

You will probably have seen media coverage of the Home Office having recently issued about 100 erroneous deportation letters to EU citizens living lawfully in the UK, an error the gravity of which was such that the Prime Minister had to issue a public apology. As we understand it the error only came to light, or at least was only made public, following a newspaper investigation. Below is a link to the initial Guardian article¹ in case you have not seen it.

Clearly a systematic error on this scale is very troubling indeed, not least for those on the receiving end of these letters. We attach a copy of one which has been circulated in social media, the impact of which on the reader is chilling.

However, our reason for writing to you is not simply to complain about UK maladministration of the present scheme, but to ask the Commission team to focus very closely on this issue in the negotiations. In our view this recent episode supports our case (see our joint response to Round 2) in two respects.

Firstly, it highlights the very serious risks involved in the UK's proposal to replace existing rights of permanent residence with a new immigration status in UK law, even if some EU concepts are imported as part of the new scheme. It was a Secretary of State for Home Affairs who, not so long ago, memorably described the Home Office as "not fit for purpose"². If serious errors like this can be made whilst the UK is still administering a system based on EU freedom of movement rights, what is likely to happen when it is running its own system, having "taken control again"? Additionally, we are concerned that the Home Office is planning to design a new system - for which they asked our engagement at a meeting on the 22nd August - before the negotiations on Citizens' Rights have concluded. While we recognise that the Home Office needs to make preparations to implement the ultimate Withdrawal Agreement, clearly there is a vast difference between designing a system which is *applying* for a status under UK Immigration Law (including criminality checks) on the one hand, and a simplified process which could be rolled out to local council level allowing people to "*certify*" their declaratory rights (RC and PR) on the other hand.

Secondly, as we have already pointed out, recently the UK drastically reduced the appeal rights of those affected by adverse immigration decisions (s.15 Immigration Act 2014), save in the case of EU citizens whose appeal rights were protected by European law. In brief those other than refugees no longer have an unqualified right of appeal, and are only allowed to appeal if they can establish a breach of the European Convention on Human Rights. Not content with this limitation, however, the UK has also sought to limit its courts' freedom to decide what matters go into the human rights balance when its courts are considering the application of the ECHR (see s. 19). The UK has not yet made clear whether it intends to preserve post-Brexit the unqualified appeal rights to which EU citizens are presently entitled.

As the present systematic errors would almost certainly not have come to light had it not been for a newspaper investigation, it is absolutely imperative that the Withdrawal Agreement provides for the retention of the existing unqualified right of appeal for all those claiming post-Brexit, whether in their own right or as a family member, to benefit from the Citizens' Rights chapter of the Agreement.

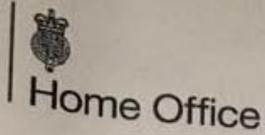
We ask the Commission to make it a priority to raise these two issues in the negotiations in order to protect citizens from the EU27 who have made their home in the UK.

Costanza de Toma
Chair EU27 Working Group, the3million

Jane Golding
Chair, British in Europe

¹ <https://www.theguardian.com/politics/2017/aug/23/home-office-apologises-for-letters-threatening-to-deport-eu-nationals>

² : <http://www.politics.co.uk/blogs/2017/08/25/the-home-office-not-fit-for-purpose>; <https://www.theguardian.com/politics/2006/may/23/immigrationpolicy.immigration1>



PO Box 3468
Sheffield
S3 8WA
Tel 0300 123 2241
Fax
Email
Web www.gov.uk/uk-visas-immigration

Case ID

Date 14 August 2017

Dear Doctor Holmberg

Re: Doctor Eva Johanna Holmberg Financial [REDACTED]

Please find enclosed IS.151A (EEA) and IS.151B (EEA) notices.

A decision has now been taken to remove you from the United Kingdom in accordance with section 10 of the Immigration and Asylum Act 1999 (which applied by virtue of regulations 23(6)(a)/ 23(6)(c) pursuant to regulation 26(3) and 32(2) of the EEA Regulations).

You are entitled to appeal against this decision. You can lodge your appeal online and pay the fee at <https://immigrationappealonline.justice.gov.uk/LACFees>

Yours sincerely,

A handwritten signature in black ink, appearing to be "H. [unclear]".

NOTICE TO A PERSON LIABLE TO REMOVAL
The Immigration (European Economic Area) Regulations 2016

To: **Elzbieta Jonanna**

I have considered all the information available to me and I am satisfied that you are **either**:

A) by virtue of regulations 23(6)(a) and 32(2) a person in respect of whom removal directions may be given in accordance with section 10 of the Immigration and Asylum Act 1999 as:
a person who does not have or has ceased to have a right to reside under the Immigration (European Economic Area) Regulations 2016.

