

BREXIT: SOCIO-LEGAL IMPACT ON LABOUR LAWS OF UK AND THE EUROPEAN UNION

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ABSTRACT

The European Union is one of the most respected and strongest groups consisting of 28 member states with a massive influence over world politics, economics and world affairs. The European Union has been the matter of debate and discussion in recent history over the exit of the United Kingdom, which is one of the most influential member states of the European Union.

Through this article, the authors have highlighted the changes that Brexit has brought about in terms of the labour laws in the United Kingdom and the legal and social repercussions on the government of the United Kingdom, the industries employing workers in the United Kingdom and the European Union and particularly the status of the working class in Europe, working on visa in the United Kingdom or a Brit working in any other member state of the European Union. The aforesaid changes as a result of Brexit will be analysed in comparison with the previous laws and social norms existing in the United Kingdom before the Brexit took place. Lastly, the authors have attempted to conclude the article by providing an overall analysis of the situation before and after Brexit along with suggestions to improve the scenario.

Key Words: European Union, the United Kingdom, Brexit, Social, Legal.

INTRODUCTION

The European Union, shortened to EU is the economic and political partnership of 28 European countries. It was formed post World War II with the idea that countries which trade together are more likely to avoid going to war with each other.¹

¹ Alex Hunt & Brian Wheeler, *Brexit: All you need to know about the UK leaving the EU*, BBC News, <http://www.bbc.com/news/uk-politics-32810887>, 30 January 2018.

The predecessor of the EU, The European Economic Community, was created in the aftermath of the Second World War. Created in 1958, initially the economic cooperation existed between six countries: Belgium, Germany, France, Italy, Luxembourg and the Netherlands.

Since then, 22 other members joined and a huge single market² was created and continues to develop towards its full potential. The essence of single market or common market has been explained in the case of *Schul v. Inspecteur der Invoerrechten*³, wherein it was held as follows;

“... involves the elimination of all obstacles to intra-community trade in order to merge the national markets into a single market bringing about conditions as close to those of a genuine internal market..”⁴

The spirit of the above contention of the Court of Justice of the European Union⁵ is imbibed in Articles 39⁶, 43⁷ and 49⁸ of the Treaty establishing the European Community⁹

The European Economic Community changed its name to the European Union (EU) in 1993. What took off as economic union has turned into an union spanning policy areas, from climate, environment and health to external affairs, security, justice and migration.¹⁰

One of the biggest events in the timeline of the European Union’s existence is Brexit.

This refers to the decision of the United Kingdom leaving the European Union is popularly shortened to form the word Brexit (Britain and exit). The United Kingdom decided to leave the European Union following a referendum, which is the principle or practice of submitting to popular vote a measure passed on or proposed by a legislative body or by popular initiative¹¹, for the decision whether or not the United Kingdom remains a part of the European Union,

² Single market (sometimes also called the internal market) people, goods, services, and money can move around the EU as freely as within a single country. Mutual recognition plays a central role in getting rid of barriers to trade.

³ [1982] ECR 1409.

⁴ Para 33., *Schul v. Inspecteur der Invoerrechten* [1982] ECR 1409.

⁵ The Court of Justice of the European Union (CJEU) interprets European Union law to make sure it is applied in the same way in all EU countries, and settles legal disputes between national governments and EU institutions. https://europa.eu/european-union/about-eu/institutions-bodies/court-justice_en.

⁶ Provides for the free movement of workers and their families, The Treaty of Maastricht, 1992.

⁷ Provides for the free movement of self-employed persons and their families, The Treaty of Maastricht, 1992.

⁸ Provides for the free movement of those providing and receiving services, The Treaty of Maastricht, 1992.

⁹ Also known as The Treaty of Rome, the treaty established the European Economic Community which which further led to the creation of the European Union.

¹⁰Goals and Values of the EU, European Union, https://europa.eu/european-union/about-eu/eu-in-brief_en, 7 February 2018.

