



BIROn - Birkbeck Institutional Research Online

Gumbrell-McCormick, Rebecca and Hyman, R. (2017) What about the workers: the implications of Brexit for British and European labour'. *Competition and Change* 21 (3), pp. 169-184. ISSN 1024-5294.

Downloaded from: <https://eprints.bbk.ac.uk/id/eprint/18986/>

Usage Guidelines:

Please refer to usage guidelines at <https://eprints.bbk.ac.uk/policies.html>
contact lib-eprints@bbk.ac.uk.

or alternatively

What about the workers? The implications of Brexit for British and European labour

Rebecca Gumbrell-McCormick
Birkbeck, University of London, UK

Richard Hyman
London School of Economics, UK

Corresponding author:
Richard Hyman, London School of Economics, UK.
Email r.hyman@lse.ac.uk

Abstract

In June 2016, a small majority of voters called for Britain to leave the EU. In this article we discuss the referendum itself and the form which Brexit may take. It has become clear that the current UK government is committed to a 'hard' Brexit which will rupture most existing ties with the EU. While much uncertainty remains, there are alarming indications that 'regaining sovereignty' – a key slogan of the Brexit campaign – will translate into abject subservience to the most erratic right-wing US administration in history. We examine the implications of Brexit for labour rights in general and for British trade union participation in European Works Councils in particular: there are many reasons for apprehension. We assess the economic and political fall-out, and end by exploring possible consequences for international trade union solidarity in Europe. In general, trade union policy-makers in Europe are committed to resisting 'divide-and-rule' strategies by employers, but there will undoubtedly be tensions.

Keywords

Brexit, European Union, trade unions, labour rights, European Works Councils, solidarity

Introduction

Across the world, working people have disproportionately borne the costs of neoliberal globalisation and of austerity. Their reactions in many countries have included, equally disproportionately, support for right-wing populist programmes which can only exacerbate their predicament. How far can the June 2016 vote for UK withdrawal from the EU (Brexit) be understood in such terms?

In this article we draw primarily on trade union documentation (published statements, speeches, web sites and some internal documents) and on academic literature. In addition, we took the opportunity of participation in (unconnected) meetings in London, Brussels and Paris to interview eight senior trade union officials with national and/or European responsibilities. These did not constitute in any way a representative sample, but allowed us to gain valuable insights into trade union thinking on the issues. Since these discussions were on a 'non-attributable' basis, we do not identify the interviewees.

In the next two sections we discuss the referendum itself and the form which Brexit is likely to take. We then examine the implications for labour rights in general and for British trade union participation in European Works Councils in particular: there are many reasons for apprehension. We assess the economic and political fall-out from Brexit, and end by exploring possible consequences for international trade union solidarity in Europe. In general, trade union policy-makers in Europe are committed to resisting 'divide-and-rule' strategies by employers, but they fear that workers (both in Britain and in other European countries) will pay the main price for Brexit, and there will undoubtedly be tensions. There are also widespread concerns that unless the whole architecture of the EU is

reformed, to allow greater democratic influence from below, and unless the neoliberal policy orientation of recent years is abandoned, the whole European project is in jeopardy.

The June 2016 Referendum

On 23 June, with a 72 percent turnout – far higher than in most recent parliamentary elections – there was a 52 to 48 percent vote for the UK to leave the EU. In other words, 37 percent of registered electors supported Brexit. British citizens living elsewhere in the EU, and EU citizens in Britain – together numbering some 4 million – might have been expected to support the Remain cause, but were not allowed a vote (Davies, 2016).

The referendum was a political manoeuvre by prime minister David Cameron, in the face of growing Europhobia in his Conservative party and an escalating threat from the right by UKIP (United Kingdom Independence Party) under Nigel Farage. In pledging before the 2015 election to hold a referendum, he probably assumed that he would continue to govern in coalition with the Liberal Democrats, who would then veto the idea. In the event, Cameron won an absolute majority in May 2015 and had to put the referendum into practice. His attempt to renegotiate the terms of the UK relationship with the EU was largely unsuccessful, but he campaigned for continued EU membership, alongside his chancellor, George Osborne.

Most Conservative MPs supported the Remain campaign, but the majority of the party membership took the opposite position. After sharp conflicts within the government, it was agreed that ministers might campaign for Brexit. The official Leave campaign was headed by the former mayor of London, Boris Johnson, a late ‘convert’ to Brexit; this was widely viewed as a cynical bid for grassroots support in a future election for the party leadership. UKIP headed a separate Leave campaign. Most of the overwhelmingly right-wing mass newspapers gave unqualified and uncritical support for Brexit, featuring sustained attacks on refugees and immigrants (Seaton, 2016).

The vast majority of Labour MPs opposed Brexit, but ran a separate campaign from the government. For many, however, Remain was supported as the lesser evil, given widespread disaffection with the neoliberal trend in EU policy. Many small groups on the far left used this trend as an argument for supporting Leave. The Trades Union Congress (TUC), and most of its major affiliates, gave strong support to Remain, though some of the main white-collar unions in the public sector took a neutral stance. Only a few smaller unions, notably the RMT rail union, supported Brexit.

The campaign was marked by acrimony and hyperbole. Cameron and Osborne highlighted the economic damage which would result from Brexit. Leave supporters ridiculed these claims as ‘Project Fear’, dismissed the overwhelming warnings of economic experts, and proclaimed that support for the EU was the monopoly of a metropolitan elite. It was an irony that the leaders of the Leave campaign, Johnson and Farage, had been educated at expensive private schools, like Cameron and Osborne, but succeeded in posing as representatives of the common people.

The Leave campaign (‘Project Hate’) did not explain what would happen after Brexit. It argued first, that by leaving the EU, Britain would no longer be subject to the requirements of free movement of labour, but could somehow retain access to the single market. Second, ‘Brussels’ was an expensive bureaucracy; the country would save £350 million a week which could be devoted to the National Health Service (NHS). (In fact, the annual UK contribution to the EU, following the rebate which Thatcher negotiated, is £276 million, and a substantial sum is received back from social funds and subsidies.)

