

THE IMPACT OF BREXIT ON FREE MOVEMENT OF PERSONS

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Biographical Note

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Abstract

Since 2010, free movement of EU citizens to the UK has become one of the most politicized issues in the UK, with a special focus on the so-called *welfare tourism*. Migration has turned from a matter of some concern to a source of instability, with migrants labelled as *cultural and security threats*. Thus, immigration was one of the most emotive, most contentious issues of the Brexit referendum campaign in 2016, and reached so many controversies, such as Farage's infamous poster, urging the British citizens to take back control of borders.

The article aims to briefly reveal UK's short history of migration, then the focus will move on the withdrawal agreement and its impact on migration and the risks associated with a *no deal* scenario. The changes induced by Brexit into the migration and mobility processes are diverse, therefore, the objective of the Withdrawal Agreement is to limit to a minimum the disruption to people's lives which the UK's departure might cause.

Keywords: Brexit, free movement of persons, migration, withdrawal agreement

JEL Classification: F02, F22

1. UK's short history of migration – figures and restrictive policies

According to Migration Watch (n.d.), between 1851 and 1931, the population born abroad increased by only about 1 million in UK. After WWII, up to 1991, it was registered an increase of two million, with a remarkable peak, between 1991-2011, when UK witnessed an increase of four million, reaching 13.4% out of total population.

In 1948, an inflow of economic migrants from the Commonwealth led to the issuing of *The British Nationalities Act*, granting all Commonwealth citizens free entry into Britain. Unfortunately, ten years later, in August 1958, the infamous *Notting Hill race riots* troubled the British society, following a relatively long period of racial conflicts. In 1968, The Race Relations Act was launched, outlawing racial discrimination in public places.

By 1971 the immigrant population numbers over three million, including 171,000 identifying themselves as Jamaican origin, 313,000 from India and 676,000 originating from Ireland. People of Indian origin became the largest immigrant group, leading to a radical decision: immigration from Commonwealth was dramatically restricted. Due to the maintenance of racial tensions, in 1976, it was created *The Commission for Racial Equality (CRE)*, the statutory body charged with tackling racial discrimination. We may consider that the migration phenomenon was perceived and analysed in relation to racial discrimination, with migrants labelled as intruders, job thieves and trouble makers.

After the collapse of communism in Eastern Europe, new source countries entered the international migration system. Thus, in 1998, more than 46,000 applications for asylum were registered in UK, a 42% rise over the previous year. After another 2 years, in 2000, 125,000 people were allowed to settle in the UK.

The Accession Agreements signed in 2003 and 2005 allowed the Old Member States to impose transitional restrictions (TA) on the free movement of workers from the New Member States (NMS) for a limited period of time (the so-called *Schröder formula*: three countries, the UK, Sweden and Ireland did not apply the derogation which was available on free movement of people for up to seven years when the Eastern European states joined the EU in 2004). The logic of TA was, that the EU15 were not able to regulate the entry and residence of NMS citizens, but could decide on the conditions under which NMS nationals access employment. Thus, 15 years after the collapse of communism, we witness a “fortress Europe” in terms of granting free movement of labour originating in Eastern and Central Europe, except for the highly skilled workers.

The transitional arrangements established in 2003 represented a compromise between the Old Member States’ desire to protect their labour markets against massive flows of foreign labour and the New Member States’ desire to benefit from the European citizenship. Despite the fear of massive inflows of Romanians and Bulgarians, at the end of TAs, in 2014, only around 28,000 newcomers were registered in UK. The latest data provided by BBC News in 2018 showed that in 2017, 411,000 Romanians were registered in UK – a jump of 25% on the previous year. Still, Polish remain the most relevant migrant group in UK (over 1 million persons).

2. The Withdrawal Agreement (WA)

Compared to international migration from third countries, labour mobility within the EU is a limited phenomenon, despite the progress registered by the legislative framework related to free movement of persons within the Internal Market.

Membership of the European Union has direct effects on the UK labour market via the free movement of labour and the contribution of immigration to GDP, the fiscal budget and productivity. It also has indirect effects via the impact of trade flows and foreign direct investment on aggregate economic activity.

