



### **Note to the European Affairs Committee of the Folketinget**

When we appeared in front of the Committee on January 18<sup>th</sup> we promised to provide a short note on what British in Europe thought would be appropriate legislation for British nationals in Denmark in the event of a No Deal Brexit.

At that time we were told by the Committee of the Government's proposal to pass a law to create a temporary transitional scheme effective from March 30 under which the EU rights of British nationals in Denmark would be preserved for the time being. We had not then seen any published announcement.

We have now seen the announcement by the Government. It does indeed preserve the EU rights of British nationals lawfully resident in Denmark at 29 March 2019 subject to two qualifications.

- The first is that the right to family reunification is limited compared with the EU citizen's right. All relations existing at March 29 will be covered, as will children born or adopted later. However future spouses/partners will not. This follows the scheme of the Withdrawal Agreement.
- The second is that the enhanced EU protection against removal will not apply, but instead the corresponding provisions of the Danish Aliens Act will apply. Again this echoes the Withdrawal Agreement's provisions for the situation after December 2020.

The length of the Danish transitional period has yet to be decided and will depend on further work on a final scheme and the outcome of the negotiations in Brussels. Denmark is not alone in wanting to defer a decision on the final scheme for the time being and may also want to take account of the continued coordination work being undertaken by the Commission and what is done in other Member States.

In those circumstances British in Europe believes that it is premature for us to make very detailed suggestions as to the shape of the final scheme. Overall we would favour the continuation, as far as possible, of the EU citizens' rights hitherto enjoyed by British nationals in Denmark. We also recommend that, whether or not the Withdrawal Agreement is ratified, the process for establishing a continued residence right is declaratory (as envisaged by Art. 18.4 of the Agreement) rather than requiring fresh applications under a constitutive scheme (as envisaged by Art. 18.1).

British in Europe would very much welcome being consulted on the proposed final scheme when work on it is further advanced. Our experience in other countries is that it does assist governments to hear from those most directly affected on the impact proposals are likely to have on them.

Finally, we would repeat the point that all of us made before the Committee, namely that the simplest, most secure and most comprehensive way of protecting our rights if the Withdrawal Agreement is not ratified, is to extract the Citizens' Rights provisions from the Agreement and make them a free-standing Agreement under Article 50.