The result demonstrated a deeply divided nation. In London, 60 percent of voters chose Remain. In most of the rest of England, and in Wales, there were majorities, often substantial, for Leave. Support for Brexit was particularly high in areas which have suffered decades of industrial decline and are bearing the brunt of cuts in public services: these have been described as the ‘left behind’ parts of Britain (Froud et al., 2016; Goodwin and Heath, 2016). In many of these regions, UKIP polled heavily in the 2015 parliamentary elections (although it failed to win seats). Conversely, the highest Remain vote, 62 percent, was in Scotland, where the Scottish National Party (SNP) swept the board in the 2015 election and campaigned strongly for a continuing Scottish role in the EU. There was also a 56 percent majority for Remain in Northern Ireland, in part reflecting fears that

Brexit would impose new barriers with the Republic of Ireland to the south, jeopardising the long and painful process of reconciliation between the two communities.

The age division was even starker. Almost three-quarters of voters aged 25 and under supported Remain, as did a small majority of those aged 25-50. Older voters, and particularly those over 65, supported Leave. In elections generally, younger people are far less likely actually to vote (and to be registered to vote) than are older citizens. Liddle (2016: 4) predicted beforehand that young people's turnout would be relatively low, because they took EU membership for granted but were uninspired by the negative campaign. If so, this was decisive for the final outcome.

Class was also a major factor. Those in professional occupations, and with higher educational qualifications, substantially favoured Remain; the opposite was the case for those in manual and routine white-collar occupations, and those with only basic education. In this sense, the Labour Party, in campaigning for Remain, was at odds with much of its traditional working-class constituency.

The Leave campaign (though supported by many of the rich) provided a proxy for broader working-class discontent and alienation, particularly among those worst affected by the economic and social transformations of recent decades. Deindustrialisation, already eroding traditional working-class communities in the 1970s, accelerated after Margaret Thatcher's election in 1979, particularly with her assault on the mineworkers and on trade unionism more generally. Many once proud working-class localities, with dense networks of community institutions and deep commitment to the trade unions and the Labour Party, have been turned into deprived wastelands. In Britain as a whole, inequality has increased rapidly, and so has poverty, while austerity measures have removed many of the social safety nets. None of this is directly attributable to EU policies, and indeed many of the deprived areas which voted most heavily for Brexit have received substantial sums in EU social funding. But 'Europe' was successfully presented as a scapegoat for the anger of the losers from social and economic transformation, whose disaffection has often been captured by racists and demagogues. A similar story could be told across much of Europe. Progressives could provide no persuasive alternative narrative (Dodds, 2016). Racist hate crimes escalated in the days following the referendum result (Corcoran and Smith, 2016).

Following the result, Cameron announced his resignation. After complex manoeuvring within the Conservative Party, Theresa May emerged as party leader and hence prime minister. She had been formally a supporter of Remain but played no active role in the campaign.

A referendum has no binding status in the UK, and indeed in the votes on Scottish and Welsh devolution in 1979 it was specified that over 40 percent of the electorate must vote in favour for the result to be valid. No such qualification was defined on this occasion. In February 2016, the government (HM Government, 2016: 7) stated that 'the result of the referendum... will be final' and that if there was a majority for Brexit 'the Government would have a democratic duty to give effect to the electorate's decision' by triggering Article 50 of the Treaties to begin the process of exit.

However there was no immediate action. Article 50 of the Treaty on European Union provides that a member state wishing to withdraw should give notice 'in accordance with its own constitutional requirements', following which there are two years to negotiate a withdrawal agreement. Membership then ceases, with or without an agreement, unless an extension is unanimously agreed by the Council. It is far from clear whether a notification, once given, is revocable (Nicolaidis, 2013, 2016; Poptcheva, 2016; Tridimas, 2016). The whole procedure has never before been tested and the dynamics are largely unpredictable.

Brexit means what?

Among the many obfuscatory declarations by government ministers since the referendum, perhaps the most fatuous was May's declaration that 'Brexit means Brexit'. The referendum asked whether the UK should remain a member of the EU or leave the EU. Voters were not asked their opinions on the political and economic relationship with the rest of the EU in the event of a Leave vote. The possible answers to this question – often oversimplified as a binary choice between 'hard' and 'soft' Brexit – have radically different implications, not least for workers.

Before the referendum, the government published a paper (HM Government, 2016) outlining the procedure to be followed in the event of a Leave decision, but not what the substantive post-exit

relationship with the EU might be. This left Cameron's successor with no predefined strategy. There are obvious conflicts within the government on what type of Brexit to pursue, but the 'hard' faction is in the ascendancy. May herself, though in theory a supporter of Remain, seems to have become a born-again Brexiteer. A hardline Home Secretary under Cameron, her explicit priority is to strengthen controls over immigration and to escape the jurisdiction of the Court of Justice of the European Union (CJEU, previously ECJ).

Though various options have been discussed by analysts (Armstrong, 2016; Emerson, 2016; Irwin, 2015; Piris, 2016), when May indicated her priorities in January 2017 and in a White Paper the following month, these clearly excluded all softer versions. The declared objective was 'an ambitious and comprehensive Free Trade Agreement and a new customs agreement' (HM Government, 2017: 35). As Emerson (2017) has argued, there is no evidence whatsoever that such a deal is attainable. The 'hardest' form of Brexit now seems probable, involving reliance primarily on World Trade Organisation (WTO) rules. This would provide some access to EU markets; but make it necessary to negotiate more specific agreements with the EU, and also with non-EU countries.