The WA’s main objective is to protect residence and work rights of EU citizens or UK nationals, and their family members of any nationality.

The debate around the WA strengths and weaknesses is still vivid, but two important questions still remain relevant:

1. What will happen to UK citizens living elsewhere in the EU, and equally, what will happen to EU citizens living in the UK?
2. How to avoid the return of a physical border between Northern Ireland and the Republic of Ireland when it becomes the frontier between the UK and the EU?

The most likely answer to the first question is that EU citizens living in the UK and British citizens living in the EU prior to the end of the implementation period will preserve the right to remain where they are. The UK has implemented the continuous residence rights for EU citizens and their families through the settled status scheme¹. Still, more than symbolic, we cannot ignore the status change for UK nationals, transformed from mobile workers to economic migrants, or even, third country nationals, with the related negative labelling.

As far as the second question is concerned, the Backstop was meant to be the right answer. In order to protect the benefits of being part of the custom union and as an alternative to *Hard Brexit*, the British government negotiated with the European Commission and come up with the plan of *The Backstop*: until the deal on the future relationship is done, the backstop would keep the UK effectively inside the EU's customs union, but with Northern Ireland also conforming to some rules of the single market, raising several fears for discriminatory practices, excessive border checks, possible switch from temporary solution to a permanent one, basically, a confusing source for new trade agreements.

The long-term negotiations (so far, the actual leaving was delayed 3 times, with the latest *flex-tension* set for 31st January 2020) revealed the need for a new immigration system, aiming to protect both EU nationals and UK citizens. In the same time the struggles to reach some kind of compromise showed that “the inability to restrict EU admission resulted in a debate discussing a ‘migration control crisis’ in relation to the country’s EU membership” (Paul, 2016 cited in Dupont and Trauner, 2016, p.13).

After Brexit, a new immigration system is expected to be implemented in UK. The present immigration system is dual, admitting only highly skilled workers from outside the EU, and workers of all skill levels from the EU. The new one is based on a single route which gives access to highly skilled and skilled workers from all countries, after some transitory periods that will contribute to the phased process. The future system will apply in the same way to all nationalities – EU and non-EU citizens alike – except where there are objective grounds to differentiate. Still, priority will be given to skilled migrants, as part of active measures to address labour and skill

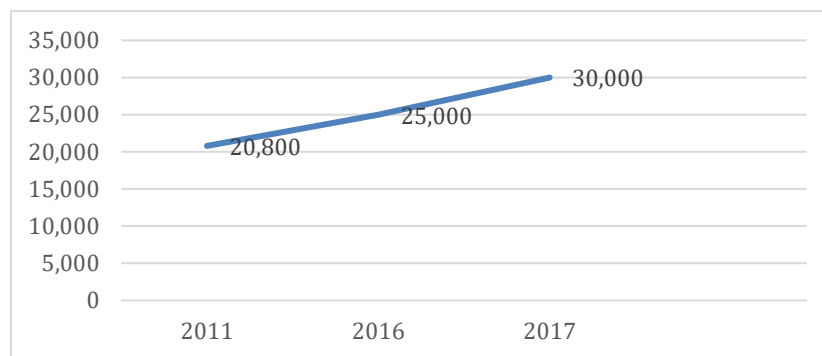
¹ The scheme processes the applications of EU citizens currently living in the UK to allow them to remain in the UK after Brexit. Anyone currently living in the UK who is an EU citizen will have to apply to the EU Settlement Scheme by 30 June 2021 in order to be allowed to stay in the country. Successful applicants will be given either *settled* or *pre-settled* status. Anyone who doesn't apply by this deadline when they should have will no longer be living in the country legally.

shortages. According to the White Paper on immigration, “UK remains a hub for international talent from the EU and the rest of the world” (The Guardian, 2018). Thus, the new categories of *desirable* migrants are the following 4:

- *Innovators*. For experienced business people who want to set up a business in the UK that is innovative, scalable and viable. Start-Up visa route is available since Spring 2019, for those at an early stage of their career with an innovative business idea, who can then move into the Innovator route.
- *Exceptional Talent*. A flexible route for highly skilled individuals in the creative, arts and humanities, science, research and engineering, and digital technology sectors, who wish to work in the UK.
- *Investors*. For those who make a substantial financial contribution to the UK.
- *Other temporary workers* - other temporary routes such as our Youth Mobility Schemes, routes for sportspeople, those in the creative sector and charity workers will operate, as well.

