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From: GROW-YOUR-EUROPE-ADVICE@ec.europa.eu

To:

Date: 16/01/2024 16:31 CET

Subject: Your Europe Advice enquiry 412399

Dear Sir/Madam,

Please find below the reply to your enquiry. Please note that the advice given by Your Europe Advice is an independent advice and cannot be considered to be the opinion of the European Commission, of any other EU institution or its staff nor will this advice be binding upon the European Commission, any other EU or national institution.

Dear Citizen,

Many thanks for your enquiry to Your Europe Advice which we may answer as follows:

There is no provision contained in the Withdrawal Agreement that would require member states to allow UK citizens legally residing in an EU country under the Withdrawal agreement to use the lane for EU citizens at airports.

Thus, UK citizens have to use the all passports lane, regardless of whether they are travelling to another EU member state than their state of residence or returning to their EU host member state. Separate lanes are only provided for EU nationals and their family members enjoying their rights of free movement, thus UK citizens in case they are family members of an EU national.

UK citizens being entitled to reside in an EU member state under the Withdrawal agreement are treated equally with other non-EU citizens legally residing in an EU member state.

EU citizens and their family members may use the EU passport lane, whereas UK citizens who are not family members of EU citizens must use the no visa required or all passports lane, as stated in Article 10 of Regulation (EC) 2016/399 as well as Annex 42 of the Practical Handbook for Border Guards as well as paragraph 5.15 of the Practical Handbook for Border Guards itself, which states that UK citizens and their family members who are beneficiaries of the Withdrawal Agreement are to be treated equally with other non-EU nationals legally residing in an EU member state.

The equal treatment clause in Article 23 of the Withdrawal Agreement refers to Article 24 of Directive 2004/38/EC and provides for equal treatment of UK citizens with nationals of the host member state in the host member state. As there are specific provisions in the Practical Handbook for Border Guards, which do not differ between the UK national host member state and other EU member states we currently do not see any room for interpretation that UK nationals must be granted entry through the EU passports lane in their host member state. If a UK citizen wants to challenge the provisions mentioned above in the light of the equal treatment clause, the citizen would have to obtain a decision refusing them to enter the host member state because of the use of the EU passports lane, which the UK citizen would then have to challenge under national law before the competent administrative courts of the respective member state.

Should you have any further questions in relation to your rights in the EU, please do not hesitate to contact Your Europe Advice again.

Yours sincerely,

Your Europe Advice

To help us improve our services, we would invite you to complete this short [online survey](#).

To submit another enquiry, please visit [Your Europe Advice](#), but do not reply to this e-mail.

Your original enquiry was:

Could you please advise of the rights of Withdrawal Agreement beneficiaries to use the e-Gates (Channel for EU nationals) at the Airports in their Host State. I have looked at the Schengen Border Guard Guide section 33 and it States the following "Withdrawal Agreement beneficiaries have their previously exercised free movement rights, which they enjoyed as EU citizens, grandfathered only in their host State. With regard to movement in the Schengen States (other than their host State) they are to be treated as legally resident third-country nationals." One interpretation of this, together with the Equal Treatment provisions in the Withdrawal Agreement is that we should be treated the same as EU nationals in the Host State. Your advice as always would be welcome and if there are any legal precedents here.

Yours sincerely,

Your Europe Advice