Ibid, Article 16(4).

<sup>53</sup> Article 45(3) TFEU; Article 1(1) of European Parliament and Council Regulation (EU) No 492/2011 of 5 April 2011 on freedom of movement for workers within the Union, OJ L 141/1.

<sup>54</sup> Ibid., Article 5.

<sup>55</sup> Article 45(3) TFEU; Case C-292/89 *Antonissen* (1991).

<sup>56</sup> Case 53/81 *Levin* (1982); Case 139/85 *Kempf* (1986).

<sup>57</sup> Case C-357/89 *Raulin* (1992).

<sup>58</sup> Case C-344/95 *Commission v Belgium* (1997).

<sup>59</sup> Case C-152/03 *Ritter-Coulais* (2006).

<sup>60</sup> European Parliament and Council Directive 2005/36/EC of 7 September 2005 on the recognition of professional qualifications, OJ L 255/22.

<sup>61</sup> Directive 2004/38, *op.cit.*, Article 23.

<sup>62</sup> Regulation 492/2011, *op. cit.*, Article 7.

<sup>63</sup> Ibid., Article 3(1) second subparagraph; Case 379/87 *Groener* (1989).

<sup>64</sup> Articles 49-55 TFEU on freedom of establishment and Articles 56-62 TFEU on the freedom to provide cross-border services.

<sup>65</sup> Article 45(4) TFEU.

1.12 Under the Citizenship Directive, EU citizens looking for work have the right to reside in the host country for a period of at least six months<sup>66</sup> and for as long as they continue to look for a job and have a “genuine chance” of being engaged.<sup>67</sup> If they become temporarily unable to work as a result of illness or an accident, they can stay for as long as this condition prevents them from working.<sup>68</sup>

## Social security rights

1.13 The EU has adopted rules on the coordination of social security that apply to all Member States.<sup>69</sup> These rules do not attempt to harmonise social security rules by imposing uniform conditions for entitlement to benefits.<sup>70</sup> Instead, EU rules aim to coordinate different national rules with the objective of ensuring that, when people move, they are not left without social security cover.<sup>71</sup>

1.14 These rules apply to a variety of benefits including sickness, maternity and paternity benefits, accidents at work, occupational diseases, invalidity benefits, old-age pensions, survivor’s benefits, death grants, unemployment benefits, family benefits and pre-retirement benefits.<sup>72</sup>

1.15 There are four broad principles underpinning EU social security rules. Under the first principle of single coverage, EU citizens who move around the EU should only be subject to one country’s social security system at a time.<sup>73</sup> In general, EU citizens are subject to the social security system of the Member State where they work, or to the system of the Member State where they reside when they do not work.<sup>74</sup>

1.16 The second principle refers to non-discrimination and guarantees that EU citizens enjoy the same benefits and be subject to the same obligations as nationals of the country whose social security rules apply.<sup>75</sup> It also means that any factual event that occurs in one country is to be treated as if it had occurred in the country whose social security rules apply.<sup>76</sup>

1.17 In accordance with the third principle of exportability, social security benefits should be payable wherever an EU citizen resides and prohibits Member States from withholding or reducing benefits to

---

<sup>66</sup> Case C-292/89 *Antonissen*, *op.cit.*

<sup>67</sup> Directive 2004/38/EC, *op. cit.*, Article 14(4)(b).

<sup>68</sup> *Ibid.*, Article 7(3).

<sup>69</sup> Regulation (EU) 883/2004, *op.cit.* and European Parliament and Council Regulation (EC) No 987/2009 of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems, L 284/1.

<sup>70</sup> Case C-443/11 *Jeltes* (2013).

<sup>71</sup> Case C-308/14 *Commission v UK* (2016).

<sup>72</sup> Regulation (EU) 883/2004, *op. cit.*, Article 3.

<sup>73</sup> *Ibid.*, Article 11(1).

<sup>74</sup> *Ibid.*, Article 11(3).

<sup>75</sup> *Ibid.*, Article 4.

<sup>76</sup> *Ibid.*, Article 5.

people who reside in another EU country.<sup>77</sup> However, there are some exceptions to this: unemployment benefits can only be exported for three months<sup>78</sup>, and special non-contributory cash benefits, such as minimum income support guarantees, cannot be exported at all.<sup>79</sup>

1.18 The fourth principle of aggregation guarantees that previous periods of insurance, work or residence in other EU countries must be taken into account when determining a person's eligibility for benefits and calculating the amount that a person is entitled to.<sup>80</sup>

1.19 However, it is up to Member States to decide whether to grant social assistance during the first three months of residence for EU citizens who do not work or for as long as they are looking for a job.<sup>81</sup> Beyond that period, the right to claim social assistance may be made conditional upon EU citizens demonstrating they have the right of residence and meet the conditions of Directive 2004/38/EC.<sup>82</sup> Nonetheless, workers, and those who retain the status of a worker, are entitled to claim social assistance.<sup>83</sup>

1.20 After acquiring the right of permanent residence in a host Member State, EU citizens are no longer subject to any conditions (such as the need to prove they have sufficient financial means to support themselves),<sup>84</sup> but can, if necessary, rely on social assistance in a host Member State in the same way as its nationals can.

## The right to do business and provide cross-border services

1.21 EU law allows self-employed persons and professionals to carry on their business in other Member State on a permanent basis (*freedom of establishment*)<sup>85</sup> as well as to offer their services to customers in another Member State on a temporary basis (*freedom to provide services*).<sup>86</sup>

1.22 EU rules guarantee the right of businesses and service-providers to operate under the same conditions as those laid down by the law of the Member State concerned regarding establishment for its

---

<sup>77</sup> Ibid., Article 7.

<sup>78</sup> Ibid., Article 64.

<sup>79</sup> Ibid., Article 70.

<sup>80</sup> Ibid., Article 6.

<sup>81</sup> Directive 2004/38/EC, *op.cit.*, Article 24(2).

<sup>82</sup> Case C-333/13 *Dano* (2014).

<sup>83</sup> Regulation (EU) 492/2011, Article 7(2).

<sup>84</sup> Directive 2004/38/EC, *op.cit.*, Article 16(1).

<sup>85</sup> Article 49 TFEU.

<sup>86</sup> Article 56 TFEU.

own nationals. Only certain activities are excluded from freedom of establishment and provision of services. These concern activities that are connected to the exercise of official authority.<sup>87</sup>

## Consumer protection and passenger rights

1.23 EU law aims to guarantee a high level of protection to consumers.<sup>88</sup> At present, there are around 90 EU Directives covering a raft of consumer protection issues, including contract information and compliance, unfair terms, product safety, telecom and internet services, financial services, energy supply, consumer health and passengers' rights.<sup>89</sup> EU law also promotes the use of out-of-court settlements in online consumer disputes.<sup>90</sup> It should be noted that most of these rights are not limited to EU citizens, but apply to any person buying goods or services in the EU.

1.24 Shopping in the EU: Whenever a person purchases a product or service in the EU - whether online, over the phone or physically in a shop - the trader must provide them upfront with clear, correct and understandable information about the product, including the total price of the goods or services they are purchasing, inclusive of all taxes and delivery costs if applicable.<sup>91</sup> Traders are also prohibited from imposing unfair terms on their customers.<sup>92</sup> Consumers are protected against unfair commercial practices that aim to induce customers into buying through aggressive or misleading practices<sup>93</sup> or with false advertising.<sup>94</sup> Customers shopping in the EU should only pay VAT once<sup>95</sup> and should not have to pay any customs duties.<sup>96</sup> If a consumer purchases a faulty good or a product which does not correspond to what was advertised, the trader is obliged to repair or replace the item, reduce the price or give the customer a refund.<sup>97</sup>

---

<sup>87</sup> Articles 51 and 62 TFEU.

<sup>88</sup> Articles 114 and 169 TFEU.

<sup>89</sup> For an overview, see further Maciejewski, M. and Hayer, S. (2016), "Consumer protection measures", in *Fact Sheets on the European Union*. [online] Available at: [http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuid=FTU\\_5.5.2.html](http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuid=FTU_5.5.2.html). For more information about specific consumer rights, see further Your Europe Portal at European Commission (2016), *Your Europe*. [online] Available at: [http://europa.eu/youreurope/citizens/consumers/index\\_en.htm](http://europa.eu/youreurope/citizens/consumers/index_en.htm).

<sup>90</sup> European Parliament and Council Regulation (EU) No 524/2013 of 21 May 2013 on online dispute resolution for consumer disputes, OJ L165/1.

<sup>91</sup> European Parliament and Council Directive 2011/83/EU of 25 October 2011 on consumer rights, OJ L 304/64. See also: European Parliament and Council Directive 98/6/EC of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers, OJ L 80/27.

<sup>92</sup> Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, OJ L 95/29.

<sup>93</sup> European Parliament and Council Directive 2005/29/EC of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market, OJ L 149/22.

<sup>94</sup> European Parliament and Council Directive 2006/114/EC of 12 December 2006 concerning misleading and comparative advertising, OJ L 376/21.

<sup>95</sup> Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, OJ L 347/1.

<sup>96</sup> Article 30 TFEU.

<sup>97</sup> European Parliament and Council Directive 1999/44/EC of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees, OJ L 171/12.

1.25 Telecom and internet services: Across the EU, consumers have specific rights regarding access to, and use of, the internet and online services, including rules guaranteeing universal access for the public.<sup>98</sup> The EU has also adopted specific rules on how companies and websites handle personal data.<sup>99</sup> Customers are entitled to be informed if any person or company is holding their personal data in their files, be notified if it lost, stolen or disclosed in a way that their privacy can be adversely affected, and have the right to correct or delete their data if it is incomplete or inaccurate. Under EU law, online companies are also required to provide certain key information to their users.<sup>100</sup> Finally, the EU has set caps on mobile roaming costs in the EU, which foresees the abolition of roaming charges in June 2017.<sup>101</sup>

1.26 Financial products and services: There are EU rules that lay down minimum standards in the banking and financial sectors. For example, persons legally residing in an EU country have the right to open a basic payment account.<sup>102</sup> When making cross-border payments in the EU, banks have to provide their customers with clear information on all applicable charges and fees.<sup>103</sup> The Single Euro Payments Area Regulation aims to make euro payments cheaper and faster.<sup>104</sup> EU law also provides that mortgage lenders based in other EU countries must deal with customers in an honest and transparent way by providing them with certain key information and allowing them a period of at least 7 days to compare offers and make an informed decision.<sup>105</sup> Finally, when taking out a credit or a loan, customers have the right to be informed by the credit provider about the terms and conditions under which credit is being provided and the right to withdraw from the agreement within 14 calendar days of signing it.<sup>106</sup>

---

<sup>98</sup> European Parliament and Council Directive 2002/22/EC of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services, OJ L 108/51.

<sup>99</sup> European Parliament and Council Directive 95/46/EC of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, OJ L 281/31. Also European Parliament and Council Directive 2002/58/EC of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector, OJ L201/37.

<sup>100</sup> European Parliament and Council Directive 2000/31/EC of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market, OJ L 178/1.

<sup>101</sup> European Parliament and Council Regulation (EU) No 531/2012 of 13 June 2012 on roaming on public mobile communications networks within the Union, OJ L 172/10.

<sup>102</sup> European Parliament and Council Directive 2014/92/EU of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features, OJ L 257/214.

<sup>103</sup> European Parliament and Council Directive 2007/64/EC of 13 November 2007 on payment services in the internal market, OJ L 319/1.

<sup>104</sup> European Parliament and Council Regulation (EU) No 260/2012 of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro, OJ L 94/22.

<sup>105</sup> European Parliament and Council Directive 2014/17/EU of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010, OJ L 60/34.

<sup>106</sup> European Parliament and Council Directive 2008/48/EC of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC, OJ L 133/66.

1.27 Energy supply: EU consumers are entitled to an electricity connection and use of the electricity supply. Providers are required to supply their customers with clear information on contract terms, transparent information on prices and tracking of their energy use.<sup>107</sup>

1.28 Passenger rights: The EU has adopted a package of measures that grant rights to passengers using various means of travel. These include measures to provide for compensation of passengers in the event of cancellation or delay when they travel by air<sup>108</sup>, bus and coach,<sup>109</sup> rail,<sup>110</sup> sea and inland waterways.<sup>111</sup> Further rules also exist to ensure persons with disabilities are provided with assistance free of charge.<sup>112</sup> In addition, EU law also provides for compensation in the event of accidents.<sup>113</sup>

1.29 Generally, these rules provide that where a means of transport is cancelled or delayed, passengers have the right to be provided with adequate information about the cancellation or delay. Depending on the mode of transport and the length of delay, passengers are usually entitled to request a refund of the price of their ticket if they decide not to continue with their journey. Passengers are also entitled to meals and refreshments during their waiting time, and accommodation if they have to wait overnight. In case of cancellation, passengers have the right to be transported to their final destination at the earliest opportunity. In case of a long delay or if a trip is cancelled without prior notice, passengers may also have the right to monetary compensation, which, depending on the mode of transport, will either be the ticket price or a lump sum based on the distance of the trip. Additional compensation may also be payable in the event that luggage is lost or damaged during a trip.

1.30 These rights can be claimed by all passengers, not just EU citizens, provided that the boarding point is located in the territory of a Member State, or where the destination point is situated in the EU, provided the operating company has a valid license to operate in the EU.

---

<sup>107</sup> European Parliament and Council Directive 2009/72/EC of 13 July 2009 concerning common rules for the internal market in electricity, OJ L 211/55.

<sup>108</sup> European Parliament and Council Regulation (EC) No 261/2004 of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, OJ L 46/1

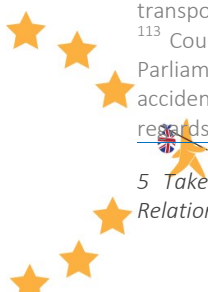
<sup>109</sup> European Parliament and Council Regulation (EU) No 181/2011 of 6 February 2011 concerning the rights of passengers in bus and coach transport, OJ L55/1.

<sup>110</sup> European Parliament and Council Regulation (EC) No 1371/2007 of 23 October 2007 on rail passengers' rights and obligations, OJ L315/14.

<sup>111</sup> European Parliament and Council Regulation (EU) No 1177/2010 of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway, OJ L 334/1.

<sup>112</sup> European Parliament and Council Regulation (EC) No 1107/2006 of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air, OJ L 204/1. See also: Regulation 181/2011 (n 109) as regards bus and coach transport; Regulation 1371/2007 (n 110) as regards rail transport; Regulation 1177/2010 (n 111) as regards sea and inland waterway.

<sup>113</sup> Council Regulation (EC) No 2027/97 of 9 October 1997 on air carrier liability in the event of accidents, OJ L 285/1; European Parliament and Council Regulation (EC) No 392/2009 of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents, OJ L 131/24. See also, Regulation 181/2011 (n 109) as regards bus and coach transport; Regulation 1371/2007 (n 110) as regards rail transport.





## The right to non-discrimination

- 1.31 EU law aims to protect people from discrimination on the basis of their nationality, gender or other personal attributes. The Charter of Fundamental Rights of the EU (EUCFR)<sup>114</sup> prohibits any discrimination based on any grounds such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation,<sup>115</sup> as well as nationality.<sup>116</sup> The EUCFR also recognises the right of persons with disabilities “to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community”<sup>117</sup>.
- 1.32 All EU citizens benefit from the right not to be discriminated against because of their nationality.<sup>118</sup> This means, for example, that EU citizens should enjoy the same benefits and be subject to the same obligations as nationals of the country where they may be living.<sup>119</sup>
- 1.33 EU law also prohibits discrimination on the basis of a person’s gender as regards, for example, their pay conditions,<sup>120</sup> other conditions of employment<sup>121</sup> and when purchasing goods or receiving services.<sup>122</sup>
- 1.34 The EU has also adopted several legal instruments to combat discrimination on the grounds of racial or ethnic origin, religion or belief, disability, age or sexual orientation. Measures adopted by the EU include the prohibition of discrimination on the basis of sexual orientation, religious belief, age and disability in the area of employment and occupation,<sup>123</sup> and the prohibition of discrimination on the basis of race or ethnicity, not only in the context of employment, but also in accessing the welfare system and social security, and purchasing or providing goods and services.<sup>124</sup>

---

<sup>114</sup> Article 6 TEU, as inserted by the Treaty of Lisbon, formally recognises the Charter of Fundamental Rights (European Union (2012), *Charter of Fundamental Rights of the European Union*, C 326/391) as a legally binding document having the same value as the EU Treaties. Under Article 51 EUCFR, the EU institutions are bound to comply with it together with the Member States when they are implementing EU law.

<sup>115</sup> Article 21(1) EUCFR.

<sup>116</sup> Article 21(2) EUCFR.

<sup>117</sup> Article 26 EUCFR.

<sup>118</sup> Article 18 TFEU.

<sup>119</sup> Directive 2004/38/EC, *op.cit.*, Article 24.

<sup>120</sup> Article 157 TFEU.

<sup>121</sup> European Parliament and Council Directive 2006/54/EC of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, OJ L 204/23.

<sup>122</sup> Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services, OJ L 373/37.

<sup>123</sup> Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, OJ L 303/16.

<sup>124</sup> Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, OJ L180/22.

1.35 Generally speaking, the right to non-discrimination aims at ensuring equal and fair opportunities to all individuals in society. To this end, it requires that those individuals who are in similar situations should be treated equally and should not be discriminated against because of a particular characteristic. Equality law also provides that individuals who are in objectively different situations should be treated in a different way appropriate to their situation.

## Voting and political rights

1.36 Every EU citizen benefits from the right to vote for, and stand as, a candidate in municipal and European Parliament elections in whichever EU country they may reside, under the same conditions as nationals of that country.<sup>125</sup>

1.37 There are, however, some exceptions and limitations to these rights. In the case of municipal elections, an EU country may stipulate that the office of the elected head of the executive body of a basic local government unit can only be held by its nationals, and it may also require an additional period of residence for participating in local elections if more than 20% of the eligible voting population are non-nationals.<sup>126</sup>

1.38 In the case of European elections, citizens cannot vote in more than one EU country in the same European elections.<sup>127</sup> As in the case of municipal elections, the concerned EU country may require an additional period of residence for participating in European elections if more than 20% of the eligible voting population are non-nationals.<sup>128</sup>

1.39 EU citizenship also entails the right to take part in a European Citizens Initiative (ECI) inviting the European Commission to propose legislation in matters where the EU has competence to legislate.<sup>129</sup>

1.40 Finally, when outside the EU, EU citizens are also entitled to seek consular protection from the diplomatic and consular authorities of any Member State in non-EU countries where their home state does not have an embassy.<sup>130</sup>

---

<sup>125</sup> Articles 20(2)(b) and 22 TFEU; Articles 39 and 40 EUCFR, *op.cit.*

<sup>126</sup> Council Directive 94/80/EC of 19 December 1994 laying down detailed arrangements for the exercise of the right to vote and to stand as a candidate in municipal elections by citizens of the Union residing in a Member State of which they are not nationals, OJ L 368/38.

<sup>127</sup> Council Directive 93/109/EC of 6 December 1993 laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals, OJ L 329/34.

<sup>128</sup> *Ibid.*

<sup>129</sup> Article 11(4) TEU; also European Parliament and Council Regulation (EU) 211/2011 of 16 February 2011 on the citizens' initiative, OJ L 65/1 (hereafter, 'ECI Regulation').

## Access to EU institutions

- 1.41 EU citizens benefit from a number of rights in terms of their interaction with EU institutions.
- 1.42 EU citizens have the right to petition the European Parliament on any matter that falls within the Union's fields of activity and which affects them directly.<sup>131</sup>
- 1.43 EU citizens also have the right to write to any EU institutions and receive a response<sup>132</sup> in any of the EU's 24 official languages,<sup>133</sup> as well as the right to request access to public documents from EU institutions.<sup>134</sup>
- 1.44 In case of maladministration by an EU institution, EU citizens have the right to file a complaint to the European Ombudsman.<sup>135</sup>

## A Word on the Abandoned 'New Settlement for the UK'

- 1.45 It will be recalled that prior to the referendum, the UK government sought to renegotiate its terms of membership within the EU. This led to the Council presenting the so-called "draft New Settlement for the UK" at the European Council Summit of February 2016<sup>136</sup>, which formed the basis upon which former Prime Minister David Cameron asked the UK electorate to vote in the referendum in June 2016.
- 1.46 The New Settlement for the UK would have essentially consisted of amendments being made to EU rules on free movement, in addition to various changes of a constitutional nature.<sup>137</sup>

---

<sup>130</sup> Article 23 TFEU; Council Directive (EU) 2015/637 of 20 April 2015 on the coordination and cooperation measures to facilitate consular protection for unrepresented citizens of the Union in third countries, OJ L 106/1.

<sup>131</sup> Article 20.2(d) TEU; Articles 24 and 227 TFEU.

<sup>132</sup> Article 24 TFEU; Article 41(4) EUCFR.

<sup>133</sup> Article 55 TEU.

<sup>134</sup> Article 42 EUCFR; European Parliament and Council Regulation (EC) No 1049/2001 of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ L 145/43.

<sup>135</sup> Article 24 TFEU; Article 228 TEU.

<sup>136</sup> Decision of the Heads of State or Government, meeting within the European Council, concerning a new settlement for the United Kingdom within the European Union (European Council (2016), *European Council Conclusions*, 18-19 February 2016, EUCO 1/16. [online] Available at: [http://www.consilium.europa.eu/en/meetings/european-council/2016/02/EUCO-Conclusions\\_pdf](http://www.consilium.europa.eu/en/meetings/european-council/2016/02/EUCO-Conclusions_pdf). See also European Council (2016), *A new settlement for the United Kingdom within the European Union*, 23 February 2016, OJ C 69 I/1. [online] Available at: [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016XG0223\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016XG0223(01)&from=EN) (hereafter, 'European Council Decision on New Settlement for the UK').

<sup>137</sup> For a discussion see Peers, S. (2016), "The final UK renegotiation deal: immigration issues", in *EU Law Analysis*, 20 February 2016. [online] Available at: <http://eulawanalysis.blogspot.it/2016/02/the-final-uk-renegotiation-deal.html>.

1.47 Although at the time of writing the ‘New Settlement for the UK’ has been abandoned following the outcome of the EU referendum vote,<sup>138</sup> it is still worthwhile to provide the reader with an indication of elements of the deal.

1.48 Had the British electorate voted for the UK to remain within the EU on 23 June 2016, the UK would have remained a member of the EU under a new special status, which would have involved important changes to the right to work and access to social entitlements for EU citizens. The changes affecting EU citizens are summarised in Table 1.2 below.

Table 1.2: New Settlement for the UK

Table 1.2: New Settlement for the UK									
	Right to entry	Right of residence	Right to work	Social security rights	Right to do business & provide services	Consumer protection & passenger rights	Right to non-discrimination	Voting & political rights	Access to EU institutions
UK under new negotiated deal	Full Access	Partial/Voluntary/Special Arrangement	Partial/Voluntary/Special Arrangement	Partial/Voluntary/Special Arrangement	Full Access	Full Access	Partial/Voluntary/Special Arrangement	Full Access	Full Access
EU Membership	Full Access	Full Access	Full Access	Full Access	Full Access	Full Access	Full Access	Full Access	Full Access

Full Access	Green
Partial/Voluntary/Special Arrangement	Yellow
None	Red

1.49 Under this new settlement, the UK would have been able to invoke an “emergency brake” on in-work benefits for newly arrived EU migrant workers in order to respond to the “inflow of workers from

<sup>138</sup> European Council Decision on New Settlement for the UK, *op. cit.*, Annex 1, section E, para 2, provided that “This Decision shall take effect on the same date as the Government of the United Kingdom informs the Secretary-General of the Council that the United Kingdom has decided to remain a member of the European Union.”

other Member States of an exceptional magnitude over an extended period of time”.<sup>139</sup> Under this arrangement, the UK would have been allowed to restrict access to non-contributory in-work benefits for newly arrived EU migrants for a period of up to four years from the commencement of their employment.<sup>140</sup> The UK would have been able to apply this “brake” to all newly-arrived EU workers for an initial period of seven years.

1.50 In addition to this, the UK would also have been able to limit the payment of child benefits claimed by EU workers whose children reside in a Member State other than the UK to reflect the cost of living of the child’s place of residence.<sup>141</sup> This would have applied, initially, only to new claims for child benefits and, from 2020 onwards, would have affected all awards of child benefits. Concretely, this would have meant that child benefits would have been paid to EU citizens in the UK, whose children live in another EU country, at a rate reflecting the conditions and the standard of living of the country where the children lived.

1.51 In addition, the Citizenship Directive on residence rights would have been amended to exclude family reunification of EU citizens when their non-EU spouse had not previously lived in the EU before their marriage or if they had married after the EU citizen had started living in another EU country.<sup>142</sup> In such cases, it would have meant that the national immigration rules – which are often more stringent than the EU rules on residence – would have applied to visa and residence formalities in respect of the non-EU spouse.

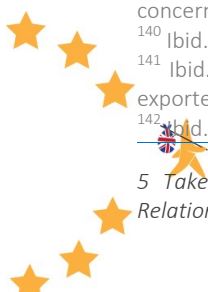
---

<sup>139</sup> Ibid., Annex I, section D, para 2 (b) and Annex VI, Declaration of the European Commission on the safeguard mechanism referred to in paragraph 2(b) of Section D of the Decision of the Heads of State or Government, meeting within the European Council, concerning a new settlement for the United Kingdom within the European Union.

<sup>140</sup> Ibid.

<sup>141</sup> Ibid., Annex I, section D, para 2 (a) and Annex V, Declaration of the European Commission on the indexation of child benefits exported to a Member State other than that where the worker resides.

<sup>142</sup> Ibid., Annex VII, Declaration of the European Commission on issues related to the abuse of the right of free movement of persons.



## Scenario 2: The ‘Norway Option’: EEA membership of the Single Market

2.1 The EEA comprises the 28 EU Member States and three EFTA States, namely Iceland, Liechtenstein, and Norway. The EEA Agreement<sup>143</sup> provides for the latter to participate in the EU’s Single Market under the same EU legal framework.

2.2 The EEA Agreement, therefore, provides for the free movement of capital,<sup>144</sup> goods,<sup>145</sup> persons,<sup>146</sup> and services<sup>147</sup>, and the freedom of establishment,<sup>148</sup> as well as substantive rules on transport,<sup>149</sup> social policy<sup>150</sup> and consumer protection<sup>151</sup>, among others.<sup>152</sup> The specific EU instruments that apply to the EEA are listed in the various Annexes of the EEA Agreement<sup>153</sup>.

2.3 Unlike EU Member States, the three EFTA States that participate in the EEA do not play a formal role in the making of these rules, given that these EFTA States are not represented in the Council or the European Parliament,<sup>154</sup> although the Commission must informally seek the views of experts from these EFTA countries in the elaboration of its legislative proposals.<sup>155</sup> Rather, the three EFTA States hold ‘observer’ status through a process of continuous consultation.<sup>156</sup> Whenever a legal act that is relevant to the EEA is amended or a new one adopted by the EU, the EEA Joint Committee makes a corresponding amendment to the relevant Annex of the EEA Agreement.<sup>157</sup>

---

<sup>143</sup> European Community and the Republic of Austria, Republic of Finland, Republic of Iceland, Principality of Liechtenstein, Kingdom of Norway and Kingdom of Sweden (1994), *Agreement on the European Economic Area*, OJ No L 1. [online] Available at: <http://www.efta.int/media/documents/legal-texts/eea/the-eea-agreement/Main%20Text%20of%20the%20Agreement/EEAagreement.pdf> (hereafter, the ‘EEA Agreement’).

<sup>144</sup> EEA Agreement, Articles 40-45.

<sup>145</sup> Ibid., Articles 8-27.

<sup>146</sup> Ibid., Articles 28-30.

<sup>147</sup> Ibid., Articles 36-39.

<sup>148</sup> Ibid., Articles 31-35.

<sup>149</sup> Ibid., Articles 47-52.

<sup>150</sup> Ibid., Articles 66-71.

<sup>151</sup> Ibid., Article 72.

<sup>152</sup> The EEA Agreement also contains rules on technical standards (Article 23), competition policy (Articles 53-60), state aids (Articles 61-64), public procurement (Article 65(1)), intellectual property (Article 65(2)), environmental protection (Articles 73-75) and company law (Article 77).

<sup>153</sup> European Community and the Republic of Austria, Republic of Finland, Republic of Iceland, Principality of Liechtenstein, Kingdom of Norway and Kingdom of Sweden (1994), *Annexes to the Agreement on the European Economic Area*. [online] Available at: <http://www.efta.int/legal-texts/eea/annexes-to-the-agreement>

<sup>154</sup> See EFTA (2007), “EEA Decision-Making”, in *Factsheet on the European Free Trade Association*. [online] Available at: [http://www.efta.int/media/publications/fact-sheets/EEA-factsheets/FS\\_DecMaking.pdf](http://www.efta.int/media/publications/fact-sheets/EEA-factsheets/FS_DecMaking.pdf).

<sup>155</sup> EEA Agreement, *op. cit.*, Articles 99-100.

<sup>156</sup> Ibid., Article 99(3).

<sup>157</sup> Ibid., Article 102.

2.4 From a financial perspective, it should also be observed that the three EEA States contribute to both the EU's budget<sup>158</sup> and the EFTA budget.<sup>159</sup>

2.5 The common example used to illustrate how the UK could transition from full EU membership to EEA membership is that of Norway. Under the EEA Agreement, Norway is obliged to accept free movement of people from both the 28 EU Member States and two other EEA States (i.e. Liechtenstein and Iceland).<sup>160</sup> Unlike the UK, Norway is a member of the Schengen area, which provides for the abolition of internal border controls.<sup>161</sup>

2.6 Therefore, maintaining full access to the EU Single Market under the Norway model would still require the UK to accept free movement of people from all EEA States. This would be without the “emergency brake” limiting full access to in-work benefits from newly arrived EU migrants that the former Prime Minister had negotiated as part of the ‘New Settlement for the UK’.<sup>162</sup>

2.7 The following table summarises what rights would apply should the UK remain a members of the EEA under the same terms as Norway.

