

## Free movement of people and the Brexit

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### Abstract

This paper deals with the development of free movement of people principle during the initial phase of United Kingdom (UK) exit from European Union (EU). Utilising descriptive methods we highlighted the cornerstones of negotiations till the deal. The Conclusions adopted by the Heads of State and Government of the EU Member States on 19 February 2016 laid down a set of arrangements between the UK and the EU that try to find a solution for the questions around four problematic areas of EU integration mentioned in the 10 November 2015 letter of David Cameron, in order not to make the concerns of the UK so pronounced that it would lead to the exit of the country from the EU. The study examines the agreement's the fourth policy area (immigration) and the British concerns attached to the social benefits and immigration aspects of the free movement of EU nationals to UK, as well as answers of EU Heads of State and Government and the declarations of the European Commission's will. The analysis covers the abuses experienced by the UK, their legal roots and the possibilities to act against them. The contribution places great emphasis on exploring to what extent the future directions of amendments could be considered clear, how they could be transformed into EU norms, how they could affect the EU legal system and its application. We concluded that the idea of a multi-speed Europe has reached the freedom of movement of people principle. Finally, in light of the Brexit referendum, the authors also try to explore disputable scenarios of how the results could affect the UK's relation with the EU in the near future.

**Keywords:** Brexit, international migration, free movement of people, labour market, integration, European Union, United Kingdom

### Introduction

Simon Ross, the chief executive of Population Matters, the UK's leading charity on population and sustainability issues, claimed that natural resources could not sustain the number of people in Britain or on the planet indefinitely: "It is imperative that we address the factors contributing to increased numbers. We are all affected adversely by the rapid population growth of recent decades, from pressures on housing and public services to the environment and climate change," he said. "It's time we addressed the population problem, by improving sex education and family planning provision and by increas-

ing public awareness of the strains population and consumption growth place on us. If we are to live sustainably and happily in the long-term, population growth is an issue that cannot be ignored." – he emphasised.

According to the same medium coverage the UK population is projected to reach 70 million by mid-2027. This mysterious absolute number may function as a threshold in the country of isles (CANGIANO, A. 2016) where there is no chance to extend arable lands and the areas overcrowded are everyday experience for citizens.<sup>4</sup> Unlike most countries of the European Union with declining population Britons might not be satisfied due to population increase. The old idea of

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<sup>4</sup> <http://www.theguardian.com/world/2015/oct/29/uk-population-expected-to-rise-by-almost-10-million-in-25-years>. Retrieved: 10.03.2016.

rigid physical, geographical isolation is supported with fresh thoughts of sustainable development.

In fact the United Kingdom is one of the most fertile countries in EU with net migration over 300,000 people a year. Based on an official scenario the UK population is projected to increase by 9.7 million over the next 25 years from an estimated 64.6 million in mid-2014 to 74.3 million in mid-2039. It is more than 10 percent growth.<sup>5</sup> Assumed net migration accounts for 51 percent of the projected increase over the next 25 years, with natural increase (more births than deaths) accounting for the remaining 49 percent of growth. Over the 10-year period to mid-2024, the UK population is projected to increase by 4.4 million to 69.0 million. This is 249,000 higher than the previous (2012-based) projection for that year. The population is projected to continue ageing, with the average (median) age rising from 40.0 years in 2014 to 40.9 years in mid-2024 and 42.9 by mid-2039. It means that one in 12 of the population is projected to be aged 80 years old or over.<sup>6</sup>

Free movement of people is one of the basic principles of the European Union (EU) (URRY, J. 2007; GELLÉR-LUKÁCS, É. 2011). This basic right was originally related only to workers (European Economic Community, predecessor of EU), but later it was extended to family members of workers like children, economically inactive adults, retirees, and finally to all citizens of the European Union (GELLÉR-LUKÁCS, É. 2004; GYENEY, L. 2006). The EU became an area of freedom, security and justice without inner borders where free movement of people testifies the basic freedom of the single market (ILLÉS, S. and GELLÉR-LUKÁCS, É. 2002; GELLÉR-LUKÁCS, É. and ILLÉS, S. 2003; OKULICZ-KOZARYN, A. 2014). This general principle was disputed (CASTLES, S. 2014) by the UK fuelled by the plan of *Britain's exit* (*Brexit*) from the European Union. The rea-

sons behind Brexit were mainly supported by news on abuses of the principle of free move and stay in the UK (BLINDER, S. and ALLEN, W.L. 2016).