A first task will be to reconstitute as fast as possible the free trade content of the EU's many preferential agreements with many countries.... The second step would be to negotiate agreements with countries with whom the EU has no agreement so far, including major cases that are currently under negotiation (e.g. the US, Japan and India).... Overall, if the UK opted to rely entirely on WTO rules for its future trading relationship with the EU, in the absence of a free trade deal, there would be a sharp reduction of market access for both goods and services. The EU's existing preferential trade agreements with third countries would also cease to apply to the UK, and it would take years for the UK to reconstitute them bilaterally. (Emerson, 2016: 1-2)

The UK Permanent Representative (in effect, ambassador) to the EU, Ivan Rogers, advised that a settlement with the EU might not be reached for 10 years, if at all. When this advice was leaked he was subject to abuse by pro-Brexit politicians and press, and resigned his position, criticising the government's 'ill-founded arguments and muddled thinking'. Some Brexiteers envisage a special relationship with the USA. But despite the ideological affinities between the incoming US president and leaders of UKIP and the Conservative right, Trump's professions of isolationism and protectionism encourage few realistic expectations of special favours in future US-UK trade relations. Much more probably, any deal would represent a form of TTIP by the back door, with all its threats to labour and environmental rights and welfare systems. Indeed, there are alarming indications that 'regaining sovereignty' – a key slogan of the Brexit campaign – will translate into abject subservience to the most erratic right-wing US administration in history.

Ministers do not concede that their bargaining position is extremely weak, and suggest that they can 'have their cake and eat it too'. Leading Brexit supporters have argued that it is in the economic interests of key EU member states to reach a rapid agreement with the UK. But while this may be true, it is in the political interests of governments faced by their own electoral challenges from anti-EU parties to demonstrate that there can be no easy exit. Moreover, the long delay in implementing article 50 – now scheduled for March 2017 – has prolonged economic uncertainty across Europe and created widespread anger, which is exacerbated by undiplomatic comments by key UK ministers. As Donnelly notes (2016: 5), 'by 2019, the proposition that the EU will reverse all its public statements hitherto and offer favourable terms to a "Brexiting" UK will have been tested for nearly two years, probably to destruction'.

Free movement and the rights of EU citizens in the UK and UK citizens in EU

As seen above, migration was a central issue in the referendum debate. The two dominant reasons given by Leave voters for their decision were 'the principle that decisions about the UK should be taken in the UK' and 'for the UK to regain control over immigration and its own borders' (Ashcroft, 2016). Surveys have long shown that most respondents greatly overestimate the number of foreign-born residents in the UK and the reasons for migration, often attributing this to 'benefit tourism'

(Doherty, 2016). Perceptions and attitudes also differ radically according to age and social class – the same factors which divided Leave and Remain voters.

At one pole are those who accept [immigration] as an integral, and usually valuable, part of British social and economic life, and who favour a pragmatic and broadly liberal policy framework. The highly educated, middle-class professionals who dominate the political parties as well as other key social institutions fall into this group.... At the other pole are the sceptics, who account for around half of the population. They... tend to oppose all forms of immigration, which they see as economically and socially costly. (Ford and Heath, 2014)

The UK was one of only three member states to allow immediate free movement of labour from the countries of Central and Eastern Europe (CEE) which joined the EU in 2004, largely as a means of meeting labour shortages rather than for solidaristic reasons. However there was a far larger influx of workers than generally anticipated, particularly from Poland. Subsequently, restrictions were imposed on migration from Bulgaria and Romania when they acceded in 2007. Currently, 16.7% of workers in the UK are foreign-born; since many of these have acquired British nationality, the proportion of foreign citizens is lower, 10.7%. These figures are far higher than two decades ago (in 1993, 7.2% and 3.5% respectively), with the most rapid increase occurring since 2000. Fewer than half the foreign-born labour force are from EU countries; and of these, there is a roughly equal division between workers from Western Europe and from CEE (Rienzo, 2016; Vargas-Silva and Markaki, 2016).

Shortly before the 2010 election, Cameron announced that the Conservatives, if elected, would introduce an annual immigration cap and would bring net migration down to ‘tens of thousands’ during the course of the next parliament. Most experts considered this target, pledged when Cameron seemed unlikely to win the election, totally unrealistic (Partos, 2014). In the twelve months before the referendum, net immigration was 385,000, almost equally divided between EU and non-EU citizens, as against 256,000 in 2010. Entry from outside the EU was already subject to very restrictive controls; a major reason for the increase was demand, on the one hand, for workers with high skills (as in health care); and on the other, for cheap and flexible low-skilled labour. In addition, since students are counted in the total migration figures, any increase in the numbers of foreign students (a major source of revenue for the de facto privatised university system) negates the government target.

The referendum result has had little immediate impact on migration patterns, with few signs of a surge in immigration from the EU in order to enjoy free movement while it survives. However, Portes (2016: 22) notes that ‘there is some anecdotal evidence (for example, in the university and health sectors) that EU nationals may be less willing to move to, or remain in, the UK, as a consequence of what is perceived to be a less welcoming and secure climate’. Clearly, if overseas firms close or reduce their UK operations, this will cause a fall in net immigration.

As Home Secretary, May strongly advocated reductions in the general level of immigration, even if she failed to deliver. She has asserted that ‘we are not leaving the EU to give up control of immigration again’, but David Davis, in charge of negotiating Brexit, has stated that it is important to ensure that ‘key sectors’ do not suffer from labour shortages. The government has said that it expects EU nationals resident in the UK to receive residence rights, but that this would form part of the negotiations with the EU and would be subject to reciprocal assurances from other EU states. The other EU members have insisted that they will only negotiate collectively, and will not do so until article 50 is activated. The hard line of the British government, despite its weak bargaining position, does not improve the prospects of a satisfactory outcome.

