

Migration Advisory Committee Call for Evidence

Response by Jean Lambert, Green Party Member of the European Parliament for London

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Introduction and background

While I welcome this call, as has been noted by many, this clearly should have been done before the referendum, and certainly before the Government started the process to leave the EU.

Nonetheless despite the poor timing of such an essential Consultation, given the importance of the issues at hand, it is crucial that all those with useful and relevant experience respond with pertinent examples and input.

For my part, although I do not employ large numbers of EEA nationals, as an EU legislator who has contributed to the creation of those laws that facilitate and govern freedom of movement across the EU¹ I feel it is incumbent on me to flag up a number of issues that need to be considered in term of revising current freedom of movement rules.

In my position as a Member of the European Parliament, I have furthermore contacted a number of sectors and organisations in my constituency of London to draw their attention to this call and to encourage them to respond.

I note here a few of the responses from these sectors to highlight the gravity of the situation and the impact restrictions or changes to the immigration system for EEA nationals could have on my constituency of London.

Twelve per cent of London's population are from other EU countries as compared to four per cent in the whole of the UK. Around thirteen per cent of the five million jobs in London – 600,000 jobs – are held by workers born in EU countries², with certain sectors particularly reliant on EU workers.

- ❖ Roughly a third of employees in the accommodation and food services sector were born in EU countries and around a quarter of all workers in the construction sector in London are EU-born³
- ❖ The health sector and tech sector in London are also heavily reliant on EU nationals with approximately one tenth of NHS workers in London being from other EU countries⁴

¹ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A5-2003-0226+0+DOC+XML+V0//EN&language=en>

² Number of jobs by country of birth of job holder, Annual Population Survey 2015, ONS

³ Annual Population Survey 2015, ONS

⁴ English Health Service's Electronic Staff Record

as are a third of those working in London's tech sector⁵. In fact 50 per cent of the top tech start-ups in the UK were founded by non-British nationals, people from the EU⁶.

- ❖ The Creative Industries Federation have said that in the arts sector 75% of creative industries businesses employ non-UK EU nationals, and most say these jobs can't be filled by British workers⁷.
- ❖ The gaming industry revealed that 40% of their companies are considering relocation following Brexit, the primary concern being the loss of international talent from EU countries, which would cause a massive skill shortage. This on top of potential tariffs to sales on their physical products, and the loss of funding from European programmes such as Creative Europe, which has enabled award-winning studios in the UK, has left them in a precarious position⁸.

This list could go on but suffice is to say that those sectors that I have been in contact with are deeply concerned about any changes to the immigration strategy for EEA nationals, which will clearly have a significant knock-on effect on the social and economic wellbeing of my constituency of London and the UK.

Areas not mentioned in the call that need to be examined

There are many types of EU worker, and the range and complexity of work contracts that work both ways – for Britons going to work in EEA countries and EEA nationals working – need to be understood and considered in any future immigration strategy.

Two key areas I note that have not been mentioned in the call but which are extremely complex relate to the issue of **frontier or cross-border workers** and also to **posted workers**.

Cross-border workers are persons who work in one EU Member State but live in another. Under the EC Treaty, individuals are entitled to move freely for work reasons from one EU Member State to another without suffering discrimination as regards employment, remuneration or other conditions of work and employment.

It should however be stressed that the definition of what a cross-border worker exactly is may vary from one field to another (e.g. tax law, right of residence, welfare entitlements).

EU citizens who live in one country but work in another are required to obtain a Portable Document A1 certificate for tax purposes. The most recent EU data⁹ shows that 44,332 Britons were issued with the certificate and of these 10,000 of those are active in two or more EU states.

⁵ London tech heavyweights call for European talent to remain in the capital following Brexit vote, City AM (1 July 2016)

⁶ As told to the London Assembly Economic Committee on 13 December 2016 by Dr David Lutton, Director of Policy, London First

⁷ <https://www.creativeindustriesfederation.com/press-statements/new-federation-survey-uk-creative-industries-employ-high-numbers-eu-workers-brits>

⁸ <http://ukie.org.uk/brexit>

⁹ <http://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=7980&furtherPubs=yes>

Should freedom of movement rules change these people will very likely to lose their jobs as a consequence as other EEA countries are more likely to give jobs to other EEA nationals to avoid the administrative burden that come with employing third country nationals – which is what Britons would now become.

The serious need to understand this issue is further compounded by the issue of Northern Ireland, where an estimated 110 million Border crossings take place between Northern Ireland and the Republic annually¹⁰.

The Office of National Statistics recently cited the 2016 census by the Central Statistics Office, which recorded 9,336 people who cross the Border to their place of work or study daily. Workers accounted for 75% of these¹¹.

A **posted worker** is someone who is temporarily (typically for a few months/days) sent to a country different to the country of his/her employer to carry out a service in a host country. For example, a Danish construction company with a contract to build an office block in Vienna might send workers (Danish or others) to Austria to deliver the project. These workers would pay tax in Denmark (for at least 6 months), social security contributions in Denmark (for at least 2 years) and would be subject to a mix of Danish and Austrian labour laws.

Posted workers, who pay social security in their home state, are legally temporary service providers, rather than citizens exercising free movement rights. That may put them outside of the thinking of a future immigration strategy and risk them falling through the cracks. There are roughly 40,000 posted workers in the UK, and a similar number of Britons around Europe¹²

If there are changes to the current immigration policy how will this work for EU employees who come to UK and British employees going to EU countries? Will a visa be required both ways? If so, it is likely other EU countries will chose not to award contracts to British companies to avoid the burden of bureaucracy that will come from such a choice. This once again exemplifies the knock-on effect of a changing freedom of movement rules on the economy.

In conclusion: Britain's reputation

The British Government chose not to immediately guarantee the rights of EU nationals living in the UK following the EU referendum and the following treatment of nationals from these countries has been so astonishingly poor that aside at all from the uncertainty and distress it has caused individuals, the damage to Britain's reputation is a very real issue.

Although nothing should have changed yet in terms of immigration to the UK by EEA nationals and accessing their rights, the lack of clarity over what will happen coupled with almost daily "mistakes" by the Home Office in terms of trying to deport EEA nationals has led to a large number of EEA nationals already leaving the UK or not coming at all.

¹⁰ <http://borderpeople.info/brexit/donegal-dependence-frequent-border-crossings-revealed.html>

¹¹ <http://borderpeople.info/brexit/donegal-dependence-frequent-border-crossings-revealed.html>

¹² <https://www.ft.com/content/6d97756c-4c2a-11e7-919a-1e14ce4af89b>

While this may indeed be the intention of the Government, in reality the British economy will be massively diminished without workers from these countries.

This climate of uncertainty has, however also led to discrimination against citizens of EEA countries as we have been informed that people from these countries are being denied rental contracts, the ability to open bank accounts and so on. The lack of clarity and language frequently used by people in power has also given rise to an increase in the amount of racist incidents suffered by EEA nationals. In 2016 the then Police Commissioner Bernard Hogan-Howe told officials at a City Hall meeting "We saw this horrible spike [in hate crime] after Brexit"¹³.

All of this is illegal and immoral and the Government must clearly state as much. As long as such treatment goes unchecked Britain's international standing as a country that is seen as broadly-speaking fair, just and trust-worthy plummets. Any new immigration strategy for people from EEA will need to consider the current climate and will have to work hard to repair trust in the UK and its treatment of those seeking to come to contribute to Britain.

¹³ <https://www.theguardian.com/society/2016/sep/28/hate-crime-horrible-spike-brexit-vote-metropolitan-police>