Nevertheless, it should be noted that the separate way aimed by the UK that would distant itself from the rest of the EU is indeed not the first instance of such kind. According to Protocol 21 of the Treaties the United Kingdom and Ireland shall not take part in the adoption by the Council of proposed measures pursuant to Title V of Part Three of the Treaty on the Functioning of the European Union (Area of Freedom, Security and Justice), including Article 79 of TFEU aiming at developing a common immigration policy. Consequently, no measure adopted pursuant to that Title, no provision of any international agreement concluded by the Union pursuant to that Title, and no decision of the Court of Justice of the EU interpreting any such provisions or measures shall be binding upon or applicable in the UK (PEERS, S. 2015). Additionally, in the field of coordination of social security rights the UK has opted out from granting rights for third-country nationals under the renewed coordination mechanism (EISELE, K. 2014).

The main objectives of this paper are twofold. Firstly and dominantly it aims at documenting the background and negotiation strategies of the Brexit process in the field of free movement of persons including special aspects relevant for Hungary. Secondly, in light of the result of the Brexit referendum we would like to assess the impact of the Brexit deal on future negotiations related to the actual split of the UK from the EU. Supplementary issues like the role of statistical evidence or the long-lasting special status of the UK in the EU are also tackled upon.

### **The new settlement between the EU and the UK**

On 10 November 2015 Prime Minister, David Cameron, put his thoughts into writing regarding the EU membership of the UK, highlight-

<sup>5</sup> <http://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationprojections/bulletins/nationalpopulationprojections/2015-10-29#tab-Main-points>. Retrieved: 10.03.2016.

<sup>6</sup> *Ibid.*

ing four key areas where the UK was seeking reforms.<sup>7</sup> These areas were the economic governance, competitiveness, sovereignty, and immigration. Within the theme of immigration the reform plan contained the following.

– Firstly, it was proposed that free movement will not apply to new members to be admitted to the EU in the future until their economies have converged much more closely with old member states.

– Secondly, the importance of the goal of fighting abuses of free movement, which includes tougher and longer re-entry bans for fraudsters and people who collude in marriages of convenience, stronger powers to deport criminals and stop them coming back, as well as preventing entry in the first place, and also addressing European Court of Justice (ECJ) judgments that have widened the scope of free movement in a way that has made it more difficult to tackle this kind of abuse.

– Thirdly, Cameron proposed that people coming to Britain from the EU must live there and contribute for four years before they qualify for in-work benefits or social housing, furthermore, that the practice of sending child benefit overseas is to be ended. The third proposal clearly aims to decrease the number of those arriving to the United Kingdom by reducing the attractiveness of the British welfare system.

On 7 December 2015 President of the European Council (EC), Donald Tusk, informed the EC on where the Member States stand on the issue of the UK's proposals.<sup>8</sup> He emphasised that “while we see good prospects for agreeing on ways to fight abuses and possibly on some reforms related to the export of child benefits, there is presently no consensus on the request that people coming to Britain from the EU must live there and contribute for four years before they qualify

for in-work benefits or social housing.”<sup>9</sup> He also envisaged a concrete proposal to be prepared and finally adopted in February 2016.

On 17 December 2015 the General Affairs Council discussed the British reform proposals. The Member States confirmed their readiness to reflect to the British request with the intention to keep the UK in the EU.<sup>10</sup>

In line with his promise Tusk quickly, already on 2 February 2016, disclosed the multi-point package of proposals, which aimed at – in case of a positive outcome of the British referendum – enacting a number of measures handling the British requests in an appropriate manner.<sup>11</sup> He set a goal that the package of proposals should be adopted by the Council of the Heads of State or Government on its meeting on 18–19 February 2016. The UK also welcomed the package of proposals.

A heated discussion began on the proposed text. All information leaked confirmed the information of the press so far that the free movement of persons is the most controversial topic, and the agreement was practically delayed until the evening because of the questions of family benefits (the bargaining lasted for 40 hours).<sup>12</sup>

The negotiations were successful as the Heads of State and Government could agree and consequently accepted EC Conclusions on Brexit (“New settlement”) on their meeting on 18–19 February 2016.<sup>13</sup> The document

<sup>7</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/475679/Donald\\_Tusk\\_letter.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/475679/Donald_Tusk_letter.pdf) Retrieved: 02.02.2016.

<sup>8</sup> <http://www.consilium.europa.eu/press/press-releases/2015/12/07-tusk-letter-to-28ms-on-uk/> Retrieved: 31. 01.2016.

<sup>9</sup> Furthermore: “All in all it is my assessment that so far we have made good progress. We need some more time to sort out the precise drafting on all of these issues, including the exact legal form the final deal will take. We also have to overcome the substantial political differences that we still have on the issue of social benefits and free movement.”

