

GMS Flash Alert

Brexit Edition

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European Union – Court Rules U.K. Citizens Lost EU Rights Following Brexit

The Court of Justice for the European Union (CJEU) delivered on 15 June a definitive dismissal of the actions brought by British citizens challenging the loss of their rights as EU citizens as a result of Brexit.¹

WHY THIS MATTERS

As the Withdrawal Agreement² and EU-U.K. Trade and Cooperation Agreement have taken effect, there have been some questions around rights retained, rights lost, and the authority of the CJEU over U.K. matters.

This dismissal by the Court should end any future discussion concerning the loss of rights attached to EU citizenship for British citizens following Brexit.

Background in Brief

On 1 January 2021, when the U.K. left the EU Single Market and Customs Union (colloquially known as “Brexit”), U.K. citizens lost all the rights that had been conferred by virtue of the U.K. being a member state of the European Union.

From that date, EU policies were no longer applicable to the former EU member state, for example:

- **Free movement of persons ended:** U.K. citizens no longer have the freedom to work, study, start a business, or live in the EU.
- **Free movement of services ended:** U.K. service providers may no longer benefit from the country-of-origin principle.
- **Free movement of goods ended.**

However, in the three separate actions brought before the Court on appeal, British citizens residing in the U.K. and in various EU member states challenged the Brexit withdrawal agreement and the Council's decision, claiming, inter alia, that those acts had deprived them of rights that they had exercised and acquired as EU citizens.

The Court held that the decision to withdraw from the EU is a sovereign choice of the United Kingdom. The Court declared that “[t]he loss of the status of citizen of the European Union, and consequently the loss of the rights attached to that status, is an automatic consequence of the sole sovereign decision taken by the United Kingdom to withdraw from the European Union.”³

MEIJBURG & CO. INSIGHTS

Under the Withdrawal Agreement, the CJEU's jurisdiction in terms of the United Kingdom continues beyond the transition period in some areas, particularly with regards to the interpretation and application of the Withdrawal Agreement, including in the area of citizens' rights.⁴

Also, under Article 86(1) of the Withdrawal Agreement, if there are cases pending before the CJEU at the end of the transition period – this includes appeals – the CJEU will have jurisdiction until they are finalised. And the resulting judgment handed down by the CJEU, provided for in the Withdrawal Agreement, will be binding on the United Kingdom.

As noted in the referenced U.K. document⁵, questions about EU citizens' rights in the U.K. can continue to be submitted to the CJEU until at least the end of 2028.

On 24 December 2020, the European Union (EU) and the United Kingdom (U.K.) reached an agreement in principle on the EU-U.K. Trade and Cooperation Agreement (“the Agreement”).⁶ The Agreement entered into force on 1 January 2021. It bears reminding, that this Agreement provides several measures for coordination of social security for mobile employees aimed at protecting the entitlements of EU citizens temporarily staying in, working in, or moving to the U.K., and of U.K. citizens temporarily staying in, working in, or moving to the EU after 1 January 2021.⁷

FOOTNOTES:

1 [Judgment of the Court](#) in Case C-499/21. To access the appeal in the *Official Journal of the European Union* (online), click [here](#).

2 Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ 2020 L 29). Additional information on the Withdrawal Agreement can be found at: <https://commonslibrary.parliament.uk/research-briefings/cbp-8713/>.

3 Press release No 101/23, Luxembourg, 15 June 2023 at: <https://curia.europa.eu/jcms/upload/docs/application/pdf/2023-06/cp230101en.pdf>.

4 For additional information, see this “[Insight](#)” in the U.K. House of Commons Library (online).

5 Ibid.

6 Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, and of the Agreement between the European Union and the United Kingdom of Great Britain and Northern Ireland concerning security procedures for exchanging and protecting classified information. Click [here](#) to access the agreement.

7 See [GMS Flash Alert 2021-010](#), 8 January 2021.

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The information contained in this newsletter was submitted by the KPMG International member firm in The Netherlands.

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