OR

B) by virtue of regulations 23(6)(c) and 32(2) a person in respect of whom removal directions may be given in accordance with section 10 of the Immigration and Asylum Act 1999 as:
a person whose removal is justified on the grounds of misuse of a right to reside in accordance with regulation 26(3) of the Immigration (European Economic Area) Regulations 2016.

Specific Statement of Reasons:

You are specifically considered a person liable to administrative removal under regulation 23(6)(a) as you have failed to evidence that you are exercising Treaty rights in the United Kingdom.

LIABILITY TO DETENTION You are therefore a person who is liable to be detained under paragraph 16(2) of Schedule 2 to the Immigration Act 1971 pending a decision whether or not to give removal directions [and, where relevant, your removal in pursuance of such directions].


On behalf of the Secretary of State

Date 14/08/2017

Important notice for persons detained under the Immigration Act 1971.

You may on request have one person known to you or who is likely to take an interest in your welfare informed at public expense as soon as practicable of your whereabouts.

Please Note: Limited Information about you such as relevant medical or behavioural issues will be shared with the relevant parties involved in the removal process where necessary to facilitate your safe removal from the UK.

You are allowed a period of one month from the date of service of this notice in which to leave the UK voluntarily. This period of notice does not affect your entitlement to bring an appeal. **If you appeal you do not have to leave the United Kingdom while the appeal is in progress. However, you may continue your appeal from outside of the United Kingdom should you wish to**

**REMOVAL
DIRECTIONS**

After one month's notice has expired, or where applicable, if your appeal remains in progress beyond this period and that appeal is unsuccessful, you must leave the United Kingdom. If you do not leave voluntarily, directions will be given for your removal from

the United Kingdom to **Finland**

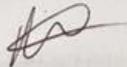
This decision will be deemed to have been served on you on the date of service shown below. Any notice of appeal should reach the Immigration & Asylum Chamber by the deadline for appeal date shown

If you are removed from the UK pursuant to 23(6)(a) you may not re-enter the UK within 12 months following that removal unless you are able to provide evidence that upon re-entry to the UK the conditions for a right to reside, other than the initial right of residence under Regulation 13 of the Immigration (European Economic Area) Regulations 2016, will be met.

Date of service	16/08/2017
Deadline for appeal:	30/08/2017

The contents of this notice have been explained to you in English/ by me/
..... (name of interpreter)

Date 14 August 2017

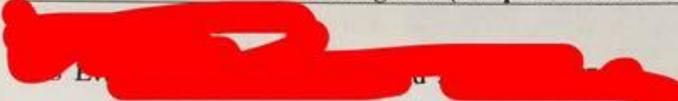

On behalf of the Secretary of State

PO Box 3468
Sheffield
S3 8WA
Tel: Fax:

NOTICE OF IMMIGRATION DECISION

In compliance with the Immigration (Notices) Regulations 2003 made under section 105 of the Nationality, Immigration and Asylum Act 2002

DECISION TO REMOVE
The Immigration (European Economic Area) Regulations 2016


You were served with form IS151A (EEA) on 14/08/2017 informing you of your status under the Immigration (EEA) Regulations 2016 ("the EEA Regulations") and of your liability to detention and removal.

A decision has now been taken to remove you from the United Kingdom in accordance with section 10 of the Immigration and Asylum Act 1999 (which applies by virtue of regulations 23(6)(a)/23(6)(c) pursuant to regulation 26(3) and 32(2) of the EEA Regulations).

**RIGHT OF
APPEAL**

You are entitled to appeal this decision while you are in the United Kingdom by virtue of regulation 36. A **notice of appeal** is enclosed which explains what to do **and** Legal Services Commission advice/an Immigration & Asylum Chamber leaflet which explains how to get help. The appeal must be made on one or more of the following grounds:

- That the decision is unlawful because it racially discriminates against you;
- That the decision is unlawful because it is incompatible with your rights under the European Convention on Human Rights;
- That the decision breaches rights which you have as an EEA National or member of such a person's family under Union Treaties relating to entry or residence in the UK;
- That the decision is otherwise not in accordance with the law;
- That your removal from the United Kingdom as a result of the decision would:
 - breach the United Kingdom's obligations under the 1951 Refugee Convention;
 - be incompatible with your rights under the European Convention on Human Rights.

You should not appeal on grounds which do not apply to you. You must also give arguments and any supporting evidence which justifies your grounds.