<sup>10</sup> <http://www.consilium.europa.eu/press/press-releases/2015/12/18-euco-conclusions/> Retrieved: 31.01.2016.

<sup>11</sup> <http://www.consilium.europa.eu/en/press/press-releases/2016/02/02-letter-tusk-proposal-new-settlement-uk/> Retrieved: 10.03.2016.

<sup>12</sup> <http://www.bruxinfo.hu/cikk/20160220-negyvenora-alkudozas-utan-megszuletett-az-eu-brit-megallapodas.html> Retrieved: 10.03.2016.

<sup>13</sup> <http://www.consilium.europa.eu/en/press/press-releases/2016/02/19-euco-conclusions/> Retrieved: 10-03-2016

contained seven legal texts: the Conclusions of the EC (including issues of migration and external relations); a Decision of the Heads of State or Government concerning a new settlement for the UK within the EU; a Statement of the EC containing a draft Council Decision on the effective management of the banking union and a Declaration of the EC on competitiveness; four Declarations of the European Commission among which three are related to free movement (migration). Section D of Annex 1 (“Social benefits and free movement”) is the most relevant regarding the free movement of persons (and therefore will be discussed in details in this paper).

It was clear that – in case the UK voted for remaining in the EU – the Commission would present proposals on the modification of the relevant secondary EU law and a proposal on a new draft of *Directive on residence rights* was to be expected, as well. The general expectation was that the Commission would present these proposals in line with the above mentioned EC Conclusions and the Commission’s Declarations.

### Background of the family benefits and immigration issues

After the global financial crisis the net inflows from EU countries to UK grew significantly (WADSWORTH, J. et al. 2016). An estimated number of about 300,000 EU citizens arrived to the United Kingdom who wanted to work, study or reunite with family in 2015. The UK’s social welfare system seems to be quite attractive: anyone who works for a minimum wage can receive 6,000–7,000 pounds extra from ‘in-work’ benefits per year.<sup>14</sup> Leaving aside the special characteristics of these benefits it should be stressed that these benefits are only available for low wage earners. They can be claimed by those whose annual income does not exceed 15,000 pounds, but the amount varies stepwise. The maximum support is available at a yearly

income of 8,000 pounds, but then it starts to decrease, and at the 15,000 pounds threshold it ceases. In fact, this ‘in-work’ benefit is a supplement, which guarantees a minimum of 15,000 pounds annual income for the person concerned. This is considered as a sort of minimum subsistence level.

In an international comparison it should be emphasised that the other two major migration destination countries (Germany and France) do not per se link such benefits with low-paid jobs. The UK classifies itself the fourth most generous country in Europe on the basis of benefits paid after Denmark, Luxembourg and Ireland.<sup>15</sup> Nor should it be overlooked that non-EU citizen workers cannot be employed in the United Kingdom as unskilled labour (for ‘low-skilled jobs’)<sup>16</sup> meaning that these jobs are available – in lack of available British workers – mostly for EU citizens. Indeed, it may be therefore that a major limitation of the benefits would affect the financial motivation of potential migrants with regard to migration to the UK.<sup>17</sup>

Obviously, theoretically speaking, a huge burden can fall by the amount of these benefits on the British budget, when each year hundreds of thousands of workers arrive and some of them also apply for benefits. But what is the proportion of those applying for benefits in practice?

In 2015 10 percent of people born in the UK and 12 percent of those born in other EU countries applied for benefits.<sup>18</sup> In the area of non-work-related benefits, however, the share of benefit receivers among citizens of other EU countries was only 2.2 percent

<sup>15</sup> <http://www.migrationwatchuk.org/briefing-paper/284> Retrieved: 10.03.2016.

<sup>16</sup> <https://www.gov.uk/tier-2-general/overview> Retrieved: 11.03.2016.

<sup>17</sup> <http://archive.openeurope.org.uk/Article/Page/en/LIVE?id=22825&page=PressReleases#> „Restricting these in-work benefits would make a huge difference to potential migrants’ financial incentives while allowing free movement to stand.” Retrieved: 12.03.2016.

<sup>18</sup> <http://www.migrationobservatory.ox.ac.uk/commentary/pulling-power-why-are-eu-citizens-migrating-uk> Retrieved: 10.03.2016.

<sup>14</sup> Child Tax Credit, Working Tax Credit and Universal Credit.

