



EUROPEAN COMMISSION
DIRECTORATE-GENERAL JUSTICE AND CONSUMERS

Directorate D: Equality and Union Citizenship
Unit D.3: Union citizenship rights and free movement
Deputy Head of Unit

Brussels,
[REDACTED]
[REDACTED]

E-mail:

[REDACTED]@the3million.org.uk

Dear [REDACTED],

I refer to your e-mail of 9 March 2020, addressed to [REDACTED], concerning the question whether EU citizens who have been affiliated to the United Kingdom's National Health Service ('NHS') without having private comprehensive sickness insurance fall within the personal scope of part two of the Withdrawal Agreement. You ask the question against the background of the United Kingdom not checking compliance with the condition of comprehensive sickness insurance as provided for in Article 7(1)(b) and (c) of Directive 2004/38/EC when assessing EU citizens' applications for a new residence status according to Article 18(1) of the Withdrawal Agreement.

Your e-mail was registered under the reference number [REDACTED] (*please quote this reference in any further correspondence*).

As my Unit is responsible for Union citizenship, I was asked to reply to you. Please accept my apology for the delay that has occurred in replying to you.

Article 10(1)(a) of the Withdrawal Agreement provides that Union citizens who exercised their right to reside in the United Kingdom in accordance with Union law before the end of the transition period and continue to reside there thereafter shall be covered by the Withdrawal Agreement's Part Two on citizens' rights.

Article 13 of the Withdrawal Agreement provides that EU citizens and UK nationals shall have the right to reside in the host State under the limitations and conditions as set out in Articles 21, 45 or 49 TFEU and in the relevant Articles of Directive 2004/38/EC.

Article 13(4) of the Withdrawal Agreement stipulates that there shall be no discretion in applying the limitations and conditions provided for in title II of Part Two, other than in favour of the person concerned.

It is our understanding that the United Kingdom has decided to take a more favourable approach by not checking the comprehensive sickness insurance requirement when assessing EU citizens' applications under the EU Settlement Scheme.

All EU citizens who are granted (pre-)settled status by the United Kingdom in implementation of Article 18(1) of the Withdrawal Agreement are beneficiaries of the citizens' rights part of the Withdrawal Agreement and can thus rely on the rights provided for in Part Two of the Withdrawal Agreement. We therefore understand that this should include EU citizens who have been affiliated to the NHS without having private comprehensive sickness insurance.

I hope that you will find this information useful.

Yours sincerely,

(e-signed)

Monika MOSSHAMMER
Deputy Head of Unit

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