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EU referendum: voteless expats being punished for exercising freedom of movement, High Court hears



Expats say blocking them from deciding Britain's future role in Europe breaches their rights under EU law CREDIT: REUTERS

By **Elizabeth Roberts**

20 APRIL 2016 • 9:30PM

British expats in Europe who claim they are being illegally denied the right to participate in the referendum on Britain's membership of the EU are waiting for a High Court ruling on the issue.

“They are on the horns of an impossible dilemma”

Aidan O'Neill QC, pointing out that the only way long-term British expats in Europe can vote against Brexit is to move back to Britain

Aidan O'Neill QC told Lord Justice Lloyd Jones and Mr Justice Blake the expats are “on the horns of an impossible dilemma” as, in order to vote in favour of their right to live and work in the EU, they would have to move back to Britain.

The legal action was launched by Harry Shindler, a 94-year-old war veteran who has lived in Italy since 1982, and Jacquelyn MacLennan, 54, a British lawyer living in Belgium since 1987.



Harry Shindler with EU Commissioner Viviane Reding in 2013 CREDIT: ETIENNE ANSOTTE

In contrast to expats from more than 50 Commonwealth countries who live in Britain, they cannot vote in the referendum, as they have been away from the country for more than 15 years and fall under the so-called “15-year rule”.

Mr O'Neill said they are being unlawfully penalised for using their free movement

If the decision is in their favour, it could see the June 23 date postponed while up to two million overseas voters register.

On Wednesday at the High Court in London, a lawyer representing two long-term expats argued that Brexit could see them lose rights ranging from property ownership to free health care.

rights under EU law to go and live on the Continent.

The lawyer said British membership of the EU gives Britons EU citizenship. This means they can live and work in Europe, own property, retire there, and receive health care free at the point of use, paid for by the NHS.



British lawyer Jacquelyn MacLennan fears her rights to live and work in Brussels would be under threat in the event of Brexit CREDIT: AFP/GETTY IMAGES/NIKLAS HALLE'NNIKLAS HALLE'N

“Coming out of the European Union will throw all that into doubt,” said Mr O’Neill. “If there’s a No vote then you become, if you are lucky, a resident alien.”

To make things worse, said Mr O’Neill, the Government – which has promised to abolish the 15-year rule for UK general elections – has “no idea” how many expats are affected and has only given “guesstimates” ranging from one to two million. It has not given a reason for imposing the 15-year rule in relation to the referendum.

“There is absolutely no reason why their vote should be taken away”

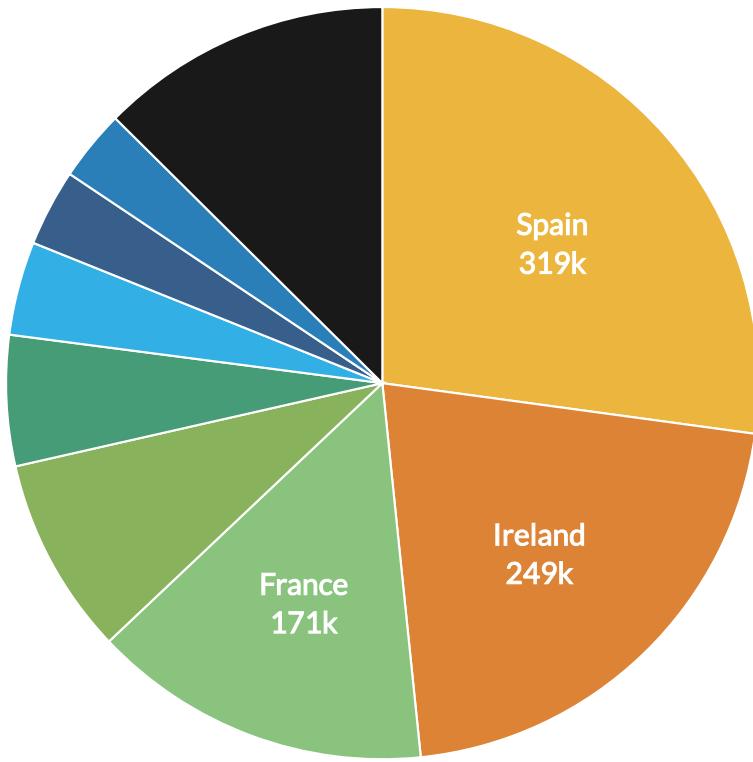
Aidan O'Neill QC, representing expat campaigners at the High Court

“We look in vain in the record before Parliament for why. What is the legitimate aim they seek to achieve by imposing that restriction?” he said.

“There is absolutely no reason why their vote should be taken away.”

James Eadie QC, representing the Government, said it is its right to decide who can vote in the referendum, and that right is “untrammelled by EU law”.

Where are Britain's expats in the European Union?



Spain: 319k	Ireland: 249k
France: 171k	Germany: 99.9k
Italy: 66k	Netherlands: 47.3k
Cyprus: 38.8k	Poland: 35.8k
Other: 148k	

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He said the Government is entitled to base the franchise on those “with the closest of links to the UK” and warned against speculation about the impact of Brexit on expats.

Lord Justice Lloyd Jones said he and Mr Justice Blake would take time to consider the matter fully but give their judgment as soon as possible.

“We appreciate the importance and urgency,” he said.

If they rule in favour of the expats, their lawyers say this would force Government to rush through legislation to change the franchise for the forthcoming referendum. This could potentially cause a delay.

Ms MacLennan said after the hearing: “I think we have strong arguments and I hope they will prevail.”

Expat voting rights: key moments



At present, Britons are not allowed to vote in UK elections after they have been out of the country for 15 years.

Before 1985

Prior to 1985, expats were not permitted to register to vote in UK national elections.

1989

This was extended to 20 years by the Representation of the People Act 1989, also during Mrs Thatcher's time as PM.

2000



1985



The Representation of the People Act 1985, under Margaret Thatcher's Conservative administration, enabled expats to register as overseas voters in the constituency for which they were last registered. This entitlement was initially only available for those expats who had lived abroad for no longer than five years.



The time limit was reduced to 15 years by the Political Parties, Elections and Referendums Act 2000, passed while Labour was in power under Tony Blair.

May 2014

In January 2014, Viviane Reding, the EU's Justice Commissioner, said Britain is "punishing" its expatriates for leaving the country by denying them the right to vote.

Sept 2014



In September 2014 the Conservatives made a manifesto pledge to restore full voting rights. The then party chairman Grant Shapps said: "Being a British citizen is for life. It gives you the lifelong right to be protected by our military and Foreign Office, and to travel on a British passport. We believe it should also give you the lifelong right to vote."

February 2016

In February 2016, the date for the EU referendum was announced as June 23 2015. Only expats who have lived out of the country for less than 15 years will be able to participate.

April 20 2016



Expat campaigners asked judges at the Royal Courts of Justice in London to give all British expats in Europe the right to vote in the Brexit referendum. A decision is now awaited.



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