Table 2: Norway Model

Table 2: ‘Norway Model’ – EEA Membership									
	Right of entry	Right of residence	Right to work	Social security rights	Right to do business & provide services	Consumer protection & passenger rights	Right to non-discrimination	Voting & political rights	Access to EU institutions
Norway Model	Green	Yellow	Green	Green	Green	Green	Yellow	Red	Yellow
EU Membership	Green	Green	Green	Green	Green	Green	Green	Green	Green

<sup>158</sup> Ibid., Article 82. See further EFTA (s.d), *EEA EFTA Budget*. [online] Available at: <http://www.efta.int/eea/eu-programmes/application-finances/eea-efta-budget>; Norway mission to the EU (2016), *Norway's financial contribution* (10 August 2016). [online] Available at: <http://www.eu-norway.org/eu/financial-contribution>.

<sup>159</sup> EFTA (2016), *EFTA Budget*. [online] Available at: <http://www.efta.int/About-EFTA/EFTA-Budget-748>.

<sup>160</sup> EEA Agreement, *op.cit.*, Article 1(2).

<sup>161</sup> Council of the EU and the Republic of Iceland and the Kingdom of Norway (1999), *Agreement concerning the association of these two states to the implementation, to application and to the development of the Schengen acquis*, L 176/36.

<sup>162</sup> See above, para 1.45 onwards.

Full Access	
Partial/Voluntary/Special Arrangement	
None	

## The right to enter an EEA State

2.8 The Citizenship Directive has been incorporated into the EEA Agreement.<sup>163</sup> This means that Norway, like other states that form part of this Agreement, guarantees the right of entry to nationals of all EEA States. If the UK was to remain in the EEA, EU rules concerning the entry of EEA nationals would continue to apply to the UK.<sup>164</sup>

## The right of residence in the EEA

2.9 The right of residence for EEA citizens is parallel to the right of residence for EU citizens, given that the Citizenship Directive is incorporated into the EEA Agreement.<sup>165</sup> EEA workers and non-economically active EEA nationals (including pensioners and students), together with family members, are also entitled to move and reside anywhere in the EEA subject to the conditions contained in the Citizenship Directive.<sup>166</sup> The EEA Agreement does however provide for “safeguard measures” which may be invoked to restrict this right under exceptional circumstances (see point 2.28 below).

## The right to work in the EEA

2.10 EEA nationals have the same right as EU citizens to take up an economic activity anywhere in the EEA without being discriminated against on the grounds of their nationality.<sup>167</sup> Similar rules apply to the self-employed.<sup>168</sup>

## Social security rights in the EEA

2.11 The EU’s rules on the coordination of social security<sup>169</sup> are incorporated into the EEA Agreement.<sup>170</sup> Therefore, EEA nationals benefit from these rules wherever in the EEA they might be working or residing.

<sup>163</sup> EEA Joint Committee (2008), *Decision No 158/2007 of 7 December 2007 amending Annex V (Free movement of workers) and Annex VIII (Right of establishment) to the EEA Agreement*, OJ L 124/20.

<sup>164</sup> See above, para 1.5.

<sup>165</sup> EEA Agreement, *op.cit.*, Annexes V and VIII as amended by EEA Joint Committee Decision No 158/2007.

<sup>166</sup> See above, para 1.6 onwards.

<sup>167</sup> EEA Agreement, *op.cit.*, Article 28 and Annex V.

<sup>168</sup> *Ibid.*, Article 31 and Annex VIII.

<sup>169</sup> See above, para 1.13 onwards.

<sup>170</sup> EEA agreement, *op.cit.*, Article 29 and Annex VI.



## The right to do business and provide cross-border services in the EEA

2.12 The rights to set up a business and to provide cross-border services<sup>171</sup> are also guaranteed under the EEA agreement.<sup>172</sup> The right to do business includes both the right to take up and pursue activities as self-employed persons and the right to set up and manage undertakings, subject to the same conditions laid down for its own nationals by the law of that EEA State.

## Consumer protection and passenger rights in the EEA

2.13 In the area of consumer protection and passenger rights, most of the rights guaranteed at EU level<sup>173</sup> also apply to the EEA and have been incorporated into the EEA Agreement.<sup>174</sup>

2.14 However, there is a notable exception: the EU's common rules on VAT do not apply to the EEA. As a result, VAT may be payable on goods imported into an EFTA State from an EU country according to its national VAT rules, provided this does not exceed the VAT imposed on similar domestic products.<sup>175</sup> It should also be noted that when goods are being exported from the EU into an EFTA State, no VAT should be due under the EU's common VAT rules.<sup>176</sup> In effect this means consumers in the EEA should only pay VAT once.

2.15 As a result, in the event that the UK were to retain its EEA membership, the main consumer protection and passenger rights would remain in place.

## The right to non-discrimination

2.16 Although the EEA Agreement makes no provision for the EUCFR to apply, the Agreement does, nonetheless, contain several provisions that prohibit discrimination.

2.17 The EEA Agreement prohibits discrimination on the grounds of nationality<sup>177</sup>. Therefore, EEA nationals have the right to be treated in the same way as nationals of the country where they live or work.<sup>178</sup>

---

<sup>171</sup> See above, para 1.21-1.22.

<sup>172</sup> EEA Agreement, *op.cit.*, Articles 31-35 and 36-39 respectively and Annexes VIII to IX.

<sup>173</sup> See above, para 1.23 onwards.

<sup>174</sup> EEA Agreement, *op.cit.*, Annexes IV (Energy), XI (Electronic communications and data protection), XIII (Transport), and XIX (Consumer protection).

<sup>175</sup> *Ibid.*, Article 14; EFTA Court judgment in Case E-1/01 *Einarsson* (2002).

<sup>176</sup> Directive 2006/112/EC, *op. cit.* (n 95).

<sup>177</sup> EEA Agreement, *op.cit.*, Article 4.

<sup>178</sup> Directive 2004/38/EC, *op.cit.*, Article 24, which applies by virtue of the EEA Agreement, Annexes V and VIII as amended by EEA Joint Committee Decision No 158/2007 (n 160).

- 2.18 EU Directives concerning gender equality<sup>179</sup> also apply in EEA countries as they are incorporated into the EEA Agreement.<sup>180</sup>
- 2.19 However, EU legal instruments that aim to combat discrimination on the grounds of racial or ethnic origin, religion or belief, disability, age or sexual orientation<sup>181</sup> do not apply under the EEA Agreement.
- 2.20 Remaining in the EEA while leaving the EU would mean that the UK would no longer be under a legal obligation to comply with all standards of protection laid down by EU law. However, it would not automatically imply a negative effect on UK equality and discrimination law given that the UK's Human Rights Act<sup>182</sup> incorporates the protections against discrimination contained in the European Convention on Human Rights (ECHR).<sup>183</sup>

### Voting and political rights

- 2.21 Only nationals of EU Member States possess EU citizenship<sup>184</sup> and, therefore, only EU nationals benefit from voting and political rights.<sup>185</sup>
- 2.22 As a result, nationals of Norway, Liechtenstein and Iceland do not enjoy the right to vote and stand for local and European Parliament elections and EU nationals do not enjoy the right to vote and stand in local elections in EFTA States. Nationals of the EFTA States that are members of the EEA neither have the right to participate in European Citizens' Initiatives (ECIs) nor can they obtain diplomatic protection from another EEA State while outside the EEA.
- 2.23 In the event that the UK would withdraw from the EU but remain within the EEA, EU citizens would lose the right to vote and stand in elections in the UK. Nonetheless, citizens from Cyprus, Malta and the Republic of Ireland would remain eligible to vote in all UK elections, including parliamentary elections, because of existing provisions of UK law that extend the voting franchise to all Commonwealth and Irish citizens living in the UK.<sup>186</sup>

---

<sup>179</sup> See above, para 1.33.

<sup>180</sup> EEA Agreement, *op.cit.*, Annex XVIII (social policy).

<sup>181</sup> See above, para 1.34.

<sup>182</sup> United Kingdom (1998), *Human Rights Act*, c 42. [online] Available at: <http://www.legislation.gov.uk/ukpga/1998/42/contents>

<sup>183</sup> Council of Europe (1950), *Convention for the Protection of Human Rights and Fundamental Freedoms*. [online] Available at: [http://www.echr.coe.int/Documents/Convention\\_ENG.pdf](http://www.echr.coe.int/Documents/Convention_ENG.pdf) (hereafter, 'ECHR').

<sup>184</sup> Article 20 TFEU.

<sup>185</sup> See above, para. 1.36 onwards.

<sup>186</sup> The Electoral Commission (2017), *Can I register to vote?* [online] Available at: <https://www.aboutmyvote.co.uk/register-to-vote/who-can-register-to-vote>.

- 2.24 Likewise, UK citizens who reside in another EU Member State would lose the right to vote and stand in elections in that country.
- 2.25 EU nationals in the UK and UK nationals in other Member States would no longer have the right to participate in an ECI.<sup>187</sup> UK nationals would also lose the right to seek consular or diplomatic protection from the embassy or consulate of another EU Member State in a third country.<sup>188</sup>

### Access to EU institutions

- 2.26 The rights of access to EU institutions are not limited to EU citizens, but also benefit non-EU citizens, provided they are legally residing in an EU Member State. These rights consist of the right to petition the European Parliament,<sup>189</sup> the right to correspond with EU institutions,<sup>190</sup> the right to request access to EU public documents<sup>191</sup> and the right to submit a complaint to the European Ombudsman in cases of maladministration by an EU institution.<sup>192</sup> These rights may be invoked by all EU citizens wherever they may reside<sup>193</sup>, as well as EFTA nationals residing within the EU.<sup>194</sup>
- 2.27 EEA nationals who reside in EFTA States have only the right to correspond with the EFTA Surveillance Authority<sup>195</sup> and the right to request access to EFTA documents.<sup>196</sup>

### So what is different between membership of the EU and the EEA?

- 2.28 While the EEA Agreement provides for the free movement of persons, it also gives EEA States the possibility to take “safeguard measures” unilaterally if “serious economic, societal or environmental difficulties liable to persist are arising”.<sup>197</sup> However, these measures must be restricted in “their scope and duration to what is strictly necessary in order to remedy the situation”.<sup>198</sup>

---

<sup>187</sup> See above, para 1.39.

<sup>188</sup> See above, para 1.40.

<sup>189</sup> See above, para 1.42.

<sup>190</sup> See above, para 1.43.

<sup>191</sup> Ibid.

<sup>192</sup> See above, para 1.44.

<sup>193</sup> Article 24 TFEU.

<sup>194</sup> Articles 41 and 42 EUCFR.

<sup>195</sup> EFTA States (1994), *Agreement on the establishment of a Surveillance Authority and a Court of Justice*, OJ L 344/3. [online] Available at: <http://www.efta.int/media/documents/legal-texts/the-surveillance-and-court-agreement/agreement-annexes-and-protocols/Surveillance-and-Court-Agreement-consolidated.pdf>, Article 20.

<sup>196</sup> EFTA Standing Committee (2007), *Decision No 3/2007, of 6 December 2007*, Ref. 1072934; EFTA Standing Committee (2007), *Decision No 6/2007, of 13 December 2007*, Ref. 30167; EFTA Council Decision of 13 December 2007 (Decision No 6/2007); EFTA Surveillance Authority (2012), *Decision No 300/12/COL, of 5 September 2012, to adopt revised rules on public access to documents, and repealing Decision 407/08/COL*.

<sup>197</sup> EEA Agreement, *op.cit.*, Articles 112-114.

<sup>198</sup> Ibid., Article 112(2).

- 2.29 Liechtenstein benefits from such measures. The EEA Agreement's transitional provisions allowed Liechtenstein to maintain restrictions on the free movement of people until 1998.<sup>199</sup> In view of Liechtenstein's "specific geographic situation", which is characterised by "a very small inhabitable area of rural character with an unusually high percentage of non-national residents and employees"<sup>200</sup>, the EEA Council recognised that "an extraordinary increase in the number of nationals from the EC Member States or the other EFTA States, or in the total number of jobs in the economy, both in comparison with the number of the resident population" would justify Liechtenstein in taking safeguard measures under the EEA Agreement.<sup>201</sup>
- 2.30 As a result, Liechtenstein has benefited from a "sectoral adaptation" under the EEA Agreement since 1999, which grants it a specific derogation from the free movement of persons.<sup>202</sup> This allows it to limit the number of residence permits that can be granted to EEA nationals. The annual quotas for residence permits are set at 56 for those working, 20 for those who do not carry on an economic activity and 300 for short-term stays not exceeding twelve months.<sup>203</sup> This derogation is reviewed every five years.<sup>204</sup>
- 2.31 In addition, EEA nationals do not benefit from voting and political rights in EEA countries. While nationals of the EU Member States automatically possess EU citizenship,<sup>205</sup> nationals of EFTA/EEA States do not. Therefore, the rights granted by EU citizenship, such as the right to vote in local and European elections and the right to consular protection when outside the EU, are not guaranteed by the EEA Agreement.
- 2.32 Finally, it should be noted that the EEA Agreement does not provide for the overarching aim of achieving "an ever closer Union" that is contained in the EU Treaty.<sup>206</sup>

---

<sup>199</sup> EEA Agreement, *op.cit.*, Protocols 15 and 16.

<sup>200</sup> According to Eurostat, EU migrants in Liechtenstein account for 17.5% of the total population, only a fraction more than Switzerland, see Eurostat (2017), *Population on 1 January by five year age group, sex and citizenship*. [online] Available at: [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_pop1ctz&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_pop1ctz&lang=en) (last update: 5 January 2017).

<sup>201</sup> EEA Council (1995), *Decision No 1/95 of 10 March 1995 on the entry into force of the Agreement on the European Economic Area for the Principality of Liechtenstein*, OJ L 86/58.

<sup>202</sup> EEA Joint Committee (2001), *Decision No 191/1999 of 17 December 1999 amending Annexes VIII (Right of establishment) and V (Free movement of workers) to the EEA Agreement*, OJ L 74/29, as amended by the Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the European Economic Area of 14 October 2003, OJ L 130/3.

<sup>203</sup> European Commission (2015), *Communication from the Commission to the Council and the European Parliament, 'Liechtenstein Sectoral Adaptations – Review*, COM(2015) 411 final.

<sup>204</sup> The next review is due in May 2019, *Ibid.*

<sup>205</sup> Article 20 TFEU.

<sup>206</sup> Article 1 TEU.

## Scenario 3: The 'Switzerland Option': Bilateral Agreements with the EU

3.1 Switzerland's relationship with the EU is based on a series of bilateral agreements. In the mid-1980s, the European Community and EFTA states (including Switzerland) started discussions aimed at establishing a new trade bloc that would expand the scope of the Single Market. This eventually became the EEA. However, in 1992, the Swiss electorate voted against EEA membership.<sup>207</sup> The result of the vote meant that, unlike Norway and other EFTA States, Switzerland would have no right of access to the Single Market. Consequently, Switzerland sought to adopt a different approach. Over the last three decades, it has negotiated over 120 individual agreements with the EU, covering market access in different sectors.<sup>208</sup> However, Switzerland has no say in the decision-making of EU rules, and does not have the 'observer' status that the other EFTA States enjoy as members of the EEA. Switzerland also contributes to both the EU's budget<sup>209</sup> and the EFTA budget.<sup>210</sup>

3.2 The EU and Switzerland are currently in dispute over the terms of their relationship. The key issue is migration, which has become a politically sensitive issue in Switzerland.<sup>211</sup> On 9 February 2014, the Swiss voted in a referendum to introduce a new provision into the Swiss Federal Constitution<sup>212</sup> in order to impose limits on migration into Switzerland, to re-introduce quotas for foreigners and privilege Swiss nationals over foreigners in the labour market.<sup>213</sup> The referendum also called for the renegotiation of the EU-Swiss Agreement on the Free Movement of Persons with the EU (AFMP).<sup>214</sup>

---

<sup>207</sup> Swiss Federal Administration (2016), *Votation populaire du 06.12.1992* (Swiss popular referendum of 6 December 1992). [online] available at: <https://www.admin.ch/ch/f/pore/va/19921206/index.html>.

<sup>208</sup> Tobler, C., Hardenbol, J., Mellár, B. (2010): *Internal Market beyond the EU: EEA and Switzerland*, Briefing paper for the Policy Department Economic and Scientific Policy of the European Parliament, IP/A/IMCO/NT/2009-13, January 2010. [online] Available at: [http://www.europarl.europa.eu/RegData/etudes/note/join/2010/429993/IPOL-IMCO\\_NT\(2010\)429993\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/note/join/2010/429993/IPOL-IMCO_NT(2010)429993_EN.pdf).

<sup>209</sup> Assemblée fédérale du Parlement Suisse (2014), *Réponse du Conseil fédéral à la Question de Reimann Lukas 'Liste complète des paiements et contributions de la Suisse à l'UE'*, ref. 14.1019 (Swiss Parliament, Federal Council Reply of 20 June 2014 to Question 14.1019 posed by Reimann Lukas 'Complete list of all payments and contributions made by Switzerland to the EU'). [online] Available at: <https://www.parlament.ch/fr/ratsbetrieb/suche-curia-vista/geschaefte?AffairId=20141019>.

<sup>210</sup> EFTA Budget, *op.cit.*

<sup>211</sup> In 2015 almost 16.8 per cent of the population resident in Switzerland were nationals from other EU countries, a higher proportion than in the UK. See Swiss Federal Office for Statistics (2015), *Population résidente permanente et non permanente selon le canton, le sexe, l'autorisation de résidence, la classe d'âge et la nationalité*. [online] Available at: [https://www.pxweb.bfs.admin.ch/Selection.aspx?px\\_language=fr&px\\_db=px-x-0103010000\\_101&px\\_tableid=px-x-0103010000\\_101%5Cpx-x-0103010000\\_101.px&px\\_type=PX](https://www.pxweb.bfs.admin.ch/Selection.aspx?px_language=fr&px_db=px-x-0103010000_101&px_tableid=px-x-0103010000_101%5Cpx-x-0103010000_101.px&px_type=PX). In the EU, only Luxembourg has a higher proportion of EU residents (39.5%) than Switzerland, see Eurostat (2017), *Population on 1 January by five year age group, sex and citizenship*. [online] Available at: [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_pop1ctz&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_pop1ctz&lang=en) (last update: 5 January 2017)

<sup>212</sup> Swiss Confederation (1999), *Federal Constitution of the Swiss Confederation* (hereafter, 'Swiss Constitution') [online] Available at: <https://www.admin.ch/opc/en/classified-compilation/19995395/201601010000/101.pdf>, Article 121a (Management of immigration).

<sup>213</sup> Chancellerie Fédérale (2016), *Initiative populaire fédérale 'Contre l'immigration de masse' du 09.02.2014* (Swiss popular initiative 'Against mass immigration'). [online] Available at: <https://www.admin.ch/ch/f/pore/vi/vis413.html>.

<sup>214</sup> Swiss Constitution, *op.cit.*, Article 197(11) (Transitional Measures relating to Article 121a).

- 3.3 The EU has made clear that this would constitute a breach of the EU-Switzerland bilateral agreements. The Council of the European Union declared that “the free movement of persons is a fundamental pillar of EU policy ... the internal market and its four freedoms are indivisible”.<sup>215</sup> In response to the Swiss vote, the EU limited Swiss access to EU funding programmes on education and research<sup>216</sup>, such as Erasmus+ and Horizon 2020<sup>217</sup>. This has recently changed as the Swiss Federal Council ratified, on 16 December 2016, the Protocol on the extension to Croatia of the AFMP, which was the EU’s key demand for Switzerland to retrieve its full association with these programmes<sup>218</sup>.
- 3.4 The Swiss government has until February 2017 to implement the immigration vote<sup>219</sup> and find a solution with the EU. If no solution is found and the Swiss move to renounce the AFMP,<sup>220</sup> Switzerland will lose its access to the Single Market. This is due to the Agreement containing a “guillotine” mechanism covering all EU-Swiss bilateral agreements, so that the renunciation of one bilateral agreement automatically triggers the termination of the other six bilateral agreements that provide Switzerland with access to the Single Market (collectively known as ‘*Bilatérales I*’ in Switzerland).
- 3.5 The following table summarises what rights citizens would enjoy in the event that the UK were to secure bilateral arrangements under the same terms as Switzerland.

---

<sup>215</sup> Council of the European Union (2014), *Council conclusions on a homogeneous extended single market and EU relations with Non-EU Western European countries*, General Affairs Council meeting Brussels, 16 December 2014, para 45. [online] Available at: [https://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/er/146315.pdf](https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/er/146315.pdf).

<sup>216</sup> European Commission (2016), “Fact Sheet - EU-Swiss relations”, Memo/16/3185, 25 September 2016. [online] Available at: [http://europa.eu/rapid/press-release\\_MEMO-16-3185\\_en.htm](http://europa.eu/rapid/press-release_MEMO-16-3185_en.htm).

<sup>217</sup> European Commission (2016), *Swiss participation in Horizon 2020* (version of January 2017). [online] Available at: [http://ec.europa.eu/research/participants/data/ref/h2020/other/hi/h2020-hi-swiss-part\\_en.pdf](http://ec.europa.eu/research/participants/data/ref/h2020/other/hi/h2020-hi-swiss-part_en.pdf).

<sup>218</sup> Ibid.

<sup>219</sup> Swiss Constitution, *op.cit.*, Article 197(11) (Transitional Measures relating to Article 121a).

<sup>220</sup> European Community and Swiss Confederation (2002), *Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons*, OJ L114/6 (hereafter, ‘AFMP’).

Table 3: Switzerland Option

Table 3: 'Switzerland Option'– Bilateral Agreements with the EU									
	Right of entry	Right of residence	Right to work	Right to social security	Right to do business & provide services	Consumer protection & passenger rights	Right to non-discrimination	Voting & political rights	Access to EU institutions
Switzerland model									
EU Membership									

Full Access	
Partial/Voluntary/Special Arrangement	
None	

## The right of entry

3.6 The Citizenship Directive does not apply to Switzerland. Instead, there is the AFMP,<sup>221</sup> which contains rules that are similar, but not identical to, those found in the Citizenship Directive<sup>222</sup>. Under this Agreement, Swiss citizens can enter EU Member States and EU citizens can enter Switzerland upon producing their passport or national identity card.<sup>223</sup> Non-EU family members need a visa.<sup>224</sup>

3.7 Switzerland is also a member of the Schengen area,<sup>225</sup> meaning that any resident of a Member State of the Schengen area can travel to Switzerland without undergoing border controls.

<sup>221</sup> Ibid. The benefit of the AFMP will be extended to Croatian citizens from 1 January 2017, see Swiss Federal Council (2016), "Switzerland ratifies Croatia protocol", Press release, 16 December 2016. [online] Available at: [https://www.sem.admin.ch/sem/en/home/aktuell/news/2016/ref\\_2016-12-16.html](https://www.sem.admin.ch/sem/en/home/aktuell/news/2016/ref_2016-12-16.html).

<sup>222</sup> Directive 2004/38/EC, *op.cit.*

<sup>223</sup> AFMP, *op.cit.*, Article 3 and Annex I, Article 1.

<sup>224</sup> *ibid*, Article 3 and Annex I, Article 1.

<sup>225</sup> European Commission and Swiss Confederation (2008), *Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis*, OJ L 53/52 (also known as 'Bilatérales II' in Switzerland).

## The right of residence

3.8 The right of residence is guaranteed by the AFMP,<sup>226</sup> which provides for free movement on similar, but not identical, terms to those contained in the Citizenship Directive. The right of residence benefits workers,<sup>227</sup> the self-employed<sup>228</sup> and persons who do not work but are self-sufficient,<sup>229</sup> as well as their family members, whatever their nationality.<sup>230</sup>

3.9 EU nationals residing in Switzerland for over three months are entitled to obtain a residence permit<sup>231</sup> which is valid in all Swiss cantons.<sup>232</sup> EU citizens may only be expelled on the grounds of public policy, public security or public health.<sup>233</sup> Swiss citizens benefit from a reciprocal right of residence in EU countries.

3.10 However, unlike the Citizenship Directive,<sup>234</sup> the AFMP does not guarantee the right of permanent residence after five years.

## The right to work

3.11 The right to work as an employed or self-employed person is guaranteed under the AFMP,<sup>235</sup> under similar terms to those found in EU law.<sup>236</sup>

3.12 EU workers benefit from equality of treatment with Swiss nationals in the labour market, and vice versa for Swiss citizens working in EU countries.<sup>237</sup> However, as is the case under EU law,<sup>238</sup> the parties to the AFMP are allowed to restrict non-nationals' access to employment in public services that involve the exercise of public power.<sup>239</sup>

---

<sup>226</sup> AFMP, *op.cit.*, Article 4 and Annex I, Articles 6-34.

<sup>227</sup> Ibid., Annex I, Articles 6-12.

<sup>228</sup> Ibid., Annex I, Articles 13-22.

<sup>229</sup> Ibid., Annex I, Articles 23-24.

<sup>230</sup> Ibid., Annex I, Article 3.

<sup>231</sup> Ibid., Annex I, Articles 6, 12, 20, 23 and 24.

<sup>232</sup> Ibid., Article 7 and Annex I, Articles 8, 14, 23 and 24.

<sup>233</sup> Ibid., Annex I, Article 5.

<sup>234</sup> See above para 1.9.

<sup>235</sup> AFMP, *op.cit.*, Articles 4 and 7 and Annex 1, Article 2.

<sup>236</sup> See above para 1.10 onwards.

<sup>237</sup> AFMP, *op.cit.*, Article 7 and Annex I, Article 9.

<sup>238</sup> See above para 1.11.

<sup>239</sup> AFMP, *op.cit.*, Annex I, Article 10.



## Social security rights

3.13 The AFMP provides that EU rules on the coordination of social security apply.<sup>240</sup> Therefore, EU citizens residing in Switzerland benefit from EU rules on social security<sup>241</sup>, as do Swiss citizens residing in EU countries.

## The right to do business and provide cross-border services

3.14 The AFMP covers individuals in their capacity as self-employed workers wishing to establish themselves in Switzerland<sup>242</sup> or to provide services to customers residing there.<sup>243</sup> EU self-employed workers benefit from equality of treatment with Swiss nationals and vice versa.<sup>244</sup> The AFMP also provides for the application of EU rules on the recognition of professional qualifications.<sup>245</sup>

3.15 However, companies and other legal entities are not covered by the right of establishment under the AFMP. This constitutes a major difference in the system compared to EU law. Nonetheless, depending on their sector of activity, companies may benefit from rights of establishment under the terms of other EU-Swiss bilateral agreements,<sup>246</sup> such as exist in insurance,<sup>247</sup> air transport<sup>248</sup> and road and rail transport.<sup>249</sup>

3.16 Furthermore, there is no general comprehensive agreement on the free movement of services. Although there were plans for negotiations on this matter, a bilateral agreement is yet to materialise. Nonetheless, the AFMP allows individuals<sup>250</sup> and companies<sup>251</sup> the freedom to provide cross-border services in a limited manner. The right to provide cross-border services is limited to a period not exceeding 90 days of actual work in a calendar year.<sup>252</sup> The provision of financial services and employment services require prior authorisation.<sup>253</sup>

---

<sup>240</sup> Ibid., Article 8 and Annex II; see also Annex I, Article 2, as regards jobseekers.

<sup>241</sup> See above para 1.13 and onwards.

<sup>242</sup> AFMP, *op.cit.*, Article 4 and Annex I, Articles 12-16.

<sup>243</sup> *ibid.*, Article 5 and Annex I, Articles 17-23.

<sup>244</sup> *ibid.*, Article 7 and Annex I, Article 15.

<sup>245</sup> *ibid.*, Article 9 and Annex I, Article III.

<sup>246</sup> Council and Commission Decision 2002/309/EC as regards the Agreement on Scientific and Technological Cooperation, of 4 April 2002 on the conclusion of seven Agreements with the Swiss Confederation, OJ L114/1.

<sup>247</sup> Swiss Confederation and European Community (1991), *Agreement between the European Community and the Swiss Confederation on direct insurance other than life insurance*, OJ L205/3.

<sup>248</sup> Swiss Confederation and European Community (1999), *Agreement between the European Community and the Swiss Confederation on Air Transport*, OJ L114/73.

<sup>249</sup> Swiss Confederation and European Community (2002), *Agreement between the European Community and the Swiss Confederation on the Carriage of Goods and Passengers by Rail and Road*, OJ L114/91.

<sup>250</sup> AFMP, *op.cit.*, Article 5 and Annex I, Article 17.

<sup>251</sup> *Ibid.*, Annex I, Article 18.

<sup>252</sup> *Ibid.*, Article 5 and Annex I, Article 21.

<sup>253</sup> *Ibid.*, Annex I, Article 22.

## Consumer protection and passenger rights

3.17 The bilateral agreements require Switzerland to comply with some EU rules on consumer protection.<sup>254</sup> In addition, the EU and Switzerland have also adopted an agreement on free trade that provides for the abolition of obstacles to trade in goods.<sup>255</sup> As a result, the Swiss Confederation pursues a policy of “voluntary implementation” of EU law (*autonomer Nachvollzug/harmonisation autonome*)<sup>256</sup>, which aims to minimise the emergence of new barriers to trade arising from differences between Swiss and EU legislation. Nonetheless, significant differences exist between Swiss consumer protection laws and consumer protection standards laid down by EU law.<sup>257</sup>

3.18 However, Switzerland fully applies the EU air passenger rights package<sup>258</sup>, as required under the bilateral agreements on air transport.<sup>259</sup> In contrast to this, EU rules on passenger rights relating to road and rail transport are yet to be given effect in Swiss law.<sup>260</sup>

## The right to non-discrimination

3.19 The AFMP contains provisions that prohibit discrimination on the grounds of nationality.<sup>261</sup>

3.20 However, the bilateral agreements do not require Switzerland to comply with EU legal instruments that aim to combat discrimination on the basis of gender, race, ethnic origin, religion or belief, disability, age or sexual orientation.<sup>262</sup> Nonetheless, Switzerland has ratified the ECHR<sup>263</sup> and the Swiss Constitution prohibits discrimination on such grounds.<sup>264</sup>

---

<sup>254</sup> See for example, Agreement between the European Community and the Swiss Confederation on Air Transport, *op.cit.*, Article 18 and Annex, which requires Switzerland to enforce Directive 93/13 on unfair terms in consumer contracts (n 90).

