

Meeting 2 February 2017 in Cinema Caporale, Castiglione del Lago

The meeting, attended by approximately 80 participants, was held under the auspices of the Castiglione English Language Library and organised by Priscilla Worsley. It was addressed by Gareth Horsfall and Jeremy Morgan QC, and was moderated by Alison Jamieson. Much appreciation was expressed to Priscilla for the considerable efforts made to organise the meeting and to the speakers for taking the time to share their experience and expertise.

GH: The principal aim of the present meeting was to encourage British nationals to come together. The British in Italy tend not to live in close proximity to one another as in some countries but want to live an Italian life. However now we face an existential change with an uncertain future. The aim is not to judge Brexit but to come together to be able to fight better for what we need. It is not the objective to try to overturn the referendum result. The aim is to protect ourselves as far as possible and to preserve our rights as EU citizens.

Much work had been done at a high level by JM behind the scenes.

A document entitled *UK Citizens in Europe: Towards an Alternative White Paper on the European Union (Notification of Withdrawal) Bill* had been sent on 1 February to all influential parliamentarians, chairs of parliamentary committees etc.

JM: The Alternative White Paper was endorsed by groups from various parts of the EU with similar aims. These include amongst others Expat Citizen Rights in EU (ECREU) to which a group of UK nationals in Alto Adige belong and “New Europeans” (UK) run by Roger Casale who promotes European unity from grassroots level up.

It had been no small achievement to get consensus for the contents and to send the document to all parliamentarians simultaneously in both the House of Commons and Lords, in particular to members of the most important committees. This document could become an amendment to the Brexit bill. It puts the case on paper of what we want and how to protect all our pre-Brexit rights for the future. The aim now is to build on this consensus.

All of us may need to make choices but these must be based on correct information. Different factors may incline people to return to UK. People have legal and practical concerns. Many people expect that residence rights will be protected but other rights need to be protected too, and everything is up for negotiation. UK nationals in Italy have so far been reacting on an ad hoc basis.

GH on being witness to the House of Commons Select Committee on Exiting the European Union:

Witnesses had been selected to cover a range of demographics – the Spanish representative spoke mainly for retirees. GH was not the typical British national in Italy - young, married to an Italian, with a young son and running a business. And a northerner! Among the issues he raised with the Committee was the importance of reciprocal recognition of qualifications.

The select committee consists of 21 MPs but there were never more than 12 in the room at one time. They appeared to know very little about the situation of EU nationals in the UK and of UK nationals in the EU. It was felt they would make their minds up on the strength of oral evidence presented to them. The Chair, Hillary Benn, listened with great attention and appeared to be sympathetic to the case evidence presented to him. The committee in a previously published paper had been unanimous in their view that ‘people should come first’ and that establishing the status of EU and UK nationals should be a priority. GH thought the committee’s findings would be taken seriously by Parliament.

There are approximately 5 million nationals involved, around 3 m EU nationals in the UK and 2 m UK nationals in the EU. The movement of all these after Brexit would cause a major internal refugee crisis. One of the major groups representing the EU citizens in the UK is called ‘The 3 million’. They are very vocal and GH and JM are in contact with them. They were represented in the first part of the Committee hearing, EU citizens in Britain have received insults, and Italians have been among them.

There are at least 500,000 Italians in UK, and clearly they will be the primary concern for the Italian government.

There is a best and a worst case scenario. The worst case scenario is that Britain ‘crashes out’ of the EU with no deal at all. The best case (apart from referendum result being overturned) – that all existing rights continue.

Q&As.

Re the status of pensioner's health care after Brexit:

Those who work in Italy pay into and are covered by the health care system here. Retired persons use an S1 form from the Dept of Work and Pensions which is taken to an ASL in Italy. This gives the right to medical care for retired people. Italy sends the bill back to Britain each year. Britain pays more in health care costs to EU countries for its nationals than it receives, because more British pensioners live in the EU than EU pensioners in Britain. It would be better for Britain if the current situation continued as if all retirees were forced to return because unable to pay for health care this would overwhelm the NHS. Retirees paid their taxes into the British health system during their working lives so it is only just that they should continue to receive health care abroad.

Re index linking of pensions:

When they decided to retire to Italy UK citizens expected that they would receive index-linked pension increases. This right has been in force for over 40 years and predates the Lisbon Treaty and thus Article 50. This is not the same situation as with Australia or Canada where people knew beforehand that they would not have the increase. However Indexation is totally within the remit of the UK government and has nothing to do with reciprocity. The fact is that the UK cannot know how many EU citizens are living in Britain nor how many UK nationals live in the EU as freedom of movement makes this calculation impossible. It ought to be possible to know how many pensioners receive their pensions abroad but the Dept of Work and Pensions is not forthcoming about this.