(and among those of working age, 6.8%). Moreover, if British citizens and citizens of the EU-10 countries are compared in terms of getting social housing, it can be seen that mobile workers from EU-10 countries have much less recourse to social housing.<sup>19</sup>

Further data support what is also described in a recent material of the Oxford University Migration Observatory, namely that the primary motivation of EU citizens for migration is not to get welfare benefits, but to work (78%) and these are followed by pursuing studies, and by family reunification. According to a survey conducted in 2015 the fastest growing group of workers is formed by citizens of EU-10 countries, among them the employment rate is high, 90 percent for men and 75 percent for women, both figures are higher than the rate of UK citizens.<sup>20</sup> *Table 1* shows the actual numbers of top sending countries.

migrants which means ca. one-third increase. The most dynamic increase was produced by Romania with 150 percent growth which equals to 136,000 net surplus. From an East-Central-European angle Hungary has the third place in absolute terms. The number of Hungarian immigrants staying in the UK was 50,000 in 2011, while this number increased to 96,000 by 2015. The growth was nearly 100 percent within five years. In addition, lots of migrants arrived to the UK from other countries of East-Central-Europe as well in the examined five year period.

Data on the number of Hungarians living in the UK vary greatly. According to the data of the Office of National Statistics (ONS) on population and community in 2015 there were 82,000 Hungarians living in the UK.<sup>21</sup> At the same time the overall number of Hungarian nationals who were registered

*Table 1. Six most dynamic sending countries regarding EU migrants in the UK in 2011 and 2015*

Origin country	2011	2015	Change
	1,000 migrants		
Poland	615	818	203
Romania	87	223	136
Spain	63	137	74
Italy	126	176	50
Hungary	50	96	46
Portugal	96	140	44
<i>EEA total</i>	2,580	3,277	696
Six most dynamic sending countries	1,037	1,590	553
Ratio of top six countries in all EEA, %	40	49	79

*Source:* Migration Observatory analysis of LFS data, quarterly averages, all ages. <http://www.migrationobservatory.ox.ac.uk/commentary/pulling-power-why-are-eu-citizens-migrating-uk> Retrieved: 10.03.2016.

According to *Table 1* out of the six most dynamic sending countries three are situated in East-Central-Europe. In absolute term Poland (WHITE, A. 2014) is leading both for volumes and dynamism. The number of Polish migrants grew from 615,000 to 818,000 people during the investigated five years. The change was the highest with 203,000 more im-

in the National Health Service amounted to 210,000 until mid-2016. The differences between the two data-set are noted by the ONS in its explanatory document,<sup>22</sup> namely that the latter statistic contains also those who

<sup>19</sup> [http://www.eurofound.europa.eu/sites/default/files/ef\\_publication/field\\_ef\\_document/ef1546en\\_3.pdf](http://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef1546en_3.pdf) Eurofound (2015), *Social dimension of intra-EU mobility: Impact on public services*, Publications Office of the European Union, Luxembourg. Retrieved: 10.03.2016.

<sup>20</sup> *Ibid.*

<sup>21</sup> <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/datasets/populationoftheunitedkingdomby-countryofbirthandnationality>. Retrieved: 10.06.2016. There is a 13,000 condience limit foreseen.

<sup>22</sup> <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/articles/noteonthedifferencebetweennationalinsuranceregistrationsandtheestimateoflongterminternationalmigration/previousReleases>. Retrieved: 10.06.2016.



have already left the country. Unofficial estimates on the number of Hungarians living in the UK oscillate between 80,000 and 150,000.

The conclusion to be drawn is that if the UK aims at achieving savings, it is not worth limiting the kind of benefits that are not necessarily taken by the migrants (non-work-related benefits) but those which are granted to them. That is why the UK wanted to reach a solution on the basis of which it became entitled to restrict access to in-work benefits for newcomers during a four-year-long period. However, neither the term of 'newcomer' nor that of 'four-year period' is clear. While it is believed that the newcomers as primarily East-Central-European guest workers, during the negotiations there was no distinction made amongst EU nations. However, the most sensible reaction came from the Polish side.

#### *Abuse I – Family benefits*

If we talk about the coordination of family benefits, it is important to be aware of further statistical data. Already in the beginning of 2013 the amount of child benefits paid overseas was discussed in the UK.<sup>23</sup> At that time – based on data from 2012 – there were child benefit awards in respect of 40,171 children who lived in another country (overwhelmingly in Poland). Prime Minister David Cameron started elaborating on the topic and in January 2014, speaking to BBC1's Andrew Marr show he said: "I don't think that is right and that is something I want to change."<sup>24</sup> He referred to Polish workers and the benefits paid to them and their families. Poland's foreign minister has soon reacted and criticised David Cameron for judging the export of benefits as a 'wrong' thing. Radosław Sikorski accused the Prime Minister of 'stigmatising' Poles by singling out the