<sup>255</sup> Swiss Confederation and European Community (1972), *Agreement between the European Economic Community and the Swiss Confederation*, OJ L 300/189.

<sup>256</sup> Swiss Federal Council (1988), *Rapport sur la position de la Suisse dans le processus d'intégration européenne du 24 août 1988*, FF 1988 III 233-445, 365 (Swiss Federal Council, *Report on the position of Switzerland in the European integration process*. FF 1988 233). See further Maiani, F. (2013), “Lost in translation: euro-compatibility, legal security, and the autonomous implementation of EU law in Switzerland”, in *European Law Reporter* No 1, p. 29-35..

<sup>257</sup> See above para 1.23 and onwards.

<sup>258</sup> See above, para 1.28 and onwards.

<sup>259</sup> Agreement between the European Community and the Swiss Confederation on Air Transport, *op.cit.*, Article 18 and Annex, and Agreement between the European Community and the Swiss Confederation on the Carriage of Goods and Passengers by Rail and Road, *op.cit.*

<sup>260</sup> A proposal has been tabled to bring the Swiss law of 20 March 2009 on passenger transport into line with the EU passenger rights in road and rail transport; see Swiss Federal Council (2016), *Message sur l'organisation de l'infrastructure ferroviaire (OBI) du 16 novembre 2016*, FF 2016, p. 8433 -8440 (Message of 16 November 2016 on the organisation of rail infrastructure, FF 2016 8399-8486). [online] Available at: <https://www.admin.ch/opc/fr/federal-gazette/2016/8399.pdf>.

<sup>261</sup> AFMP, *op.cit.*, Articles 2 and 7 and Annex I, Articles 9 and 15.

<sup>262</sup> See above, para 1.34.

<sup>263</sup> Council of Europe (2017), *Chart of signatures and ratifications of Treaty 005: Convention for the Protection of Human Rights and Fundamental Freedoms* (ECHR). [online] Available at: [https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures?p\\_auth=N6SlpslD](https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures?p_auth=N6SlpslD) (Status as of 20 February 2017).

<sup>264</sup> Swiss Constitution, *op.cit.*, Article 8.

## Voting and political rights

3.21 Swiss nationals do not enjoy the right to vote and stand in local and European elections, as this right is only granted to EU citizens<sup>265</sup>. Likewise, EU citizens do not have the right to participate in Swiss elections.

3.22 Swiss nationals neither have the right to participate in an ECI<sup>266</sup> nor can they obtain diplomatic or consular protection from another EU Member State in a country where Switzerland does not have an embassy or a consulate<sup>267</sup>.

## Access to EU institutions

3.23 The right to petition the European Parliament,<sup>268</sup> the right to correspond with EU institutions,<sup>269</sup> the right to request access to EU public documents<sup>270</sup> and the right to submit a complaint to the European Ombudsman<sup>271</sup> all benefit EU citizens who reside in Switzerland<sup>272</sup>, as well as Swiss citizens who are legally residing in an EU Member State.<sup>273</sup> Swiss citizens residing in Switzerland do not have the right to access EU institutions.

## So what is different between EU membership and EU-Swiss bilateral arrangements?

3.24 In the event that the UK were to negotiate a bespoke agreement on the same terms as the EU-Swiss bilateral arrangements, the UK would remain bound by the free movement of persons. However, there would be some notable differences with the current rules as contained in the Citizenship Directive, given that the AFMP does not provide for the right to permanent residence and limits the provision of cross-border services.

3.25 In addition, an agreement based on the EU-Swiss bilateral arrangements would not require the UK to give effect to all consumer rights or guarantee the same level of protection against discrimination contained in EU law. EU citizens would also have no right to vote in local and European elections in the UK.

---

<sup>265</sup> See above, para. 2.21.

<sup>266</sup> See above, para 1.39.

<sup>267</sup> See above, para 1.40

<sup>268</sup> See above, para 1.42.

<sup>269</sup> See above, para 1.43.

<sup>270</sup> Ibid.

<sup>271</sup> See above, para 1.44.

<sup>272</sup> Article 24 TFEU.

<sup>273</sup> Articles 41 and 42 EUCFR.

## Scenario 4: The 'Canada Option': Free Trade Agreement with the EU

- 4.1 The EU has concluded numerous free trade agreements (FTAs) with other states.<sup>274</sup> In general, such FTAs are intended to facilitate trade by eliminating customs duties and setting common rules on technical standards.<sup>275</sup> FTAs differ from the customs unions which exist with the EU.<sup>276</sup> In the latter, member countries adopt a common external tariff in respect of non-members,<sup>277</sup> whereas under FTAs each country retains its own tariffs on trade with non-members.<sup>278</sup>
- 4.2 FTAs involve a more detached relationship with the EU than any of the scenarios previously outlined. This means fewer obligations are placed on the parties, but it also results in more limited access to the EU Single Market. Countries essentially agree on market access and tariff levels with the EU by removing or reducing custom tariffs in bilateral trade. Exporters who wish to sell to the EU Single Market are still required to comply with Single Market rules in the same way that exporters from Norway and Switzerland do. Therefore, when a country wishes to export goods and services to the EU, they effectively have to comply with the EU rules that regulate the Single Market.
- 4.3 In October 2016, the EU and Canada signed the Comprehensive Economic and Trade Agreement (CETA).<sup>279</sup> At the time of writing, CETA still requires the approval of the European Parliament and needs to be ratified by all EU Member States, in accordance with national constitutional procedures.<sup>280</sup>
- 4.4 Given that CETA does not provide for Canada to join the EU Single Market, there is no obligation to accept free movement of people and services, and the freedom of establishment. However, the Agreement does provide for arrangements on the temporary and short-term movement of individuals

---

<sup>274</sup> A list of the EU's existing trade agreements can be found on the Commission's website European Commission (2016), *EU trade agreements*. [online] Available at: <http://ec.europa.eu/trade/policy/countries-and-regions/agreements/> (last update: 3 February 2017).

<sup>275</sup> Ibid.

<sup>276</sup> Article 28 TFEU.

<sup>277</sup> Article 31 TFEU.

<sup>278</sup> Arndt, S. (2012), "Free Trade and Its Alternatives", in Kreinin, M. and Plummer, M., *The Oxford Handbook of International Commercial Policy*, September 2012, p. 3-31. [online] Available at: <http://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780195378047.001.0001/oxfordhb-9780195378047-e-1?print=pdf>

<sup>279</sup> European Commission (2016), "EU-Canada summit: newly signed trade agreement sets high standards for global trade Commission", press release, IP/16/3581, 30 October 2016. [online] Available at : [http://europa.eu/rapid/press-release\\_IP-16-3581\\_en.htm](http://europa.eu/rapid/press-release_IP-16-3581_en.htm). The text of the Comprehensive Economic and Trade Agreement (hereafter, 'CETA') can be found at: Council of the EU (2016), *Comprehensive Economic and Trade Agreement between Canada, of the one part, and the European Union and its Member States, of the other part*, 2016/0206 (NLE) [online] Available at: <http://data.consilium.europa.eu/doc/document/ST-10973-2016-INIT/en/pdf>.

<sup>280</sup> Van der Loo, G. (2016), "CETA's signature: 38 statements, a joint interpretative instrument and an uncertain future", in *CEPS commentary*, 31 October 2016. [online] Available at: <https://www.ceps.eu/publications/ceta%E2%80%99s-signature-38-statements-joint-interpretative-instrument-and-uncertain-future>.

for business purposes. Under CETA, Canada is not subject to an obligation to contribute to the EU budget.

4.5 Should the UK strike an FTA with the EU on the same terms as CETA, citizens would benefit from the rights illustrated in the table below.

Table 4: Canada Option

Table 4: 'Canada Option' – Free Trade Agreement with the EU									
	Right of entry	Right of residence	Right to work	Right to social security	Right to do business & provide services	Consumer protection & passenger rights	Right to non-discrimination	Voting & political rights	Access to EU institutions
Canada Model	Red	Yellow	Yellow	Red	Yellow	Yellow	Yellow	Red	Yellow
EU Membership	Green	Green	Green	Green	Green	Green	Green	Green	Green

Full Access	Green
Partial/Voluntary/Special Arrangement	Yellow
None	Red

## The right of entry

4.6 The FTA between Canada and the EU does not foresee the free movement of persons. Therefore, the right of entry for EU citizens will remain subject to Canadian immigration law.<sup>281</sup> Likewise, the right of entry into the EU for Canadians remains subject to the common rules on entry to the Schengen area<sup>282</sup> or to the national immigration control rules if entering a non-Schengen Member State. In accordance

<sup>281</sup> CETA, *op.cit.*, Article 10.2. Further information can be found on the website of Immigration, Refugees and Citizenship Canada at Government of Canada (2016), *Immigration and citizenship*. [online] Available at: <http://www.cic.gc.ca/>.

<sup>282</sup> European Parliament and Council Regulation (EU) 2016/399 of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (hereafter, 'Schengen Borders Code'), OJ L77/1.

with Regulation 539/2001,<sup>283</sup> Canadian nationals are exempted from a requirement to hold an entry visa for short-stays in the EU, up to a maximum of 90 days in any 180-day period. Canadian nationals will also be required to obtain electronic pre-travel approval once the proposed European Travel Information and Authorisation System (ETIAS) is enacted.<sup>284</sup>

## The right of residence

4.7 The right of EU citizens to reside in Canada is subject to the country's national immigration legislation.<sup>285</sup>

Similarly, the right of Canadian citizens to reside in an EU Member State is conditional upon meeting the requirements of the national immigration law of the host country,<sup>286</sup> unless they are family members of an EU national.<sup>287</sup>

4.8 However, CETA does provide for companies to make temporary transfers of key personnel between the EU and Canada.<sup>288</sup> Key personnel include employed specialists and senior managers, who are permitted to stay up to three years,<sup>289</sup> graduate trainees, who may stay for up to a year,<sup>290</sup> and graduate employees having at least three years of relevant professional experience and providing services on behalf of their employers, who are permitted to stay for up to 12 months.<sup>291</sup>

4.9 In addition, self-employed key personnel also have the right to stay for a temporary period. Business visitors are permitted to stay for up to 90 days<sup>292</sup> without requiring a work permit or other prior approval.<sup>293</sup> Investors are permitted to stay for up to a year, which may be renewable at the discretion of the country of stay.<sup>294</sup> Self-employed graduate professionals with at least six years of relevant professional experience are permitted to stay for up to 12 months,<sup>295</sup> which may be renewable at the discretion of the country of stay.<sup>296</sup>

---

<sup>283</sup> Council Regulation No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement, OJ L81. While Regulation 539/2001 does not apply to the UK or Ireland, Canadian nationals are also exempt from the need to hold an entry visa for the two Member States.

<sup>284</sup> European Commission (2016), *Proposal for a Regulation of the European Parliament and of the Council establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 515/2014, (EU) 2016/399, (EU) 2016/794 and (EU) 2016/1624*, COM(2016) 731 final.

<sup>285</sup> CETA, *op.cit.*, Article 10.2.

<sup>286</sup> Further information can be found at: European Commission (2016), *EU Immigration Portal*. [online] Available at: <http://ec.europa.eu/immigration/>

<sup>287</sup> See above, para 1.6 onward.

<sup>288</sup> CETA, *op.cit.*, Article 10.7.

<sup>289</sup> Ibid., Article 10.7(5)(a).

<sup>290</sup> Ibid., Article 10.7(5)(b).

<sup>291</sup> Ibid., Article 10.8(1).

<sup>292</sup> Ibid., Article 10.9.

<sup>293</sup> Ibid., Articles 10(7)(3) and 10.9(2).

<sup>294</sup> Ibid., Article 10.7(5)(c).

<sup>295</sup> Ibid., Article 10.8(2).

<sup>296</sup> Ibid., Article 10.8(4).

4.10 In addition, regardless of the provisions contained in CETA, EU rules provide for the right of residence for third country nationals in specific circumstances, which could potentially benefit Canadian nationals who fulfil the requirements. These rules include:

4.10.1 the right of residence of third-country nationals for the purposes of research,<sup>297</sup> as well as studies, pupil exchanges, unremunerated training or voluntary service;<sup>298</sup>

4.10.2 the right of residence for highly-skilled workers,<sup>299</sup> seasonal workers<sup>300</sup> and workers on intra-corporate assignments<sup>301</sup> who are from outside the EU;

4.10.3 the right to family reunification of non-EU nationals who are family members of a non-EU national holding a residence permit valid for at least one year in the EU;<sup>302</sup> and

4.10.4 the right to long-term residence for non-EU nationals who have resided in the EU for at least five years.<sup>303</sup>

## The right to work

4.11 Aside from key personnel benefiting from corporate transfers<sup>304</sup> and the temporary provision of services by the self-employed,<sup>305</sup> CETA does not guarantee a general right to work. Therefore, the right of EU citizens to take up work in Canada remains subject to Canada's national immigration rules.<sup>306</sup> Similarly, the right for Canadian citizens to work in the EU depends on the immigration laws of the EU host country, unless they are family members of an EU national.<sup>307</sup>

---

<sup>297</sup> Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research, OJ L 289/15. This will be replaced by the European Parliament and Council Directive (EU) 2016/801 of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing, OJ L 132/21 from 24 May 2018.

<sup>298</sup> Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service, OJ L 375/12. This will be replaced by Directive 2016/801, *op.cit.* from 24 May 2018.

<sup>299</sup> Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment, OJ L 155/17 (hereafter, the 'EU Blue Card' Directive).

<sup>300</sup> European Parliament and Council Directive 2014/36/EU of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers, OJ L 94/375.

<sup>301</sup> European Parliament and Council Directive 2014/66/EU of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer, OJ L 157/1.

<sup>302</sup> Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, OJ L 251/12.

<sup>303</sup> Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, OJ L 16/44.

<sup>304</sup> See above para 4.8.

<sup>305</sup> See above para 4.9.

<sup>306</sup> Further information on the Canadian immigration rules relating to work can be found on the website of the Canadian Government on immigration and citizenship, *op.cit.*

<sup>307</sup> See above, para 1.10.

4.12 As stated above, CETA provides for “key personnel” to work during the permitted duration of their stay, which is between one and three years, depending on the nature of their assignment.<sup>308</sup> No numerical limit may be placed on the numbers of persons who benefit from these provisions.<sup>309</sup> Additional formalities may be imposed for specific countries.<sup>310</sup> National rules on the minimum wage and social security are not affected<sup>311</sup> and a work-visa or work-permit requirement may be imposed<sup>312</sup> (except for business visitors).<sup>313</sup> CETA also provides a general framework for the mutual recognition of professional qualifications by the parties in order to facilitate these exchanges.<sup>314</sup>

4.13 However, the agreement explicitly states that it does not cover job-seekers, employment or residence on a permanent basis, or measures regarding citizenship.<sup>315</sup>

4.14 In addition to CETA, Canadian nationals may also be able to take advantage of EU rules on labour migration. These include measures relating to highly-skilled workers, seasonal workers and workers on intra-corporate assignments.<sup>316</sup> Furthermore, the right to work is also extended to family members, under family reunification rules, and to long-term residents.<sup>317</sup> Specific rules also apply to non-EU researchers, students, trainees and volunteers.<sup>318</sup>

## Social security rights

4.15 CETA does not contain any rules on the coordination of social security.

4.16 The social security rights of EU citizens in Canada will be determined by the country’s national legislation.<sup>319</sup>

4.17 The social security rights of Canadian citizens in the EU will be determined by the legislation of the country where they work or reside,<sup>320</sup> subject to compliance with EU rules on the coordination of social security.<sup>321</sup>

---

<sup>308</sup> See above paras 4.8-4.9.

<sup>309</sup> CETA, *op.cit.*, Articles 10.7(2) and 10.8(3).

<sup>310</sup> *Ibid.*, Articles 10.7(1), 10.8(1) and (2) and 10.9(1) and Annexes 10-B, 10-C and 10-D.

<sup>311</sup> *Ibid.*, Article 10.2(5).

<sup>312</sup> *Ibid.*, Article 10.2(3) and (4).

<sup>313</sup> *Ibid.*, Articles 10(7)(3) and 10.9(2).

<sup>314</sup> *Ibid.*, Articles 11.1-11.7.

<sup>315</sup> *Ibid.*, Articles 9.2 and 10.2.

<sup>316</sup> See above para 4.9.

<sup>317</sup> *Ibid.*

<sup>318</sup> *Ibid.*

<sup>319</sup> Further information can be found on the website of the Canadian Government at: Government of Canada (2016), *Benefits*. [online] Available at: <https://www.canada.ca/en/services/benefits.html>.

<sup>320</sup> Regulation 883/2004, *op.cit.*, Article 11.



## The right to do business and provide cross-border services

4.18 CETA seeks to enable cross-border trade in services by companies<sup>322</sup> and individuals.<sup>323</sup> It obliges EU Member States to treat service providers established in Canada no less favourably than its own service providers,<sup>324</sup> subject to any requirements in the public interest.<sup>325</sup> The agreement prohibits quotas on the number of supplies or volumes of trade that may benefit from these provisions.<sup>326</sup> However, certain sectors deemed sensitive are excluded, such as aviation, financial services and cultural services.<sup>327</sup> Some additional restrictions may be maintained.<sup>328</sup>

4.19 CETA also foresees the temporary cross-border provision of services by individuals with at least six years of relevant professional experience for a period up to 12 months,<sup>329</sup> although this may be renewed at the discretion of the country concerned.<sup>330</sup> However, the text clearly states that this does not apply to people seeking access to employment or residence on a permanent basis.<sup>331</sup>

4.20 However, CETA does not provide freedom of establishment or the freedom to provide services under the same conditions that apply under the EU's rules on the Single Market. For example, branches and agencies of companies established outside the EU do not benefit from the right to equal treatment<sup>332</sup> with regard to investment rules.<sup>333</sup> Some services can only be provided by EU residents, such as custom clearance services.<sup>334</sup>

## Consumer protection and passenger rights

4.21 CETA seeks to abolish the majority of tariffs on the import of goods<sup>335</sup> and remove other import restrictions and limitations.<sup>336</sup> It also aims to facilitate cooperation on technical standards.<sup>337</sup> However,

---

<sup>321</sup> Ibid. Note that the scope of this Regulation has been extended to benefit non-EU nationals residing in the EU by European Parliament and Council Regulation (EU) No 1231/2010 of 24 November 2010 extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality, OJ L 344/1.

<sup>322</sup> CETA, *op.cit.*, Articles 9.1 to 9.8.

<sup>323</sup> Ibid., Article 10.8.

<sup>324</sup> Ibid., Article 9.3.

<sup>325</sup> Ibid., Article 9.4.

<sup>326</sup> Ibid., Article 9.6.

<sup>327</sup> Ibid., Article 9.2.

<sup>328</sup> Ibid., Article 9.7 and Annex I.

<sup>329</sup> Ibid., Article 10.8(2).

<sup>330</sup> Ibid., Article 10.8(4).

<sup>331</sup> Ibid., Article 10.2(2).

<sup>332</sup> Article 54 TFEU.

<sup>333</sup> CETA, *op.cit.*, Annex I, Reservations applicable in the European Union - National treatment - Investment.

<sup>334</sup> Ibid., Annex I, Reservations applicable in the European Union – Customs clearance services – Cross-border trade in services.

<sup>335</sup> Ibid., Article 2.4.

<sup>336</sup> Ibid., Article 2.11

<sup>337</sup> Ibid., Articles 4.1 to 4.7.

the agreement is not intended to affect the rights of the parties to regulate matters in order “to achieve legitimate policy objectives, such as the protection of public health, safety, the environment or public morals, social or consumer protection or the promotion and protection of cultural diversity.”<sup>338</sup> Specific rules apply to sanitary controls.<sup>339</sup>

4.22 As a result, the supply of goods and services by Canadian companies within the EU will have to comply with applicable consumer protection rules. It should also be noted that the benefits of EU rules on consumer protection are not restricted to EU citizens, but also apply to any person buying goods or services in the EU.<sup>340</sup> EU companies wishing to sell goods and services to consumers in Canada will have to comply with Canadian rules on consumer protection.<sup>341</sup>

4.23 Canada is not bound, under CETA, by the EU passenger rights package. However, the rules will apply to passengers travelling with Canadian carriers provided that they start their journey within the EEA territory.<sup>342</sup> The full set of rights will also apply to any Canadian company holding a valid license to operate in an EEA country.<sup>343</sup> However, different rules will apply to travel undertaken solely within Canada.<sup>344</sup>

## The right to non-discrimination

4.24 There is no overarching prohibition on discrimination contained in CETA. However, there are several provisions that guarantee equal treatment and non-discrimination in limited fields, such as investments,<sup>345</sup> trade in services,<sup>346</sup> the recognition of qualifications<sup>347</sup> and government procurement.<sup>348</sup>

4.25 CETA does not contain a general provision prohibiting discrimination. The Agreement is not intended to limit the ability of its signatory parties to guarantee social protection.<sup>349</sup> It does not, therefore, affect the general requirements of Canadian companies and service providers to comply with EU legal

---

<sup>338</sup> Ibid, Article 8.9.

<sup>339</sup> Ibid., Articles 5.1 to 5.14.

<sup>340</sup> See above para 1.23 onwards.

<sup>341</sup> Further information on consumer protection legislation may be found at: Government of Canada (2016), *Office of Consumer Affairs*. [online] Available at: <http://www.ic.gc.ca/eic/site/oca-bc.nsf/eng/home>.

<sup>342</sup> See above para 1.28 onward.

<sup>343</sup> See above para 1.30.

<sup>344</sup> Further information can be found at: Government of Canada (2016), *Air passenger rights*. [online] Available at: <https://travel.gc.ca/air/air-passenger-rights>.

<sup>345</sup> CETA, *op.cit.*, Article 8.10(2).

<sup>346</sup> Ibid., Article 9.4.

<sup>347</sup> Ibid., Article 11.2(3).

<sup>348</sup> Ibid., Article 19.4.

<sup>349</sup> Ibid., Article 8.9.

instruments on social policy<sup>350</sup> and those prohibiting discrimination.<sup>351</sup> Likewise, in Canada, specific rules<sup>352</sup> will apply to EU companies and service providers engaging in business there.

## Voting and political rights

4.26 CETA does not contain any provisions granting citizens the right to vote. Canadian citizens do not have the right to vote in EU countries, and vice versa. Neither do Canadian citizens have the right to participate in an ECI or to seek consular or diplomatic protection from an EU Member State in a third country where Canada does not have an embassy or consulate.<sup>353</sup>

## Access to EU institutions

4.27 CETA does not affect rights of access to EU institutions. EU citizens who reside in Canada<sup>354</sup>, as well as Canadian citizens who are legally residing in an EU Member State<sup>355</sup>, will continue to benefit from the right to correspond with EU institutions,<sup>356</sup> the right to request access to EU public documents<sup>357</sup> and the right to submit a complaint to the European Ombudsman.<sup>358</sup>

## So what is different between membership of the EU and a free-trade agreement such as CETA?

4.28 The Comprehensive Economic and Trade Agreement between the EU and Canada involves a more detached relationship that results in more limited access to the EU Single Market.

4.29 The agreement does not provide for the free movement of persons and only allows residence for a limited duration in the context of intra-corporate transfers and the temporary provision of cross-border services. Aside from these exceptions, EU citizens who go to reside in Canada will remain subject to the country's national immigration laws and vice versa for Canadians moving to the EU. The agreement only provides for equality of treatment between EU citizens and Canadian nationals in relatively limited circumstances.

---

<sup>350</sup> See above, para 1.33.

<sup>351</sup> See above, paras 1.34 and 1.35..

<sup>352</sup> Further information on Canadian rules relating to fundamental rights can be found on the website of the Canadian Human Rights Commission at: <http://www.chrc-ccdp.gc.ca/index.html>.

<sup>353</sup> See above paras 1.39 and 1.40.

<sup>354</sup> Article 24 TFEU.

<sup>355</sup> Articles 41 and 42 EUCFR.

<sup>356</sup> See above, para 1.43.

<sup>357</sup> Ibid.

<sup>358</sup> See above, para 1.44.



## Scenario 5 - The 'Turkey Option': Association Agreement with the EU

- 5.1 The EU has concluded many agreements with third countries. When such countries anticipate applying to join the EU, the country may seek to negotiate an Association Agreement, which is intended to pave the way for their eventual accession to the EU.
- 5.2 The oldest example of an Association Agreement that is still in force is the EEC-Turkey Association Agreement signed in 1963,<sup>359</sup> which was modified by an additional protocol in 1970.<sup>360</sup>
- 5.3 The Agreement does not provide for the free movement of persons between Turkey and the EU. However, Turkish nationals do benefit from some limited work-related migration rights. Among other matters, the Association Agreement pursues the long-term objective of “progressively securing the freedom of movement for workers”.<sup>361</sup> This has led to a number of measures<sup>362</sup> being taken to promote the integration of Turkish workers in the EU.<sup>363</sup> The measures do not affect the ability of the Member States to decide whether to admit Turkish nationals to their territory,<sup>364</sup> nor do they lay down the conditions under which first employment may be taken up.<sup>365</sup> However, once a Member State has granted a Turkish national the right to work, they will start accumulating rights the longer they stay employed in a host country. These rules are in addition to the rules contained in EU legal instruments governing migration in the EU.
- 5.4 The Association Agreement also anticipated the establishment of a customs union with the EU,<sup>366</sup> in which Turkey has participated since 31 December 1995.<sup>367</sup> Essentially, the customs union with Turkey provides for the free movement of goods. The union entails the elimination of customs duties and quantitative restrictions that apply to goods that are either wholly produced or put in free circulation in either Turkey or the EU after their importation from third countries. The customs union also provides for the alignment of Turkey's customs

---

<sup>359</sup> Council of the European Community and President of the Republic of Turkey (1977), *Agreement establishing an Association between the European Economic Community and Turkey* (signed at Ankara 12 September 1963), OJ L361/29 (hereafter, the 'Association Agreement').

<sup>360</sup> Council of the European Communities and President of the Republic of Turkey (1977), *Additional Protocol and Financial Protocol signed on 23 November 1970, annexed to the Agreement establishing the Association between the European Economic Community and Turkey and on measures to be taken for their entry into force*, OJ L 361/59 (hereafter, the 'Additional Protocol').

<sup>361</sup> Association Agreement, *op.cit.*, Article 12.

<sup>362</sup> Association Council (1980), *Decision No 1/80 of 19 September 1980 on the development of the association between EEC and Turkey*. [online] Available at: [http://www.inis.gov.ie/en/INIS/DECISION\\_No\\_1\\_80\\_eng.pdf/Files/DECISION\\_No\\_1\\_80\\_eng.pdf](http://www.inis.gov.ie/en/INIS/DECISION_No_1_80_eng.pdf/Files/DECISION_No_1_80_eng.pdf).

<sup>363</sup> Case C-188/00 *Kurz* (2002), para 45.

<sup>364</sup> Case C-237/91 *Kus* (1992), para 25.

<sup>365</sup> *Ibid.*

<sup>366</sup> Association Agreement, *op.cit.*, Articles 5 and 10.

<sup>367</sup> Turkey Association Council (1995), *Decision No 1/95 of 22 December 1995 on implementing the final phase of the Customs Union*, OJ L 035; EC-Turkey Customs Cooperation Committee (1996), *Decision No 1/96 of the of 20 May 1996 laying down detailed rules for the application of Decision No 1/95 of the EC-Turkey Association Council*, OJ L 200; EC-Turkey Customs Cooperation Committee (1997), *Decision No 2/97 of 4 June 1997 establishing the list of Community instruments relating to the removal of technical barriers to trade and the conditions and arrangements governing their implementation by Turkey*, OJ L 191/1.

tariffs with the EU's common customs tariff, and the approximation of customs law and mutual assistance in customs matters.<sup>368</sup> Agricultural products are outside the scope of the customs union and are regulated instead through separate preferential arrangements.<sup>369</sup>

5.5 Turkey has, in addition, been an official candidate for EU membership since 1999.<sup>370</sup> Accession negotiations with the EU started in 2005<sup>371</sup> concerning 15 out of the 35 chapters that comprise the body of EU rules known as the *acquis communautaire*,<sup>372</sup> including product safety, consumer protection, intellectual property and the free movement of capital, among others. The chapters relating to the free movement of workers, the right of establishment and freedom to provide services have yet to be opened.<sup>373</sup>

5.6 A summary of the various rights that benefit citizens under the Association Agreement and other related provisions is illustrated in the table below.

Table 5: Turkey Model

Table 5 - The 'Turkey Model: Association Agreement with the EU									
	Right of entry	Right of residence	Right to work	Right to social security	Right to do business & provide services	Consumer protection & passengers rights	The right to non-discrimination	Voting & political rights	Access to EU institutions
Turkey Model									
EU Membership									

Full Access	
Partial/Voluntary/Special Arrangement	
None	

<sup>368</sup> Additional Protocol, *op.cit.*, Articles 7-30.

<sup>369</sup> EC-Turkey Association Council (1998), *Decision No 1/98 of the EC-Turkey Association Council of 25 February 1998 on the trade regime for agricultural products*, OJ L 86/1.

<sup>370</sup> Turkey's application to accede to the European Economic Community was made on 14 April 1987. However, it was not until the Helsinki Summit in December 1999 that the European Council recognised Turkey's status of candidate country for EU membership.

<sup>371</sup> The European Council decided to open accession negotiations with Turkey on 3 October 2005; see Council of the EU (2005), *European Council Conclusions*, Brussels, 16 and 17 December 2004. [online] Available at: [http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressData/en/ec/83201.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/83201.pdf). (para 22 recommended that accession negotiations should be opened with Turkey).

<sup>372</sup> For a list of these areas, see European Commission (2016), "State of Play document" (8 January 2016). [online] Available at: [http://ec.europa.eu/enlargement/pdf/turkey/20160108-overview\\_negotiations\\_turkey.pdf](http://ec.europa.eu/enlargement/pdf/turkey/20160108-overview_negotiations_turkey.pdf).