¹¹Definition of Referendum, Merriam Webster, <https://www.merriam-webster.com/dictionary/referendum>, 3 February 2018.

which was held on Thursday 23 June, 2016, the result of which was in the affirmative that is to leave won by 51.9% to 48.1%, with the turnout being 71.8%, roughly more than 30 million people voting.¹² The European Union (Notification of Withdrawal) Act, 2017 received a royal assent three days after passing the bill.¹³

The UK government, on the 29th of March, 2017 served a formal notice under Article 50 of The Treaty on European Union¹⁴ to terminate the UK's membership of the EU, as a result of which, a stipulated and pre-decided a two-year notice period begins, at the end of which (subject to the unlikely possibility of the withdrawal agreement being concluded sooner), the actual Brexit will be in March of 2019.¹⁵

REPERCUSSIONS OF BREXIT;

SOCIAL

Social Security

Healthcare rights shall continue as now although it is not clear yet what status an EHIC¹⁶ card would have for other travellers after Brexit.¹⁷

The Joint report from the negotiators of the European Union and the United Kingdom Government on progress during phase 1 of negotiations under Article 50 TEU on the United Kingdom's orderly withdrawal from the European Union,¹⁸ covers social services in a

¹² Alex Hunt & Brian Wheeler, *Brexit: All you need to know about the UK leaving the EU*, BBC News, <http://www.bbc.com/news/uk-politics-32810887>, 30 January 2018.

¹³ European Union (Notification of Withdrawal) Act, 2017, Bills and Legislations, Parliament of UK, <https://services.parliament.uk/bills/2016-17/europeanunionnotificationofwithdrawal.html>.

¹⁴ Specifies the procedure required to be followed by any member state of the Union which decides to leave the Union, <http://www.lisbon-treaty.org/wcm/the-lisbon-treaty/treaty-on-European-union-and-comments/title-6-final-provisions/137-article-50.html>.

¹⁵ Overview, Brexit, Bird & Bird, <https://www.twobirds.com/en/hot-topics/brexit>.

¹⁶ European Health Insurance Card, Policies and Activities, Employment, Social Affairs and Inclusion, <http://ec.europa.eu/social/main.jsp?catId=559>.

¹⁷ Alex Hunt & Brian Wheeler, *Brexit: All you need to know about the UK leaving the EU*, BBC News, <http://www.bbc.com/news/uk-politics-32810887>, 30 January 2018.

¹⁸ TF50 (2017) 19 – Commission to EU 27, Joint Report from the Negotiators of the European Union and the United Kingdom Government on Progress during Phase 1 of Negotiations under Article 50 Teu On the United Kingdom's Orderly Withdrawal from the European Union, 8 December 2017.

comprehensive manner, laying out the specifically the services that will be provided and for what groups after 29th March 2019.¹⁹

Social security coordination rules set out in Regulations (EC) No 883/2004²⁰, which is on the coordination of social security systems and (EC) No 987/2009²¹ which lays down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems, will apply.

The European Union Social Security Coordination refers to common rules which guard the social security rights of beneficiaries of this system when moving within Europe. These rules on social security coordination don't replace domestic individual nations' systems with the aforementioned social security system common for all European Union members. All member states of the European Union are granted the liberty to decide who is to be insured under their legislation, which benefits are granted and under what conditions.²²

Social security coordination rules will cover Union citizens who on the specified date are or have been subject to UK legislation and UK nationals who are or have been subject to the legislation of an EU 27²³ Member State, which refers to one of the 27 member state of the European Union and EU27 and UK nationals within the scope of the Withdrawal Agreement by virtue of 3. The aforesaid rules will also be applicable to the European Union and UK citizens having worked or resided in the UK or in an EU 27 Member State in the past for the purposes of aggregation of periods of social security insurance²⁴

The report²⁵ also provides for the establishment of a mechanism to decide jointly on the incorporation of future amendments to those Regulations in the Withdrawal Agreement for the

¹⁹ The day the United Kingdom officially leaves the European Union.

