

# Post-Brexit vote, the government must guarantee rights of residence to EU citizens already living in the UK

**W**hat now? This seems to be the question on everyone's lips. In answer, LAG has some immediate legal priorities and concerns about the future in the aftermath of the vote to leave the EU.

It seems that the referendum result and the toxic rhetoric around immigration, used by some on the Brexit side of the argument, have emboldened racists. Incidents include graffiti being daubed on the Polish Social and Cultural Association centre in west London and abuse being directed at Muslim women. Statistics from the Home Office showed an 18 per cent increase in hate crimes for 2014/15 when compared with 2013/14 (*Hate crime, England and Wales, 2014/15*, Statistical Bulletin 05/15, 13 October 2015). The vast majority of these crimes (82 per cent) were race-related. In the wake of the referendum result, police reported a fivefold increase in reports of race hate crime. In the week after the Brexit vote, the website True Vision (established by the police as an online hate crime reporting resource) received reports of 331 hate crime incidents. The site usually records an average of 63 crimes a week. All hate crimes need to be condemned by every political party that aspires to elected office. Action must also be taken to ensure the culprits are caught and prosecuted.

The government needs to move to ensure that the estimated three million EU citizens resident in the UK are protected and that they are reassured about their future. Many will have rights to residence under existing immigration law. They could choose, for example, to become naturalised as British citizens if they already satisfy the five-year residence requirement or will do so in the two or more years prior to the UK leaving the EU.

As part of the process of leaving the EU, legislation should be enacted to regularise the status of all EU citizens already resident in the

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UK. Such a right of residence should be invoked either from when parliament takes the decision to leave or at some later date. These people should not be used as bargaining chips in negotiations with the EU. Giving a clear right of residence to EU citizens already in the UK would allay their anxieties and is the right thing to do; anything less risks pandering to unacceptable racist views that have no place in a democracy.

Throughout the debate on the UK's relationship with the EU, our status as signatory to the European Convention on Human Rights has been conflated with EU membership. It is worth restating that while all 28 member states are bound by the convention, it is separate from the EU and its institutions. The parties to the convention are all members of the Council of Europe, which comprises 47 member states.

With Theresa May confirming at the launch of her leadership bid that she is no longer seeking to leave the convention, it seems that this option is off the table for now. This is no guarantee, though, that the government will not return to its commitment to repeal the Human Rights Act 1998 at some point. LAG's fear is that it has legislation in mind to try to assert the supremacy of the UK courts and parliament over the Strasbourg court. If so, this would be a case of being damned by the company you keep (as Russia moved to do the same last year) and would also put the UK in breach of international law.

Predictions about the future are difficult

to make in the current politically febrile atmosphere, but here goes. Michael Gove was eliminated as a candidate for the leadership of the Conservative party, not making it through to the ballot of members. It will be down to the new prime minister, who is likely to be May, to pick a new cabinet. The post of Secretary of State for Brexit, announced by May in her campaign, seems to have Gove's name on it, but we shall see. The circumstances around Gove's candidacy for the leadership are important as they signal that the Conservatives will try to opt for a full exit from the EU and all that that entails.

In the immediate aftermath of the referendum result, the 'no' camp seemed split between those who want to remain as part of the single market and those who don't. Staying in the single market comes with the cost of continued contributions to the EU budget and agreement to the principle of free movement of labour. Boris Johnson appeared to be leaning towards this idea and paid a heavy price, with Gove playing the part of Brutus in a high drama of political skulduggery.

If the full Brexit strand of opinion remains in the ascent within the Conservative party, this will mean that parliament will be dealing with a series of bills to fully disengage from the EU over the next couple of years. Everything from benefits to financial services will potentially be the subject of new or at least revised statutes. There will be an added layer of complication as the UK undertakes talks to try to establish a new trading relationship with the EU at the same time (assuming that parliament has pushed the art 50 button to leave the EU). All this with a working majority of 16 seats in a House of Commons in which the majority of MPs were against Brexit; a general election at some point soon would seem inevitable. ■

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