European trade unions appear unanimous that it is impossible for the UK to retain access to the single market without accepting free movement. Hence the ‘extraordinary enlarged meeting’ of the European Trade Union Confederation (ETUC) Steering Committee, held in London in July 2016, agreed to ‘reaffirm that there shall be no full access to the single market without applying the 4 freedoms linked to it, and particularly the free movement of people and workers’. However, there have been important differences of emphasis. The main resolution adopted at the TUC Congress in September 2016 included the declaration: ‘Congress resolves to stand in solidarity with all migrant

workers, who contribute enormous value to society and support the right of all EU nationals living here to remain'. As general secretary Frances O'Grady insisted in her speech, 'EU citizens living and working in the UK must be given the right to remain. They are our friends, our neighbours, our workmates. It is plain immoral and inhuman to keep them in limbo. The public agrees: guarantee their right to stay.' This was echoed in the address by ETUC general secretary Luca Visentini: 'we warmly welcome the TUC's campaign to maintain the rights of continental European workers here in the UK and to be sure, similarly, that the ETUC will call on EU governments to give British citizens and workers abroad the right to remain where they are'. What these statements do not address is the future of free movement after Brexit. Trade unions from CEE countries in particular have been anxious to highlight the need to sustain access to the UK labour market for their members as part of the Brexit negotiations. Some European trade unions, primarily from the west, recognise that, in practice, the principle of free movement has been qualified at national level, and that further limitations may result from increasing xenophobia within their own countries. The TUC seems to have decided, pragmatically, that to focus on the principle of free movement is unrealistic. Given that many trade union members appear to have supported Brexit, to an important extent because of concerns over immigration (a consideration which has become very salient for Labour MPs in constituencies which voted Leave), the priority has been given to the rights of EU workers already here.

Workers' rights

Though the countries of western Europe have very diverse systems of employment rights, the UK as a 'liberal market economy' has always been an outlier by reason of its minimal framework of statutory employment protection. Traditionally this 'voluntarism' was acceptable to most British trade unions, which regarded 'free collective bargaining' as the core of their regulatory activity and thereby helped establish an industrial relations regime sometimes described as 'collective laissez-faire'. Only with the erosion of collective strength under Thatcher did the majority of unions shift to support stronger legal rights for workers.

The EU (and under its previous title, the European Economic Community) possessed little competence to regulate employment conditions before the 1991 Maastricht Treaty. The UK Conservative government negotiated an 'opt-out' from the Maastricht social policy provisions, subsequently ended by the Labour government in 1999. The new rules enabled a burst of legislation on employment issues, notably covering working time, the rights of 'atypical' workers and employee information and consultation. However, after 2000 the pace of employment regulation slowed, partly because the UK 'opt-in' allowed the British government to block new legislation; and the shift of the balance of power in the EU institutions towards neoliberalism placed many existing employment rights under threat.

In an analysis published in advance of the referendum, the TUC (2016a) surveyed a wide range of employment issues on which EU legislation has affected British workers, and concluded that

While recent EU-led improvements in employment protection have been more limited than in the past, and some EU activities have served to reduce the existing settlement, the overall contribution of EU employment rights to the UK workforce is substantial. The gains UK workers achieve as a result of our membership of the EU include improved access to paid annual holidays, improved health and safety provision, rights to unpaid parental leave, rights to time off work for urgent family reasons, equal treatment rights for part-time, fixed-term and agency workers, rights for outsourced workers, information and consultation and significant health and safety protection.... Furthermore, evidence also suggests that in the years ahead, remaining in the European Union may provide significant opportunities to extend employment protections for working people.

One of the key demands of the Cameron government in its pre-referendum negotiations was a reduction in 'regulatory burdens', in part a barely disguised reference to employment protections. During the campaign, a number of leading Leave supporters saw Brexit as a means of reducing workers' rights (Ford, 2016: 299). Subsequently, former Chancellor Nigel Lawson (2016), in an

article ominously entitled ‘Brexit Gives us a Chance to Finish the Thatcher Revolution’, called for an analysis of ‘the vast corpus of EU regulation to which we are presently subject, to decide which we wish to retain, which to amend (and how), and which to scrap altogether’. Some British employers also took the initiative in calling for the removal of employment legislation derived from EU Directives.

After the referendum result, the TUC (2016b) campaigned on the slogan that ‘Working People Must Not Pay the Price of Brexit’. This meant, first, that workers should be cushioned from the potentially damaging economic consequences of Brexit; second, that any attempt to weaken employment rights should be resisted. As O’Grady declared at the 2016 Congress:

Before we go for Article 50, we need proof that workers’ rights will be safe. We fought hard for those rights. They weren’t gifted by Brussels, but won by trade unionists. And people didn’t vote Leave to get rid of holiday pay; to lose time off to care for sick children; or [for] junk rights for temporary and agency workers.

Will the government dismantle the ‘social acquis’? At the Conservative conference in October 2016, May announced that

As we repeal the European Communities Act, we will convert the ‘acquis’ – that is, the body of existing EU law – into British law.... We will give businesses and workers maximum certainty as we leave the European Union. The same rules and laws will apply to them after Brexit as they did before. Any changes in the law will have to be subject to full scrutiny and proper Parliamentary debate. And let me be absolutely clear: existing workers’ legal rights will continue to be guaranteed in law – and they will be guaranteed as long as I am Prime Minister.

Her speech, in which she also declared that ‘the Conservative Party is the true workers’ party’, should perhaps be viewed with a measure of scepticism. As Wood notes (2016: 400), ‘a Conservative party which has spent years resisting diktats from Brussels on employment law in accordance with a neo-liberal ideology of unregulated labour markets now apparently endorses the very same rights’. He adds that even if formal rights remain on the statute book, government action can render them ineffective. For example, legislation adopted in 2013 removed civil liability for breaches of health and safety regulations; while in the same year, claims to Employment Tribunals became subject to deterrent financial charges. Brexit will probably remove the possibility of pursuing legal complaints to the CJEU, and greatly increase government discretion in its application of rights deriving from EU law. In the past the CJEU – which on some social issues has indeed played a negative role – has exerted a very progressive impact on the application of equality legislation. As Wintemute (2016: 396-7) warns, ‘a business friendly Conservative Government’ might even abolish existing equality legislation and replace it by voluntary codes of practice’.

What are the implications for labour rights in the rest of the EU? An optimistic scenario would be that, with the UK no longer able to block social legislation, more progress could be made in strengthening employment regulation. For example, the European Parliament has now initiated discussions on a framework directive on minimum income. A more realistic perspective, however, is that countries (not least Germany) which have previously been happy to allow Britain the opprobrium for blocking new labour rights would simply take over this role (Oliver, 2013: 18). A pessimistic scenario – which the ETUC is preparing to resist – is that European employers (and right-wing governments) will take the Brexit negotiations as an opportunity to press for the weakening of employment rights, and that if the UK government outside the single market does indeed attempt to undermine worker protections, this will initiate a process of competitive social dumping across Europe.