²⁰ Regulation (EC) No 883/2004 of the European Parliament and of the Council, Official Journal of European Council, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:166:0001:0123:en:PDF>, 29 April 2004.

²¹ Regulation (EC) No 987/2009 of the European Parliament and of the Council, Official Journal of European Council, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:284:0001:0042:en:PDF>, 16 September 2009.

²² EU Social Security Coordination, Employment, Social Affairs and Inclusion, <http://ec.europa.eu/social/main.jsp?catId=849>.

²³ Data Calls and Uploading, Joint Research Centre, <https://datacollection.jrc.ec.europa.eu/eu-27>, 7 February 2018.

²⁴ Article 28, Joint Report from the Negotiators of the European Union and the United Kingdom Government., https://ec.europa.eu/commission/sites/beta-political/files/joint_report.pdf, 8 December 2017.

²⁵ Joint Report from the Negotiators of the European Union and the United Kingdom Government., https://ec.europa.eu/commission/sites/beta-political/files/joint_report.pdf, 8 December 2017.

rights and obligations set out in Regulations (EC) No 883/2004 and (EC) No 987/2009 on the coordination of social security systems.²⁶

Criminality and Abuse:

Under the current European Union movement law or the Withdrawal Agreement, the criminal conduct of a person maybe have consequences on their right of residence. For criminality committed before Brexit, the current rules prescribed in Chapter VI²⁷ of the Free Movement Directive²⁸ will apply.

“All decisions affecting the right of residence taken on grounds of criminality committed before Brexit will have to be taken on a strict case-by-case basis and only those offenders whose personal conduct represents a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society can be removed.”²⁹

ECONOMIC:

The mere decision of the United Kingdom leaving the European Union has triggered various economic complications for the citizens of the nation. The British Prime Minister hinted that there will be major consequences faced by industrial and medical sectors.

Currently, the “National Health Services Crisis is a major example for the statement above. The social, health care sector are experiencing severe repercussions of Brexit. London lost the European Medicines Agency to Amsterdam as UK prepares to leave the European Union”.³⁰ This is a glimpse of how the United Kingdom has and in the future cease to be one of the biggest marketplaces for well-researched and developed health care treatments. Currently,

²⁶ Article 30, Joint Report from the Negotiators of the European Union and the United Kingdom Government., https://ec.europa.eu/commission/sites/beta-political/files/joint_report.pdf, 8 December 2017.

²⁷ Page 105, Restrictions on the Right of Entry and the Right of residence on grounds of public policy, public security or public health, Chapter VI, Free Movement Directive, Official Journal of European Union, https://ec.europa.eu/commission/sites/beta-political/files/joint_report.pdf, 2004.

²⁸ The free movement of persons constitutes one of the fundamental freedoms of the internal market, which comprises an area without internal frontiers, in which freedom is ensured in accordance with the provisions of the Treaty.

²⁹ EU Citizen’s Rights and Brexit, Representation in United Kingdom, https://ec.europa.eu/unitedkingdom/services/your-rights/Brexit_en.

³⁰ Jennifer Rankin, *London loses EU agencies to Paris and Amsterdam in Brexit Relocation*, The Guardian, <https://www.theguardian.com/politics/2017/nov/20/london-loses-european-medicines-agency-amsterdam-brexit-relocation>, 20 November 2017.

we're living in an era where the Government has turned its back on the membership of of the world's largest and most economical single market.³¹

Post-Brexit the cost for one individual to import or export will come into existence, leading to increase in price and taxes. Furthermore, such exit of the United Kingdom from the European Union has been stated by various experts as the cause for the Pound to fall. Hence, this coupled with the fact that prices are bound to rise due to levying of taxes and duties, the affordability shall fall drastically, affecting the very livelihood of people. Travellers travelling overseas from the United Kingdom have experienced that the Pound is buying fewer euros or dollars after the Brexit vote. Even if the pound regains some of its value, currency experts expect it in the longer term to remain at least 10% below where it was when the referendum happened.³²