<sup>373</sup> *ibid.*

## The right of entry

5.7 The Association Agreement does not provide for the free movement of persons. Therefore, the right of entry to the EU for Turkish nationals is governed by the common rules on entry to the Schengen area<sup>374</sup> or the national immigration control rules of non-Schengen Member States. Under Regulation 539/2001,<sup>375</sup> Turkish nationals are required to be in possession of a visa when entering EU Member States.<sup>376</sup>

5.8 Similarly, the conditions under which EU citizens may enter Turkey are determined by Turkish immigration law.<sup>377</sup>

## The right of residence

5.9 The Association Agreement does not provide for the free movement of persons and does not regulate the conditions under which Turkish citizens may acquire the right of residence in the EU.

5.10 EU Member States, therefore, remain competent to determine the conditions under which Turkish citizens may acquire a first right of residence in the EU, with the exception of Turkish family members of EU citizens, who benefit from the Citizenship Directive.<sup>378</sup>

5.11 However, it should also be noted that the standstill provision contained in the measures giving effect to the Association Agreement<sup>379</sup> effectively prohibits Member States from imposing new restrictions on the mobility of Turkish workers, including substantive and procedural conditions governing first admission to the territory of the Member States.<sup>380</sup>

5.12 In addition, Turkish nationals are able to benefit from EU rules on migration that regulate the right of residence of third country nationals in specific circumstances. These rules include the right of residence for highly-skilled workers,<sup>381</sup> seasonal workers<sup>382</sup> and workers on intra-corporate assignments<sup>383</sup> who

---

<sup>374</sup> Schengen Borders Code, *op.cit.*

<sup>375</sup> Council Regulation (EC) No 539/2001, *op.cit.* While this Regulation does not apply to the UK or Ireland, Canadian nationals are also exempt from the need to hold an entry visa for the two Member States.

<sup>376</sup> Turkish nationals will not be required to obtain electronic pre-travel approval once the proposed European Travel Information and Authorisation System is enacted because they are not exempt from the need to hold a visa when entering the Schengen area; see Proposal for a Regulation establishing ETIAS, *op.cit.*

<sup>377</sup> Further information can be found at: Turkish Ministry of Interior – Directorate General of Migration Management (2016), *Links of migration*. [online] Available at: [http://www.goc.gov.tr/main/Eng\\_3](http://www.goc.gov.tr/main/Eng_3).

<sup>378</sup> See above, paras 1.7-1.9.

<sup>379</sup> Decision 1/80, *op.cit.*, Article 13.

<sup>380</sup> Case C-92/07 *Commission v Netherlands* (2010), para 49.

<sup>381</sup> EU Blue Card Directive, *op.cit.*

<sup>382</sup> Directive 2014/36/EU, *op.cit.*

<sup>383</sup> European Parliament and Council Directive 2014/66/EU of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer, OJ L 157/1.

are from outside the EU, as well as for the purposes of research,<sup>384</sup> studies, pupil exchanges, unremunerated training or voluntary service.<sup>385</sup>

5.13 Nonetheless, once they have been admitted to work in an EU country, Turkish workers who are legally employed and duly registered as belonging to the labour force, start accumulating rights the longer they stay employed in the host country.<sup>386</sup> These rights also imply an associated right of residence<sup>387</sup> and the right to extend their residence permit<sup>388</sup> regardless of the initial reason for granting them the right of residence.<sup>389</sup> Turkish nationals who have worked for four years or more may also voluntarily cease work and retain a right of residence for a reasonable period of time to find new work.<sup>390</sup> Periods of temporary inactivity due to unemployment or sickness do not affect the residence rights of Turkish workers.<sup>391</sup>

5.14 The right of residence of family members of Turkish nationals holding a residence permit of at least one year is determined by the host Member State's rules that give effect to EU rules on family reunification of non-EU nationals.<sup>392</sup> After three years of residence, family members of Turkish workers also start accumulating additional rights under the Association Agreement.<sup>393</sup> This includes the right to extend their residence permit.<sup>394</sup> Moreover, unemployment and long-term sickness of Turkish workers do not affect the residence rights of their family members.<sup>395</sup>

5.15 The Association Agreement also grants certain rights to retain residence. The former spouse of a Turkish worker will retain the right of residence following divorce if the spouse has resided in the host Member State for five years or more.<sup>396</sup> The children of Turkish workers also acquire a right of residence after completing their education in a Member State, regardless of how much time they have previously resided in the Member State, but provided one of their parents was legally working there for at least three years by the time they completed their education.<sup>397</sup> The right of residence of children continues after they have reached the age of majority<sup>398</sup> and despite their parents having ceased employment.<sup>399</sup>

---

<sup>384</sup> Council Directive 2005/71/EC, *op.cit.* This will be replaced by Directive (EU) 2016/801, *op.cit.* (n. 297) from 24 May 2018.

<sup>385</sup> Council Directive 2004/114/EC, *op.cit.* This will be replaced by Directive (EU) 2016/801, *op. cit.* from 24 May 2018.

<sup>386</sup> Decision 1/80, *op.cit.*, Article 6. See further below, para 5.19.

<sup>387</sup> Case C-192/89 *Sevince* (1990), para 29.

<sup>388</sup> Case C-237/91 *Kus* (1992), *op.cit.*, para 36.

<sup>389</sup> *Ibid.*, para 26.

<sup>390</sup> Case C-171/95 *Tetik* (1997), para 30.

<sup>391</sup> Case C4/05 *Güzeli* (2006), para 41.

<sup>392</sup> Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification [2003] OJ L 251/12.

<sup>393</sup> Decision 1/80, *op.cit.*, Article 7.

<sup>394</sup> Case C-355/93 *Eroglu* (1994), para 23

<sup>395</sup> Case C-337/07 *Altun* (2008), para 40.

<sup>396</sup> C-303/08 *Bozkurt* (2010), para 44.

<sup>397</sup> Decision 1/80, *op.cit.*, Article 7, second para.

<sup>398</sup> Case C-467/02 *Cetinkaya* (2004), para 34.

<sup>399</sup> *Ibid.*, para 32.

5.16 After five years of lawful residence in a Member State, Turkish nationals can also benefit from the right to long-term residence for non-EU nationals.<sup>400</sup>

## The right to work

5.17 Given that the Association Agreement does not provide for free labour mobility,<sup>401</sup> the right of Turkish nationals to move to an EU country to take up their first employment is governed by the laws of the country of work,<sup>402</sup> unless they are family members of an EU national.<sup>403</sup>

5.18 Turkish nationals may also benefit from EU rules on highly-skilled workers,<sup>404</sup> seasonal workers<sup>405</sup> and intra-corporate transfers.<sup>406</sup> Further rights to work may also be claimed under the rules relating to researchers,<sup>407</sup> and those relating to students, trainees and volunteers.<sup>408</sup>

5.19 Under the Association Agreement, Turkish workers who are legally employed in an EU country and duly registered as belonging to the labour force, acquire the following rights based on the duration of their employment:

5.19.1 from the start of their employment, Turkish workers are entitled to benefit from the same working conditions as the nationals of the country of work;<sup>409</sup>

5.19.2 after one year of legal employment, they are entitled to the renewal of their work permit with the same employer, if a job is available;<sup>410</sup>

5.19.3 after three years of legal employment, they may change employers and respond to any other offer of employment for the same occupation, but will remain subject to priority rules for nationals;<sup>411</sup>

5.19.4 after four years of legal employment, a Turkish worker will enjoy free access to any paid employment in that EU country without being subject to priority rules for nationals.<sup>412</sup>

---

<sup>400</sup> Council Directive 2003/109/EC, *op.cit.*

<sup>401</sup> Case C-325/05 *Derin* [2007] EU:C:2007:442, para 66

<sup>402</sup> Case C-237/91 *Kus* (1992), *op.cit.*, para 25.

<sup>403</sup> See above para 1.10.

<sup>404</sup> Directive 2009/50 on highly-skilled workers, *op.cit.*

<sup>405</sup> Directive 2014/36 on seasonal workers, *op.cit.*

<sup>406</sup> Directive 2014/66 on intra-corporate transfers, *op.cit.*

<sup>407</sup> Directive 2005/71 on researchers, *op.cit.*

<sup>408</sup> Directive 2004/114 on students, pupils, unremunerated trainees or volunteers, *op.cit.*

<sup>409</sup> Decision 1/80, *op.cit.*, Article 10(1).

<sup>410</sup> *Ibid.*, Article 6(1), first indent.

<sup>411</sup> *Ibid.*, Article 6(1), second indent.



5.20 In addition, family members of Turkish workers also gain the right to work after having lawfully resided for three years with their sponsoring relative,<sup>413</sup> but subject to priority rules for nationals.<sup>414</sup> After five years, family members enjoy free access to employment in the host Member State.<sup>415</sup> Children of Turkish workers who have completed vocational training in the host country will also be able to take up employment, irrespective of the duration of their residence in the country, but provided one of their parents had been legally working there for at least three years by the time they completed their training.<sup>416</sup>

## Social security rights

5.21 Measures taken under the Association Agreement<sup>417</sup> have extended the benefit of social security rules to Turkish workers<sup>418</sup> and contain similar provisions to those found in EU rules on the coordination of social security.<sup>419</sup> However, these measures are yet to be fully implemented.<sup>420</sup>

5.22 Nonetheless, the EU has extended the benefit of its rules on the coordination of social security to all third-country nationals residing in an EU Member State.<sup>421</sup>

5.23 It should be observed that the Association Agreement does not provide for the coordination of Turkish social security rules with those of the EU Member States.<sup>422</sup> As a result, EU citizens currently living in Turkey are not able to invoke the benefit of the EU's rules on the coordination of social security.

## The right to do business and provide services

5.24 The provisions of the Association Agreement relating to the right of establishment or the freedom to provide services<sup>423</sup> have yet to be implemented. EU accession negotiations in these areas have yet to be

---

<sup>412</sup> Ibid., Article 6(1), third indent.

<sup>413</sup> Case C-135/95 *Kadiman* (1997), para 41.

<sup>414</sup> Decision 1/80, *op.cit.*, Article 7, para 1, first indent.

<sup>415</sup> Ibid., Article 7, para 1, second indent.

<sup>416</sup> Ibid., Article 7, second para.

<sup>417</sup> Additional Protocol, *op.cit.*, Article 39 provides that the Association Council is to adopt social security measures for workers of Turkish nationality moving within the Union and for their families residing in the Union.

<sup>418</sup> Association Council (1980), *Decision No 3/80 of 19 September 1980 on the application of the social security schemes of the Member States of the European Communities to Turkish workers and members of their families* (not published in the Official Journal).

<sup>419</sup> See above, para 1.13 onwards. The Council has yet to replace Decision 1/80 with an updated measure that reflects developments made by Regulation 883/2004, *op.cit.*; see Council Decision of 6 December 2012 on the position to be taken on behalf of the European Union within the Association Council set up by the Agreement establishing an association between the European Economic Community and Turkey, with regard to the adoption of provisions on the coordination of social security systems, OJ L 340/19.

<sup>420</sup> See for example, Case C-485/07 *Akdas* (2011), para 70.

<sup>421</sup> Regulation (EU) No 1231/2010, *op. cit.*

<sup>422</sup> Additional Protocol, *op.cit.*, Article 39.

<sup>423</sup> Association Agreement, *op.cit.*, Articles 13 and 14; Additional Protocol, *op.cit.*, Article 41.

opened.<sup>424</sup> Nonetheless, Member States may not introduce new restrictions on the ability of Turkish nationals to set up a business or provide services.<sup>425</sup>

5.25 Therefore, it follows that the conditions under which Turkish nationals may establish a business or provide services in an EU Member State are determined by national law. Likewise, Turkish law determines the conditions under which EU citizens may establish a business or provide services in Turkey.

## Consumer protection and passenger rights

5.26 Turkey participates in a customs union with the EU.<sup>426</sup> The union entails the elimination of customs duties and quantitative restrictions that apply to goods traded between Turkey and the EU.<sup>427</sup> However, it does not preclude restrictions that are justified on the grounds of the protection of health and human life, among others,<sup>428</sup> which may include certain measures intended to protect consumers.<sup>429</sup>

5.27 EU accession negotiations in the field of consumer protection began in 2007.<sup>430</sup> As a result, the Turkish government has enacted national legislation<sup>431</sup> that is intended to align Turkish law with EU rules on consumer protection.<sup>432</sup> However, differences in scope still exist.<sup>433</sup>

5.28 EU businesses wishing to sell goods and services to consumers in Turkey will have to comply with Turkey's consumer protection rules. Likewise, the supply of goods and services by Turkish companies within the EU will have to comply with the EU's consumer protection rules, which benefit any person buying goods or services in the EU.<sup>434</sup>

---

<sup>424</sup> Commission, "State of Play document", *op.cit.*; see also Turkish Ministry for EU Affairs (2016), "Accession Negotiations: Chapter 3 Right of Establishment and Freedom to Provide Services". [online] Available at: <http://www.ab.gov.tr/index.php?p=68&l=2>.

<sup>425</sup> Additional Protocol, *op.cit.*, Article 41(1) which provides that the Contracting Parties are to refrain from introducing between themselves any new restrictions on the freedom of establishment and the freedom to provide services. The Additional Protocol entered into force on 1 January 1973, pursuant to Article 62, as regards the original six Member States of the EEC. Different dates may apply to the other EU Member States as further specified in the relevant Accession Treaty.

<sup>426</sup> See above, para 5.4.

<sup>427</sup> Decision 1/95 on implementing the final phase of the Customs Union, *op.cit.*, Articles 4 and 5.

<sup>428</sup> Ibid., Article 7; Additional Protocol, *op.cit.*, Article 49.

<sup>429</sup> See Case C-313/94 *Graffione* (1996), para 17.

<sup>430</sup> Commission, "State of Play document"; see also Turkish Ministry for EU Affairs (2016), "Accession Negotiations: Chapter 28 Consumer and Health Protection". [online] Available at: <http://www.ab.gov.tr/index.php?p=93&l=2>.

<sup>431</sup> Turkish Parliament (2013), *Law No 6502 of 7 November 2013 on consumer protection*, Official Gazette No 28835, 28 November 2013. [online] Available at: <http://english.gtb.gov.tr/data/55e84f501a79f52b9c3d8c6a/6502%20say%C4%B1%C4%B1%20kanun%20%C4%B0ngilizce.pdf>.

<sup>432</sup> See above para 1.23 onwards.

<sup>433</sup> See further European Commission (2015), *Turkey 2015 Report*, Commission Staff Working Document, SWD(2015) 216 final. [online] Available at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2015/20151110\\_report\\_turkey.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2015/20151110_report_turkey.pdf).

<sup>434</sup> See above para 1.23 onwards.

5.29 In the field of transport, EU accession negotiations have yet to officially begin.<sup>435</sup> Nonetheless, Turkey's Directorate General of Civil Aviation adopted a regulation on air passenger rights that is based on the EU passenger rights package.<sup>436</sup> The Turkish regulation on air passenger rights has applied, since 2012, to all flights operated by Turkish carriers departing or landing in Turkey, as well as flights operated by foreign carriers departing from airports in Turkey.<sup>437</sup> EU rules also apply to passengers travelling on any flight landing in Turkey that originates within the EEA.<sup>438</sup>

## The right to non-discrimination

5.30 The Association Agreement prohibits discrimination on the grounds of nationality, benefitting Turkish workers who are lawfully employed in a Member State with regard to remuneration and other working conditions<sup>439</sup>, as well as social security matters.<sup>440</sup> In addition, Turkish nationals are able to claim certain additional rights to equal treatment under the various EU instruments governing migration.<sup>441</sup>

5.31 EU accession negotiations in the field of social policy and fundamental rights are yet to begin.<sup>442</sup> Turkey has yet to adopt legislation that provides protection comparable to EU legal instruments on social policy<sup>443</sup> and those prohibiting discrimination,<sup>444</sup> although it has ratified the European Convention on Human Rights.<sup>445</sup>

## Voting and political rights

5.32 The Association Agreement does not contain any provision that gives Turkish nationals the right to vote in EU countries.

---

<sup>435</sup> Commission, "State of Play document", *op.cit.* see also Turkish Ministry for EU Affairs (2016), "Accession Negotiations: Chapter 14 Transport Policy". [online] Available at: <http://www.ab.gov.tr/index.php?p=79&l=2>.

<sup>436</sup> See above paras 1.28-1.30.

<sup>437</sup> Directorate General of Civil Aviation, Turkey (2012), *Regulation on air passenger rights (SHY passenger)*. [online] available at: <http://www.turkishairlines.com/en-int/travel-information/legal-notice/legal-notice-passenger-rights/regulation-on-air-passenger-rights>

<sup>438</sup> See above para 1.28 onwards and 2.13.

<sup>439</sup> Additional Protocol, *op.cit.*, Article 37; Decision 1/80, *op.cit.*, Article 10(1).

<sup>440</sup> Decision 3/80, *op.cit.*, Article 3(1).

<sup>441</sup> European Parliament and Council Directive 2011/98/EU of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State (hereafter, 'Single Permit Directive'), OJ L 343/1 OJ L 343/1, Article 12; Directive 2003/109 on long-term residence, *op.cit.*, Article 11; Directive 2009/50 on highly-skilled workers, *op.cit.*, Article 14.

<sup>442</sup> Commission, "State of Play" document", *op.cit.*, see also Turkish Ministry for EU Affairs (2016), "Accession Negotiations: Chapter 19 Social Policy and Employment" [online] Available at: <http://www.ab.gov.tr/index.php?p=84&l=2>.

<sup>443</sup> See above, para 1.33.

<sup>444</sup> See above, paras 1.34-1.35.

<sup>445</sup> ECHR, *op.cit.* (n. 183)

5.33 Turkish nationals cannot participate in a European Citizens Initiative<sup>446</sup> nor can they seek consular protection from EU countries in a third country where Turkey does not have an embassy.<sup>447</sup>

## Access to EU institutions

5.34 The Association Agreement does not address rights of access to EU institutions.

5.35 Under the EU treaties, EU citizens who reside in Turkey<sup>448</sup> as well as Turkish citizens who are legally residing in an EU Member State<sup>449</sup> benefit from the right to petition the European Parliament,<sup>450</sup> the right to correspond with EU institutions,<sup>451</sup> the right to request access to EU public documents<sup>452</sup> and the right to submit a complaint to the European Ombudsman.<sup>453</sup> However, Turkish citizens residing in Turkey do not have the right of access to EU institutions.

## So what is different between EU membership and Turkey's Association Agreement?

5.36 The Association Agreement between the EU and Turkey essentially comprises a customs union that provides for the free movement of goods and a common framework for the imposition of customs duties on goods coming from other countries.

5.37 In addition, while it foresees the eventual introduction of the free movement of workers and the freedom to do business and provide cross-border services, the Association Agreement allows Member States to retain control over the entry and initial residence of Turkish nationals. Turkish citizens who go to reside in an EU country will remain subject to the country's national immigration laws and vice-versa in relation to EU citizens moving to Turkey.

5.38 The Association Agreement only provides for equality of treatment between Turkish nationals and EU citizens as regards conditions of work. It is only after Turkish nationals have worked for at least a year that they begin to accumulate rights under the Association Agreement. Nonetheless, other instruments of EU migration law provide for equality of treatment in certain circumstances.

---

<sup>446</sup> See above, para 1.39.

<sup>447</sup> See above, para 1.40.

<sup>448</sup> Article 24 TFEU.

<sup>449</sup> Articles 41 and 42 EUCFR.

<sup>450</sup> See above, para 1.42.

<sup>451</sup> See above, para 1.43.

<sup>452</sup> Ibid.

<sup>453</sup> See above, para 1.44.

5.39 Certain other citizens' rights, such as consumer protection and passenger rights, have also been introduced into Turkish law as a result of on-going accession negotiations, rather than being required under the Association Agreement.

## CONCLUSIONS: EU RIGHTS

---

Of all the scenarios, the best possible deal for citizens would be one based on Norway's membership of the EEA (*scenario 2*), which would allow the UK to retain full access to the Single Market. This would ensure the free movement of people, goods, services and capital. As shown in the comparative table below, UK citizens would retain most of the rights they currently enjoy as EU citizens under this scenario. The rights that UK citizens would lose if the UK was to follow Norway's example would be the rights to vote and stand in European and local elections, to participate in an ECI and to seek diplomatic or consular protection from another EU country in a third country where the UK does not have a consular presence. These political rights are only bestowed on citizens who hold EU citizenship, which is additional to the nationality of the Member States and cannot be bestowed upon nationals of non-EU countries. The right to address and to correspond with the EU institutions would only be kept by UK nationals legally residing in the EU. Finally, under Norway's model, the UK would not be bound by all standards of protection against discrimination laid down by EU law.

The second best option would be Switzerland's model based on bilateral arrangements (*scenario 3*), which would oblige the UK to essentially preserve freedom of movement rights (including the rights relating to residence, work and social security), albeit with some potential limitations concerning permanent residence and the right to non-discrimination.<sup>454</sup> The EU passenger rights package would also be maintained for the most part, while there would be some important limitations concerning freedom of establishment and the provision of cross-border services, as well as in the area of consumer protection. Both of these scenarios would, however, oblige the UK to guarantee freedom of movement of people, which, the British Prime Minister has acknowledged, represents a "red line" in the exit negotiations. Therefore, neither of these options, which would correspond to a so-called "soft Brexit", would currently meet what is presently known about the UK's negotiating position.<sup>455</sup>

The now-abandoned 'New Settlement for the UK' with the EU (analysed under *scenario 1*), which formed the basis upon which the former Prime Minister asked the British electorate to cast their vote in the referendum, is also not considered a viable option. Not only was this rejected by the UK electorate in the June referendum, but it would also imply the UK remaining a full member of the Single Market. This arrangement

---

<sup>454</sup> Switzerland has recently passed a law on EU immigration which privileges Swiss nationals over foreigners in the labour market. See Swiss Confederation (2016), *Loi fédérale sur les étrangers du 16 décembre 2005 (modification du 16 décembre 2016)* [Federal Act on Foreign Nationals of 16 December 2005, amended on 16 December 2016]. [online] Available at: <https://www.admin.ch/opc/fr/federal-gazette/2016/8633.pdf>; see also European Commission (2016), "European Commission welcomes progress in relations between the European Union and Switzerland", press release, IP/16/4501, 22 December 2016. [online] Available at: [http://europa.eu/rapid/press-release\\_IP-16-4501\\_en.htm](http://europa.eu/rapid/press-release_IP-16-4501_en.htm).

<sup>455</sup> Prime Minister's Office (2017), "The Government's Negotiating Objectives for Exiting the EU: PM Speech", 17 January 2017. [online] Available at: <https://www.gov.uk/government/speeches/the-governments-negotiating-objectives-for-exiting-the-eu-pm-speech>.

would have essentially consisted of amendments being made to the EU rules on free movement, which would have permitted limited discrimination between EU citizens and UK nationals regarding access to “in-work” benefits. However, other EU rights would have remained unaffected. Although this option is no longer viable at the time of writing, it does provide some indication of the nature that future restrictions on the freedom of movement could take in the event that the UK was to somehow accept limited free movement of EU citizens in the UK post-Brexit.

Table 6: Comparative table: EU-UK models for a new relationship

Table 6: Comparative table: EU-UK models for a new relationship									
	Right of entry	Right of residence	Right to work	Social security rights	Right to do business and provide services	Consumer protection & passenger rights	Right to non-discrimination	Voting & political rights	Access to EU institutions
EU Membership (baseline scenario)									
Draft New Settlement for the UK									
Norway Option									
Switzerland Option									
Canada Option									
Turkey Option									

Full Access	
Partial/Voluntary/Special Arrangement	
None	

The next option contemplated the UK and the EU negotiating a comprehensive free trade agreement, such as the one with Canada (*scenario 4*). This would only provide UK citizens living in the EU and EU citizens residing in the UK with some of the rights that they currently enjoy. The EU-Canadian free trade agreement (CETA) does not provide for the freedom of movement of persons or freedom of establishment, but it does allow temporary work-related migration of key employees and the self-employed between the EU and Canada without requiring prior approval, provided it is for a limited duration, ranging from a year to three years depending on the nature of their activity. EU rules already facilitate the mobility of third country nationals like Canadians who come to the EU to undertake highly-skilled work or engage in research, studies or seasonal work. In all other cases, though, rights of entry, residence and work are subject to the national immigration rules of the host country. The EU rules also provide a visa exemption for Canadian citizens who stay in the Schengen area for short stays of up to 90 days. In addition, EU free movement rules also bestow rights of entry, residence and work to foreign family members of EU citizens. By virtue of CETA, Canadian citizens and EU citizens would also enjoy some right to equality of treatment in limited fields. EU rules on consumer protection and passenger rights are not exclusively dependent upon holding EU citizenship and can therefore also be claimed by non-EU nationals living in the EU. The same is true for rights of access to EU institutions, which are also bestowed on all persons who are resident in the EU. These rights would, therefore, be partially maintained if the UK were to follow the Canadian free trade model. Under such a scenario, EU rights relating to the coordination of social security would be fully lost, as well as those relating to voting and political participation.

Finally, if the UK and EU were to move into an association involving a customs union, as is the case for Turkey (*scenario 5*), UK citizens and EU citizens could still partially enjoy some of their current rights. The EEC-Turkey Association Agreement does not foresee freedom of movement of people. Unless they are family members of an EU citizen, Turkish citizens have to abide by the immigration rules of the EU country where they seek to relocate in respect of residence formalities and access to work, or, alternatively, with the harmonised EU rules relating to research, studying, seasonal work, highly-skilled work or intra-corporate transfers. In addition - unlike Canadian citizens - Turkish citizens are required to hold a valid visa to enter the EU. The EU and Turkey are, however, currently negotiating a visa liberalisation policy, which could emerge in the foreseeable future and would ease travel requirements between the two countries. Nonetheless, the Association Agreement does provide for the gradual accumulation of residence rights by Turkish workers who are legally employed in an EU country and are duly registered as belonging to its labour force, as well as their family members. Like other third country nationals, Turkish citizens also benefit from EU rules on the coordination of social security in the EU. Although the Association Agreement does not cover consumer protection and passenger rights, Turkey has sought to align its laws with the EU's rules on consumer protection and passenger rights in anticipation of its future accession to the EU. In addition, rights of access



to EU institutions, which are not dependent upon holding EU citizenship, would also be retained, since these can be exercised by all persons legally residing in the EU.

As is evident from our analysis, there is no “best deal” alternative to EU membership under which all citizens’ rights can be fully preserved. Under each scenario, EU rights are guaranteed to a different extent. A choice will therefore have to be made during negotiations as to which rights should be retained. This will ultimately depend on the willingness of the UK government to accept some form of free movement, albeit with limitations. It should however be noted that this study has only presented and analysed existing models of agreements concluded between the EU and other countries. It should not be excluded that in the course of exit negotiations other kinds of arrangements could be considered. Indeed, it is the purpose of this study to suggest that this could be the case.

## PART II: BREXIT AND ACCESS TO EU FUNDING

---

The UK is one of the largest recipients of research and innovation funding in the EU, second only to Germany. In the period 2007-2014, the UK secured €6.9 billion out of a total of €55.4 billion under the 7<sup>th</sup> Framework Programme.<sup>456</sup> An additional €1.9 billion earmarked for research and innovation activities was channelled through the EU Structural Funds.<sup>457</sup> In 2015 alone, UK universities and students benefited from €120 million support under the EU's Erasmus+ programme for education, training and youth.<sup>458</sup> The result of the referendum has thrown into doubt the future ability of UK institutions to obtain funding from EU programmes such as Horizon 2020 and Erasmus+, highlighting concerns over the future of science and education in the UK.<sup>459</sup>

In response to growing unease, the UK Treasury issued a statement on 13 August 2016 ending uncertainty about future funding while the UK remains a member of the EU and encouraging UK organisations to continue to bid for EU funds.<sup>460</sup> The Treasury has committed itself to maintaining funding until 2020 for arrangements that were in place before the 2016 Autumn Statement in the event that these projects continue beyond the UK's withdrawal from the EU.<sup>461</sup> As for the funding allocated to different policy areas, such as structural funds, which have been funded by the EU until now, the question remains unanswered. The UK Treasury has simply indicated that it will consult with stakeholders to review all EU funding schemes and assess whether to guarantee such funding in the future.<sup>462</sup>

This chapter aims to provide an overview of the impact of Brexit on EU funding allocated to UK organisations by analysing different models of participation in EU funding programmes. These options are based on existing agreements with other countries, but this does not preclude other arrangements that could be agreed under the terms of withdrawal the UK will negotiate with the EU.

In addition to the scenarios analysed in the first section on citizens' rights, a further two scenarios have been added. The first additional scenario concerns the EU Neighbourhood countries, which enjoy a privileged

---

<sup>456</sup> The Royal Society (2015), *UK research and the European Union: The role of the EU in funding UK research*. [online] Available at: <https://royalsociety.org/~media/policy/projects/eu-uk-funding/uk-membership-of-eu.pdf>.

<sup>457</sup> Ibid.

<sup>458</sup> European Commission (2016), *EU expenditure and revenue 2000-2015*. [online] available at: <http://ec.europa.eu/budget/library/biblio/documents/2015/internet-tables-2000-2015.xls>.

<sup>459</sup> "Funding, staffing woes for UK science after Brexit vote", in *Euractiv*, 2 September 2016. [online] Available at: <http://www.euractiv.com/section/uk-europe/news/funding-staffing-woes-for-uk-science-after-brexite-vote> ; Ali, A. (2016), "Post-Brexit uncertainty and long-term funding issues hit UK higher education, university rankings show", in *The Independent*, 6 September 2016. [online] Available at: <http://www.independent.co.uk/student/into-university/applying/how-brexite-is-affecting-british-universities-funding-issues-higher-education-gs-world-university-a7227911.html>.