Re residence rights after Brexit:

These and many other rights that are currently enjoyed are a matter for negotiation and therefore we do not know what the outcome will be. Residence rights are a matter for EU law, whereas citizenship depends on national laws. For those who have 5 years minimum residence in Italy it would be advisable to apply now for indefinite right to reside. Italian law says that once permanent residence has been acquired, it can only expire if a person leaves the country for 2 years. Charlotte Oliver – a British lawyer in Rome - has said British nationals had come to her who had been turned down for permanent right to reside on the assumption that 'Britain had already left' the EU, but when a complaint was made to the Comune this directive was reversed.

Re driving licences/pet passports

Driving licences might also be a problem and we simply don't know what might happen with these. Likewise pet passports which can be very important.

Re offer of EU citizenship to British nationals living in EU:

A proposal that British nationals might acquire EU citizenship was floated by Guy Verhofstadt, Brexit negotiator for the European Parliament. This might be granted or it might be purchased. This idea is very much in its infancy. It reflects the principle that people must be put first and not left till the end of the 2 year process.

Re dual nationality:

Applying for Italian nationality may well be an option for some. The process should be relatively simple. Those who have lived for more than 4 years in Italy have the right to apply. The exact criteria are not published so there is some discretion. It is not automatic. It would not involve renouncing British nationality, as would be required in Spain.

Re running and owning a business:

UK nationals who run businesses would have some protection post Brexit. Under the Vienna Convention on the Law of Treaties, fixed and tangible assets would be protected, but this does not protect the right to keep running a business. The report published by the House of Lords European Union Committee on acquired rights post Brexit¹ concluded that UK nationals will in fact have very few acquired rights that will continue after Brexit.

Re property rights and legal issues:

There should be no problem for those owing property in Italy as property rights are guaranteed under the European Convention on Human Rights to which the UK (at least for now) and all EU countries are signatories.

¹ <https://www.publications.parliament.uk/pa/ld201617/ldselect/lddeucom/82/8202.htm>

The distinction was clarified between the Council of Europe, to which the UK belongs and will continue to belong after Brexit, and the European Court of Justice which is the legal arm of the EU and is based in Luxembourg, to which the UK will no longer be answerable after Brexit. The European Convention on Human Rights is a Council of Europe convention. The Conservative party included in its 2015 manifesto a commitment to leave the ECHR, enacted in British law by the Human Rights Act, and replace this with a British 'Bill of Rights.' (This despite the fact that British judges were the principal drafters of the ECHR) .

The Great Repeal Bill, to be passed at the conclusion of the Article 50 process, will repeal the 1972 European Communities Act and will incorporate into British law all except some parts of EU law. The government will then remove and replace EU legislation bit by bit.

Next phase of activities and keeping connected:

The immediate aim is to coordinate efforts both in Italy and with UK national groups in other EU countries in order to expand the movement. 'British in Italy' has a Facebook page and will use email. It will mainly be coordinated from Rome though Milan will also be important. Contacts will be made with the British Chamber of Commerce in Milan and with UK nationals in UN agencies in Rome. Meetings will be held shortly in the Italian Chamber of Deputies and also with officials in the British Embassy. As regards lobbying EU parliaments or institutions this is difficult, as most will not make any commitments until after Article 50 has been triggered.

Those wanting to contribute something at an individual level were encouraged to contact the MP in their former constituencies. This may only be effective if they still have the vote, given that a member of the audience who had contacted her old MP after living more than 15 years out of the UK was told she was 'of no concern' to the MP and should cease to contact him.

After intense pressure from Harry Schindler, a 95 year old war veteran living in Italy, David Cameron promised in 2016 that after 2020 the 15 year rule would not apply.

Signing petitions can also be useful.

Other observations

It was noted that (Lord) Paddy Ashdown has set up a new movement called moreunited.co.uk that uses crowdfunding to fund prospective MPs of any party who sign up to 5 core values of opportunity, tolerance, democracy, environment and openness. This movement is favourable to continuing rights of EU citizenship.

There was some discussion of forming an expat constituency as exists in some parliaments, including in Italy, although currently not possible in Italy. It was noted that British nationals in Italy have made a considerable contribution to the Italian economy, and in particular to the now depressed housing market which would suffer even more if the British decided or felt obliged to leave. This could also be a useful lever for support from the Italian government, in addition to the need to protect Italian citizens in the UK.

The meeting concluded with warm thanks to the speakers and appreciation of the event by all.