The new skills-based system proves once again that migration is a highly selective process, favouring the skilled workers, who need to earn as much as a 30,000 income threshold /year and benefit from employer’s sponsorship (Figure 1).

Figure 1. Minimum threshold for skilled workers general visa



Source: The Migration Observatory at the University of Oxford, 2019

Still, EU-based talent is strongly encouraged to apply for roles in the UK, and they are exempted from these eligibility criteria. In the *War for Talent*, UK is willing to make exemptions in order to preserve the competitive advantage in attracting the highly skilled workers.

As far as the unskilled workers are concerned, a 12-month permit and a *cool off* period of 12 months will be imposed. During their stay, the workers will have no access to public funding and they will have no right to bring dependents. Those limitations are expected to impact seriously the

labour supply in constructions sector, health care, seasonal work (tertiary sector), where the non-UK workers represent the vast majority. Unfortunately, the new criteria brought the social dumping issue back on the politicians' agenda, and led to worrying tensions on the UK labour market, between old economic migrants and the newcomers, competing directly for 3D jobs².

3. NO DEAL scenario and the free movement of persons

The implementation of the *Immigration Bill* might lead to the end of the free movement, because EU citizens and their family members will require immigration permission to enter the UK. The Government and the Home Office will need rules in place to grant immigration leave to enter and remain to EU citizens.

In order to reduce the negative impact of this scenario, UK might apply the following solutions:

- For newcomers, a temporary, non-extendable status will be granted. The new migrants will access The European Temporary Leave to Remain in the UK, with no visa requirements for a 3 month stay, followed by an application for European Temporary Leave (extra 36 months).
- For settled and pre-settled EU citizens and their families, as well as for Irish citizens no extra rules will be applied. They might be considered the main beneficiaries of the new system, preserving their status already achieved in UK.

Probably the most alarming consequences of the *no deal* scenario refers to the fact that reciprocal re-introduction of immigration control could lead to unintended side-effects, like visa overstaying or irregular immigration of EU citizens to the UK and vice versa.

4. Immigrants in the UK – a snapshot

In the past 20 years, the share of EU nationals in the working age population of UK has grown from 1.8% to 6.3%. EU immigrants are on average younger, more educated and more likely to be in work and not dependant on social benefits.

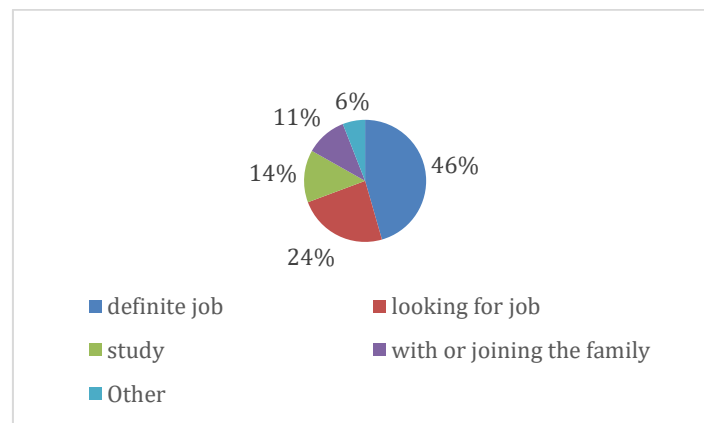
The UK's open and growing economy attracted EU migrants, rather than its in-work welfare benefits or child allowance. The network labour migration developed mainly because of the pull factors, that attracted migrants to choose UK for their migration journey. Economic growth and a

² Dirty, difficult and dangerous.

structural demand for migrant labour in high- and low-skilled sectors of the British economy are also significant drivers of immigration (Mitchell and Pain, 2003, p.12).