<sup>460</sup> UK Treasury (2016), *Chancellor Philip Hammond guarantees EU funding beyond date UK leaves the EU*, 13 August 2016. [online] Available at: <https://www.gov.uk/government/news/chancellor-philip-hammond-guarantees-eu-funding-beyond-date-uk-leaves-the-eu>.

<sup>461</sup> Ibid.

<sup>462</sup> Ibid.

position as regards access to EU funds compared to other regions in the world due to their proximity to the EU. The second additional scenario concerns countries with which the EU has signed agreements on development and cooperation. In each of these scenarios, a number of countries have been selected as representatives of the group. It should be noted, though, that within a same group of countries the bilateral arrangements with the EU might slightly differ, thereby affecting access to a particular funding stream.

Finally, although several EU funding programmes are open to non-EU countries, it should be observed that some of these are exclusively limited to participation by EU Member States. This is particularly the case regarding programmes directly related to the EU's regional and common agricultural policies, which account for a large share of EU expenditure.<sup>463</sup> These funds include the European Structural and Investment Funds (ESIF),<sup>464</sup> funding of the Common Agricultural Policy (CAP), including direct payments to farmers and measures to regulate agricultural markets, the Asylum, Migration and Integration Fund (AMIF)<sup>465</sup> and the Internal Security Fund (ISF).<sup>466</sup> Participation in these funds is restricted to Member States. As a result, such programmes have not been considered in the various scenarios, except in the baseline scenario reflecting the UK's current membership of the EU.

There exists, as well, a number of funding programmes under Development and Cooperation which are generally open "to the world", including to EU Member States. These programmes are analysed separately in a final section.

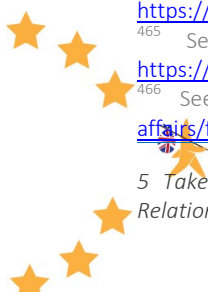
---

<sup>463</sup> European Commission (2016), *EU expenditure and revenue 2000-2015*, *op.cit.*

<sup>464</sup> These funds will benefit the UK to the tune of €16.4 billion over the period 2014-2020; see European Commission (2016), *European Structural and Investment Funds - Country Data for United Kingdom*. [online] Available at: <https://cohesiondata.ec.europa.eu/countries/UK>.

<sup>465</sup> See European Commission (2017), *Asylum, Migration and Integration Fund (AMIF)*. [online] Available at: [https://ec.europa.eu/home-affairs/financing/fundings/migration-asylum-borders/asylum-migration-integration-fund\\_en](https://ec.europa.eu/home-affairs/financing/fundings/migration-asylum-borders/asylum-migration-integration-fund_en).

<sup>466</sup> See European Commission (2017), *Internal Security Fund (ISF)*. [online] Available at: [https://ec.europa.eu/home-affairs/financing/fundings/security-and-safeguarding-liberties/internal-security-fund-borders\\_en](https://ec.europa.eu/home-affairs/financing/fundings/security-and-safeguarding-liberties/internal-security-fund-borders_en)



## Scenario 1 - The 'Bremain Option': The UK Remains in the EU

1.1. Under the current terms of the UK's membership of the EU, the UK participates in the following EU programmes:

- Erasmus+,<sup>467</sup> which supports projects relating to education, training, youth and sport;
- Horizon 2020,<sup>468</sup> which funds research and innovation projects;
- COSME,<sup>469</sup> which provides support to small and medium-sized enterprises;
- Galileo,<sup>470</sup> Europe's global satellite navigation system;
- Copernicus,<sup>471</sup> the European earth observatory programme;
- Creative Europe,<sup>472</sup> which supports the cultural and audiovisual sectors;
- Connecting Europe Facility (CEF),<sup>473</sup> which promotes growth, jobs and competitiveness through investment in infrastructure;
- Health Programme,<sup>474</sup> which seeks to improve public health, prevent human illness and eliminate sources of danger to physical and mental health;
- EaSI,<sup>475</sup> the EU's programme for Employment and Social Innovation;
- UCPM,<sup>476</sup> the EU's Civil Protection Mechanism, which provides aid in the immediate aftermath of a disaster;
- Consumer Programme,<sup>477</sup> which supports EU consumer policy;
- Rights Equality and Citizenship (REC) programme,<sup>478</sup> which supports projects relating to equality and the rights of persons;

---

<sup>467</sup> European Parliament and Council Regulation (EU) No 1288/2013 of 11 of December 2013 establishing 'Erasmus+': the Union programme for education, training, youth and sport, OJ L 347/50.

<sup>468</sup> European Parliament and Council Regulation (EU) No 1291/2013 of 11 of December 2013 establishing Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020), OJ L347/104.

<sup>469</sup> European Parliament and Council Regulation (EU) No 1287/2013 of 11 of December 2013 establishing a Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (hereafter, 'COSME') (2014 - 2020), OJ L347/33.

<sup>470</sup> European Parliament and Council Regulation (EU) No 1285/2013 of 11 December 2013 on the implementation and exploitation of European satellite navigation systems, OJ L 347/1.

<sup>471</sup> European Parliament and Council Regulation (EU) No 377/2014 of 3 April 2014 establishing the Copernicus Programme, OJ L 122/44.

<sup>472</sup> European Parliament and Council Regulation (EU) No 1295/2013 of 11 of December 2013 establishing the Creative Europe Programme (2014 to 2020), OJ L347/221.

<sup>473</sup> European Parliament and Council Regulation (EU) No 1316/2013 of 11 of December 2013 establishing the Connecting Europe Facility, OJ L348/129.

<sup>474</sup> European Parliament and Council Regulation (EU) No 282/2014 of 11 of March 2014 on the establishment of a third Programme for the Union's action in the field of health (2014-2020), OJ L86/1 (hereafter, 'Health Programme').

<sup>475</sup> European Parliament and Council Regulation (EU) No 1296/2013 of 11 of December 2013 on a European Union Programme for Employment and Social Innovation ("EaSI"), OJ L347/238.

<sup>476</sup> European Parliament and Council Decision (EU) No 1313/2013 of 17 of December 2013 on a Union Civil Protection Mechanism, OJ L347/924.

<sup>477</sup> European Parliament and Council Regulation (EU) No 254/2014 of 26 of February 2014 on a multiannual consumer programme for the years 2014-20, OJ L84/42.

<sup>478</sup> European Parliament and Council Regulation (EU) No 1381/2013 of 17 of December 2013 establishing a Rights, Equality and Citizenship Programme for the period 2014 to 2020, OJ L354/62.

- Europe for Citizens,<sup>479</sup> which aims to strengthen the remembrance of European history and to enhance civic participation at EU level;
- LIFE Programme,<sup>480</sup> which supports environmental, nature conservation and climate action projects throughout the EU;
- Asylum, Migration and Integration Fund (AMIF)<sup>481</sup>, which supports the EU's asylum and migration policy;
- EU Aid Volunteers,<sup>482</sup> which promotes training, capacity-building and collaboration of volunteers and humanitarian organisations.
- European Structural and Investment Funds (ESIF),<sup>483</sup> which encompass the European Regional Development Fund (ERDF),<sup>484</sup> the European Social Fund (ESF),<sup>485</sup> the Cohesion Fund (CF),<sup>486</sup> the European Agricultural Fund for Rural Development (EAFRD)<sup>487</sup> and the European Maritime and Fisheries Fund (EMFF);<sup>488</sup>
- European Agricultural Guarantee Fund (EAGF),<sup>489</sup> which, together with the EAFRD, funds the EU's Common Agricultural Policy (CAP).

1.2. The UK does not participate in the Justice and Home Affairs-related funding programmes as they concern areas from which the UK has specifically opted out under Protocol No 21.<sup>490</sup> As a result, UK-based organisations cannot participate in these programmes. These programmes are the Justice

<sup>479</sup> Council Regulation (EU) No 390/2014 of 14 of April 2014 establishing the 'Europe for Citizens' programme for the period 2014-2020, OJ L115/3.

<sup>480</sup> European Parliament and Council Regulation (EU) No 1293/2013 of 11 of December 2013 on the establishment of a Programme for the Environment and Climate Action (hereafter, 'LIFE') and repealing Regulation (EC) No 614/2007, OJ L347/185.

<sup>481</sup> European Parliament and Council Regulation (EU) No 516/2014 of 16 of April 2014 establishing the Asylum, Migration and Integration Fund, OJ L150/168.

<sup>482</sup> European Parliament and Council Regulation (EU) No 375/2014 of 3 of April 2014 establishing the European Voluntary Humanitarian Aid Corps (hereafter, the 'EU Aid Volunteers initiative'), OJ L122/1.

<sup>483</sup> European Parliament and Council Regulation (EU) No 1303/2013 of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006, OJ L 347/320.

<sup>484</sup> European Parliament and Council Regulation (EU) No 1301/2013 of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal, OJ L 347/289.

<sup>485</sup> European Parliament and Council Regulation (EU) No 1304/2013 of 17 December 2013 on the European Social Fund and repealing Council Regulation (EC) No 1081/2006, OJ L 347/470.

<sup>486</sup> European Parliament and Council Regulation (EU) No 1300/2013 of 17 December 2013 on the Cohesion Fund and repealing Council Regulation (EC) No 1084/2006, OJ L 347/281.

<sup>487</sup> European Parliament and Council Regulation (EU) No 1305/2013 of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005, OJ L 347/487.

<sup>488</sup> European Parliament and Council Regulation (EU) No 508/2014 of 15 May 2014 on the European Maritime and Fisheries Fund, OJ L 149/1.

<sup>489</sup> European Parliament and Council Regulation (EU) No 1307/2013 of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy, OJ L 347/608; European Parliament and Council Regulation (EU) No 1308/2013 of 17 December 2013 establishing a common organisation of the markets in agricultural products, OJ L 347/671.

<sup>490</sup> European Union (2012), *Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice*, in Consolidated version of the Treaty on the Functioning of the European Union, OJ C 326/47.

Programme,<sup>491</sup> which supports cooperation in the fields of civil and criminal justice and drug prevention, and the ISF,<sup>492</sup> which supports cooperation between law enforcement agencies and the management of the EU's external borders.

1.3. In addition to the programmes listed in the table below, UK organisations are eligible under several EU funding programmes targeting development and cooperation, which are also open to non-EU countries. These programmes are separately analysed in a section below (*see table 11*).

Table 7: Bremain Option

Table 7 – The ‘Bremain Option’: UK’s current access to EU funding													
	Erasmus+	Horizon 2020	COSME	Galileo	Copernicus	Creative Europe	CEF	Health	EaSI	UCPM	Consumer	Justice	REC
EU Membership												Opt out	
	Europe for Citizens	LIFE	ISF	AMIF	EU Aid Volunteers	ESIF <sup>493</sup> & CAP <sup>494</sup>							
			Opt out			Except for the Cohesion Fund							

	Full participation, on equal footing with EU Member States
	Partial participation / not on equal footing
	No participation (participation not foreseen in the legal basis of the funding instrument)
	No participation currently (but possible upon signature of cooperation agreements)

<sup>491</sup> European Parliament and Council Regulation (EU) No 1382/2013 of 17 of December 2013 establishing a Justice Programme for the period 2014 to 2020, OJ L354/73.

<sup>492</sup> European Parliament and Council Regulation (EU) No 513/2014 of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime, and crisis management and repealing Council Decision 2007/125/JHA, OJ L 150/93; European Parliament and Council Regulation (EU) No 515/2014 of 16 April 2014 establishing the Instrument for financial support for external borders and visa, OJ L 150/143.

<sup>493</sup> European Structural and Investment Funds (n.483). For the UK, these funds include the European Social Fund (ESF), the European Regional Development Fund (ERDF), the European Agricultural Fund for Rural Development (EAFRD) and the European Maritime and Fisheries Fund (EMFF). The UK is not eligible under the Cohesion Fund. The Cohesion Fund is aimed at Member States whose Gross National Income (GNI) per inhabitant is less than 90 % of the EU average.

<sup>494</sup> Common Agricultural Policy. The agricultural expenditure is financed by two funds: the European Agricultural Guarantee Fund (EAGF) which primarily finances direct payments to farmers and measures to regulate agricultural markets, and the European Agricultural Fund for Rural Development (EAFRD) which co-finances the rural development programmes of the Member States and is part of the ESIF.

## Scenario 2 - The 'Norway Option': EEA Membership of the Single Market

2.1 This scenario would allow the UK to maintain its participation in most of the EU funding programmes that it currently enjoys. In addition to participating in the Single Market, the EEA Agreement allows the three EFTA States of Iceland, Liechtenstein and Norway to participate in most EU funding programmes, provided they also contribute to the EU budget.<sup>495</sup> Participation in these programmes entails not only that organisations established in these three EFTA States can participate in calls for proposals and tenders under equal conditions to EU organisations,<sup>496</sup> but, in addition, these EFTA States contribute to shaping the aims and objectives of these programmes.<sup>497</sup>

2.2 The funding programmes open to participation by Iceland, Liechtenstein and Norway are in the following fields:<sup>498</sup>

- research and technological development;
- information services;
- the environment;
- education, training and youth;
- social policy;
- consumer protection;
- small and medium-sized enterprises;
- tourism;
- the audio-visual sector; and
- civil protection.

2.3 Table 6 below provides a summary overview of the participation of each of the three EEA/EFTA countries in the different EU funding programmes.

2.4 Erasmus+ is the only EU programme in which all these three EFTA States fully participate as non-EU programme countries.<sup>499</sup> Norway and Iceland participate in most other EU programmes, but Liechtenstein to a lesser degree, even if these programmes are also open to its participation.

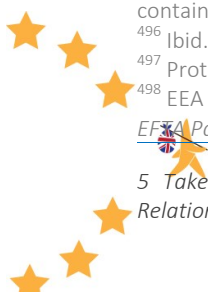
---

<sup>495</sup> EEA Agreement, *op. cit.*, Article 80, and Protocol 31 to the EEA Agreement on cooperation in specific fields outside the four freedoms. [online] Available at: <http://www.efta.int/media/documents/legal-texts/eea/the-eea-agreement/Protocols%20to%20the%20Agreement/protocol31.pdf>. The rules on calculating the contribution of each EFTA are contained in Article 82 of the EEA Agreement.

<sup>496</sup> *Ibid.*, Article 81.

<sup>497</sup> Protocol 31, *op.cit.*

<sup>498</sup> EEA Agreement, *op.cit.*, Article 78. Further details can be found on the EFTA website: Eyjólfsson, E. (s.d), *EU Programmes with EEA EFTA Participation*. [online] Available at: <http://www.efta.int/eea/eu-programmes>.



2.5 In addition, there are some EU programmes where the participation of these three EFTA States is envisaged in the relevant legal instrument establishing the programme, but this requires that an appropriate bilateral agreement be signed and that a corresponding contribution be made to the EU budget. These include Europe for Citizens, the Justice Programme, the LIFE Programme and the EU Aid Volunteers Initiative. So far, none of these three EFTA States has signed an agreement enabling their participation in these programmes, but this does not preclude them from doing so in the future.

Table 8: Norway Option

Table 8 - The 'Norway Option': Membership of the EEA													
Country	Erasmus+	Horizon 2020	COSME	Galileo	Copernicus	Creative Europe	CEF	Health	EaSI	UCPM	Consumer	Justice	REC
Norway							ICT part						
Iceland							ICT part						
Liechtenstein													limited participation
Country	Europe for Citizens	LIFE	EU Aid Volunteers										
Norway													
Iceland													
Liechtenstein													

	Full participation, on equal footing with EU Member States
	Partial participation / not on equal footing
	No participation (participation not foreseen in the legal basis of the funding instrument)
	No participation currently (but possible upon signature of cooperation agreements)

<sup>499</sup> European Commission (2017), *Erasmus+ Programme Guide* (version 20 January 2017), p.23. [online] Available at: [https://ec.europa.eu/programmes/erasmus-plus/sites/erasmusplus/files/files/resources/erasmus-plus-programme-guide\\_en.pdf](https://ec.europa.eu/programmes/erasmus-plus/sites/erasmusplus/files/files/resources/erasmus-plus-programme-guide_en.pdf)



## Scenario 3 - The 'Switzerland Option': Bilateral Agreements with the EU

- 3.1. Switzerland's participation in EU programmes is negotiated on a bilateral basis for each individual programme and is limited to the duration of each programme. For some programmes, Switzerland's participation is not foreseen in the legal basis establishing the funding programme, such as in the Consumer Programme, Justice Programme, REC, Europe for Citizens and COSME.
- 3.2. For other programmes, Swiss participation is foreseen but the necessary bilateral agreement has not been concluded. This is the case, for example, with the Creative Europe programme,<sup>500</sup> as well as the Health<sup>501</sup> and LIFE<sup>502</sup> programmes, which contemplate the possible participation of Switzerland. In order for Swiss entities to be able to participate in these programmes, a bilateral agreement would have to be negotiated with the EU. For instance, Switzerland previously participated in the Creative Europe programme for the period 2007-2013 on the basis of a bilateral agreement that has since expired<sup>503</sup> and is currently negotiating a renewal of Swiss participation for the current programme period.<sup>504</sup>
- 3.3. Under some other EU programmes, such as EaSI, the participation of Switzerland is specifically envisaged under some axes but not others. As a result, Swiss entities may participate as associate organisations in the EaSI-EURES axis on job mobility, but their participation is not foreseen in the EaSI-PROGRESS axis on modernising employment and social policies.<sup>505</sup>
- 3.4. It should also be noted that the Swiss referendum on immigration held in 2014 has had an impact on its participation in some EU programmes. Until very recently, Switzerland only benefited from a status of partial association under Horizon 2020<sup>506</sup> and its participation in Erasmus+ is currently limited to that of a partner country (region 5).<sup>507</sup> On 16 December 2016, the Swiss Federal Council finally ratified the

---

<sup>500</sup> Regulation (EU) 1295/2013 establishing the Creative Europe Programme, *op.cit.*, Article 8(3)(c) specifies that participation is open to "the Swiss Confederation, on the basis of a bilateral agreement with that country".

<sup>501</sup> Regulation (EU) 282/2014 establishing the Health Programme, *op. cit.* Article 6(d) provides for the participation of "other countries in accordance with the conditions laid down by a relevant bilateral or multilateral agreement".

<sup>502</sup> Regulation (EU) 1293/2013 establishing the LIFE Programme, *op.cit.* Article 5(d) foresees the participation of "countries which have become members of the European Environmental Agency", which includes Switzerland.

<sup>503</sup> European Community and Swiss Confederation (2007), *Agreement between the European Community and the Swiss Confederation in the audiovisual field, establishing the terms and conditions for the participation of the Swiss Confederation in the Community programme MEDIA 2007*, OJ L 303/11. [online] Available at: [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:22007A1121\(01\)](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:22007A1121(01))

<sup>504</sup> Swiss Federal Council (2016), *Creative Europe (MEDIA/Culture)* (status as of February 2016). [online] Available at: <https://www.eda.admin.ch/dea/en/home/verhandlungen-offene-themen/verhandlungen/creative-europe.html>.

<sup>505</sup> Regulation (EU) 1296/2013 establishing EaSI, *op.cit.*, Article 24(1)(b).

<sup>506</sup> European Commission (2016), *Swiss participation in Horizon 2020* (version January 2017) [online] Available at: [http://ec.europa.eu/research/participants/data/ref/h2020/other/hi/h2020-hi-swiss-part\\_en.pdf](http://ec.europa.eu/research/participants/data/ref/h2020/other/hi/h2020-hi-swiss-part_en.pdf).

<sup>507</sup> European Commission (2014), *Information note on the participation of Switzerland in Erasmus+* (28 January 2014). [online] Available at: [http://ec.europa.eu/programmes/erasmus-plus/updates/20140128-participation-switzerland-erasmus-plus\\_en](http://ec.europa.eu/programmes/erasmus-plus/updates/20140128-participation-switzerland-erasmus-plus_en).

Protocol on the extension of the AFMP to Croatia, thus fulfilling the necessary condition for Switzerland's full association to Horizon 2020. Following this ratification, Switzerland has, as of 1 January 2017, regained its full association to the entire Horizon 2020 programme<sup>508</sup>. The Commission has also announced that the negotiations on its participation in Erasmus+ can resume, so Switzerland might end up being a programme country.<sup>509</sup>

3.5. The table below identifies the programmes in which Swiss entities can currently participate.

Table 9: Switzerland Option

Table 9 -The 'Switzerland Option': Bilateral agreements with the EU													
Country	Erasmus+	H2020	COSME	Galileo	Copernicus	Creative Europe	CEF	Health	EaSI	UCPM	Consumer	Justice	REC
Switzerland	Partner country (region 5)								Partial (EURES axis)				
	Europe for Citizens	LIFE	EU Aid Volunteers										

	Full participation, on equal footing with EU Member States
	Partial participation / not on equal footing
	No participation (participation not foreseen in the legal basis of the funding instrument)
	No participation currently (but possible upon signature of cooperation agreements)

<sup>508</sup> Swiss participation in Horizon 2020, *op.cit.*

<sup>509</sup> "European Commission welcomes progress in relations between the European Union and Switzerland", *op.cit.* (n.454).

## Scenario 4 - The 'Canada Option': Free Trade Agreement with the EU

4.30 The EU has a number of programmes which are open to participation by non-EU countries. These include Horizon 2020 and Erasmus+, in addition to a number of funding programmes targeting development and cooperation actions.

4.31 Horizon 2020 is open to participation from across the world. European researchers can include partners from anywhere in the world when preparing H2020 proposals.<sup>510</sup> This means that Canadian researchers, enterprises and institutions can team up with European partners in research and innovation projects. However, not all international partners are automatically eligible for funding under this programme. While the EU usually funds the participation of partners from developing countries, it does not usually fund partners from industrialised countries such as Canada, Australia, New Zealand, Japan or the USA, nor from emerging countries such as Brazil, China or India.<sup>511</sup> In principle, Canadian partners are, therefore, required to fund their own participation from other sources. This may be from a participating institution's own funds or co-funding provided by Canadian agencies.<sup>512</sup>

4.32 Erasmus+ is also a programme which allows for projects in non-EU countries. As an industrialised country outside the EU, Canada is included in the group of industrialised countries (region 13),<sup>513</sup> together with Australia, Japan and the US, among others. As such, Canadian entities are eligible under *Key Action 1* (relating to mobility for higher education students and staff<sup>514</sup> and Erasmus Mundus joint master degrees),<sup>515</sup> *Key Action 2* (strategic partnerships in the field of education,<sup>516</sup> knowledge alliances<sup>517</sup> and capacity-building in the field of higher youth),<sup>518</sup> *Jean Monnet activities*,<sup>519</sup> which fund

---

<sup>510</sup> European Commission (2016), *H2020 Programme: Funding of applicants from non-EU countries & international organisations*, 22 September 2016. [online] Available at: [http://ec.europa.eu/research/participants/data/ref/h2020/grants\\_manual/hi/3cpart/h2020-hi-3cpart\\_en.pdf](http://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/hi/3cpart/h2020-hi-3cpart_en.pdf). See also European Commission (s.d.), *H2020 Online Manual*. [online] Available at: [http://ec.europa.eu/research/participants/docs/h2020-funding-guide/cross-cutting-issues/international-cooperation\\_en.htm#support-non-eu-countries](http://ec.europa.eu/research/participants/docs/h2020-funding-guide/cross-cutting-issues/international-cooperation_en.htm#support-non-eu-countries).

<sup>511</sup> Ibid.

<sup>512</sup> European Commission (2016), *Available local support for H2020 participants from non-EU countries: Canada Country Page*. [online] Available at: [http://ec.europa.eu/research/participants/data/ref/h2020/other/hi/h2020\\_localsupp\\_canada\\_en.pdf](http://ec.europa.eu/research/participants/data/ref/h2020/other/hi/h2020_localsupp_canada_en.pdf) (last update: May 2016).

<sup>513</sup> Erasmus+ Programme Guide, *op.cit.*, p.25.

<sup>514</sup> Ibid, p.37.

<sup>515</sup> Ibid., p.111.

<sup>516</sup> Ibid., p.126.

<sup>517</sup> Ibid., p.143.

<sup>518</sup> Ibid., p.172.

<sup>519</sup> Ibid., p.200 onwards.

teaching and research in the field of EU studies, and *Sport actions* (collaborative partnerships<sup>520</sup> and small collaborative partnerships).<sup>521</sup>

4.33 The participation of Canadian entities is not usually possible for other EU funding programmes, which limit participation to EU countries, EEA/EFTA countries and candidate and neighbourhood countries. Nonetheless, there are a handful of programmes which would allow the participation of Canadian entities, but this would require a bilateral agreement to be concluded with the EU. These include, for instance, the Health,<sup>522</sup> Copernicus<sup>523</sup> and Creative Europe programmes<sup>524</sup>, which foresee the potential participation of third countries.

Table 10: Canada Option

Table 10 -The 'Canada Option': Free Trade Agreement with the EU													
Country	Erasmus+	H2020	COSME	Galileo	Copernicus	Creative Europe	CEF	Health	EaSI	UCPM	Consumer	Justice	REC
Canada	partner (region 13)	co-funding only											
	Europe for Citizens	LIFE	EU Aid Volunteers										

	Full participation, on equal footing with EU Member States
	Partial participation / not on equal footing
	No participation (participation not foreseen in the legal basis of the funding instrument)
	No participation currently (but possible upon signature of cooperation agreements)

<sup>520</sup> Ibid., p.229.

<sup>521</sup> Ibid., p.237.

<sup>522</sup> Regulation (EU) 282/2014 establishing the EU Health Programme, *op.cit.* Article 6(d) provides for the participation of “other countries in accordance with the conditions laid down by a relevant bilateral or multilateral agreement”.

<sup>523</sup> Regulation (EU) 377/2014 establishing the Copernicus Programme, *op.cit.* Article 26(1)(c) foresees participation of “other third countries”.

<sup>524</sup> Regulation (EU) 1295/2013 establishing the Creative Europe Programme, *op.cit.*, Article 8(5) and (6).

## Scenario 5 - The 'Turkey Option': Accession State with Association Agreement

5.1 As a candidate country for accession to the EU, Turkey benefits from privileged access to most EU funding programmes. This regime is applicable to the other candidate and potential candidate countries namely Albania, FYROM (Macedonia), Montenegro, Serbia, Bosnia Herzegovina and Kosovo,<sup>525</sup> although participation may slightly differ from one country to the other depending on the individual agreements signed with the EU.

5.2 Under Erasmus+, Turkey is considered a programme country<sup>526</sup> and, under Horizon 2020, as an associated country.<sup>527</sup> These statuses mean that Turkish entities can participate in these programmes under the same conditions as entities from Member States of the EU.

5.3 Turkey also has an international agreement<sup>528</sup> in place to participate in COSME and in the Union Civil Protection Mechanism (UCPM),<sup>529</sup> and also participates partially in the Creative Europe programme for support to the cultural and the audio-visual sectors,<sup>530</sup> although it has announced that it is withdrawing its participation.<sup>531</sup> Turkish entities may also participate in some actions funded under the 'Progress' and 'Microfinance and Social Entrepreneurship' axes of the EaSI programme on employment and social innovation.<sup>532</sup>

5.4 Turkish entities could also potentially be eligible under other funding programmes, including the Copernicus,<sup>533</sup> Health,<sup>534</sup> LIFE,<sup>535</sup> Consumer,<sup>536</sup> EU Aid Volunteers,<sup>537</sup> Justice<sup>538</sup> and REC<sup>539</sup> programmes,

---

<sup>525</sup> European Commission (2016), *Enlargement policy: check current status*, [online] Available at : [https://ec.europa.eu/neighbourhood-enlargement/countries/check-current-status\\_en](https://ec.europa.eu/neighbourhood-enlargement/countries/check-current-status_en) (last update: 6/12/2016).

<sup>526</sup> Regulation (EU) 1288/2013 establishing Erasmus+, *op.cit.*, Article 24(1)(b).

<sup>527</sup> Regulation (EU) 1291/2013 establishing Horizon 2020, *op.cit.*, Article 7(1)(a).

<sup>528</sup> European Commission (2016), *Third countries' participation in COSME* (9 June 2016). [online] Available at: <http://ec.europa.eu/DocsRoom/documents/20845>.

<sup>529</sup> European Commission (2015), *Turkey joins the EU Civil Protection Mechanism*, 6 May 2015. [online] Available at: [http://ec.europa.eu/echo/news/turkey-joins-eu-civil-protection-mechanism\\_en](http://ec.europa.eu/echo/news/turkey-joins-eu-civil-protection-mechanism_en); see also: European Commission (2016), *EU Civil Protection Mechanism*. [online] Available at: [http://ec.europa.eu/echo/what/civil-protection/mechanism\\_en](http://ec.europa.eu/echo/what/civil-protection/mechanism_en) (last update: 26 April 2016). Other accession and candidate countries which currently participate in this programme are: Montenegro, Serbia and FYROM.

<sup>530</sup> European Commission and Republic of Turkey (2014), *Agreement between the Republic of Turkey and the European Union on the participation of the Republic of Turkey in the Union Programme "Creative Europe"* (effective 1 January 2015) (not published in OJ); see also European Commission (2017), *Eligibility of organisations from non-EU countries to Creative Europe* [online] Available at: <https://eacea.ec.europa.eu/sites/eacea-site/files/06022017-eligible-countries.pdf> (last update: 20 January 2017).

<sup>531</sup> "Turkey Withdraws from EU Cultural Funding Program", in *Art Forum*, 5 October 2016. [online] Available at: <https://www.artforum.com/news/id=63923>.

<sup>532</sup> Regulation (EU) 1296/2013 establishing EaSI, *op.cit.*, Articles 18(1)(c) and 28(1).

<sup>533</sup> Regulation (EU) 377/2014 establishing the Copernicus Programme, *op.cit.*, Article 26(1)(b).

<sup>534</sup> Regulation (EU) 282/2014 establishing the EU Health Programme, *op.cit.*, Article 6(a).

<sup>535</sup> Regulation (EU) 1293/2013 establishing the LIFE Programme, *op.cit.*, Article 5(b).

<sup>536</sup> Regulation (EU) 254/2014 on the consumer programme, *op.cit.*, Article 7(b).