Experts in field of economics, sociology and anthropology have suggested that Brexit has set off a chain of events that has already affected the United Kingdom and will continue to do so in the near as well as far future. As a result of Brexit, the heightened economic uncertainty is expected to reduce confidence of various interest groups thus holding back spending decisions, and tighten financial conditions, increasing the cost of finance and reducing its availability. The most economic fallout that the Brits will face is losing unrestricted access to the Single Market, and preferential access to 53 non-EU markets. It is stipulated that the United Kingdom's trade would then initially be governed by World Trade Organisation rules, leading to higher tariffs for goods and to other barriers in accessing the Single Market, notably for financial services.³³

If there is any significant difference between the United Kingdom and European Union, it may affect the decisions made by major corporations regarding their investments as they might be looking for locations where the labour is cheaper and protection costs are comparatively lesser. Simultaneously, they must also keep in mind not to invest in a market where the rights of the

³¹ Ben Bradshaw, *Brexit will destroy the NHS step by step – this is how*, Independent, <http://www.independent.co.uk/voices/brexit-nhs-destroy-how-healthcare-donald-trump-eu-withdrawal-bill-funding-crisis-money-budget-a8194751.html>, 5 February 2018.

³² Alex Hunt & Brian Wheeler, *Brexit: All you need to know about the UK leaving the EU*, BBC News, <http://www.bbc.com/news/uk-politics-32810887>, 30 January 2018.

³³ The Economic Consequences of Brexit: A Taxing Decision, OECD Economic Policy Paper April 2016 No. 16.

public are dwindling. It may also influence the movement of workers between the United Kingdom and the European Union after Brexit.³⁴

LEGAL

Before the United Kingdom decided to opt out of the European Union, British laws regarding employment, movement of people goods and citizen was governed by the European Union laws. The Labour Laws after Brexit are going to be the same in United Kingdom, however, the question arises whether the workers and industries want to separate from the European Union.

Resident Rights:

Those persons who work or have reasonable financial resources and sickness insurance confer a right of residence under Article 6³⁵ and 7³⁶. Right of Permanent Residence is given under Article 16³⁷, 17³⁸ and 18³⁹ for those who have legally resided for five years.⁴⁰

One of the primary concerns of the Brexit is the free flow of people from countries henceforth shall no longer exist. Post-Brexit, since the free flow shall end, the question of the livelihoods of many Non-Britishers citizens has risen as to their stay in the United Kingdom for various purposes like study, work etc. The agreement between the United Kingdom and the European Union states that citizens of any of the member states of the European Union residing in the United Kingdom be able to continue living and working in the United Kingdom in the same manner as they did before, having their rights enshrined in the laws of United Kingdom and enforced by their courts. Furthermore, citizens of the United Kingdom living in any of the member states of the European Union will also enjoy the same rights that were entitled to pre-Brexit. The agreement provides that all people covered by the above rules can continue

³⁴ Adam Albert, *Brexit and the Future of UK Employment Law*, <https://economia.icaew.com/en/opinion/november-2017/brexit-and-the-future-of-uk-employment-law>, 17 November 2017.

³⁵ Article 6, Joint Report from the Negotiators of the European Union and the United Kingdom Government., https://ec.europa.eu/commission/sites/beta-political/files/joint_report.pdf, 8 December 2017.

³⁶ Article 7, Joint Report from the Negotiators of the European Union and the United Kingdom Government., https://ec.europa.eu/commission/sites/beta-political/files/joint_report.pdf, 8 December 2017.

³⁷ Article 16, Joint Report from the Negotiators of the European Union and the United Kingdom Government., https://ec.europa.eu/commission/sites/beta-political/files/joint_report.pdf, 8 December 2017.

³⁸ Article 17, Joint Report from the Negotiators of the European Union and the United Kingdom Government., https://ec.europa.eu/commission/sites/beta-political/files/joint_report.pdf, 8 December 2017.