nation's migrant workers in his comment. Mr. Sikorski posted via the Twitter that: '*If Britain gets our taxpayers, shouldn't it also pay their benefits? Why should Polish taxpayers subsidise British taxpayers' children?*'<sup>25</sup> This incident clearly gave a hint that this topic would be on the sensible political agenda for long. And so it happened. In the spring of 2014 the British media began spreading numbers about exported family benefits. The Daily Mail newspaper e.g. wrote that "UK taxpayers are spending £30 million-a-year sending child benefit to families who live abroad across the European Union" and "UK taxpayer funds payments to 20,400 families with 34,268 children".<sup>26</sup> Published data showed that almost two-thirds of the benefits were sent to Poland (22,000 children), followed by Ireland (2,500), Lithuania (1,700), France (1,400) and Slovakia (1,200). Latvia (1,091) and Spain (1,020) also exceeded 1,000 children, all the other countries were lagging behind (e.g. Hungary with 196 children).

The exact magnitude of the problem was, however, not entirely clear. The above figures were published everywhere with slight changes, but a more serious search was necessary to find how these figures related to all British child-care expenditure. A parliamentary research report<sup>27</sup> showed that the above figures should be compared to 7.9 million beneficiaries (families), meaning that the 20,000 EU families amount to a total of 0.25 percent of all the beneficiaries. Official comparison can be found from the early 2016 according to which

<sup>23</sup> <http://www.migrationwatchuk.org/briefing-paper/288>. Retrieved: 10.06.2016.

<sup>24</sup> Read more: <http://www.dailymail.co.uk/news/article-2534738/Poland-hits-Cameron-plan-stop-child-benefit-exported-EU.html#ixzz45ViZrb9A>. Retrieved: 10.03.2016.

<sup>25</sup> Read more: <http://www.dailymail.co.uk/news/article-2534738/Poland-hits-Cameron-plan-stop-child-benefit-exported-EU.html#ixzz45ViZrb9A> 'If Britain gets our taxpayers, shouldn't it also pay their benefits? Why should Polish taxpayers subsidise British taxpayers' children'. Retrieved: 12.03.2016.

<sup>26</sup> <http://www.dailymail.co.uk/news/article-2632914/Child-benefit-worth-30million-paid-Britain-families-EU-Cameron-admits-impossible-stop-it.html> 'UK taxpayers are spending £30million-a-year sending child benefit to families who live abroad across the European Union' and "UK taxpayer funds payments to 20,400 families with 34,268 children' Retrieved: 17.03.2016.

<sup>27</sup> <http://researchbriefings.files.parliament.uk/documents/SN06955/SN06955.pdf> pp. 17. Retrieved: 17.03.2016.

the rate is 0.26 percent, while the House of Commons states that 0.26 percent of total UK child benefit claims are paid to EU migrants whose children live in another EU member state (a mass of 13 million children is entitled to be compared to the 35,000 children who do not live in the British Isles).

It can be seen first, that the number of exports – 20,000 families annually – cannot be considered outstanding compared to the UK population and the number of families (i.e. 7.9 million) living there. Secondly, regarding the absolute number of entitled children, it can be seen that the numbers are clearly decreasing, from 40,171 in 2012 to 34,268 in 2015 (i.e. 15% decrease). Considering the diminishing trend we can say that the problem is tiny unlike the political attention that was given to it and the debate fuelled in the UK till in/out referendum.

David Cameron has admitted in the above-mentioned Marr interview that according to existing EU law it is impossible to stop paying benefits across the borders to the family members of migrant workers. It is clear that he already wanted to change the scope of EU law in order to tackle this issue, although in light of the previous figures prioritization of this issue cannot be fully understood.

An important conclusion can be drawn, even if – as indicated – the actual impact will be seen in light of the specific solution given to the problem later, namely that Cameron strongly stressed that he wanted to abolish (to decrease) the export of child benefits, even though the magnitude of the issue (0.26% of the families involved and 25 million pound annual savings) does not seem to be paramount for the fifth biggest economy of the world.

### *Abuse II – Immigration issues*

The right to free movement and residence has never been unlimited (WIESBROCK, A. 2010; KOTEF, H. 2015; AHRENS, J. et al. 2016), even though Member States are obliged to act against abusive exercises of this right. The primary purpose of this restriction is not the sanction as such, but to reduce abuses for the

purpose that the mobility *bona fide* EU citizens and their family members could have positive effects in the most comprehensive way on both the migrants and the Member States concerned. The EU system of intra-EU mobility presupposes the Member States trust towards each other and is intended to enhance mutually beneficial nature of this mobility to all stakeholders. In case this trust is disrupted as a result of the abuse, it risks the uniform and effective enforcement of the entire system (TÓTH, G. et al. 2014).