European Works Councils

Whatever the more general consequences for employment rights in the UK, one definite impact of a 'hard' Brexit will be on European Works Councils (EWCs). These derive their legal status from the EU Directive adopted in 1994 and strengthened in the 2009 'recast'. It applies to EU member states together with the three other members of the European Economic Area (EEA), and requires 'community-scale' enterprises (with at least 1000 employees in the EEA, including 150 or more in at least two countries) to set up EWCs or transnational information and consultation procedures on a request by employee representatives. Because of the UK 'Maastricht opt-out', it did not initially apply directly to British workers. When the 1997 Labour government ended the opt-out, the Directive was implemented through Regulations which took effect in 1999 (Carley and Hall, 2000, Marginson et al., 2004) and were amended in 2010 following the recast.

The effect of the UK 'opt-out' was only partial: the government did not have to implement the Directive, but UK-based multinationals with requisite employment figures in the other countries were still obliged to establish EWCs in respect of operations elsewhere within the EEA. In such cases there was inevitable, and usually successful pressure to include UK representatives as members.

According to recent analysis by the European Trade Union Institute (ETUI), there are roughly a thousand EWCs in operation; about three-quarters of the companies covered have some employment in the UK, and one in eight have their headquarters here (De Spiegelaere and Jagodzinski, 2015). Roughly a quarter of firms with EWCs whose headquarters are outside the EEA have nominated their UK subsidiary as their 'representative agent' and established their EWC under British law.

In the case of a 'hard' Brexit there will be a number of consequences. Even if the UK government retains the 2010 Regulations (and the Conservative opposition voted against the original 1999 Regulations), unless special arrangements are agreed with the EU a firm's employment in the UK will not count towards the threshold for establishing an EWC. British-based firms which still meet the threshold would have to nominate a 'representative agent' within the EEA, as would non-European MNCs with European headquarters in Britain: a return to the pre-1999 situation.

The numerical effect would be relatively small, since the smaller multinationals most likely to fall below the threshold after Brexit tend not to possess EWCs. As before 1999, but in a harsher economic and industrial relations environment, the question of British employee representatives could be contentious. One analysis (EWC Academy, 2016) predicts that 'in practice, there will not be a massive loss of British mandates. The situation is different for EWC agreements based on British law. Here it remains entirely uncertain whether they will remain valid or will have to be completely renegotiated.'

Studies suggest that while managers in most firms with EWCs view the institution positively, roughly one in five do not (Waddington et al., 2016); hence there could be significant resistance to retaining existing representation rights. The GMB general union (2016) has noted the concerns for the future on the part of many EWC representatives. In any event, maintaining current rights will involve a multiplicity of time-consuming company-by-company negotiations. In particular, it may be necessary to renegotiate the rules governing the selection, status, training and protection of UK members of EWCs. For example, French union representatives have noted that in some companies, representatives of Swiss employees (who have no formal right to EWC membership) have only consultative rights, and wonder if the same will happen to British members (Geoffroy, 2016).

Economic consequences and the impact on jobs

In the short term, 'Project Fear' has proved exaggerated but not fundamentally incorrect. Following the vote, the Bank of England, which doubtless had contingency plans, cut interest rates and extended quantitative easing (Begg and Portes, 2016). Osborne's threat that a Leave vote would require an emergency budget, with increased taxes and further cuts in public spending, was abandoned; on the contrary, corporation tax was reduced and Osborne announced that his timetable for eliminating the public debt no longer applied. His successor has abandoned the commitment to a budget surplus by 2020. Whether this will be enough to prevent a recession remains unclear. What is already evident is a sharp devaluation in sterling. In late 2015 the pound exchanged at over \$1.50 and over €1.40; it soon fell below \$1.30 and €1.20, and is currently lower still. While some exporters may benefit, costs of

imported food, consumer goods and fuel are rising. This has increased inflation and probably implies a cut of over 10 percent in living standards.

Virtually every academic study has estimated that in the medium to long term, Brexit will reduce GDP growth in the UK or even cause a decline. Even if reciprocal arrangements are agreed for trade in goods, ‘UK service providers could find it more difficult to sell their services to EU countries in the case of a Brexit. Non-tariff barriers would then raise the costs of doing business in the EU’ (Busch and Matthes, 2016: 25). The impact on financial services could be particularly large. The loss of rights to provide services across the EEA (‘passporting’) could radically reduce exports of financial services. This would almost certainly lead to some offshoring, with British banks facing competition from Paris and Frankfurt, Amsterdam and Dublin (House of Lords European Union Committee, 2016).

Already in the months following the referendum, the TUC (2016c) found that the uncertainty was causing a number of firms to freeze investment in the UK, and in some cases also to freeze wages. In a context of a general slowdown in world trade, representatives in some companies reported serious fears of job losses and plant closures.

Brexit will have an uneven economic impact in the rest of the EU. ‘Three countries stand out for having the highest exposure – the Netherlands, Ireland and Cyprus.... Germany is in the middle of the pack across most metrics’ (Irwin, 2015: 31). In particular, Germany has a far greater trade surplus with the UK than any other member state. Several Brexiteers argued that this would oblige German negotiators to seek a Brexit agreement favourable to Britain. But quite apart from the tension between economic and political considerations, the overall strength of the German economy possibly weakens this motivating factor.

What is predictable is that companies will see Brexit as an opportunity to intensify competition between production locations by proposing to transfer operations from the UK. This may conceivably seem attractive to continental union representatives who anticipate a growth in employment opportunities, giving rise to conflicts of interest between national trade union movements. How can solidarity be sustained? This is a question increasingly preoccupying trade union strategists in Europe, as we discuss below.