³⁹ Article 18, Joint Report from the Negotiators of the European Union and the United Kingdom Government., https://ec.europa.eu/commission/sites/beta-political/files/joint_report.pdf, 8 December 2017.

⁴⁰ Joint Report from the Negotiators of the European Union and the United Kingdom Government., https://ec.europa.eu/commission/sites/beta-political/files/joint_report.pdf, 8 December 2017.

enjoying their rights until the Brexit day, that is 29th March 2019. Children born after that date to parents who have qualified under these rules will be included in the agreement. Citizens of the member states of the European Union residing in the United Kingdom lawfully and citizens in the United Kingdom residing in any of the member states of the United Kingdom lawfully will be able to leave for up to five years before losing the rights they will have as part of the proposed Brexit deal.⁴¹

Employment

As of employment, any citizen of a member state of the European Union already residing and employed in the United Kingdom will be able to continue working and living in the UK after Brexit. The strategy as of now is that even after Brexit, people from the EU will be able to move to work in the UK during a "transition" phase of up to three years, provided that they register. Although a short term action plan has been charted out, however any long term or permanent solution hasn't been looked into. It is expected that a work permit system along the lines of that for citizens not belonging to any of the member states of the European Union shall be adopted by the United Kingdom to solve this issue.⁴²

Prime Minister May stated that as a result of Brexit and more over a cause for Brexit was to reduce immigration, as a result of the increase in cost of living.⁴³

Furthermore, Brexit also saw companies forced to lay-off employees and adopt other alternatives such as machines. Such a decision as seen by the Deutsche Bank, which laid off a huge number of its employees to automation to primarily benefit off UK leaving the European Union.⁴⁴

ANALYSIS

⁴¹ Alex Hunt & Brian Wheeler, *Brexit: All you need to know about the UK leaving the EU*, BBC News, <http://www.bbc.com/news/uk-politics-32810887>, 30 January 2018.

⁴² Alex Hunt & Brian Wheeler, *Brexit: All you need to know about the UK leaving the EU*, BBC News, <http://www.bbc.com/news/uk-politics-32810887>, 30 January 2018.

⁴³ Alex Hunt & Brian Wheeler, *Brexit: All you need to know about the UK leaving the EU*, BBC News, <http://www.bbc.com/news/uk-politics-32810887>, 30 January 2018.

⁴⁴ Jill Treanor and Julia Kollwe, *Deutsche Bank boss says 'big number' of staff will lose jobs to automation*, The Guardian, <https://www.theguardian.com/business/2017/sep/06/deutsche-bank-boss-says-big-number-of-staff-will-lose-jobs-to-automation>, 27 November 2017.

Comparing the policies and laws pre and post Brexit, it is plausible to state that the decision to leave the European Union has dealt a heavy hand on all spheres of both the United Kingdom and the European Union.

For the citizens of the United Kingdom working in any of the member states of the European Union and for their counterparts belonging to any of the member states working in the United Kingdom, a short term solution lasting 3 years has put aforementioned class of workers stress to rest. However, negotiators of the terms of Brexit have to find a solution for the long term without any waste of time for the simple reason that such uncertainty in the long run for these citizens will erode the confidence of the working class in the system that is working. The lack of an action plan of the government of the United Kingdom has already garnered the frustration and and doubt of the citizens of the United Kingdom.

David Davis, the Secretary of State admitted that his department has no clue as to what their assessment of Brexit, its consequences and what plan of action will they be adopting to counter the same.⁴⁵

The government, on the other hand has brought out certain benefits that Brexit will award to the United Kingdom. For instance, Prime Minister Theresa May stated that Brexit will result in the cost of living to rise as a result, the people migrating into the United Kingdom will fall. She has also stated the decrease in people migrating into the United Kingdom as one of the reason why the people of the United Kingdom opted out of the European Union.⁴⁶

As for the industrialists, the repercussions of Brexit can already be seen in terms of the fall in business investment due to the uncertainty created by Brexit as well as the increase in interest rates by banks and lastly, loss of jobs. The UK is expected to have lost 10,500 finance jobs by day one of Brexit, according to professional services firm EY⁴⁷

⁴⁵Nicole Morley, *David Davis admits that not a single sector has been assessed for Brexit*, World News, Metro, <http://metro.co.uk/2017/12/06/david-davis-admits-government-not-produced-brexite-impact-assessment-7136467/6>, 6 December 2017.