The UK is, therefore, aiming at regaining the freedom, rights and competences, transferred to the EU in the area of free movement of persons, the freedom which the UK already enjoys in the area of immigration of non-EU nationals (WIESBROCK, A. 2010). The UK already used its freedom to focus heavily on managing migration to a great extent. In its 2005 paper *Controlling our borders: Making migration work for Britain – five year strategy for asylum and immigration*, one of the goals set out was to uphold an immigration system which responds to public concerns.

From an immigration perspective, that is from the point of view of the rules of entry and residence, rules of procedure and substantive conditions and limitations regarding exercising the right to free movement the Brexit settlement identifies future steps in two respects. One area of law concerns the prevention of the abuse of rights or fraud, which was set out by Point c) Section D of Annex I and in the Declaration of the European Commission in Annex VII. In this area the expressive purpose of the Union is to act against the use of false documents, the prevention of marriages of convenience (TÖRTÖS, Á. 2015) and reducing bogus intra-EU mobility (not sufficiently genuine residence in another Member State) used for invoking the Free Movement Directive in the EU citizen's own Member State.

Even though the Member States have already received guidelines regarding how to ensure proper implementation regarding the general application of the Directive as well as actions against marriages of convenience,

the Brexit settlement has envisioned further actions against the abuse of rights. While the plan to act against the use of false documents has only been mentioned in the documents, the plans on the fight against marriages of convenience and bogus intra-EU mobility have been set out in more details in the documents.

Viewing the Brexit settlement from the perspectives of EU peripheries it can be concluded that the idea of multi-speed Europe has reached the area of free movement of people principle, as well. While the UK already had an opt-out from harmonisation concerning the migration rules valid for non-EU nationals or the Schengen acquis, now the political cooperation in the interest of freedom of movement has also become fragmented. Furthermore, it is done in a way that as a result of the political bargaining process with one single Member State has resulted in providing an opportunity for all the Member States to withdraw from the results achieved so far.

From a legal perspective we cannot hide the fact that the plans set out in the Brexit settlement means a clear step back from the rights ensured by the free movement rules so far. We can therefore observe a unique phenomenon: the legal development that was primarily brought forward by the ECJ not only comes to a halt, but a step back is expected compared to the present achievements. Consequently, while other areas of EU legislation are usually characterised by including the results of jurisprudence, now limitations contrary to EU case law are about to be expressively set out by EU legislators.

As for the future of free movement, the wish of the UK, according to which this right would not be automatically be extended to the newly accessing Member States, will most probably come true.

### The results of referendum and its short-term outcomes

The Remain/Leave referendum (in which 72.2% of registered voters took part) was held on Thursday 23 June 2016. 51.9 percent voted

in favour of leaving the EU and 48.1 percent voted in favour of remaining a member state of the EU, thus, the Leave option won. The final results showed clear geographical pattern. England and Wales voted for Brexit (together 53.4%), while Scotland and Northern Ireland voted predominantly against (62% and 55.8% respectively). The results of the regions mirrored the general pattern except for the London region (*Figure 1*) where the majority supported the Remain option.

Unfortunately, academic research results have not been published yet since the referendum due to the relatively short time period. But we can hypothesise with great probabilities that retirees favoured Brexit in contrast of youngsters who preferred the Remain option (HOBOLT, S. 2016). The academics with low absolute number compared to others segment of society said no to UK

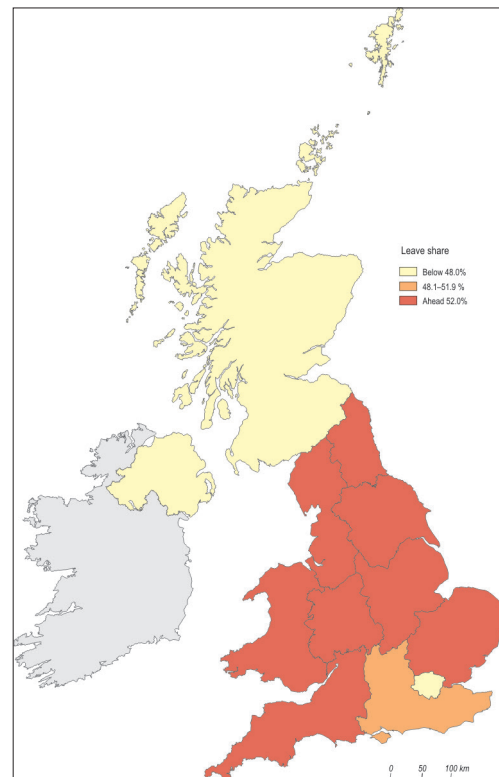


Fig. 1. Brexit referendum results by regions in the UK.  
Source: Electoral Commission



exit (CRESSEY, D. 2016a,b). The residents of dynamic cities and their surroundings wanted to stay in the EU in contrast with declining towns and/or peripheral rural areas. In general voters of local districts with significant immigrant population preferred the Remain option against Leave.