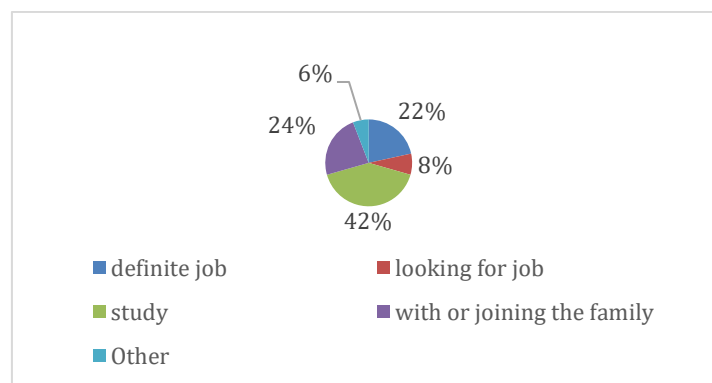
In terms of reasons for choosing UK as country of destination, the EU migrants (the wave of 2016) have clear plans like performing a job or getting employed. Thus, the debate around *the welfare tourism* or *social benefits tourism* is overrated, as the above mentioned fiscal contributions of the newcomers in the host economy. (Figure 2 and Figure 3)

Figure 2. Reasons for EU arrivals (2016)



Source: Kone and Markaki, 2017

Figure 3. Reasons for non-EU arrivals (2016)



Source: Kone and Markaki, 2017

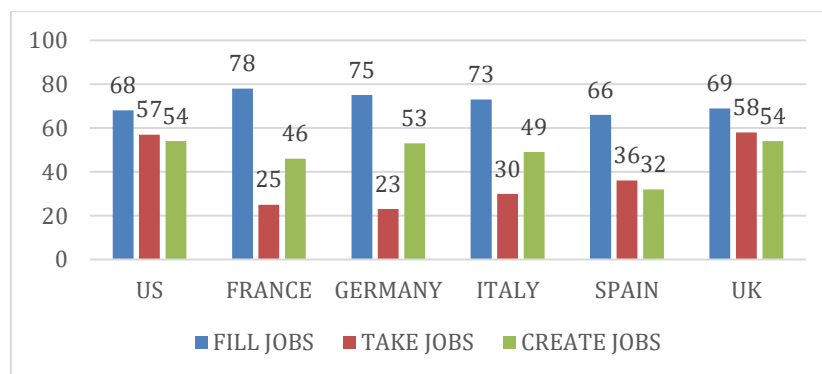
The migrants fill the positions not wanted by the native workers, as they choose locations with available jobs and fill labour shortages. “Whether high- or low-skilled, migrants rarely substitute directly for native workers. Instead, migrants often complement native workers or accept jobs that

natives don't want or can't do. They create new jobs by increasing production, engaging in self-employment, and easing upward job mobility for native workers" (Constant, 2014, p. 2).

Employers in UK complain about the difficulties to fill the vacancies and warn about the negative impact of the following sectors, traditionally occupied by immigrants: HORECA sector, construction, and health and social care.

Despite the negative media coverage on migrants, public opinion in main destination countries have a positive perception on newcomers' contribution on the labour market, as opposed to the labelling of job *thieves* (Figure 4). Moreover, "the construction of migrants as victims at best, and as cultural and security threats at worst, particularly in the case of Muslim refugees, not only assists in their dehumanisation, it also legitimises actions taken against them through the perpetuation of a particular discourse on the European *Self* and the non-European *Other*" (Tazreena, 2018, p.7).

Figure 4. Public opinion on immigrants and jobs (2011)



Notes: Percentage of respondents who agree (either "strongly" or "somewhat") with the following statements: "Immigrants generally help to fill jobs where there are shortages of workers"; "Immigrants take jobs away from native-born"; and "Immigrants help create jobs as they set up new businesses."

Source: Transatlantic Trends, n.d.