<sup>537</sup> Regulation (EU) 375/2014 on the EU Aid Volunteers initiative, *op.cit.*, Article 23(1)(a).

as the participation of candidate and accession countries is already envisaged in the legal instruments establishing each programme. Turkey could also participate in the Europe for Citizens<sup>540</sup> programme, but this would require the signing of a bilateral agreement with the EU, as several Western Balkan countries have already done.

5.5 The participation of Turkey is not presently envisaged in Galileo or CEF.

Table 11: Turkey Option

Table 11 - The 'Turkey Option': Accession State with Association Agreement													
Country	Erasmus+	H2020	COSME	Galileo	Copernicus	Creative Europe	CEF	Health	EaSI	UCPM	Consumer	Justice	REC
Turkey						partial			partial				
	Europe for Citizens	LIFE	EU Aid Volunteers										

	Full participation, on equal footing with EU Member States
	Partial participation / not on equal footing
	No participation (participation not foreseen in the legal basis of the funding instrument)
	No participation currently (but possible upon signature of cooperation agreements)

<sup>538</sup> Regulation (EU) 1382/2013 establishing a Justice Programme, *op.cit.*, Article 7(1)(c).

<sup>539</sup> Regulation (EU) 1381/2013 establishing a Rights, Equality and Citizenship Programme, *op.cit.*, Article 6(1)(c).

<sup>540</sup> Council Regulation (EU) 390/2014 establishing the Europe for Citizens Programme, *op.cit.*, Article 5(b).

## Scenario 6 - The 'EU Neighbourhood' Option

- 6.1 This scenario foresees the UK being able to participate in EU programmes as a neighbouring country. EU neighbourhood countries, both from the Southern and the Eastern regions, also benefit from privileged access to EU funding programmes as a result of their geographical proximity to Europe.
- 6.2 For the sake of simplicity, Morocco and Moldova have been selected as representative examples for the Southern Neighbourhood<sup>541</sup> and the Eastern Partnership<sup>542</sup> respectively. However, the concrete participation in EU funding programmes may vary within each of the country's groups, as in the case of the candidate countries, depending on the concrete arrangements that each country has in place with the EU.<sup>543</sup>
- 6.3 As the table below illustrates, EU neighbourhood countries follow, by and large, the pattern of EU accession countries in terms of access to EU funding, although subject to more limitations.
- 6.4 While not considered as programme countries under Erasmus+,<sup>544</sup> the neighbouring countries Morocco and Moldova enjoy a privileged treatment as countries in regions 3 (South-Mediterranean)<sup>545</sup> and 2 (Eastern partnership),<sup>546</sup> which allow for their participation in a much wider range of actions than partners located in other regions in the world. Entities based in these countries can essentially participate in all the different strands of this funding programme, although they can only take part in the projects as partners and not as lead applicants or coordinators.
- 6.5 With regard to Horizon 2020, Moldova has the status of an associated country, which enables its participation in this programme under the same conditions as entities from EU member states.<sup>547</sup> This is also the case of other Eastern neighbours such as Ukraine and Georgia. As for the Southern neighbours, only Tunisia and Israel are considered as associated countries. The other Southern neighbour countries,

---

<sup>541</sup> See further European Commission (2016), *Southern Neighbourhood*. [online] Available at: [https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/southern-neighbourhood\\_en](https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/southern-neighbourhood_en) (last update: 6 December 2016).

<sup>542</sup> See further European Commission (2016), *Eastern Partnership*. [online] Available at: [https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/eastern-partnership\\_en](https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/eastern-partnership_en) (last update: 6 December 2016).

<sup>543</sup> Council and Commission Decision of 24 January 2000 on the conclusion of the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part, OJ L 70/1.

<sup>544</sup> Regulation (EU) 1288/2013 establishing 'Erasmus+', *op.cit.*, Article 24(1). Only EEA countries, Turkey and FYROM (Macedonia) are considered non-EU programme countries.

<sup>545</sup> Erasmus+ Programme Guide, *op.cit.*, p. 22.

<sup>546</sup> Ibid.

<sup>547</sup> Regulation (EU) 1291/2013 establishing Horizon 2020, *op.cit.*, Article 7(1)(b).

including Morocco, fall under the category of 'developing countries', which are generally eligible for funding under Horizon 2020 unless otherwise specified.<sup>548</sup>

6.6 There are a few other funding programmes where the participation of European neighbourhood countries is also possible, provided that the necessary agreements with the EU are signed. This is the case with COSME (in which Moldova partially participates, but Morocco does not),<sup>549</sup> Galileo (in which Morocco participates, but Moldova does not),<sup>550</sup> Creative Europe (Moldova participates in some aspects),<sup>551</sup> the Health Programme (Moldova participates),<sup>552</sup> UCPM (Moldova and Morocco are not considered "participating states"<sup>553</sup>, but are eligible under projects funded under the "external budget item").<sup>554</sup> The participation of these countries is possible under the Copernicus,<sup>555</sup> Consumer,<sup>556</sup> and LIFE<sup>557</sup> programmes and EU Aid Volunteers Initiative,<sup>558</sup> although neither country has signed an agreement with the EU that would allow them to do so.

6.7 The participation of these neighbourhood countries is not foreseen under the EaSI<sup>559</sup> or Europe for Citizens, which are both open only to accession and candidate countries as non-EU countries.<sup>560</sup> Although the participation of European neighbourhood countries is not provided under the Justice Programme<sup>561</sup> or REC<sup>562</sup>, entities from those countries may be associated in projects at their own cost. Neither is their participation foreseen under CEF, although it allows the participation of third countries where necessary to achieve the objectives of a given project and provided that their participation is justified.<sup>563</sup>

---

<sup>548</sup> European Parliament and Council Regulation (EU) No 1290/2013 of 11 December 2013 laying down the rules for participation and dissemination in "Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020)" and repealing Regulation (EC) No 1906/2006, OJ L 347/81.

<sup>549</sup> Third countries' participation in COSME, *op.cit.*

<sup>550</sup> European Community, Member States and the Kingdom of Morocco (2016), *Cooperation Agreement on a Civil Global Navigation Satellite System (GNSS) between the European Community and its Member States and the Kingdom of Morocco*, OJ L76/3.

<sup>551</sup> Eligibility of organisations from non-EU countries to Creative Europe, *op.cit.* (n.530).

<sup>552</sup> European Commission (2017), *Health Programme: Who can participate?* [online] Available at: [http://ec.europa.eu/health/programme/who\\_can\\_participate\\_en](http://ec.europa.eu/health/programme/who_can_participate_en).

<sup>553</sup> Decision (EU) No 1313/2013 on a Union Civil Protection Mechanism, *op.cit.*, Article 28(2).

<sup>554</sup> European Commission (2016), *Guide for Applicants: Call for proposals 2016 for prevention and preparedness projects in the field of civil protection and marine pollution*, p. 17. [online] Available at: [http://ec.europa.eu/echo/sites/echo-site/files/Guide\\_Applicants\\_PP\\_Call\\_2016.pdf](http://ec.europa.eu/echo/sites/echo-site/files/Guide_Applicants_PP_Call_2016.pdf). Moldova also has an agreement to take part in other EU crisis management operations, see European Union and the Republic of Moldova (2013), *Agreement establishing a framework for the participation of the Republic of Moldova in European Union crisis management operations*, OJ L 8/2.

<sup>555</sup> Regulation (EU) 377/2014 establishing the Copernicus Programme, *op.cit.*, Article 26(1)(c).

<sup>556</sup> Regulation (EU) 254/2014 on a multiannual consumer programme, *op.cit.*, Article 7(b).

<sup>557</sup> Regulation (EU) 1293/2013 establishing the LIFE programme, *op.cit.*, Article 5(c).

<sup>558</sup> Regulation (EU) 375/2014 on the "EU Aid Volunteers initiative", *op.cit.*, Article 23(1)(a) and (3).

<sup>559</sup> Regulation (EU) 1296/2013 on "EaSI", *op.cit.*, Articles 18, 24 and 28.

<sup>560</sup> Council Regulation (EU) 390/2014 establishing the Europe for Citizens Programme, *op.cit.*, Article 5.

<sup>561</sup> Regulation (EU) 1382/2013 establishing the Justice Programme, *op.cit.*, Article 7(1)(c). However Article 7(3) allows the participation of entities from those countries at their own cost.

<sup>562</sup> Regulation (EU) 1381/establishing the REC Programme, *op.cit.*, Article 6(1)(c). However, Article 6(3) allows the participation of entities from those countries at their own cost.

<sup>563</sup> Regulation (EU) 1316/2013 establishing the Connecting Europe Facility, *op.cit.*, Article 9(4).



Table 12: EU Neighbourhood Option

Table 12: The EU Neighbourhood Option													
Country	Erasmus+	H2020	COSME	Galileo	Copernicus	Creative Europe	CEF	Health	EaSI	UCPM	Consumer	Justice	REC
Morocco	Region 3												
Moldova	Region 2												
Country	Europe for Citizens	Life	EU Aid Volunteers										
Morocco													
Moldova													

	Full participation, on equal footing with EU Member States
	Partial participation / not on equal footing
	No participation (participation not foreseen in the legal basis of the funding instrument)
	No participation currently (but possible upon signature of cooperation agreements)

## Scenario 7 - EU's Development and Cooperation Programmes

7.1 This scenario examines the EU's cooperation and development programmes, which target non-EU member states. Organisations established in EU Member States and EEA states are also eligible under these funding programmes, provided that they apply in partnership with entities from the target countries and that the actions take place there.<sup>564</sup> Should the UK withdraw from both the EU and the EEA, UK-based entities would cease to be automatically eligible under these external action funding programmes. However, although the UK could -in theory- still be eligible as a non-EU country, the developed nature of its economy is likely to significantly diminish its opportunities for participation and, in the absence of a specific association or cooperation agreement, is likely to be treated as any other OECD member.

7.2 Although EU funding that is allocated for external action accounts for only 6%<sup>565</sup> of the EU's budget, it still positions the EU as the world's leading donor.<sup>566</sup>

7.3 This cooperation and development aid is distributed through different funding programmes, some of which are of a thematic nature, while others have a specific geographical scope.

7.4 There are three main thematic funding programmes that cover activities throughout the world:

- European Instrument for Democracy and Human Rights (EIDHR), which aims to promote democracy and protect human rights;<sup>567</sup>
- Instrument contributing to Stability and Peace (IcSP), which supports security initiatives and peace-building activities;<sup>568</sup> and
- Partnership Instrument for cooperation with third countries (PI), which addresses economic, social and environmental challenges.<sup>569</sup>

---

<sup>564</sup> See European Commission (2016), *External Action Financial Instruments and European Development Fund: Rules on participation on procurement procedures and grants*. [online] Available at: <http://ec.europa.eu/europeaid/prag/annexes.do?annexName=A2a&lang=en>.

<sup>565</sup> European Commission (2015), *EU annual budget life-cycle: figures*. [online] Available at: [http://ec.europa.eu/budget/annual/index\\_en.cfm?year=2016](http://ec.europa.eu/budget/annual/index_en.cfm?year=2016).

<sup>566</sup> European Commission (2017), *European Development Policy*. [online] Available at: [http://ec.europa.eu/europeaid/policies/european-development-policy\\_en](http://ec.europa.eu/europeaid/policies/european-development-policy_en).

<sup>567</sup> European Parliament and Council Regulation (EU) 235/2014 of 11 March 2014 establishing a financing instrument for democracy and human rights worldwide (hereafter, 'EIDHR'), OJ L 77/85. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014R0235>.

<sup>568</sup> European Parliament and Council Regulation (EU) No 230/2014 of 11 March 2014 establishing an instrument contributing to stability and peace (hereafter, 'IcSP'), OJ L 77/1.

<sup>569</sup> European Parliament and Council Regulation (EU) No 234/2014 of 11 March 2014 establishing a Partnership Instrument for cooperation with third countries (hereafter, 'PI'), OJ L 77/77.



Note that the former Instrument for Cooperation with Industrialised countries (ICI)<sup>570</sup> came to an end in 2013<sup>571</sup> and its objectives have been subsumed within the PI.<sup>572</sup>

7.5 The geographical programmes focus, instead, on development priorities defined for a specific country or region on the basis of their situation and needs. These include:

- European Development Fund (EDF), which is the EU's main instrument for providing development aid to African, Caribbean and Pacific (ACP) countries and to the Member States' overseas countries and territories;<sup>573</sup>
- Instrument for Pre-Accession Assistance (IPA II), which supports reforms in the countries which are candidates for accession to the EU;<sup>574</sup>
- European Neighbourhood Instrument (ENI), which fosters cooperation with the EU's Southern and Eastern neighbours;<sup>575</sup>
- Development Cooperation Instrument (DCI), which aims at poverty reduction and has both geographical and thematic dimensions.<sup>576</sup> The DCI aims to assist developing countries that are included in the list of recipients of official development assistance (ODA) established by the OECD<sup>577</sup>, but excludes ACP countries (except South Africa) and countries that may benefit from assistance under the EDF, ENI and IPA.<sup>578</sup>

---

<sup>570</sup> Council Regulation (EC) No 1934/2006 of 21 December 2006 establishing a financing instrument for cooperation with industrialised and other high-income countries and territories, OJ L 405/41.

<sup>571</sup> Ibid., Article 19.

<sup>572</sup> Regulation (EU) No 234/2014, *op.cit.*, Article 2.

<sup>573</sup> Council Regulation (EU) 2015/322 of 2 March 2015 on the implementation of the 11th European Development Fund (hereafter, 'EDF'), OJ L 58/1 and Council Regulation (EU) 2015/323 of 2 March 2015 on the financial regulation applicable to the 11th European Development Fund, OJ L 58/17.

<sup>574</sup> European Parliament and Council Regulation (EU) No 231/2014 of 11 March 2014 establishing an Instrument for Pre-accession Assistance (hereafter, 'IPA II'), OJ L 77/11. The accession countries are listed in Annex I: Albania, Bosnia and Herzegovina, Iceland, Kosovo, Montenegro, Serbia, Turkey and FYROM (Macedonia).

<sup>575</sup> European Parliament and Council Regulation (EU) No 232/2014 of 11 March 2014 establishing a European Neighbourhood Instrument (hereafter, 'ENI'), OJ L 77/27. The countries are listed in Annex I: Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, occupied Palestinian territories, Syria, Tunisia and Ukraine. The limited participation of the Russian Federation is also foreseen by Article 1(3) when participation relates to cross-border cooperation.

<sup>576</sup> European Parliament and Council Regulation (EU) No 233/2014 of 11 March 2014 establishing a financing instrument for development cooperation for the period 2014-2020 (hereafter, 'DCI'), OJ 77/44.

<sup>577</sup> OECD (2016), *DAC List of ODA Recipients*. [online] Available at: <http://www.oecd.org/dac/stats/documentupload/DAC%20List%20of%20ODA%20Recipients%202014%20final.pdf>.

<sup>578</sup> Ibid., Article 1(1).

Table 13: Development and Cooperation Programmes

Country	Thematic instruments			Thematic & geographic	Geographic instruments		
	EIDHR <sup>579</sup>	IcSP <sup>580</sup>	PI <sup>581</sup>	DCI <sup>582</sup>	EDF <sup>583</sup>	IPA II <sup>584</sup>	ENI <sup>585</sup>
EU Member States and EEA countries							
Accession and candidate countries <sup>586</sup>							
European Neighbourhood countries <sup>587</sup>							+ Russian Federation <sup>588</sup>
OECD countries <sup>589</sup>			If project implemented in LDC <sup>590</sup> or HIPC <sup>591</sup>	If project implemented in LDC or HIPC	If project implemented in LDC or HIPC		If project implemented in LDC or HIPC

	Full participation, on equal footing with EU Member States
	Partial participation / not on equal footing
	No participation (participation not foreseen in the legal basis of the funding instrument)
	No participation currently (but possible upon Commission granting reciprocal access) <sup>592</sup>

<sup>579</sup> The eligibility conditions for participation in the award of procurement contracts or grants are laid down in European Parliament and Council Regulation (EU) No 236/2014 of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action, OJ L 77/95, Article 11.

<sup>580</sup> Ibid.

<sup>581</sup> Ibid., Article 9.

<sup>582</sup> Ibid.

<sup>583</sup> The eligibility conditions for participation in the award of procurement contracts or grants are laid down in Article of Annex IV of the 'Cotonou Agreement', see: European Community and ACP States (2000), *Partnership agreement 2000/483/EC between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part*, OJ L 317/3.

<sup>584</sup> The eligibility conditions for participation are laid down in Regulation 236/2014, *op.cit.*, Article 10.

<sup>585</sup> Ibid., Article 9.

<sup>586</sup> The accession countries comprise Albania, Bosnia and Herzegovina, Iceland, Kosovo, Montenegro, Serbia, Turkey and FYROM (Macedonia).

<sup>587</sup> The countries are listed in Annex I of Regulation (EU) 232/2014, *op.cit.*: Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, occupied Palestinian territories, Syria, Tunisia and Ukraine.

<sup>588</sup> The limited participation of the Russian Federation is also foreseen in the context of the multi-country and cross-border cooperation programmes.

<sup>589</sup> Non-EU and non-EEA members of the OECD include Australia, Canada, Chile, Israel, Japan, Korea, Mexico, New Zealand, Switzerland, Turkey and the United States. EU members of the OECD include Austria, Belgium, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Luxembourg, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden and the United Kingdom. EEA members of the OECD are Iceland and Norway.

<sup>590</sup> Least Developed Country as included in the list of ODA recipients published by the OECD-DAC (n.577).

<sup>591</sup> Highly Indebted Poor Country included in the list of ODA recipients published by the OECD-DAC.

<sup>592</sup> Reciprocal access may be granted, for a limited period of at least one year, whenever a country grants eligibility on equal terms to entities from the Union and from countries eligible under the relevant cooperation instrument. The Commission shall decide on the reciprocal access and on its duration.

Country	Thematic instruments			Thematic & geographic	Geographic instruments		
	EIDHR	IcSP	PI	DCI	EDF	IPA II	ENI
Developing countries (not G20 members) <sup>593</sup>							
Developing countries (G20 members) <sup>594</sup>			If project takes place in that country	If project takes place in that country			If project takes place in that country
Africa, Caribbean and Pacific countries <sup>595</sup>			G20 status determines eligibility as for developing countries	G20 status determines eligibility as for developing countries	Special rules for South Africa <sup>596</sup>		G20 status determines eligibility as for developing countries
EU's OCTs <sup>597</sup>							
Other countries							

	Full participation, on equal footing with EU Member States
	Partial participation / not on equal footing
	No participation (participation not foreseen in the legal basis of the funding instrument)
	No participation currently (but possible upon Commission granting reciprocal access) <sup>598</sup>

<sup>593</sup> These comprise developing countries and territories included in the OECD-DAC list of ODA recipients.

<sup>594</sup> Developing countries which are G20 members comprise India, Indonesia, Argentina, Brazil, China, Mexico and South Africa.

<sup>595</sup> The ACP countries comprise the African states of Angola, Benin, Botswana, Burkina Faso, Burundi, Central African Republic, Cameroon, Cabo Verde, Chad, Comoros Islands, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Djibouti, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Equatorial Guinea, Kenya, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritius, Mauritania, Mozambique, Namibia, Niger, Nigeria, Uganda, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Somalia, Sudan, Swaziland, Tanzania, Togo, Zambia and Zimbabwe; the Caribbean states of Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Surinam, Trinidad and Tobago; and the Pacific states of Cook Islands, East Timor, Fiji, Kiribati, Marshall Islands, Micronesia, Nauru, Niue, Palau, Papua New Guinea, the Solomon Islands, Western Samoa, Tonga, Tuvalu, Vanuatu.

<sup>596</sup> While organisations established in South African are eligible to participate in procedures financed by the EDF, South Africa cannot be a beneficiary of contracts financed by the EDF.

<sup>597</sup> Overseas countries and territories are listed in Annex II, TFEU: Greenland, New Caledonia and Dependencies, French Polynesia, French Southern and Antarctic Territories, Wallis and Futuna Islands, Mayotte, Saint Pierre and Miquelon, Aruba, Netherlands Antilles, Bonaire, Curaçao, Saba, Sint Eustatius, Sint Maarten, Anguilla, Cayman Islands, Falkland Islands, South Georgia and the South Sandwich Islands, Montserrat, Pitcairn, Saint Helena and Dependencies, British Antarctic Territory, British Indian Ocean Territory, Turks and Caicos Islands, British Virgin Islands, and Bermuda.

<sup>598</sup> Reciprocal access may be granted, for a limited period of at least one year, whenever a country grants eligibility on equal terms to entities from the Union and from countries eligible under the relevant cooperation instrument. The Commission shall decide on the reciprocal access and on its duration.

## CONCLUSIONS: EU FUNDING

---

The second part of this study has looked into the impact of Brexit in terms of the ability of UK-based organisations to continue to access EU funding once the UK has left the EU. As the analysis shows, Brexit should not have dramatic consequences if the UK were to agree to contribute to the EU budget in order to maintain the participation of its organisations and citizens in the different EU funding programmes. This could be achieved through an all-encompassing agreement that would enable the UK to continue its participation in a majority of EU programmes or, alternatively, on the basis of bilateral agreements concluded with the EU in respect of individual programmes.

The only EU funding programmes where the UK will automatically be excluded from participation following Brexit are the funding schemes under ESIF, as well as those relating to the EU's common agricultural and fisheries policies, which are only open to participation by EU Member States. Nonetheless, the imposition of restrictions on the freedom of movement, or its outright repeal, could mean that UK organisations will no longer be eligible for participation in certain funding programmes on the same terms as they are today, based on the recent example of Switzerland, which saw its participation in certain programmes limited until recently due to its freedom of movement restrictions since 2014.

It should be noted as well that UK-based entities will not be the only ones to lose out should their participation in EU funding programmes be limited as a result of the deal reached with the EU. Their EU fellows would also lose their ability to present joint EU projects with them, especially in the areas of research and innovation, where the UK has traditionally been a top performer at EU level.

## EU Rights

### Articles, documents and literature

Assemblée fédérale du Parlement Suisse (2014), *Réponse du Conseil fédéral à la Question de Reimann Lukas 'Liste complète des paiements et contributions de la Suisse à l'UE*, 14.1019 (Swiss Parliament, Federal Council Reply of 20 June 2014 to Question 14.1019 posed by Reimann Lukas 'Complete list of all payments and contributions made by Switzerland to the EU). [online] Available at: <https://www.parlament.ch/fr/ratsbetrieb/suche-curia-vista/geschaefte?AffairId=20141019>.

"Austrian Finance Minister suggests UK may never leave the EU", in *Open Europe*, 5 July 2016. [online] Available at: <http://openeurope.org.uk/daily-shakeup/austrian-finance-minister-suggests-uk-may-never-leave-eu/>.

"Waszczykowski: It's in Poland's interest for UK to stay longer in EU", in *EurActiv*, 29 November 2016. [online] Available at: <http://www.euractiv.com/section/central-europe/news/waszczykowski-its-in-polands-interest-for-uk-to-stay-longer-in-eu/>.

Access Europe Network (2016), *What's the impact of Brexit on EU funding?*, 30 June 2016, <http://www.accesseurope.org.uk/news/news-europe/whats-impact-brexit-eu-funding>.

Arndt, S. (2012), "Free Trade and Its Alternatives", in Kreinin, M. and Plummer, M., *The Oxford Handbook of International Commercial Policy*, September 2012, p. 3-31. [online] Available at <http://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780195378047.001.0001/oxfordhb-9780195378047-e-1?print=pdf>.

Bowers, P., Lang, A., Miller, V. et al. (2016), "EU referendum: UK proposals, legal impact of an exit and alternatives to membership", briefing paper, n0 07214, 28 July 2016. [online] Available at: <http://researchbriefings.files.parliament.uk/documents/CBP-7214/CBP-7214.pdf>.

Buch, T. (2016), "Gibraltar calls for second Brexit vote", in *Financial Times*, 10 July 2016. [online] Available at: <https://www.ft.com/content/bea8ecf4-452a-11e6-9b66-0712b3873ae1>.

Council of the European Union (2014), *Council conclusions on a homogeneous extended single market and EU relations with Non-EU Western European countries*, General Affairs Council meeting Brussels, 16 December 2014, para 45. [online] Available at: [https://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/er/146315.pdf](https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/er/146315.pdf).

Dhingra, S., Ottaviano, G. and Sampson, T. (2015), "Should We Stay or Should We Go? The economic consequences of leaving the EU", in *CEP 2015 election analyses series*, March 2015. [online] Available at: <http://cep.lse.ac.uk/pubs/download/EA022.pdf>.

---

<sup>599</sup> The list of references has been split into two parts, one relating to the section on EU rights and another corresponding to the section on EU funding, to facilitate navigation. The list includes sources which were cited or referred to in the text, as well as other sources which were consulted.

Duncan, P. (2016), "Applications for Irish citizenship continue to surge post-Brexit", in *The Irish Times*, 21 October 2016. [online] Available at: <http://www.irishtimes.com/news/ireland/irish-news/applications-for-irish-citizenship-continue-to-surge-post-brexit-1.2838659>.

Eaton, G. (2016), "The Remainers aim to beat Brexit by playing a long game", in *New Statesman*, 30 November 2016. [online] Available at: <http://www.newstatesman.com/politics/uk/2016/11/remainers-aim-beat-brexit-playing-long-game>.

EFTA (2007), "EEA Decision-Making", in *Factsheet on the European Free Trade Association*, November 2007. [online] Available at: [http://www.efta.int/media/publications/fact-sheets/EEA-factsheets/FS\\_DecMaking.pdf](http://www.efta.int/media/publications/fact-sheets/EEA-factsheets/FS_DecMaking.pdf).

Emerson, M. (2016), "Which model for Brexit?", in *CEPS Special Report*, n0 147, 14 October 2016. [online] Available at: <https://www.ceps.eu/publications/which-model-brexit>.

Emmerson, C., Johnson, P.; Mitchell, I. (2016), *The EU Single Market: The Value of Membership versus Access to the UK*, August 2016. [online] Available at: <https://www.ifs.org.uk/uploads/publications/comms/R119%20-%20The%20EU%20Single%20market%20-%20Final.pdf>.

European Commission (2016), "EU-Canada summit: newly signed trade agreement sets high standards for global trade Commission", press release, IP/16/3581, 30 October 2016. [online] Available at : [http://europa.eu/rapid/press-release\\_IP-16-3581\\_en.htm](http://europa.eu/rapid/press-release_IP-16-3581_en.htm).

European Commission (2016), "Europeans' views on the priorities of the European Union", in *Standard Eurobarometer* 85, Spring 2016, p.57. [online] Available at: <http://ec.europa.eu/COMMFrontOffice/publicopinion/index.cfm/ResultDoc/download/DocumentKy/75908>.

European Commission (2016), "Fact Sheet - EU-Swiss relations", Memo/16/3185, 25 September 2016. [online] Available at: [http://europa.eu/rapid/press-release\\_MEMO-16-3185\\_en.htm](http://europa.eu/rapid/press-release_MEMO-16-3185_en.htm).

European Commission (2016), "State of Play document", 8 January 2016. [online] Available at: [http://ec.europa.eu/enlargement/pdf/turkey/20160108-overview\\_negotiations\\_turkey.pdf](http://ec.europa.eu/enlargement/pdf/turkey/20160108-overview_negotiations_turkey.pdf).

Global Counsel (2015), *BREXIT: the impact on the UK and the EU*, June 2015. [online] Available at: [https://www.global-counsel.co.uk/sites/default/files/special-reports/downloads/Global%20Counsel\\_Impact\\_of\\_Brexit.pdf](https://www.global-counsel.co.uk/sites/default/files/special-reports/downloads/Global%20Counsel_Impact_of_Brexit.pdf).

Global Economic Dynamics (2015), *Costs and benefits of a United Kingdom exit from the European Union*. [online] Available at: [http://www.bertelsmann-stiftung.de/fileadmin/files/BSt/Publikationen/GrauePublikationen/NW\\_BREXIT\\_EN.pdf](http://www.bertelsmann-stiftung.de/fileadmin/files/BSt/Publikationen/GrauePublikationen/NW_BREXIT_EN.pdf).

Gower, M. (2016), "Leaving the EU: How might people currently exercising free movement rights be affected?", *Commons Briefing papers* CBP-7525, 27 June 2016. [online] Available at: <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7525>.

Gros, D. (2016), "The Economics of Brexit: It's not about the Internal Market", in *CEPS commentary*, 22 September 2016. [online] Available at: <https://www.ceps.eu/publications/economics-brexit-it%E2%80%99s-not-about-internal-market>.



HM Government (2016): *Alternatives to membership: possible models for the United Kingdom outside the European Union*, March 2016. [online] Available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/504604/Alternatives to membership - possible models for the UK outside the EU.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/504604/Alternatives_to_membership_-_possible_models_for_the_UK_outside_the_EU.pdf).

Maciejewski, M. and Hayer, S. (2016), "Consumer protection measures", in *Fact Sheets on the European Union*, December 2016. [online] Available at: [http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuld=FTU\\_5.5.2.html](http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuld=FTU_5.5.2.html).

Maciejewski, M. and Pengelly, K. (2016), "Freedom of establishment and freedom to provide services", in *Fact Sheets on the European Union*, December 2016. [online] Available at: [http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuld=FTU\\_3.1.4.html](http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuld=FTU_3.1.4.html).

Maiani, F. (2013), "Lost in translation: euro-compatibility, legal security, and the autonomous implementation of EU law in Switzerland", in *European Law Reporter* No 1, p. 29-35. [online] Available at: [https://serval.unil.ch/resource/serval:BIB\\_6F94138B6ACF.P001/REF](https://serval.unil.ch/resource/serval:BIB_6F94138B6ACF.P001/REF).

Migration Watch UK (2016), *The British in Europe – and Vice Versa*. [online] Available at: <https://www.migrationwatchuk.org/briefing-paper/354>.