Political repercussions across Europe

As in the UK, one of the main fears for trade unionists in the rest of the EU is that Brexit has boosted support for what one Belgian union official termed ‘the poison of populism’: the rise of far-right and xenophobic parties and movements. This is especially the case in France, Germany and the Netherlands, which have elections in 2017 where the far right *Front National* (FN), *Alternative für Deutschland* (AfD) and *Partij voor de Vrijheid* (PVV) are predicted to increase their vote substantially. The FN may conceivably win the presidency. The rise of the far right is a significant problem throughout Europe and for almost all European trade unions. As in the UK, a large part of the support for the far right comes from the working class, particularly in depressed localities, including trade union members. In Germany, trade unionist support for AfD is roughly the same as for the population as a whole. In France, 20-30% of trade union members are reported to support the FN (compared to 47% of working class voters as a whole (Cautrès, 2015: 6.). Across the EU as a whole, almost half of all citizens cite immigration as the most important current problem, more than for any other issue (European Commission, 2016).

Trade unionists in some countries, such as France and Belgium, also report a hostile reaction from some members during training sessions and other meetings on racism and immigration. Many union officials also recognise that they have not done enough to counter these views. Part of the problem is that these parties have adopted many of the positions on social and economic policy long advocated by the unions but eschewed by mainstream social-democratic parties which have shifted towards neoliberalism: opposition to unfettered globalisation, an interventionist industrial strategy and some degree of economic protectionism. Another part of the problem is that trade unions themselves have become identified as part of the establishment and too close to successive centrist and social-democratic governments. This makes it harder to counter the appeal of the far right, but Brexit and other signs of growing authoritarian populism have given a renewed sense of urgency for devising

effective counter-strategies. In part, this raises the wider issue of the European project itself, which is increasingly marked by ‘the hierarchical domination of competition over solidarity and technocratic “expertise” over democratic deliberation’ (Boyer, 2016: 838).

The Brexit vote has caused widespread concerns that it might weaken the unity of the remaining EU 27, in the extreme case leading to the breakup of the EU. This is indeed the aspiration of many on the European far right, given backing by Trump in the USA. Most governments across the EU would not contemplate a similar referendum, fearing the possible result. Polls suggest that a majority of the population in the EU 27 still supports EU membership, but the margin has shrunk in recent years (European Commission, 2016), and the outcome in almost every country would be unpredictable. As one leading European trade union official commented, the Brexit vote has opened doors in other countries.

For many trade unionists, popular (and populist) attacks on the EU are predictable outcomes of the policy orientation of actually existing European integration. ‘Brexit makes concrete the threat that centrifugal forces could erode, perhaps even destroy, the European project. More specifically, as the triumph of two radical right-wing tendencies – a thoroughgoing version of economic liberalism and a form of xenophobic nationalism – Brexit strengthens disintegrative forces throughout the EU.... The failure of EU leaders to address the social distress which, in a distorted way, finds expression in these forces, increases the danger’ (EuroMemo Group, 2017: 6). As the leader of the Irish Confederation of Trade Unions has argued,

The most striking aspect of the response of Europe’s political leaders to the British referendum result is how they failed to get the message. The simple fact of the matter is that the result of the referendum swung on working class voters suffering years of austerity and deregulated labour markets. These conditions originated in decisions taken at Westminster but Europe got the blame. The strategy of precarious work favoured by business and those on the centre right simply doesn’t work; sooner or later the politics catches up with the economics.... The only European project worth defending is one which delivers for working class people across Europe. (King, 2016)

This argument was echoed by a leading official of the largest Belgian confederation, who insisted that unions must push within the ETUC and with their own governments for ‘rights, rights and rights’ (Serroyen, 2016):

We have failed altogether to involve ordinary people in the European project. Why? Because we did not manage to make the benefits of the European project visible for them. Why not? Because we had nothing to show them.... I could ... refer to pay equity for women and for temporary workers.... In a nutshell, to everything Europe effectively did in terms of individual and collective rights for ordinary people. But I must notice that all those arguments go back to the previous century.... We turned a blind eye to the ‘elephant in the room’, to the growing distrust in a European project that only seemed to generate fear and indignation.

Some see the Brexit vote as removing a taboo discouraging criticism of the whole European project. ‘If the EU goes down, nobody will weep’ (Streeck, 2016). For many years, despite the often sceptical views of many of their members, the position of the ETUC and most affiliates could be summarised as: more Europe, *but more social* (Hyman, 2010). Hence the ETUC response to the Brexit vote has involved a campaign to put ‘Social Rights First’, so that CJEU decisions and Commission policies would no longer privilege market freedoms over social and employment protection. The approach of most trade unions remains to support for the EU as an institution promoting peace and social justice while opposing its current neoliberal orientation (Hoffmann, 2016).

A more critical stance is however developing: no more integration *unless* more social. ‘It would be a completely wrong course to intensify European integration while the failed neoliberal course of the EU is continued and intensified,’ the Austrian Chamber of Labour declared in its analysis of Brexit (AK Wien, 2016: 1). A leading German trade unionist identified a growing

argument: ‘Europe yes, but we have to protect better our national welfare systems from European policies and we don’t want any more European legislation’. This position is widely held among Nordic trade unions and is gaining ground in Germany. A stronger variant of this analysis would imply: *less Europe until more social*. The thesis of a number of German commentators (Höpner et al., 2016; Scharpf, 2015) is more widely influential in trade union circles: the need to curb the powers of the CJEU, loosen the deflationary constraints of the eurozone and protect national welfare and employment protection regimes from EU intervention. From this perspective, a progressive Europe must be (re)constructed collaboratively from below, not imposed from above, with a more flexible mode of integration respecting the principle of subsidiarity which recent trends in EU governance have disregarded (Seikel, 2016).

Conclusion: What options for solidarity?