David Cameron resigned and Theresa May became Prime Minister on 13 July 2016. Well in advance pound had been devaluated by the financial market, with all consequences on other markets. It was interesting that the subject of media news of migration focused more on the potential emigration of the employees of the City rather than the return of the former East-Central-European newcomers.

“Should European Union nationals already living in the United Kingdom be allowed to stay after Brexit? According to a new poll, 84 percent of Britons think they should. Based on the findings of the survey, which was carried out by ICM for think-tank British Future, the 84 percent includes those who voted in favour of the UK leaving the EU in the June referendum. As reported online by The Week, this is a most surprising finding, given that immigration was the cornerstone of the Leave campaign. In fact, 77 percent of those who voted for Brexit and 78 percent of Ukip supporters agreed EU nationals currently in the UK should be free to remain. Although 62 percent of those polled wanted to see a reduction in the number of unskilled migrants coming to the UK, a majority (including Leave voters) did not want to reduce the influx of highly-skilled migrants, such as engineers and doctors.”<sup>28</sup>

### Medium-term consequences of referendum – scenarios

We depicted the short-term outcomes of the referendum with its numerical results in the previous section. Based on these facts we tend to conclude that the referendum strengthened tendencies of uncertainty and

disintegration in Europe (WELSH, M. 2014; BACHMANN, V. and SIDAWAY, J.D. 2016; TABERNERO, J and CIARDIELLO, F. 2016), discrimination in Britain (FOW, J.E. *et al.* 2015) and polarisation and socio-spatial peripheralisation in East-Central-Europe (LANG, T. 2015). It reinforces regional disparities in terms of political opinion of residents with urban and rural background in the UK (HOBOLT, S. 2016). Moreover, it makes the separatist movement in Europe and the rest of the World stronger (MONTANARI, A. 2012) and also fortifies the separation of the nations in the UK (HUDSON, R. and WILLIAMS, A.M. 1998). It fuels the idea and reality of multi-speed EU (CARMEL, E. 2014). It strengthens the global nuclear status quo originating from the Cold War period (COHEN, J.H. and SIRKECI, I. 2011).

In the following we try to make some mid-term Brexit scenarios based on relevant literature. Obviously, we are aware of the uncertainty of projections for the future in general, what overlaps with other sorts of uncertainty stemming from Brexit (VAUGHNE, M. 2016). International comparisons are also necessary to collide ideas, conceptual frameworks and results which tend to explain, contextualise (BACHMANN, V. and SIDAWAY, J.D. 2016) and conceptualise (KAGARLITSKY, B. 2016; PETTIFOR, A. 2016) this particular event in Europe and its potential consequences.<sup>29</sup> Academic, business and policy debates on the relationship between the free movement of persons (KOTEF, H. 2015) and the free movement of workers in particular (BUCKLEY, M. *et al.* 2016) are necessary to explore the multi-layered outcomes of the Brexit phenomenon.<sup>30</sup>

<sup>29</sup> The most recent legal disputes on the constitutional requirements of the UK for making the decision to withdraw from the EU are, however, not considered among the scenarios.

<sup>30</sup> The method used in this study to analyse the subject matter is highly descriptive. This method can be used in other papers and thus enables future comparative studies. Nevertheless, for such studies, comparable and reliable data sources and well-founded analyses are needed to be developed at national and international levels.

<sup>28</sup> <https://www.neweurope.eu/article/majority-brits-want-eu-migrants-stay/>. Retrieved: 19.07.2016.

When making the mid-term scenarios we have chosen the analyses of Commerzbank (Germany), which provides a system of scenarios with numerical probabilities on each version of projection.<sup>31</sup> In our view there are four probable scenarios worth mentioning which are enumerated below starting with the less probable outcome:

– *Scenario 1.* Our odds: 0.01. The probability is one to one hundred on ‘*hardBrexit*’ which would imply a sudden and strict separation from the EU. This scenario would affect the country’s relationship most negatively; therefore, we give almost no probability to its realisation. (As a reference also Commerzbank value is shown in every case, for this scenario: 0.2).