Morillas, P et al. (2016), "The Brexit Scenarios: Towards a New UK-EU Relationship", in *Documents CIDOB*, June 2016. [online] Available at: [http://www.cidob.org/en/publications/publication\\_series/documents\\_cidob\\_new\\_era/the\\_brexit\\_scenarios\\_towards\\_a\\_new\\_uk\\_eu\\_relationship](http://www.cidob.org/en/publications/publication_series/documents_cidob_new_era/the_brexit_scenarios_towards_a_new_uk_eu_relationship)

Norton Rose Fullbright (2016), *Brexit scenarios*, June 2016. [online] Available at: <http://www.nortonrosefulbright.com/knowledge/publications/136974/brexit-scenarios>.

Parker, G. (2016), "Parliament endorses Brexit: what does the vote mean?", in *Financial Times*, 8 December 2016. [online] Available at: <https://www.ft.com/content/851f6814-bd2f-11e6-8b45-b8b81dd5d080>.

Peers, S. (2016), "The final UK renegotiation deal: immigration issues", in *EU Law Analysis*, 20 February 2016. [online] Available at: <http://eulawanalysis.blogspot.it/2016/02/the-final-uk-renegotiation-deal.html>.

Piris, J-C. (2015), "Should the UK withdraw from the EU: legal aspects and effects of possible options", in *European issues*, n0 355, 5 May 2015. [online] Available at: <http://www.robert-schuman.eu/en/doc/questions-d-europe/qe-355-en.pdf>.

Prime Minister's Office (2017), "The Government's Negotiating Objectives for Exiting the EU: PM Speech", 17 January 2017. [online] Available at: <https://www.gov.uk/government/speeches/the-governments-negotiating-objectives-for-exiting-the-eu-pm-speech>.

Prime Minister Theresa May (2016), "Britain after Brexit: A Vision of a Global Britain", speech delivered at the Conservative Party conference, Birmingham, 2 October 2016. [online] Available at: <http://press.conservatives.com/page/3>.

Sample, I. (2016), "UK scientists dropped from EU projects because of post-Brexit funding fears", in *The Guardian*, 12 July 2016. [online] Available at: <https://www.theguardian.com/education/2016/jul/12/uk-scientists-dropped-from-eu-projects-because-of-post-brexit-funding-fears>.

Sapir, A. (2016), "Beyond hard, soft and no Brexit", blog post, 21 October 2016. [online] Available at: <http://bruegel.org/2016/10/beyond-hard-soft-and-no-brexit/>.

Schirmer, S. (2016), "Huge increase in Britons seeking citizenship in EU states as Brexit looms", in *The Guardian*, 19 October 2016. [online] Available at: <https://www.theguardian.com/politics/2016/oct/19/huge-increase-britons-seeking-citizenship-eu-states-brexit-looms>.

Swiss Federal Council (2016), *Message sur l'organisation de l'infrastructure ferroviaire (OBI) du 16 novembre 2016*, FF 2016, p. 8433 -8440 (Message of 16 November 2016 on the organisation of rail infrastructure FF 2016 8399-8486). [online] Available at: <https://www.admin.ch/opc/fr/federal-gazette/2016/8399.pdf>.

Swiss Federal Council (1988), *Rapport sur la position de la Suisse dans le processus d'intégration européenne du 24 août 1988*, FF 1988 III 233-445, 365 (Swiss Federal Council, *Report on the position of Switzerland in the European integration process*, FF 1988 233). [online] Available at: [https://www.admin.ch/opc/fr/federal-gazette/1988/index\\_37.html](https://www.admin.ch/opc/fr/federal-gazette/1988/index_37.html).

Swiss Federal Council (2016), "Switzerland ratifies Croatia protocol", Press release, 16 December 2016. [online] Available at: [https://www.sem.admin.ch/sem/en/home/aktuell/news/2016/ref\\_2016-12-16.html](https://www.sem.admin.ch/sem/en/home/aktuell/news/2016/ref_2016-12-16.html).

Swiss Federal Office for Statistics (2015), *Population résidante permanente et non permanente selon le canton, le sexe, l'autorisation de résidence, la classe d'âge et la nationalité*. [online] Available at: [https://www.pxweb.bfs.admin.ch/Selection.aspx?px\\_language=fr&px\\_db=px-x-0103010000\\_101&px\\_tableid=px-x-0103010000\\_101%5Cpx-x-0103010000\\_101.px&px\\_type=PX](https://www.pxweb.bfs.admin.ch/Selection.aspx?px_language=fr&px_db=px-x-0103010000_101&px_tableid=px-x-0103010000_101%5Cpx-x-0103010000_101.px&px_type=PX).

Tobler, C., Hardenbol, J., Mellár, B. (2010), *Internal Market beyond the EU: EEA and Switzerland*, Briefing paper for the Policy Department Economic and Scientific Policy of the European Parliament, IP/A/IMCO/NT/2009-13, January 2010. [online] Available at: [http://www.europarl.europa.eu/RegData/etudes/note/join/2010/429993/IPOL-IMCO\\_NT\(2010\)429993\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/note/join/2010/429993/IPOL-IMCO_NT(2010)429993_EN.pdf).

Travis, A. (2016), "Home Office prepares for rise in residency applications from EU migrants", in *The Guardian*, 1 September 2016. [online] Available at: <https://www.theguardian.com/politics/2016/sep/01/home-office-prepares-for-rise-in-residency-applications-from-eu-migrants>.

Van der Loo, G. (2016), "CETA's signature: 38 statements, a joint interpretative instrument and an uncertain future", in *CEPS commentary*, 31 October 2016. [online] Available at: <https://www.ceps.eu/publications/ceta%E2%80%99s-signature-38-statements-joint-interpretative-instrument-and-uncertain-future>.

Yeo, C. (2016), "Online EEA permanent residence and European passport return service now available", in *Free Movement*, 4 October 2016. [online] Available at: <https://www.freemovement.org.uk/online-eea-permanent-residence-european-passport-return-service-now-available>.

## Case law

EFTA Court (2002), Judgment of the EFTA Court in Case E-1/01 Einarsson v Icelandic State. [online] Available at: [http://www.eftacourt.int/fileadmin/user\\_upload/Files/PRs/2002/2\\_02/2\\_02\\_PR\\_EN.pdf](http://www.eftacourt.int/fileadmin/user_upload/Files/PRs/2002/2_02/2_02_PR_EN.pdf).

European Court of Justice (1982), Judgment of the Court of 23 March 1982 in Case C-53/81 - *Levin*, ECLI:EU:C:1982:105. [online] Available at: <http://curia.europa.eu/juris/liste.jsf?language=en&jur=C,T,F&num=53/81&td=ALL>.

European Court of Justice (1986), Judgment of the Court of 3 June 1986 in Case C-139/85 - *Kemp*, ECLI:EU:C:1986:223. [online] Available at: <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-139/85>.

European Court of Justice (1989), Judgment of the Court of 28 November 1989 in Case C-379/87 - *Groener*, ECLI:EU:C:1989:599. [online] Available at: <http://curia.europa.eu/juris/liste.jsf?language=en&jur=C,T,F&num=379/87&td=ALL>.

European Court of Justice (1990), Judgment of the Court of 20 September 1990 in Case C-192/89 - *Sevince*, ECLI:EU:C:1990:322. [online] Available at: <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-192/89>.

European Court of Justice (1991), Judgment of the Court of 26 February 1991 in Case C-292-89 - *Antonissen*, ECLI:EU:C:1991:80. [online] Available at: <http://curia.europa.eu/juris/liste.jsf?language=en&jur=C,T,F&num=C-292/89&td=ALL>.

European Court of Justice (1992), Judgment of the Court of 16 December 1992 in Case C-237/91 - *Kus*, ECLI:EU:C:1992:527. [online] Available at: <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-237/91>.

European Court of Justice (1992), Judgment of the Court of 26 February 1992 in Case C-357/89 - *Raulin*, ECLI:EU:C:1992:87. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:61989CJ0357>.

European Court of Justice (1994), Judgment of the Court of 5 October 1994 in Case C-355/93 - *Eroglu*, ECLI:EU:C:1994:369 [online] Available at: <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-355/93>.

European Court of Justice (1996), Judgment of the Court of 26 November 1996 in Case C-313/94 - *Graffione*, ECLI:EU:C:1996:450. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61994CJ0313>.

European Court of Justice (1997), Judgment of the Court of 17 April 1997 in Case C-351/95 - *Kadiman*, ECLI:EU:C:1997:205. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:61995CJ0351>.

European Court of Justice (1997), Judgment of the Court of 20 February 1997 in Case C-344/95 - *Commission v Belgium*, ECLI:EU:C:1997:81. [online] Available at: <http://curia.europa.eu/juris/liste.jsf?language=de,T,F&num=C-344/95>.

European Court of Justice (1997), Judgment of the Court of 23 January 1997 in Case C-171/95 - *Tetik*, ECLI:EU:C:1997:31. [online] Available at: <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-171/95>.

European Court of Justice (2002), Judgment of the Court of 18 November 2002 in Case C-188/00 - *Kurz*, ECLI:EU:C:2002:694. [online] Available at: <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-188/00>.

European Court of Justice (2004), Judgment of the Court of 11 November 2004 in Case C-467/02 - *Cetinkaya*, ECLI:EU:C:2004:708. [online] Available at: <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-467/02>.

European Court of Justice (2006), Judgment of the Court of 26 October 2006 in Case C-4/05 - *Güzeli*, ECLI:EU:C:2006:670. [online] Available at: <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-4/05>.

European Court of Justice (2006), Judgment of the Court of 21 February 2006 in Case C-152/03 - *Ritter-Coulais*, ECLI:EU:C:2006:123. [online] Available at: <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-152/03>.

European Court of Justice (2007), Judgment of the Court of 18 July 2007 in Case C-325/05 - *Derin*, ECLI:EU:C:2007:442. [online] Available at: <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-325/05>.

European Court of Justice (2008), Judgment of the Court of 18 December 2008 in Case C-337/07 - *Altun*, ECLI:EU:C:2008:744 [online] Available at: <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-337/07>.

European Court of Justice (2010) Judgment of the Court of 29 April 2010 in Case C-92/07 - *European Commission vs Netherlands*, ECLI:EU:C:2010:228. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62007CJ0092>.

European Court of Justice (2010), Judgment of the Court of 22 December 2010 in Case C-303/08 - *Bozkurt*, ECLI:EU:C:2010:800 [online] Available at: <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-303/08>.

European Court of Justice (2011), Judgment of the Court of 26 May 2011 in Case C-303/07 - *Akdas*, ECLI:EU:C:2011:346 [online] Available at: <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-303/08>.

European Court of Justice (2013), Judgment of the Court of 11 April 2013 in Case C-443/11 - *Jeltes*, EU:C:2013:224. [online] Available at: <http://curia.europa.eu/juris/documents.jsf?num=C-443/11>.

European Court of Justice (2014), Judgment of the Court of 11 November 2014 in Case C 333-13 - *Dano*. [online] Available at: <http://curia.europa.eu/juris/liste.jsf?num=C-333/13>.

European Court of Justice (2016), Judgment of the Court of 14 June 2016 C-308/14 in Case C-308/14 - *Commission v UK*, EU:C:2016:436. [online] Available at: <http://curia.europa.eu/juris/document/document.jsf?text=&docid=180083&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=708214>.

High Court of Justice, Queen's Bench Division (2016), *Santos and Miller v Secretary of State for Exiting the EU*, EWHC 2768 (Admin), 3 November 2016. [online] Available at: <https://www.judiciary.gov.uk/judgments/r-miller-v-secretary-of-state-for-exiting-the-european-union/>.

## Legislation

Association Council (1980), *Decision No 1/80 of 19 September 1980 on the development of the association between EEC and Turkey*. [online] Available at: [http://www.inis.gov.ie/en/INIS/DECISION\\_No\\_1\\_80\\_eng.pdf/Files/DECISION\\_No\\_1\\_80\\_eng.pdf](http://www.inis.gov.ie/en/INIS/DECISION_No_1_80_eng.pdf/Files/DECISION_No_1_80_eng.pdf).

Association Council (1980), *Decision No 3/80 of 19 September 1980 on the application of the social security schemes of the Member States of the European Communities to Turkish workers and members of their families*. [online] Available at: [http://www.india-eu-migration.eu/media/legal\\_module/Directive/EU%20and%20Turkey/EU%20Decisions%201\\_80%20and%203\\_80/Decision%203\\_80.pdf](http://www.india-eu-migration.eu/media/legal_module/Directive/EU%20and%20Turkey/EU%20Decisions%201_80%20and%203_80/Decision%203_80.pdf).

Council and Commission Decision 2002/309/EC as regards the Agreement on Scientific and Technological Cooperation, of 4 April 2002 on the conclusion of seven Agreements with the Swiss Confederation, OJ L114/1. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32002D0309&from=en>.

Council Decision of 6 December 2012 on the position to be taken on behalf of the European Union within the Association Council set up by the Agreement establishing an association between the European Economic Community and Turkey, with regard to the adoption of provisions on the coordination of social security systems, OJ L 340/19. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32012D0776>.

Council Directive 93/109/EC of 6 December 1993 laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals, OJ L 329/34. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31993L0109&from=EN>.

Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, OJ L 95/29. [online] Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31993L0013:en:HTML>.

Council Directive 94/80/EC of 19 December 1994 laying down detailed arrangements for the exercise of the right to vote and to stand as a candidate in municipal elections by citizens of the Union residing in a Member State of which they are not nationals, OJ L 368/38. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31994L0080&from=EN>.

Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, OJ L 180/22. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32000L0043>.

Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, OJ L 303/16. [online] Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0078:en:HTML>.

Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, OJ L 16/44. [online] Available at: <http://eur-lex.europa.eu/legal-content/en/ALL/?uri=celex%3A32003L0109>.

Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, OJ L 16/44. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32003L0109&from=en>.

Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, OJ L 251/12. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32003L0086&from=EN>.

Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service, OJ L 375/12. [online] Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:375:0012:0018:En:PDF>.

Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research, OJ L 289/15. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32005L0071&from=EN>.

Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, OJ L 347/1. [online] Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:347:0001:0118:en:PDF>.

Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment ('EU Blue Card Directive'), OJ L 155/17. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32009L0050>.

Council Directive 2015/637 of 20 April 2015 on the coordination and cooperation measures to facilitate consular protection for unrepresented citizens of the Union in third countries and repealing Decision 95/553/EC, OJ L 106/1. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015L0637&from=EN>.

Council of Europe (1950), *Convention for the Protection of Human Rights and Fundamental Freedoms*. [online] Available at: [http://www.echr.coe.int/Documents/Convention\\_ENG.pdf](http://www.echr.coe.int/Documents/Convention_ENG.pdf).

Council of the EU (2005), *European Council Conclusions*, Brussels, 16 and 17 December 2004. [online] Available at: [http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressData/en/ec/83201.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/83201.pdf).

Council of the EU (2016), *Comprehensive Economic and Trade Agreement between Canada, of the one part, and the European Union and its Member States, of the other part*, 2016/0206 (NLE) [online] Available at: <http://data.consilium.europa.eu/doc/document/ST-10973-2016-INIT/en/pdf>.

Council of the EU and Republic of Iceland and Kingdom of Norway (1999), *Agreement concerning the association of these two states to the implementation, to application and to the development of the Schengen acquis*, L 176/36. [online] Available at: <http://ec.europa.eu/world/agreements/downloadFile.do?fullText=yes&treatyTransId=501>.

Council of the European Communities and President of the Republic of Turkey (1977), *Additional Protocol and Financial Protocol signed on 23 November 1970, annexed to the Agreement establishing the Association between the European Economic Community and Turkey and on measures to be taken for their entry into force*, OJ L 361/59. [online] Available at: [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A21970A1123\(01\)](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A21970A1123(01)).

Council of the European Community and President of the Republic of Turkey (1977), *Agreement establishing an Association between the European Economic Community and Turkey* (signed at Ankara 12 September 1963), OJ L361/29. [online] Available at: [http://eur-lex.europa.eu/resource.html?uri=ceGfllar:f8e2f9f4-75c8-4f62-ae3f-b86ca5842eee.0008.02/DOC\\_2&format=PDF](http://eur-lex.europa.eu/resource.html?uri=ceGfllar:f8e2f9f4-75c8-4f62-ae3f-b86ca5842eee.0008.02/DOC_2&format=PDF).

Council Regulation 93/109/EC of 6 December 1993 laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals, OJ L 329/34. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:31993L0109>.

Council Regulation (EC) No 2027/97 of 9 October 1997 on air carrier liability in the event of accidents, OJ L 285/1. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A31997R2027>.

Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement, OJ L81. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32001R0539>.

Council Regulation 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services ('Gender Equality Directive'), OJ L 373/37. [online] Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0113:EN:HTML>.

Directorate General of Civil Aviation, Turkey (2012), *Regulation on air passenger rights (SHY passenger)*. [online] available at: <http://www.turkishairlines.com/en-int/travel-information/legal-notice/legal-notice-passenger-rights/regulation-on-air-passenger-rights>.



EC-Turkey Association Council (1995), *Decision No 1/95 of 22 December 1995 on implementing the final phase of the Customs Union*, OJ L 035. [online] Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:21996D0213%2801%29:EN:HTML>.

EC-Turkey Association Council (1998), *Decision No 1/98 of the EC-Turkey Association Council of 25 February 1998 on the trade regime for agricultural products*, OJ L 86/1. [online] Available at: [http://eur-lex.europa.eu/resource.html?uri=cellar:ce879541-5055-43da-b1d8-e885e9c8104a.0008.02/DOC\\_1&format=PDF](http://eur-lex.europa.eu/resource.html?uri=cellar:ce879541-5055-43da-b1d8-e885e9c8104a.0008.02/DOC_1&format=PDF).

EC-Turkey Customs Cooperation Committee (1996), *Decision No 1/96 of the of 20 May 1996 laying down detailed rules for the application of Decision No 1/95 of the EC-Turkey Association Council*, OJ L 200. [online] Available at: <http://eurodocs.org/211101>.

EC-Turkey Customs Cooperation Committee (1997), *Decision No 2/97 of 4 June 1997 establishing the list of Community instruments relating to the removal of technical barriers to trade and the conditions and arrangements governing their implementation by Turkey*, OJ L 191/1. [online] Available at: [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:21997D0721\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:21997D0721(01)&from=EN).

EEA Council (1995), *Decision No 1/95 of 10 March 1995 on the entry into force of the Agreement on the European Economic Area for the Principality of Liechtenstein*, OJ L 86/58. [online] Available at: [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A21995D0420\(01\)](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A21995D0420(01)).

EEA Joint Committee (2001), *Decision No 191/1999 of 17 December 1999 amending Annexes VIII (Right of establishment) and V (Free movement of workers) to the EEA Agreement*, OJ L 74/29. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:21999D0191&from=EN>.

EEA Joint Committee (2008), *Decision No 158/2007 of 7 December 2007 amending Annex V (Free movement of workers) and Annex VIII (Right of establishment) to the EEA Agreement*, OJ L 124/20. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A22007D0158>.

EFTA Standing Committee (2007), *Decision No 3/2007, of 6 December 2007 on public access to EFTA documents and repealing Decision No 32005/SC of the Standing Committee of the EFTA States*, Ref. 1072934. [online] Available at: <http://www.efta.int/media/documents/public-access-archives/1081035v1SCD200703StandingCommitteeDecisionNo32007SConPublicAccessstoEFTAdocumentssignedversi.pdf>.

EFTA Standing Committee (2007), *Decision No 6/2007, of 13 December 2007 on public access to EFTA documents*, Ref. 30167. [online] Available at: <http://www.efta.int/media/documents/legal-texts/efta-convention/council-decisions-amending-the-convention/30167v1ConsolidatedversionEFTACD2007-6andEFTACD2011PublicAccessGeneva.pdf>.

EFTA States (1994), *Agreement on the establishment of a Surveillance Authority and a Court of Justice*, OJ L 344/3. [online] Available at: <http://www.efta.int/media/documents/legal-texts/the-surveillance-and-court-agreement/agreement-annexes-and-protocols/Surveillance-and-Court-Agreement-consolidated.pdf>.

EFTA Surveillance Authority (2012), *Decision No 300/12/COL, of 5 September 2012, to adopt revised Rules on public access to documents, and repealing Decision 407/08/COL*. [online] Available at: [http://www.eftasurv.int/media/decisions/College\\_Decision\\_300-12-COL.pdf](http://www.eftasurv.int/media/decisions/College_Decision_300-12-COL.pdf).

European Commission (2015), *Communication from the Commission to the Council and the European Parliament, 'Liechtenstein Sectoral Adaptations – Review*, COM(2015) 411 final. [online] Available at: <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A52015DC0411>.

European Commission (2015), *Turkey 2015 Report*, Commission Staff Working Document, SWD(2015) 216 final. [online] Available at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2015/20151110\\_report\\_turkey.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2015/20151110_report_turkey.pdf).

European Commission (2016), *Proposal for a Regulation of the European Parliament and of the Council establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 515/2014, (EU) 2016/399, (EU) 2016/794 and (EU) 2016/1624*, COM(2016) 731 final. [online] Available at: <https://ec.europa.eu/transparency/regdoc/rep/1/2016/EN/COM-2016-731-F1-EN-MAIN.PDF>.

European Community (2004), *Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the European Economic Area of 14 October 2003*, OJ L 130/11. [online] Available at: [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22004A0429\(02\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22004A0429(02)&from=EN).

European Community and Swiss Confederation (2002), *Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons*, OJ L114/6. [online] Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:22002A0430%2801%29:EN:HTML>.

European Community and Swiss Confederation (2008), *Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis*, OJ L 53/52. [online] Available at: <http://ec.europa.eu/world/agreements/downloadFile.do?fullText=yes&treatyTransId=12423>.

European Community and the Republic of Austria, Republic of Finland, Republic of Iceland, Principality of Liechtenstein, Kingdom of Norway and Kingdom of Sweden (1994), *Agreement on the European Economic Area*, OJ No L 1. [online] Available at: <http://www.efta.int/media/documents/legal-texts/eea/the-eea-agreement/Main%20Text%20of%20the%20Agreement/EEAAgreement.pdf>.

European Community and the Republic of Austria, Republic of Finland, Republic of Iceland, Principality of Liechtenstein, Kingdom of Norway and Kingdom of Sweden (1994), *Annexes to the Agreement on the European Economic Area*. [online] Available at: <http://www.efta.int/legal-texts/eea/annexes-to-the-agreement>.

European Community and the Republic of Austria, Republic of Finland, Republic of Iceland, Principality of Liechtenstein, Kingdom of Norway and Kingdom of Sweden (1994), *Annex V: Free movement of workers*. [online] Available at: <http://www.efta.int/media/documents/legal-texts/eea/the-eea-agreement/Annexes%20to%20the%20Agreement/annex5.pdf>.

European Community and the Republic of Austria, Republic of Finland, Republic of Iceland, Principality of Liechtenstein, Kingdom of Norway and Kingdom of Sweden (1994), *Annex VI: Social Security*. [online] Available at: <http://www.efta.int/media/documents/legal-texts/eea/the-eea-agreement/Annexes%20to%20the%20Agreement/annex6.pdf>.

European Council (2016), *A new settlement for the United Kingdom within the European Union*, 23 February 2016, OJ C 69 I/1. [online] Available at: [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016XG0223\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016XG0223(01)&from=EN).



European Council (2016), *European Council Conclusions, 18 -19 February 2016*, EUCO 1/16. [online] Available at: [http://www.consilium.europa.eu/en/meetings/european-council/2016/02/EUCO-Conclusions\\_pdf/](http://www.consilium.europa.eu/en/meetings/european-council/2016/02/EUCO-Conclusions_pdf/).

European Parliament and Council Directive 95/46/EC of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, OJ L 281/31. [online] Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31995L0046:en:HTML>.

European Parliament and Council Directive 98/6/EC of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers, OJ L 80/27. [online] Available at: <http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:31998L0006>.

European Parliament and Council Directive 1999/44/EC of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees, OJ L 171/12. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31999L0044>.

European Parliament and Council Directive 2000/31/EC of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market, OJ L 178/1. [online] Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0031:en:HTML>.

European Parliament and Council Directive 2002/22/EC of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services, OJ L 108/51. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32002L0022>.

European Parliament and Council Directive 2002/58/EC of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector, OJ L201/37. [online] Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002L0058:en:HTML>.

European Parliament and Council Directive (EU) 2004/38/EC of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, OJ L 158/77. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32004L0038>.

European Parliament and Council Directive 2005/29/EC of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council, OJ L 149/22. [online] Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:149:0022:0039:en:PDF>.

European Parliament and Council Directive 2005/36/EC of 7 September 2005 on the recognition of professional qualifications, OJ L 255/22. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32005L0036>.

European Parliament and Council Directive 2006/54/EC of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, OJ L 204/23. [online] Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:204:0023:0036:en:PDF>.

European Parliament and Council Directive 2006/114/EC of 12 December 2006 concerning misleading and comparative advertising, OJ L 376/21. [online] Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:376:0021:0027:EN:PDF>.

European Parliament and Council Directive 2007/64/EC of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC, OJ L 319/1. [online] Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:319:0001:0036:en:PDF>.

European Parliament and Council Directive 2008/48/EC of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC, OJ L 133/66. [online] Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:133:0066:0092:EN:PDF>.

European Parliament and Council Directive 2009/72/EC of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC, OJ L 211/55. [online] Available at: <http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32009L0072>.

European Parliament and Council Directive 2011/83/EU of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council, OJ L 304/64. [online] Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:304:0064:0088:en:PDF>.

European Parliament and Council Directive 2011/98/EU of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State ('Single Permit Directive'), OJ L 343/1. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32011L0098>.

European Parliament and Council Directive 2014/17/EU of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010, OJ L 60/34. [online] Available at: <http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:32014L0017>.

European Parliament and Council Directive 2014/36/EU of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers, OJ L 94/375. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32014L0036>.

European Parliament and Council Directive 2014/66/EU of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer, OJ L 157/1. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014L0066>.

European Parliament and Council Directive 2014/92/EU of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features, OJ L 257/214. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0092>.

European Parliament and Council Directive (EU) 2016/801 of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing, OJ L 132/21. [online] Available at: [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ%3AJOL\\_2016\\_132\\_R\\_0002](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ%3AJOL_2016_132_R_0002).

European Parliament and Council Regulation (EC) No 1049/2001 of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ L 145/43. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32001R1049>.

European Parliament and Council Regulation (EC) 261/2004 of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91, OJ L 046. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32004R0261>.

European Parliament and Council Regulation (EC) No 883/2004 of 29 April 2004 on the coordination of social security systems, OJ L 166. [online] Available at: [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32004R0883R\(01\)](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32004R0883R(01)).

European Parliament and Council Regulation (EC) No 1371/2007 of 23 October 2007 on rail passengers' rights and obligations, OJ L315/14. [online] Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:315:0014:0041:en:PDF>.

European Parliament and Council Regulation (EC) No 392/2009 of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents, OJ L 131/24. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32009R0392>.

European Parliament and Council Regulation (EC) No 987/2009 of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems, OJ L 284/1. [online] Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:284:0001:0042:en:PDF>.

European Parliament and Council Regulation (EC) 1177/2010 of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004, OJ L 334/1. [online] Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:334:0001:0016:EN:PDF>.

European Parliament and Council Regulation (EU) No 1231/2010 of 24 November 2010 extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality, OJ L 344/1. [online] Available at: [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\\_.2010.344.01.0001.01.ENG&toc=OJ:L:2010:344:TOC](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2010.344.01.0001.01.ENG&toc=OJ:L:2010:344:TOC).

European Parliament and Council Regulation (EC) 181/2011 of 16 February 2011 concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004, OJ L55/1. [online] Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:055:0001:0012:EN:PDF>.

European Parliament and Council Regulation (EU) 211/2011 of 16 February 2011 on the citizens' initiative, OJ L 65/1. [online] Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:065:0001:0022:en:PDF>.

European Parliament and Council Regulation (EU) No 492/2011 of 5 April 2011 on freedom of movement for workers within the Union, OJ L 141/1 [online] Available at: <http://eur-lex.europa.eu/eli/reg/2011/492/oj>.

European Parliament and Council Regulation (EU) No 260/2012 of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009, OJ L 94/22. [online] Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:094:0022:0037:en:PDF>.

European Parliament and Council Regulation (EU) No 531/2012 of 13 June 2012 on roaming on public mobile communications networks within the Union, OJ L 172/10. [online] Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:172:0010:0035:EN:PDF>.

European Parliament and Council Regulation (EU) No 524/2013 of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC, OJ L165/1. [online] Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:165:0001:0012:EN:PDF>.

European Parliament and Council Regulation (EU) 2016/399 of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code), OJ L77/1. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32016R0399>.

European Union (2012), *Charter of Fundamental Rights of the European Union*, OJ C 326/391 [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>.

European Union (2016), *Consolidated version of the Treaty on European Union (TEU)*, OJ C 202/1. [online] Available at: [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C\\_.2016.202.01.0001.01.ENG&toc=OJ:C:2016:202:TOC#C\\_2016202EN.01001301](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2016.202.01.0001.01.ENG&toc=OJ:C:2016:202:TOC#C_2016202EN.01001301).

European Union (2016), *Consolidated version of the Treaty on the functioning of the European Union (TFEU)*, OJ C 202/1. [online] Available at: [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C\\_.2016.202.01.0001.01.ENG&toc=OJ:C:2016:202:TOC#C\\_2016202EN.01001301](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2016.202.01.0001.01.ENG&toc=OJ:C:2016:202:TOC#C_2016202EN.01001301).

Swiss Confederation (1999), *Federal Constitution of the Swiss Confederation*. [online] Available at: <https://www.admin.ch/opc/en/classified-compilation/19995395/201601010000/101.pdf>.

Swiss Confederation (2016), *Loi fédérale sur les étrangers du 16 décembre 2005 (modification du 16 décembre 2016)* [Federal Act on Foreign Nationals of 16 December 2005, amended on 16 December 2016]. [online] Available at: <https://www.admin.ch/opc/fr/federal-gazette/2016/8633.pdf>.

Swiss Confederation and European Community (1972), *Agreement between the European Economic Community and the Swiss Confederation*, OJ L 300/189. [online] Available at: [http://trade.ec.europa.eu/doclib/docs/2007/january/tradoc\\_133045.pdf](http://trade.ec.europa.eu/doclib/docs/2007/january/tradoc_133045.pdf).