⁴⁶Alex Hunt & Brian Wheeler, *Brexit: All you need to know about the UK leaving the EU*, BBC News, <http://www.bbc.com/news/uk-politics-32810887>, 30 January 2018.

⁴⁷Shafi Musaddique, *Cost of Brexit: The impact on business and the economy in 2017 and beyond*, Business News, Independent, <http://www.independent.co.uk/news/business/news/brexit-economy-sterling-currency-investment-cost-impact-business-financial-banks-insurance-retail-a7695486.html>, 26 December 2017.

The Bank of England in November said that it expects the level of business investment to be around 25 % lower by 2019 relative to its pre-referendum forecasts, damaging our future productivity growth.⁴⁸

For instance, the motor vehicle industry along with the construction industry has seen a decline in their business as a result of the United Kingdom leaving the European Union. To worsen matters for the motor vehicle industry, in case of a no-deal Brexit, an estimated cost of additional £4.5bn in tariffs will have to be borne. The Society of Motor Manufacturers and Traders estimated last month that a no-deal⁴⁹ Brexit would cost the motor industry an additional £4.5bn in tariffs.⁵⁰

Apart from the Motor vehicle and construction industry, the pharmaceutical, food and beverage and architecture and design industries also face magnanimous losses in case of a no deal Brexit.

51

CONCLUSION

To conclude, the changes that Brexit resulted weren't unprecedented. The chaos that can be seen around the decisions or the lack thereof revolves around the lack of preparation of the government of the United Kingdom.⁵²

The authors hence suggest the following solutions to instil a sense of confidence amongst the people;

⁴⁸ *Shafi Musaddique, Cost of Brexit: The impact on business and the economy in 2017 and beyond*, Business News, Independent, <http://www.independent.co.uk/news/business/news/brexit-economy-sterling-currency-investment-cost-impact-business-financial-banks-insurance-retail-a7695486.html>, 26 December 2017.

⁴⁹ The lack of an agreement between the European Union and The United Kingdom at the end of the stipulated two year period.

⁵⁰ *Shafi Musaddique, Cost of Brexit: The impact on business and the economy in 2017 and beyond*, Business News, Independent, <http://www.independent.co.uk/news/business/news/brexit-economy-sterling-currency-investment-cost-impact-business-financial-banks-insurance-retail-a7695486.html>, 26 December 2017.

⁵¹ *Shafi Musaddique, 26 December 2017, Cost of Brexit: The impact on business and the economy in 2017 and beyond*, Business News, Independent, <http://www.independent.co.uk/news/business/news/brexit-economy-sterling-currency-investment-cost-impact-business-financial-banks-insurance-retail-a7695486.html>, 26 December 2017.

⁵² *Nicole Morley, David Davis admits that not a single sector has been assessed for Brexit*, World News, Metro, <http://metro.co.uk/2017/12/06/david-davis-admits-government-not-produced-brexit-impact-assessment-7136467/>

- 1) Expressly provide updates on the negotiations along with the consequences of the same as to laymen a better idea as to what to expect in the near future.

In the authors view, this move can single handedly improve the business investment in the United Kingdom as it involves various interest groups in the loop as to what is happening. The increase in business investment will thus help revive the economy providing for a strong but temporary relief in terms of the slump of the Euro.

It is in the view of the authors that a temporary fix in the current socio-economic and legal atmosphere of the United Kingdom will rid the government of the burden of pacifying the masses.