In hard times, solidarity becomes more necessary but often more difficult, as potential new divisions emerge. The prospect of Brexit has serious implications for the role of the British trade unions within the EU, the ETUC and its sectoral federations, within EWCs (as discussed above) and for the future of trade union solidarity across Europe as a whole. So far, a common front has been sustained, and indeed one French respondent declared that European trade union solidarity has even been strengthened. According to the head of UNI Europa (Roethig, 2016), ‘the European trade union movement will work together to protect workers’ rights in Britain as well as across Europe. Brexit should not trigger a race to the bottom on workers’ rights. We will be working in solidarity with our UK affiliates to ensure that corporate opportunism does not pit European workers against each other.... We need to turn Europe around so that it serves workers and citizens rather than big corporations.’

In his address to the TUC Congress in September 2016, Visentini affirmed that ‘even if Great Britain has decided to leave the EU, the TUC will always be a member of the ETUC – we will never give up on our unity and on our common struggles.... There are two things we are sure about: that we will fight to make certain that workers’ interests, both in the UK and in Europe, are not damaged by Brexit – and to ensure that trade unions are involved in the negotiations.’ Trade unions reject the view, expressed by representatives of some EU governments, that ‘Britain must be punished’ for the Brexit vote. A senior ETUC official explained: ‘when they say that, as a representative of working people you’re always sorry that the “them” they are going to punish will be the workers’.

The ETUC has stressed the importance of continuing participation by the TUC within its ranks, pointing out that countries from outside the EU are also members. Currently, there is no move to replace British rapporteurs on the European Economic and Social Committee and other tripartite EU bodies, though representation will clearly end after Brexit. A key trade union representative in Brussels insisted that ‘the trade unions at least don’t want the British to go, because we realise now for the first time how they belong to the European family’.

Despite the present united front, several respondents expressed fears that cracks might emerge in the event of a ‘hard’ Brexit, where the interests of workers in Western Europe and those from CEE might conflict, in particular over free movement. As noted above, it would be hard for local workers and unions to oppose British businesses moving to other EU member states. In the words of an ETUC representative, ‘I’m absolutely convinced no opportunity will be missed to present the workers in Birmingham versus the workers in Berlin versus the workers in Bratislava. For example working time, you can imagine the employers saying, if you won’t agree to all these extra hours we’ll just move the operation out of the UK. No opportunity will be missed to exaggerate and multiply.... So we need to factor that into our analysis, the way we communicate with our members, and be honest about it, say that it’s a question of divide and conquer.’ A commentary by the French *Confédération Générale du Travail* (CGT) in January 2017 noted that ‘somebody will end up paying the price for Brexit, and there are reasons to expect that it will be the workers.... Competition could emerge between unions in the UK and on the continent [which could result in] an opposition of interests’.

Of course it is important to note that ‘divide and rule’ strategies on the part of employers always exist; trade unions at national and cross-national level always struggle to counter them, not always with success. Thus the potential divisive effect of Brexit within the European trade union

movement is a matter of degree rather than of kind. This is one reason that many unionists stress the need to reform and strengthen the ETUC itself, along with its sister organisation the ITUC (International Trade Union Confederation), to deal with the dangers of intensified competition and social dumping in the harsher global context.

The solidarity of labour is always an aspiration, never fully a reality. To encourage it requires strategic vision on the part of trade union policy-makers, but also a political and economic context which encourages cross-national cooperation rather than competition. This is why a radical reform of the EU is so urgent. Pessimists might ask, however: is it too late to rescue the European dream, which for many workers has become a nightmare?

Funding

The authors received no financial support for the research, authorship and/or publication of this article.

References

- AK Wien (2016) *BREXIT: Wie weiter in Europa?* Vienna: AK.
- Armstrong, A (2016) 'The UK-EU Trade Relationship' in UKandEU and PSA (eds), *Brexit: Six Months On*, pp. 28-29. London: UKandEU and PSA.
- Ashcroft, Lord (2016) How the United Kingdom voted on Thursday... and why.
<http://lordashcrofthpolls.com/2016/06/how-the-united-kingdom-voted-and-why/>
- Begg, I and Portes, J (2016) 'The Economy' in UKandEU and PSA (eds), *Brexit: Six Months On*, pp. 26-27. London: UKandEU and PSA.
- Boyer, R (2016) 'Brexit: The Day of Reckoning for the Neo-functional Paradigm of European Union', *Socio-Economic Review* 14(4): 836-840.
- Busch, B and Matthes, J (2016) *Brexit – The Economic Impact: A Meta-Analysis*. Cologne: IW Report 10/2016.
- Carley, M and Hall, M (2000) 'The Implementation of the European Works Councils Directive', *Industrial Law Journal* 29(2): 103-124.
- Cautrès, B (2015) 'Les trois France' in CEVIPOF (ed.), *L'enquête électorale française: Comprendre 2017, La Note 5*, vague 1.
- Corcoran, H and Smith, K (2016) *Hate Crime, England and Wales 2015/16*. London: Home Office Statistical Bulletin 11/16.
- Davies, B (2016) 'The EU Referendum: Who Were the British People?', *King's Law Journal* 27(3): 323-332.
- De Spiegelaere, S and Jagodzinski, R (2015) *European Works Councils and SE Works Councils in 2015: Facts and Figures*. Brussels: ETUI.
- Dodds, A (2016) 'Why People Voted to Leave and What to Do Now: A View from the Doorstep', *Political Quarterly* 87(3): 360-364.
- Doherty, M (2016) 'Through the Looking Glass: Brexit, Free Movement and the Future', *King's Law Journal* 27(3): 375-386.
- Donnelly, B (2016) *May's Rocky Road Ahead: Why Brexit May Not Happen*. Social Europe Opinion Paper 12.
- Edmonds, P (2016) *Brexit and Financial Services*. House of Commons Library Briefing Paper 07628.
- Emerson, M (2016) *Which Model for Brexit?* Brussels: CEPS Special Report 147.
- Emerson, M (2017) *Theresa May's Brexit Speech of 17 January 2017: Decoding its Clarity and Ambiguity*. Brussels: CEPS Policy Insight 2017/01.
- European Commission (2016) *Standard Eurobarometer 86, Autumn 2016: First results*. Brussels: European Commission.
- EuroMemo Group (2017) *The European Union: The Threat of Disintegration*.
<http://www.euromemo.eu/>