After the accession of the former communist countries from Eastern and Central parts of Europe, we witness a drastic increase in immigration from Eastern Europe, partly as a consequence

of a political decision³. Together with Ireland and Sweden, the UK was in a minority of EU member states that did not impose temporary restrictions on the employment of A8 nationals (in addition to their freedom of movement rights) from May 1st, 2004. When Romania and Bulgaria joined the EU, the UK changed the *open doors* approach, in favour of a restrictive regime granting limited access for newcomers originating from the above mentioned countries. For Eastern workers, wage differentials remained the main pull factor for moving to the UK.

In 2015, the employment-to population ratio was 72.5% among the UK-born, 78.2% among all EU immigrants and up to 81.9% among immigrants from the countries that joined the EU in 2004 (Wadsworth et al., 2019, p. 5). Migrants from the EU contribute £2,300 more to the exchequer each year in net terms than the average adult. Over their lifetimes, they pay in £78,000 more than they take out in public services and benefits - while the average UK citizen's net lifetime contribution is zero (Oxford Economics, 2018, p.6)

5. Possible models for collaboration in case Brexit's withdrawal agreement is implemented

The positive contribution of newcomers in the UK economy is a relevant pre-condition for the adoption of an efficient and fair new system for immigrants. The aim of the future partnerships refers to the need to secure bilateral social security agreements on reciprocal rights with individual EU Member States or a single agreement with the EU as a whole. The target groups included in the new system of collaboration are represented by visitors, workers, self-employed, service providers, students and pensioners.

Among the most relevant models of collaboration, we selected the following:

- EEA - their citizens are by definition not subject to visa requirements. Nationals of EEA countries have full free movement rights as workers on one another's territory (still, in case of labour market disequilibrium, safeguard clause might be imposed as an emergency brake).
- Switzerland – a model meant for nationals of the parties to exercise a right of residence and economic activities on the territory of the other (TAs for ECE, quotas for new permits, etc.)

³ The Accession Agreements signed in 2003 and 2005 allowed to impose transitional restrictions on the free movement of workers from the New Member States (NMS) for a limited period of time (Schroder formula). The logic of TAs was that the EU15 were not able to regulate the entry and residence of NMS citizens but could decide on the conditions under which NMS nationals access employment. The transitional arrangements established in 2003 represented a compromise between the Old member states' desire to protect their labour markets against massive flows of foreign labour and the New member states' desire to benefit from the European citizenship.

- Turkey - after four years' employment, the Turkish worker is entitled to free access to the labour market
- Partnership and Cooperation Agreement countries (former USSR) - a right to equal treatment for workers, nationals of the parties, legally employed on the territory of the other state
- Stabilisation Agreement countries (Western Balkans) - Workers, nationals of a party and legally employed on the territory of the other are entitled to non-discrimination on the basis of nationality as regards working conditions, remuneration or dismissal
- ACP countries - prohibition of discrimination on the basis of nationality of any worker national of an ACP country.

6. Conclusions

Since the beginning of the *Leave* campaign, the key trade-off being debated has been between free trade and control of the free movement of labour.

The discourse on migration, migrants and their negative impact on British society was filled with false data and led to the labelling of the newcomers as security threats. Throughout its migration history, UK has alternated the restrictive policies with the *open doors* ones, and has created different support mechanisms for the economic migrants in search for better lives. The latest migration crisis heated up the emotional discourse against the newcomers, despite the relevant statistics on migrants' contribution to the British economy – from fiscal contribution, to positive impact on employment and low dependency on social benefits.

The pessimistic outcome is related to the *no deal* scenario, with many restrictions imposed to newcomers, but in case the WA is agreed, several models for granting free movement of persons might be chosen by the British authorities, in their effort of reducing the negative impact of disruption to people's lives. Nevertheless, we might expect side-effects from the new immigration system that is to be implemented: less attractive pull factors for immigrant workers, difficulties in filling vacancies in several sectors traditionally occupied by migrant workers, restrictions imposed to UK workers abroad, based on reciprocity, etc.

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