



**Another Windrush in the making: EU citizens and the Settlement Scheme**

**What is the EU Settlement Scheme?**

EU citizens who qualify for leave to remain in the UK must apply to the EU Settlement Scheme (EUSS) by 30 June 2021 in order to be allowed to continue to live lawfully in their homes, to work, to study and access their healthcare and benefits in the UK. Without proof of status, they risk not being able to open a bank account, take out a mortgage or rent a property in the UK after 1 July 2021, when Theresa May’s ‘hostile environment’ will bite for them. Typically, applications are made via a mobile phone app (iphone 7 or Android 6 or newer) and an online form. All communications including the outcome of status are via email. There is no physical proof of status, it is purely digital, linked to ID documents, and must be updated online each time ID documents are renewed, or contact details changed.

**What has this to do with YSJ?**

A small team of Law students in the Law Clinic at YSJ have volunteered with the charity Settled (<https://settled.org.uk/en/>), trained in the EUSS and qualified with the Office of the Immigration Services Commissioner as advisers. We have been working together to advise EU citizens applying to the scheme. Many cases are straightforward and EU citizens apply successfully to the scheme without assistance, but charities are experiencing an increasing number of challenging cases. Below are examples of the kind of situations encountered. These case studies are fictitious but representative of the issues volunteers meet every day, as demonstrated on multiple social media platforms.

**The elderly**

Maria is 90. She came to the UK in the 1950s and has lived and worked in the UK for nearly 70 years. She is now disabled and in poor health and shielding. She made an appointment at the community centre with someone who would help her apply for settled status, but her appointment was cancelled due to the pandemic and now she is shielding. She has no family in the UK. She does not have a mobile phone, a computer or an email address let alone the technical know how to use them. She was almost certainly granted indefinite leave to remain in the UK in the past, and will have probably received a stamp in an old passport, a letter from the Home Office or an old blue ILR card, but these documents were no longer necessary during the years of freedom of movement, and have long since vanished.

**Expired ID documents**

Cassandre is in her eighties. She has lived in the UK for nearly 50 years. Her British husband died some years ago and she lives alone. She has no valid ID documents to support her application as her passport has expired and she will have to make a face-to-face appointment at the French Consulate in London to renew it in order to apply to the EUSS. The Consulate has very limited appointments during the pandemic. She does not have a mobile phone or an email address. Her memory is starting to be fragile. She has a daughter, but her daughter is elderly too and shielding. She can’t help Cassandre to apply for settled status.

**Difficult family circumstances**

Eve has been in the UK for just over 5 years, so she should be eligible for settled status. She left her husband, who was violent towards her, and is in hiding from him. She is struggling to find documents that can prove her residence in the UK as all rental agreements and utility bills were in her husband’s name during her first three years here. Her youngest son possibly qualifies for both British and French citizenship, but currently has formal proof of neither as he needs his father’s signature on the application forms. He needs an ID document to apply for settled status. Eve is very confused as she has difficulties to communicate in English.

**Mixed couples**

Angie is British and has lived with her Dutch partner in Holland for several years. They have a small child together. They plan to return to the UK to settle in summer 2021, when they have sold their house in Holland. Angie’s partner made a brief trip to the UK at the end of 2020 to apply for presettled status before the deadline for residence (31 December 2020), but if he does not come back to settle within 6 months of that date, he will not be able to apply for settled status in five years’ time and will have to return to Holland then or hope he can make a successful application for a visa.

**The European**

Marco is the archetypal European. His life has been shared between the UK and another EU country, moving frequently between both. At the moment, he normally lives and works in the UK but he went to stay with his parents during the pandemic because he lost his job and was afraid of falling ill while away from home. He has therefore interrupted his five-year qualifying period of continuous residence necessary to apply for settled status. As he was born in the UK, he may well have been eligible for British citizenship had his parents known and registered him before he turned 18, but it is too late now. When Marco was born, freedom of movement meant that he did not need British citizenship. He is now worried he will not even be able to prove a right to settled status.

On a regular basis, Settled is approached by EU citizens who have not realised they need to apply to the EUSS – because they have been in the UK for decades already, or because they already have ‘permanent residence’ (a status under EU law, which is no longer valid). Many parents do not know that they have to apply for their children and that, after 1st April 2021, an application for new-borns and adopted children will need to be made within three months from the date of birth or adoption date. Some enquiries require just a little patience and time to resolve, but some are more complex, and aggravated by the impending deadlines. Home Office guidelines are woolly and imprecise, and the only solution is to contact the Home Office directly, as incomplete advice can have serious implications for immigration status. Applicants report waiting times on the Home Office Resolution Centre helpline of over an hour, and general rather than specific responses to their questions.

Settled volunteers work with beneficiaries and advise them within the limits of their competence or signpost them to immigration specialists. But the work is not just about providing legal advice. It also offers the opportunity to communicate words of support to and to rebuild bridges with a group of people, many of whom are anxious, frightened they will be deported back to a country where they no longer know anyone, hurt, stunned and reeling from the change in status which has been imposed on them. Conversations have been bitter-sweet and relationships established.

Efforts are being made to spread the word to the most vulnerable groups of EU citizens - the elderly, the IT illiterate, those on the fringes of society – as the deadline approaches. Volunteers have worked with Embassies in order to gain as much reach as possible, and I have collaborated with a small team of French volunteers to co-host information sessions via Zoom with the Consul Général at the French Consulate in London.

It would be foolish to think that all will be clear after the deadline to apply has passed. Applications are now taking months to process, and applicants risk discrimination while waiting for the outcome of their application. Citizens’ rights groups have warned of a second Windrush looming. This warning is largely not being heeded.

Helen Trouille

Senior Lecturer in Law

If you know any EU citizens who are concerned about their settled status, please do not hesitate to direct them to [lawclinic@yorksj.ac.uk](mailto:lawclinic@yorksj.ac.uk). If you are an EU student concerned about your own settled status, please discuss this with the YSJ Visa team. If you are a member of staff at YSJ concerned about your settled status, please discuss this with HR.