- EWC Academy (2016) Brexit: Welche Folgen entstehen für Europäische Betriebsräte? <http://www.ewc-academy.eu/de/consulting/brexit.html>
- Ford, M (2016) 'The Effect of Brexit on Workers' Rights', *King's Law Journal* 27(3): 398-415.
- Ford, R and Heath, A. (2014) 'Immigration: A Nation Divided?' in A Park, J Curtic and C Bryson (eds) *British Social Attitudes 31*. London: NatCen Social Research.
- Froud, J, Johal, S and Williams, K (2016) 'Multiple Economies: Before and after Brexit', *Socio-Economic Review* 14(4): 814-819.
- Geoffroy, A-C (2016) 'Brexit: Avis de tempête sur les comités d'entreprise européens', *Liaisons Sociales* 27 June.
- Goodwin, MJ and Heath, O (2016) 'The 2016 Referendum, Brexit and the Left Behind: An Aggregate-level Analysis of the Result', *Political Quarterly* 87(3): 323-332.
- GMB (2016) *What Exiting the EU Means for European Works Council Reps*. Brussels: GMB Brussels Office.
- HM Government (2016) *The Process for Withdrawing from the European Union*. Cm 9216.
- HM Government (2017) *The United Kingdom's Exit from and New Partnership with the European Union*. Cm 9417.
- Hoffmann, R (2016) *Social Europe: Breakthrough or Breakup?* London: Friedrich-Ebert-Stiftung.
- Höpner, M, Scharpf, F and Streeck, W (2016) 'Europa braucht die Nation', *Die Zeit* 15 September.
- House of Lords European Union Committee (2016) *Brexit: Financial Services*. London: HL Paper 81.
- Hyman, R (2010) 'Trade Unions and "Europe": Are the Members out of Step?', *Relations industrielles/Industrial Relations* 65(1): 3-29.
- Irwin, G (2015) *BREXIT: The Impact on the UK and the EU*. London: Global Counsel.
- King, P (2016) Statement from General Secretary Patricia King to Oireachtas EU Affairs Committee Hearings on Brexit, September 23.
- Lawson, N (2016) 'Brexit Gives us a Chance to Finish the Thatcher Revolution', *Financial Times* 2 September.
- Liddle, R (2016) 'The Progressive and Patriotic Case for Europe' in D Gow and H Meyer (eds) *Brexit: The Politics of a Bad Idea*, pp. 3-9. London: FES and Social Europe.
- Marginson, P, Hall, MJ, Hoffmann, A and Müller, T (2004) 'The Impact of European Works Councils on Management Decision-Making in UK- and US-based Multinationals: A Case Study Comparison', *British Journal of Industrial Relations* 42(2): 209-233.
- Nicolaides, P (2013a) *Is Withdrawal from the European Union a Manageable Option? A Review of Economic and Legal Complexities*. Bruges: European Economic Policy Briefing 28.
- Nicolaides, P (2013b) 'Withdrawal from the European Union: A Typology of Effects', *Maastricht Journal* 20(2): 209-219.
- Oliver, T (2013) *Europe without Britain: Assessing the Impact on the European Union of a British Withdrawal*. Berlin: SWP Research Paper 7.
- Partos, R (2014) 'No Immigrants, No Evidence? The Making of Conservative Party Immigration Policy', *Political Insight* 5(3): 12-15
- Piris, J-C (2016). *If the UK Votes to Leave: The Seven Alternatives to EU Membership*. London: Centre for European Reform.
- Poptcheva, EM (2016) *Article 50 TEU: Withdrawal of a Member State from the EU*. Brussels: European Parliament Briefing Paper.
- Portes, J (2016) 'Immigration and Free Movement' in UKandEU and PSA (eds), *Brexit: Six Months On*, pp. 22-23. London: UKandEU and PSA.
- Rienzo, C (2016) *Migrants in the UK Labour Market: An Overview*. Migration Observatory Briefing, 6th Revision. Oxford: COMPAS.
- Roethig, O (2016) Union Movement Will Stand up for Workers in Wake of Brexit. <http://www.uni-europa.org/2016/06/24/union-movement-will-stand-workers-wake-brexit/>
- Scharpf, FW (2015) 'After the Crash: A Perspective on Multilevel European Democracy', *European Law Journal* 21(3): 384-405.
- Seaton, J (2016) 'Brexit and the Media', *Political Quarterly* 87(3): 333-337.
- Seikel, D (2016) 'The European Union in Crisis: Is Flexible Integration the Way Forward?' *Social Europe* 22 July.

- Serroyen, C (2016) Contribution ACV-CSC to the Meeting of the European Commission with the Belgian Social Partners: 'European Pillar of Social Rights', Brussels, 13 July.
- Streeck, W (2016) 'Wenn die EU untergeht, wird keiner weinen', *Die Zeit* 13 October.
- Tridimas, T (2016) 'Article 50: An Endgame without an End?', *King's Law Journal* 27(3): 297-313.
- TUC (2016a) *UK Employment Rights and the EU: Assessment of the Impact of Membership of the European Union on Employment Rights in the UK*. London: TUC.
- TUC (2016b) *Working People Must Not Pay the Price for the Vote to Leave*. London: TUC.
- TUC (2016c) *Taking the Temperature of the Post-Brexit Economy: Britain's Economic Prospects after Leaving the EU*. London: TUC.
- Vargas-Silva, C and Markaki, Y (2016) *EU Migration to and from the UK*. Migration Observatory Briefing, 5th Revision. Oxford: COMPAS.
- Waddington, J, Pulignano, V, Turk, J and Swerts, T (2016) *Managers, BusinessEurope and the Development of European Works Councils*. Brussels: ETUI Working Paper 2016.06.
- Wintemute, R (2016) 'Goodbye EU Anti-Discrimination Law? Hello Repeal of the Equality Act 2010?', *King's Law Journal* 27(3): 387-397.