Swiss Confederation and European Community (1991), *Agreement between the European Community and the Swiss Confederation on direct insurance other than life insurance*, OJ L205/3. [online] Available at: [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A21991A0727\(01\)](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A21991A0727(01)).

Swiss Confederation and European Community (1999), *Agreement between the European Community and the Swiss Confederation on Air Transport*, OJ L114/73. [online] Available at: <http://ec.europa.eu/world/agreements/downloadFile.do?fullText=yes&treatyTransId=559>.

Swiss Confederation and European Community (2002), *Agreement between the European Community and the Swiss Confederation on the Carriage of Goods and Passengers by Rail and Road*, OJ L114/91. [online] Available at: [http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A22002A0430\(03\)](http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A22002A0430(03)).

Turkish Parliament (2013), *Law No 6502 of 7 November 2013 on consumer protection*, in Official Gazette No 28835, 28 November 2013. [online] Available at: <http://english.gtb.gov.tr/data/55e84f501a79f52b9c3d8c6a/6502%20say%C4%B1%C4%B1%20kanun%20%C4%B0ngilizce.pdf>.

United Kingdom (1998), *Human Rights Act*, c 42. [online] Available at: <http://www.legislation.gov.uk/ukpga/1998/42/contents>.

## Websites

Chancellerie Fédérale (2016), *Initiative populaire fédérale 'Contre l'immigration de masse' du 09.02.2014* (Swiss popular initiative 'Against mass immigration'). [online] Available at: <https://www.admin.ch/ch/f/pore/vi/vis413.html>.

Citizens Advice, *EEA nationals – claiming benefits as a jobseeker*. [online] Available at: <https://www.citizensadvice.org.uk/benefits/coming-from-abroad-and-claiming-benefits-the-habitual-residence-test/eea-nationals-and-the-habitual-residence-test/eea-nationals-claiming-benefits-as-a-jobseeker/>.

Department for Exiting the European Union (2016), *Government announces end of European Communities Act*, 2 October 2016. [online] Available at: <https://www.gov.uk/government/news/government-announces-end-of-european-communities-act>.

Department for Exiting the European Union (2016), *Information about the UK leaving the EU*, 22 November 2016. [online] Available at: <https://www.gov.uk/government/news/frequently-asked-questions>.

EFTA (2016), *EFTA Budget*. [online] Available at: <http://www.efta.int/About-EFTA/EFTA-Budget-748>.

EFTA (s.d.), *EEA EFTA Budget*. [online] Available at: <http://www.efta.int/eea/eu-programmes/application-finances/eea-efta-budget>.

European Commission (2016), *Electoral rights*, [online] Available at: [http://ec.europa.eu/justice/citizen/voting-rights/index\\_en.htm](http://ec.europa.eu/justice/citizen/voting-rights/index_en.htm).

European Commission (2016), *EU Immigration Portal*. [online] Available at: <http://ec.europa.eu/immigration/>

European Commission (2016), *EU trade agreements*. [online] Available at: <http://ec.europa.eu/trade/policy/countries-and-regions/agreements/>

European Commission (2016), *Turkey : Customs Unions and preferential arrangements*. [online] available at: [http://ec.europa.eu/taxation\\_customs/business/calculation-customs-duties/rules-origin/customs-unions/turkey-customs-unions-preferential-arrangements\\_en](http://ec.europa.eu/taxation_customs/business/calculation-customs-duties/rules-origin/customs-unions/turkey-customs-unions-preferential-arrangements_en)

European Commission (2016), *Your Europe*. [online] Available at: [http://europa.eu/youreurope/citizens/consumers/index\\_en.htm](http://europa.eu/youreurope/citizens/consumers/index_en.htm)

European Commission (s.d), *Moving and working in Europe: family members*. [online] Available at: <http://ec.europa.eu/social/main.jsp?catId=463&langId=en>.

European Commission (s.d), *Moving and working in Europe: Non-EU nationals*. [online] available at: <http://ec.europa.eu/social/main.jsp?catId=470>.

European Commission (2016), *Your Europe - Passenger rights*. [online] Available at: [http://europa.eu/youreurope/citizens/travel/passenger-rights/index\\_en.htm](http://europa.eu/youreurope/citizens/travel/passenger-rights/index_en.htm).

European Commission (s.d), *Your rights country by country*. [online] Available at: <http://ec.europa.eu/social/main.jsp?catId=858&langId=en>.

Eurostat (2017), *Population on 1 January by five year age group, sex and citizenship*. [online] Available at: [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_pop1ctz&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_pop1ctz&lang=en) (last update: 5 January 2017).

Federal Department of Foreign Affairs, Switzerland (2016), *Free movement of persons*. [online] Available at: <https://www.eda.admin.ch/dea/en/home/bilaterale-abkommen/abkommen-umsetzung/abkommenstexte/personenfreizuegigkeit.html>.

Government of Canada (2016), *Air passenger rights*. [online] Available at: <https://travel.gc.ca/air/air-passenger-rights>.

Government of Canada (2016), *Benefits*. [online] Available at: <https://www.canada.ca/en/services/benefits.html>.

Government of Canada (2016), *Immigration and citizenship*. [online] Available at: <http://www.cic.gc.ca/>.

Government of Canada (2016), *Office of Consumer Affairs*. [online] Available at: <http://www.ic.gc.ca/eic/site/oca-bc.nsf/eng/home>.

Irish Department of Foreign Affairs and Trade (2016), *Passport statistics*. [online] Available at: <https://www.dfa.ie/passports-citizenship/passport-express/passport-statistics/> (figures consulted in October 2016).

Ministry for EU Affairs of Turkey (2016), *Accession negotiations*. [online] available at: <http://www.ab.gov.tr/?p=37&l=2>.

Norway mission to the EU (2016), *Norway's financial contribution* (10 August 2016). [online] Available at: <http://www.eu-norway.org/eu/financial-contribution>.

Parliament UK (2016), *Register Of All-Party Parliamentary Groups* (as of 12 October 2016). [online] Available at: <http://www.publications.parliament.uk/pa/cm/cmallparty/161012/freedom-of-movement.htm>.

Swiss Confederation (s.d.), *Working in Switzerland as a citizen of an EU/EFTA member state*. [online] Available at: <https://www.ch.ch/en/working-switzerland-eu-efta/#special-rules-applying-to-croatian-nationals>.

Swiss Federal Administration (2016), *Votation populaire du 06.12.1992* (Swiss popular referendum of 6 December 1992). [online] Available at: <https://www.admin.ch/ch/f/pore/va/19921206/index.html>.

The Electoral Commission (2017), *Can I register to vote?*. [online] Available at: <https://www.aboutmyvote.co.uk/register-to-vote/who-can-register-to-vote>.

Turkish Ministry for EU Affairs (2016), "Accession Negotiations: Chapter 3 Right of Establishment and Freedom to Provide Services". [online] Available at: <http://www.ab.gov.tr/index.php?p=68&l=2>.

Turkish Ministry for EU Affairs (2016), "Accession Negotiations: Chapter 14 Transport Policy". [online] Available at: <http://www.ab.gov.tr/index.php?p=79&l=2>.



Turkish Ministry for EU Affairs (2016), "Accession Negotiations: Chapter 19 Social Policy and Employment" [online] Available at: <http://www.ab.gov.tr/index.php?p=84&l=2>.

Turkish Ministry for EU Affairs (2016), "Accession Negotiations: Chapter 28 Consumer and Health Protection". [online] Available at: <http://www.ab.gov.tr/index.php?p=93&l=2>

Turkish Ministry of Interior – Directorate General of Migration Management (2016), *Links of migration*. [online] Available at: [http://www.goc.gov.tr/main/Eng\\_3](http://www.goc.gov.tr/main/Eng_3).

UK Treasury (2016), *Chancellor Philip Hammond guarantees EU funding beyond date UK leaves the EU*, 13 August 2016. [online] Available at: <https://www.gov.uk/government/news/chancellor-philip-hammond-guarantees-eu-funding-beyond-date-uk-leaves-the-eu>.

## EU Funding

### Articles and other documents:

"Funding, staffing woes for UK science after Brexit vote", in *Euractiv*, 2 September 2016. [online] Available at: <http://www.euractiv.com/section/uk-europe/news/funding-staffing-woes-for-uk-science-after-brexit-vote/>.

"Turkey Withdraws from EU Cultural Funding Program", in *Art Forum*, 5 October 2016. [online] Available at: <https://www.artforum.com/news/id=63923>.

Ali, A. (2016), "Post-Brexit uncertainty and long-term funding issues hit UK higher education, university rankings show", in *The Independent*, 6 September 2016. [online] Available at: <http://www.independent.co.uk/student/into-university/applying/how-brexit-is-affecting-british-universities-funding-issues-higher-education-qs-world-university-a7227911.html>.

European Commission (2016), *Available local support for H2020 participants from non-EU countries: Canada* Country Page. [online] Available at: [http://ec.europa.eu/research/participants/data/ref/h2020/other/hi/h2020\\_localsupp\\_canada\\_en.pdf](http://ec.europa.eu/research/participants/data/ref/h2020/other/hi/h2020_localsupp_canada_en.pdf) (last update: May 2016).

European Commission (2016), "European Commission welcomes progress in relations between the European Union and Switzerland", press release, IP/16/4501, 22 December 2016. [online] Available at: [http://europa.eu/rapid/press-release\\_IP-16-4501\\_en.htm](http://europa.eu/rapid/press-release_IP-16-4501_en.htm).

European Commission (2016), *External Action Financial Instruments and European Development Fund: Rules on participation on procurement procedures and grants*. [online] Available at: <http://ec.europa.eu/europeaid/prag/annexes.do?annexName=A2a&lang=en>.

European Commission (2016), *Guide for Applicants: Call for proposals 2016 for prevention and preparedness projects in the field of civil protection and marine pollution*, p. 17. [online] Available at: [http://ec.europa.eu/echo/sites/echo-site/files/Guide\\_Applicants\\_PP\\_Call\\_2016.pdf](http://ec.europa.eu/echo/sites/echo-site/files/Guide_Applicants_PP_Call_2016.pdf).

European Commission (2017), *Erasmus+ Programme Guide*, p.23. [online] Available at: [http://ec.europa.eu/programmes/erasmus-plus/sites/erasmusplus/files/files/resources/erasmus-plus-programme-guide\\_en.pdf](http://ec.europa.eu/programmes/erasmus-plus/sites/erasmusplus/files/files/resources/erasmus-plus-programme-guide_en.pdf).

The Royal Society (2015), *UK research and the European Union: The role of the EU in funding UK research*, December 2015. [online] Available at: <https://royalsociety.org/~media/policy/projects/eu-uk-funding/uk-membership-of-eu.pdf>.

### Legislation:

Council and Commission Decision of 24 January 2000 on the conclusion of the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part, OJ L 70/1. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32000D0204>.

Council Decision of 11 March 2010 on the signing and provisional application of the Cooperation Agreement on Satellite Navigation between the European Union and its Member States and the Kingdom of Norway, OJ L 283/11. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:L 2010 283 R 0011 01>.

Council Regulation (EC) No 1934/2006 of 21 December 2006 establishing a financing instrument for cooperation with industrialised and other high-income countries and territories, OJ L 405/41. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32006R1934>

Council Regulation (EU) No 390/2014 of 14 of April 2014 establishing the 'Europe for Citizens' programme for the period 2014-2020, OJ L115/3. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ%3AJOL 2014 115 R 0002>.

Council Regulation (EU) 2015/322 of 2 March 2015 on the implementation of the 11th European Development Fund, OJ L 58/1. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32015R0322>.

Council Regulation (EU) 2015/323 of 2 March 2015 on the financial regulation applicable to the 11th European Development Fund, OJ L 58/17. [online] Available at: <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32015R0323&qid=1484057746338>.

Swiss Federal Council (1988), *Rapport sur la position de la Suisse dans le processus d'intégration européenne du 24 août 1988*, FF 1988 III 233-445, 365 (Swiss Federal Council, *Report on the position of Switzerland in the European integration process*, FF 1988 233). [online] Available at: [https://www.admin.ch/opc/fr/federal-gazette/1988/index\\_37.html](https://www.admin.ch/opc/fr/federal-gazette/1988/index_37.html).

European Community and ACP States (2000), *Partnership agreement 2000/483/EC between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part* ('Cotonou Agreement'), OJ L 317/3. [online] Available at: [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:22000A1215\(01\)](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:22000A1215(01)).

European Community and Swiss Confederation (2007), *Agreement between the European Community and the Swiss Confederation in the audio-visual field, establishing the terms and conditions for the participation of the Swiss Confederation in the Community programme MEDIA 2007*, OJ L 303/11. [online] Available at: [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:22007A1121\(01\)](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:22007A1121(01)).



European Community and the Republic of Austria, Republic of Finland, Republic of Iceland, Principality of Liechtenstein, Kingdom of Norway and Kingdom of Sweden, *Protocol 31 to the EEA Agreement on cooperation in specific fields outside the four freedoms*. [online] Available at: <http://www.efta.int/media/documents/legal-texts/eea/the-eea-agreement/Protocols%20to%20the%20Agreement/protocol31.pdf>.

European Community, Member States and the Kingdom of Morocco (2016), *Cooperation Agreement on a Civil Global Navigation Satellite System (GNSS) between the European Community and its Member States and the Kingdom of Morocco*, OJ L76/3. [online] Available at: [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A2016A0323\(01\)](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A2016A0323(01)).

European Parliament and Council Regulation (EU) No 1285/2013 of 11 December 2013 on the implementation and exploitation of European satellite navigation systems and repealing Council Regulation (EC) No 876/2002 and Regulation (EC) No 683/2008 of the European Parliament and of the Council [2013] OJ L 347/1. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32013R1285>.

European Parliament and Council Regulation (EU) No 1287/2013 of 11 of December 2013 establishing a Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (COSME) (2014 - 2020), OJ L347/33. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013R1287>.

European Parliament and Council Regulation (EU) No 1288/2013 of 11 of December 2013 establishing 'Erasmus+': the Union programme for education, training, youth and sport and repealing Decisions No 1719/2006/EC, No 1720/2006/EC and No 1298/2008/EC, OJ L 347/50. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013R1288>.

European Parliament and Council Regulation (EU) No 1290/2013 of 11 December 2013 laying down the rules for participation and dissemination in "Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020)" and repealing Regulation (EC) No 1906/2006, OJ L 347/81. [online] Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:347:0081:0103:EN:PDF>.

European Parliament and Council Regulation (EU) No 1291/2013 of 11 of December 2013 establishing Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC, OJ L347/104. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013R1291>.

European Parliament and Council Regulation (EU) No 1293/2013 of 11 of December 2013 on the establishment of a Programme for the Environment and Climate Action (LIFE), OJ L347/185. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013R1293>.

European Parliament and Council Regulation (EU) No 1295/2013 of 11 of December 2013 establishing the Creative Europe Programme (2014 to 2020) and repealing Decisions No 1718/2006/EC, No 1855/2006/EC and No 1041/2009/EC, OJ L347/221. [online] Available at: <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32013R1295>.

European Parliament and Council Regulation (EU) No 1296/2013 of 11 of December 2013 on a European Union Programme for Employment and Social Innovation ('EaSI') and amending Decision No 283/2010/EU establishing a European Progress Microfinance Facility for employment and social inclusion, OJ L347/238. [online] Available at: [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\\_.2013.347.01.0238.01.ENG&toc=OJ:L:2013:347:TOC](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2013.347.01.0238.01.ENG&toc=OJ:L:2013:347:TOC).

European Parliament and Council Regulation (EU) No 1300/2013 of 17 December 2013 on the Cohesion Fund and repealing Council Regulation (EC) No 1084/2006, OJ L 347/281. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013R1300>.

European Parliament and Council Regulation (EU) No 1301/2013 of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006, OJ L 347/289. [online] Available at: <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32013R1301>.

European Parliament and Council Regulation (EU) No 1303/2013 of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006, OJ L 347/320. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013R1303>.

European Parliament and Council Regulation (EU) No 1304/2013 of 17 December 2013 on the European Social Fund and repealing Council Regulation (EC) No 1081/2006, OJ L 347/470. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013R1304>.

European Parliament and Council Regulation (EU) No 1305/2013 of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005, OJ L 347/487. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013R1305>.

European Parliament and Council Regulation (EU) No 1307/2013 of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009, OJ L 347/608. [online] Available at: [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\\_.2013.347.01.0608.01.ENG&toc=OJ:L:2013:347:TOC](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2013.347.01.0608.01.ENG&toc=OJ:L:2013:347:TOC).

European Parliament and Council Regulation (EU) No 1308/2013 of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007, OJ L 347/671. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32013R1308>.

European Parliament and Council Decision (EU) No 1313/2013 of 17 of December 2013 on a Union Civil Protection Mechanism, OJ L347/924. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013D1313>.

European Parliament and Council Regulation (EU) No 1316/2013 of 11 of December 2013 establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010, OJ L348/129. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013R1316>.

European Parliament and Council Regulation (EU) No 1381/2013 of 17 of December 2013 establishing a Rights, Equality and Citizenship Programme for the period 2014 to 2020, OJ L354/62. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013R1381>.

European Parliament and Council Regulation (EU) No 1382/2013 of 17 of December 2013 establishing a Justice Programme for the period 2014 to 2020, OJ L354/73. [online] Available at: <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32013R1382>.

European Parliament and Council Regulation (EU) No 230/2014 of 11 of March 2014 establishing an instrument contributing to stability and peace, OJ L77/1. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014R0230>.

European Parliament and Council Regulation (EU) No 231/2014 of 11 March 2014 establishing an Instrument for Pre-accession Assistance, L 77/11. [online] Available at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/financial\\_assistance/ipa/2014/231-2014\\_ipa-2-reg.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/financial_assistance/ipa/2014/231-2014_ipa-2-reg.pdf).

European Parliament and Council Regulation (EU) No 232/2014 of 11 of March 2014 establishing a European Neighbourhood Instrument, OJ L77/27. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014R0232>

European Parliament and Council Regulation (EU) No 233/2014 of 11 March 2014 establishing a financing instrument for development cooperation for the period 2014-2020, OJ 77/44. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014R0233>.

European Parliament and Council Regulation (EU) No 234/2014 of 11 of March 2014 establishing a Partnership Instrument for cooperation with third countries, OJ L77/77. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014R0234>.

European Parliament and Council Regulation (EU) No 235/2014 of 11 of March 2014 establishing a financing instrument for democracy and human rights worldwide, OJ L77/85. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014R0235>.

European Parliament and Council Regulation (EU) No 236/2014 of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action, OJ L 77/95. [online] Available at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/financial\\_assistance/ipa/2014/236-2014\\_cir.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/financial_assistance/ipa/2014/236-2014_cir.pdf).

European Parliament and Council Regulation (EU) No 254/2014 of 26 of February 2014 on a multiannual consumer programme for the years 2014-20 and repealing Decision No 1926/2006/EC, OJ L84/42. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014R0254>.

European Parliament and Council Regulation (EU) No 282/2014 of 11 of March 2014 on the establishment of a third Programme for the Union's action in the field of health (2014-2020), OJ L86/1. [online] Available at: [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L\\_.2014.086.01.0001.01.ENG](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2014.086.01.0001.01.ENG).

European Parliament and Council Regulation (EU) No 375/2014 of 3 of April 2014 establishing the European Voluntary Humanitarian Aid Corps ('EU Aid Volunteers initiative'), OJ L122/1. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014R0375>.

European Parliament and Council Regulation (EU) No 377/2014 of 3 April 2014 establishing the Copernicus Programme and repealing Regulation (EU) No 911/2010 [2014] OJ L 122/44. [online] Available at: [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L\\_.2014.122.01.0044.01.ENG](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2014.122.01.0044.01.ENG).

European Parliament and Council Regulation (EU) No 447/2014 of 2 of May 2014 establishing an Instrument for Pre-accession assistance (IPA II), OJ L132/32. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014R0447>.

European Parliament and Council Regulation (EU) No 508/2014 of 15 May 2014 on the European Maritime and Fisheries Fund and repealing Council Regulations (EC) No 2328/2003, (EC) No 861/2006, (EC) No 1198/2006 and (EC) No 791/2007 and Regulation (EU) No 1255/2011 of the European Parliament and of the Council, OJ L 149/1. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014R0508>.

European Parliament and Council Regulation (EU) No 513/2014 of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime, and crisis management and repealing Council Decision 2007/125/JHA, OJ L 150/93. [online] Available at: <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32014R0513>.

European Parliament and Council Regulation (EU) No 515/2014 of 16 April 2014 establishing, as part of the Internal Security Fund, the Instrument for financial support for external borders and visa and repealing Decision No 574/2007/EC, OJ L 150/143. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32014R0515>.

European Parliament and Council Regulation (EU) No 516/2014 of 16 of April 2014 establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decisions No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC, OJ L150/168. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014R0516>.

European Parliament and Council Regulation (EU) No 2015/322 of 2 of March 2015 on the financial regulation applicable to the 11th European Development Fund, OJ L58/1. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32015R0322>.

European Parliament and Council Regulation (EU) No 2015/323 of 2 of March 2015 on the implementation of the 11th European Development Fund, OJ L58/17. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32015R0323>.

European Union (2012), *Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice*, in Consolidated version of the Treaty on the Functioning of the European Union, OJ C 326/47. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012E/TXT>.

European Union and Republic of Moldova (2013), *Agreement establishing a framework for the participation of the Republic of Moldova in European Union crisis management operations*, OJ L 8/2. [online] Available at: <http://ec.europa.eu/world/agreements/downloadFile.do?fullText=yes&treatyTransId=15441>.

European Union and Republic of Turkey (2006), *Agreement establishing a framework for the participation of the Republic of Turkey in the European Union crisis management operations*, OJ L 189/17. [online] Available at: [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A22006A0712\(01\)](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A22006A0712(01)).

European Union and Republic of Turkey (2014), *Agreement between the Republic of Turkey and the European Union on the participation of the Republic of Turkey in the Union Programme "Creative Europe"* (effective 1 January 2015) (not published in OJ). [online] Available at: [https://ec.europa.eu/programmes/creative-europe/sites/creative-europe/files/library/ce-agreement-turkey\\_en.pdf](https://ec.europa.eu/programmes/creative-europe/sites/creative-europe/files/library/ce-agreement-turkey_en.pdf).

European Union and Swiss Confederation, *Cooperation Agreement on the European Satellite Navigation Programmes*, OJ L 15/3. [online] Available at: [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A22014A0120\(01\)](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A22014A0120(01)).

### **Websites:**

European Commission (2014), *Information note on the participation of Switzerland in Erasmus+* (28 January 2014) [online] Available at: [http://ec.europa.eu/programmes/erasmus-plus/updates/20140128-participation-switzerland-erasmus-plus\\_en](http://ec.europa.eu/programmes/erasmus-plus/updates/20140128-participation-switzerland-erasmus-plus_en).

European Commission (2015), *EU annual budget life-cycle: figures*. [online] Available at: [http://ec.europa.eu/budget/annual/index\\_en.cfm?year=2016](http://ec.europa.eu/budget/annual/index_en.cfm?year=2016).

European Commission (2015), *Turkey joins the EU Civil Protection Mechanism*, 6 May 2015. [online] Available at: [http://ec.europa.eu/echo/news/turkey-joins-eu-civil-protection-mechanism\\_en](http://ec.europa.eu/echo/news/turkey-joins-eu-civil-protection-mechanism_en).

European Commission (2016), *Eastern Partnership*. [online] Available at: [https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/eastern-partnership\\_en](https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/eastern-partnership_en) (last update: 6 December 2016).

European Commission (2016), *Eligibility of EU external action programmes 2014-2020 (A2a)*. [online] Available at: <http://ec.europa.eu/europeaid/prag/document.do?isAnnexes=true>.

European Commission (2016), *Enlargement policy: check current status*, [online] Available at: [https://ec.europa.eu/neighbourhood-enlargement/countries/check-current-status\\_en](https://ec.europa.eu/neighbourhood-enlargement/countries/check-current-status_en) (last update: 6/12/2016).

European Commission (2016), *EU Civil Protection Mechanism*. [online] Available at: [http://ec.europa.eu/echo/what/civil-protection/mechanism\\_en](http://ec.europa.eu/echo/what/civil-protection/mechanism_en) (last update: 25 April 2016).

European Commission (2016), *EU expenditure and revenue 2000-2015*. [online] Available at: <http://ec.europa.eu/budget/library/biblio/documents/2015/internet-tables-2000-2015.xls>.

European Commission (2016), *European development policy*. [online] Available at: [http://ec.europa.eu/europeaid/policies/european-development-policy\\_en](http://ec.europa.eu/europeaid/policies/european-development-policy_en).

European Commission (2016), *European Structural and Investment Funds - Country Data for United Kingdom*. [online] Available at: <https://cohesiondata.ec.europa.eu/countries/UK>.

European Commission (2016), *EU trade agreements*. [online] Available at: <http://ec.europa.eu/trade/policy/countries-and-regions/agreements/>.

European Commission (2016), *Funding instruments and programming*. [online] Available at: [http://ec.europa.eu/europeaid/funding/funding-instruments-programming/funding-instruments\\_en](http://ec.europa.eu/europeaid/funding/funding-instruments-programming/funding-instruments_en).

European Commission (s.d.), *H2020 Online Manual*. [online] Available at: [http://ec.europa.eu/research/participants/docs/h2020-funding-guide/cross-cutting-issues/international-cooperation\\_en.htm#support-non-eu-countries](http://ec.europa.eu/research/participants/docs/h2020-funding-guide/cross-cutting-issues/international-cooperation_en.htm#support-non-eu-countries).

European Commission (2016), *H2020 Programme: Funding of applicants from non-EU countries & international organisations*, 22 september 2016. [online] Available at: [http://ec.europa.eu/research/participants/data/ref/h2020/grants\\_manual/hi/3cpart/h2020-hi-3cpart\\_en.pdf](http://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/hi/3cpart/h2020-hi-3cpart_en.pdf) (last update: 22 September 2016).

European Commission (2016), *Horizon 2020 Associated Countries*. [online] Available at: [http://ec.europa.eu/research/participants/data/ref/h2020/grants\\_manual/hi/3cpart/h2020-hi-list-ac\\_en.pdf](http://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/hi/3cpart/h2020-hi-list-ac_en.pdf) (last update: 1 January 2017).

European Commission (2016), *Southern Neighbourhood*. [online] Available at: [https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/southern-neighbourhood\\_en](https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/southern-neighbourhood_en) (last update: 6 December 2016).

European Commission (2016), *Swiss participation in Horizon 2020* (version January 2017). [online] Available at: [http://ec.europa.eu/research/participants/data/ref/h2020/other/hi/h2020-hi-swiss-part\\_en.pdf](http://ec.europa.eu/research/participants/data/ref/h2020/other/hi/h2020-hi-swiss-part_en.pdf).

European Commission (2016), *Third countries' participation in COSME*. [online] Available at: <http://ec.europa.eu/DocsRoom/documents/20845> (last update: December 2016).

European Commission (2017), *Asylum, Migration and Integration Fund (AMIF)*. [online] Available at: [https://ec.europa.eu/home-affairs/financing/fundings/migration-asylum-borders/asylum-migration-integration-fund\\_en](https://ec.europa.eu/home-affairs/financing/fundings/migration-asylum-borders/asylum-migration-integration-fund_en).

European Commission (2017), *Eligibility of organisations from non-EU countries to Creative Europe*. [online] Available at: <https://eacea.ec.europa.eu/sites/eacea-site/files/06022017-eligible-countries.pdf> (last update: 20 January 2017).

European Commission (2017), *Health Programme: Who can participate?* [online] Available at: [http://ec.europa.eu/health/programme/who can participate\\_en](http://ec.europa.eu/health/programme/who_can_participate_en)

European Commission (2017), *Internal Security Fund (ISF)*. [online] Available at: [https://ec.europa.eu/home-affairs/financing/fundings/security-and-safeguarding-liberties/internal-security-fund-borders\\_en](https://ec.europa.eu/home-affairs/financing/fundings/security-and-safeguarding-liberties/internal-security-fund-borders_en).

Eyjólfsson, E. (s.d), *EU Programmes with EEA EFTA Participation*. [online] Available at: <http://www.efta.int/eea/eu-programmes>

Swiss Federal Council (2016), *Creative Europe (MEDIA/Culture)* (status as of February 2016). [online] Available at: <https://www.eda.admin.ch/dea/en/home/verhandlungen-offene-themen/verhandlungen/creative-europe.html>.

## LIST OF TABLES

---

### EU Rights

Table 1.1: Bremain Option .....	24
Table 1.2: New Settlement for the UK .....	35
Table 2: Norway Model .....	38
Table 3: Switzerland Option .....	46
Table 4: Canada Option .....	52
Table 5: Turkey Model .....	60
Table 6: Comparative table: EU-UK models for a new relationship .....	70

### EU Funding

Table 7: Bremain Option .....	77
Table 8: Norway Option .....	79
Table 9: Switzerland Option .....	81
Table 10: Canada Option .....	83
Table 11: Turkey Option .....	85
Table 12: EU Neighbourhood Option .....	88
Table 13: EU's Development and Cooperation Programmes .....	91



# LIST OF FIGURES

---

Figure 1: Right of entry ..... 13

Figure 2: Right of residence ..... 13

Figure 3: Right to work..... 13

Figure 4: Social security rights ..... 13

Figure 5: Right to do business and provide services, consumer protection and passenger rights..... 15

Figure 6: Right to non-discrimination..... 15

Figure 7: Voting and political rights ..... 15

Figure 8: Access to EU institutions..... 15



Over eight months after the EU referendum in the UK, the details of the UK's future relationship with the EU are yet to be formulated. Several studies have looked into the economic consequences of Brexit, but no study has given a thorough analysis of the implications for the rights of the nearly 4.5 million EU citizens most affected by Brexit – that is, EU nationals currently living in the UK and Britons living elsewhere in the EU. This study aims to shed some light on what different scenarios could mean for citizens' rights in order to help citizens identify the best option for them and enable them to lobby their political representatives both before and during Brexit negotiations.



9 782874 510304 >

