



Faculty of Law and Administration
University of Warsaw



The consequences of Brexit for the labour market and employment law

Łukasz Pisarczyk

l.pisarczyk@wpia.uw.edu.pl



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Objectives of the Presentation

- Among the most important problems caused by Brexit is the question concerning the situation on the labour market, the position of migrant workers and future development of labour law in various European countries.
- Unfortunately, at the moment it is very difficult to formulate any precise conclusions concerning the Brexit impact on labour legislation and the position of migrant workers.
 - A lot depends on the results of future negotiations.
- However, it is possible to identify the problems most likely to eventuate and try to predict the potential consequences of the UK's decision.



Brexit from a different perspective

- A broader (European) perspective is needed as Brexit will influence not only the British labour market
 - Economic relations will be developed also in the future
 - It should be important to see and understand the concerns of others
- Brexit implications spur particular interest and concern in the countries of Central and Eastern Europe whose citizens have been migrating in massive numbers to the United Kingdom.
- Polish workers as main group of migrant workers
 - Historical development and the current situation in labour market (reasons of the current situation)
 - Opinions of Polish people living and working in the UK



Main problems connected with Brexit

- Problems concerning EU migrant workers in the United Kingdom can be divided into two main groups.
 - The rights of those workers who came to the UK before the Brexit date (or before another date to be pinpointed) – which is strictly connected with more general guarantees for EU citizens in Britain.
 - The UK and the EU will have to solve the problem of migrant workers coming to Great Britain after the Brexit date (or another negotiated date).
 - For it will be necessary to find a replacement mechanism for the hitherto accepted principle of free movement of people.



Current Situation in the British Labour Market

- The UK is one of the largest European labour markets
- The UK labour market is eagerly chosen by EU citizens
 - High level of remuneration
 - High level of social protection
 - Multicultural society
 - Access to non-material goods (culture, sport)
- Sectors dependant on migrant workers
 - Agriculture
- The scale of the immigration
 - More than 10% of workers are migrant workers



Polish workers in the UK

- Various waves of emigration (post war emigration, economic emigration, the opening of the UK labour market after the enlargement of the European Union)
 - The United Kingdom opened its labour market for migrant workers from new Member States
 - Contrary to the majority of the „Old” Member States no transition was adopted
- Surprise with the scale of immigration
- Problems connected with social integration
- Allegations in relation to migrant workers
 - Abuse of social security system
- Less favourable working conditions (including remuneration)
- Low level of unionization – 8% (much lower than among UK workers)



Current situation in the Polish labour market

- Since the accession to the European Union the Polish labour market has changed significantly
- In early 2000's the Polish labour market underwent very deep crises
 - The unemployment rate reached 20%
 - The government made labour law more flexible
 - The wave of emigration to Ireland and UK
- The improvement in the labour market
 - Relatively low level of unemployment rate (around 8%)
 - Staff deficit in some sectors
 - Immigration from other countries (mainly from Ukraine)
 - According to statistics around 1 million Ukrainians work in Poland



Migrant workers living and working in the UK before Brexit

- Clear guarantees for this group of people are widely expected in the rest of European countries.
- However, the British government closely links the situation of migrants from EU countries to the position of British citizens in the European Union.
- Transition period – extra time for EU citizens to arrange their status in the UK
- An important idea of “settled status” meets a number of practical problems.



The end of freedom of movements?

- Theoretically a common market with freedom of movements could be maintained
- Uncontrolled immigrations as an important reason of Brexit
 - At the beginning of the Brexit procedures the British government declares the limitations in the number of migrants (to “tens of thousands”)
- Much more UK-focused immigration policy
- The end of freedom of movements



Transition Period?

- A planned transition period (“grace period”) is intended to avoid a “cliff-edge” situation.
- Possibility to enter the UK labour market after Brexit?
- Free access or additional conditions?
- The length of the transition period
 - (2 or 3 years?)
- Concerns of EU opponents (Hotel California phenomenon)



System of permits

- According to the British government the UK welcomes those who are skilled and well-educated
- Some sectors of the British economy needs also unskilled workers
 - Seasonal workers
- Doubts concerning the criteria to be applied
 - Qualifications; income requirements
- Employees who have real expertise will be offered to stay longer?
- If the UK introduces a system of permits, the European Union will probably expect a special (simplified) procedure for its citizens.



Work permits with preferences

- Such a mechanism is applied in specific situations
- Recently Poland has introduced a simplified procedure for workers from some countries from Eastern Europe
- The main point was to facilitate the recruitment of Ukrainian workers
- Normal procedure: permits issued by public authorities
- Simplified procedure: notification public authorities



Migrant workers after Brexit

- The outflow of workers began just after the referendum.
- It was related to the state of uncertainty as well as negative atmosphere around foreign employees.
- Even if formally they are allowed to stay in Great Britain they may be forced to re-emigrate due to the changes in functioning of the labour market and social security system (e.g. the system of allowances).



The wave of returns?

- Comebacks to home countries
- Only some of workers staying in the UK declare the will to come back to their home countries (usually because of much lower level of remuneration).
- A part of workers may choose other countries of Western Europe
- Potential directions: Germany, the Netherlands, Nordic countries



Consequences of returns

- The way of returns will change the situation on the labour market (a growing number of workers searching for employment).
- Comebacks may also worsen the position of workers who are employed in countries affected by the wave of returns (e.g. Ukrainian workers in Poland).



The influence on domestic labour law systems

- The incidence of returns may also indirectly affect labour legislation.
- For instance, legislators will be forced to adjust working conditions to an increasing unemployment rate (e.g. by introducing more flexible solutions).
- It may lead to the further segmentation of labour law across Europe (while the strengthening of social standards is rather expected)
- This may have implications for the freedom of movement within the European Union.



Transnational institutions of labour law

- Another problem is the situation of multinational institutions of labour law, e.g. European Works Councils.
- One has to distinguish between two situations: EWCs established under a jurisdiction of another Member State (will British members of EWCs retain their mandates?) and EWCs established in Britain that is even more complicated.
- Similar concerns may relate to European Framework Agreements if they are regulated at the EU level.
 - At the moment they are concluded on a voluntary basis



Changes in British labour law. Deregulation?

- Various institutions of the British labour law have been introduced or developed to implement the European standards (working time, rights of working parents, transfer of undertaking).
- Some areas the British standards are higher than those arising from the EU legislation and stable.
- The British companies may need a structural support to compete with foreign enterprises.
- The future changes may affect the economic exchange (costs of work) as well as the situation of workers including migrant workers



Protection of migrant workers

- Convention concerning Migration for Employment (Revised 1949)
- Protection against discrimination (including)
 - Remuneration
 - Hours of work and holidays
 - Trade unions membership



Conclusion

- The importance of the social dimension of Brexit
- Guarantees for workers who currently are employed in the UK
- Searching for an effective mechanism after Brexit