– *Scenario 2.* Our odds: 0.09. The probability of ‘*adoption of existing Norwegian or Swiss models*’ (TÁLAS, P. et al. 2016) is nine times higher than the *hardBrexit*. (Commerzbank value: 0.5).

– *Scenario 3.* Our odds: 0.30. The probability is three to ten on a ‘*peculiar Brit solution*’ (PISANY-FERRY, J. et al. 2016). This scenario has below average chance nowadays. It depends mainly on the interference of Cameron’s previous deal and May’s future activity under the umbrella of British voters and as things now stands also the British Parliament. (There is no Commerzbank value for this case).

– *Scenario 4.* Our odds: 0.60. According to the authors’ subjective judgement the ‘*postponing Brexit*’ scenario might function in the near future with the highest probability. This option is built on the idea of a long transition and provides the biggest arena for stakeholders both in the context of the EU and other international organizations (Commerzbank value: 0.30).

## Conclusions

International comparisons are necessary to conceptualise Brexit and its potential consequences (SCOTT, S. 2013; BACHMANN, V. and SIDAWAY, J.D. 2016; KAGARLITSKY, B. 2016; PETTIFOR, A. 2016). Academic, business and policy

debates on the relationship between the free movement of persons (KOTEF, H. 2015) and the free movement of workers in particular (BUCKLEY, M. et al. 2016) are necessary to explore the multi-layered outcomes of this particular event in Europe. We argued in this paper that the principle of free movement of persons – one of the most sensitive issues in Europe – was put to a test through the Brexit process, and albeit the settlement symbolised a certain political compromise, it did not satisfy British public concerns. As a result, a new settlement becomes necessary. In our view, the basis of the forthcoming settlement could be very similar to the first settlement because the trends behind the Brexit process remained unchanged and the only compromise text available is the Brexit deal itself. No real room for manoeuvre seems to exist and this difficult situation supports to a great deal our clear vote for the ‘*postponing Brexit*’ scenario.

Hungarian literature to date analysed the mobility of Hungarian citizens to UK as part of the general emigration process (GÖDRI, I. et al. 2014; HÁRS, A. 2014; MOREH, C. 2014) relating mostly with the special groups of highly skilled workers and low skilled workers (EKE, E. et al. 2011; BALÁZS, P. 2012; JUHÁSZ, R. 2014; IRIMIÁS, A. and MICHALKÓ, G. 2016). The added value of this paper is that it highlights the cornerstones of the development of the principle of free movement of people during the initial phase of Brexit. Statistical evidence stresses two basic facts (SCHWANEN, T. and KWAN, M.P. 2009) on the Brexit debate from a Hungarian perspective:

– Less than 200 children receive British ‘in-work benefit’ per year in Hungary.

– Between 2011 and 2015 the increase of immigrants of Hungarian origin was the fifth greatest in the UK in absolute terms.

Typical news in the British media was in August 2016: “Poland has overtaken India as the most common non-UK country of birth for people living in the UK, Office for National Statistics figures show. ... India and the Republic of Ireland have traditionally been the sources of the UK’s largest foreign-born groups. The latest net migration figures

<sup>31</sup> [http://www.portfolio.hu/gazdasag/milyen\\_brexit\\_harom\\_honap\\_alatt\\_semmi\\_nem\\_tortent.237749.html](http://www.portfolio.hu/gazdasag/milyen_brexit_harom_honap_alatt_semmi_nem_tortent.237749.html) Retrieved: 31.10.2016.

show a slowdown in the numbers settling in the UK from Poland and seven other former Eastern bloc countries – but that was offset by an increase in net migration from Bulgaria and Romania, which hit record levels of 60 000.”<sup>32</sup>.

The UK is clearly aiming at regaining the freedom, rights and competences, transferred to the EU in the area of free movement of persons, the freedom which the UK already enjoys in the area of immigration of non-EU nationals (WIESBROCK, A. 2010). The UK already used its freedom to focus heavily on managing migration to a great extent. Already in its 2005 paper “Controlling our borders: Making migration work for Britain – five year strategy for asylum and immigration”, one of the goals set out was to uphold an immigration system which responds to public concerns.<sup>33</sup> The only question remains how this system will look like and how it will influence competitiveness of the UK and East–West migration patterns.

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<sup>32</sup> <http://www.bbc.com/news/uk-politics-37183733>. Retrieved: 31.08.2016.

<sup>33</sup> UK Home Office, Controlling our borders: Making migration work for Britain – five year strategy for asylum and immigration (2005), p. 5.

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