



*Committee on Employment and Social Affairs
The Chair*

22.1.2020

Mr Antonio Tajani
Chair
Committee on Constitutional Affairs
BRUSSELS

Subject: Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community(2018/0427(NLE))

Dear Mr Tajani,

Under the procedure referred to above, the Committee on Employment and Social Affairs has decided to submit an opinion to your committee. At its meeting of 3 September 2019, the committee decided to send the opinion in the form of a letter.

The Committee on Employment and Social Affairs considered the matter at its meeting of 22 January 2020. At that meeting, it decided to call on the Committee on Constitutional Affairs, as the committee responsible, to incorporate the following suggestions into its draft recommendation.

Yours sincerely,

Lucia Ďuriš Nicholsonová

SUGGESTIONS

- A. Whereas the withdrawal of the United Kingdom of Great Britain and Northern Ireland (“UK”) from the European Union and the European Atomic Energy Community (“the Withdrawal”) will affect millions of citizens - both UK citizens living, travelling or working in the Union and Union citizens living, travelling or working in the UK, as well as people other than Union and UK citizens; whereas it is necessary to provide reciprocal protection for Union and UK citizens, as well as their respective family members, where they have exercised their rights relating to the freedom of movement of persons before a date set in the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community of 19 October 2019 (“the Agreement”); whereas the rights of all citizens, including those deriving from periods of social security insurance contributions must be fully protected;
- B. Whereas it is essential that the EU acquis is protected in its entirety and in particular relating to employment and social affairs in the context of transitional arrangements and in future agreements between the Union and the UK;
- C. Whereas ensuring the freedom of movement for workers, including mobile workers, cross-border workers, frontier workers and posted workers, is paramount notes in this regard the specific situation of such workers working in countries neighbouring the UK;
- D. Whereas the EMPL Committee has more specifically examined Articles 24 to 39 of the Agreement and Annex 1 thereto, as well as the text of the Political Declaration Setting out the Framework for the Future Relationship between the European Union and the United Kingdom of 17 October 2019 (“the Political Declaration”), and in particular paragraphs 17 and 77 thereof;
 - 1. Welcomes the fact that the Agreement aims to ensure an orderly Withdrawal, creating as little disruption as possible;
 - 2. Welcomes the fact that the rights of workers and self-employed persons are guaranteed in Chapter 2 of the Agreement (Articles 24, 25 and 26);
 - 3. Welcomes the detailed provisions on recognition of professional qualifications as established in Chapter 3 of the Agreement (Articles 27, 28 and 29);
 - 4. Welcomes the detailed provisions on the coordination of social security systems in Title III of the Agreement (Articles 30 to 36), which protect rights deriving from periods of social security insurance contributions;
 - 5. Welcomes the fact that Article 135 of the Agreement stipulates that the UK is to contribute to and participate in the implementation of the Union budgets for the years 2019 and 2020 and highlights the fact that this is important for the current ESF, FEAD, EaSI and EGF programmes and the arrangements which are to replace them;
 - 6. Welcomes the fact that, under Article 137 of the Agreement, the Union programmes and activities committed under the multiannual financial framework for the years 2014 to

2020 or previous financial perspectives are to be implemented in 2019 and 2020 with regard to the UK on the basis of the Union law;

7. Welcomes the UK's intention to participate in and co-finance Union programmes, subject to the conditions set out in the corresponding Union instruments, in areas such as science and innovation, youth, culture and education as part of the future relationship between the Union and the UK, as stated in the Political declaration; is concerned about the recent vote of the British Parliament and comments by the UK Education Secretary that call into question the UK's future participation in the Erasmus Programme; stresses that applicants from both the Union and the UK will need sufficient advance notice of the conditions and timelines for such programmes after the transition period;
8. Also welcomes the fact that, under article 140 of the Agreement, the UK will be liable to the Union for its share of the budgetary commitments of the Union budget and the budgets of the Union decentralised agencies outstanding on 31 December 2020 and for its share of the commitments made for 2021 on the carryover of commitment appropriations from the budget for 2020;
9. Acknowledges the deletion of point 3 of Annex 4, from the Agreement, which dealt with social and labour standards linked to the 'backstop' mechanism; it welcomes the new solution found on the issue of Ireland/Northern Ireland, whereby the territory of Northern Ireland is to be a *de jure* part of the custom territory of the United Kingdom, but remains *de facto* in the Union's customs zone by applying Union tariffs and customs rules;
10. Regrets, however, the absence of any reference to social and labour standards in the Agreement and the removal of Clause 34 and Schedule 4 in the revised Withdrawal Agreement Bill which provided additional procedural protections for workers' rights that currently form part of Union law during the transition or implementation period; is also concerned that in addition to any express mention of workers' rights now being removed, there is a real possibility that existing workers' rights derived from Union law in the UK will not be protected against modification, repeal or revocation in domestic law once the transition or implementation period has ended while noting the UK Government's stated intention to legislate separately to protect and enhance workers' rights in a new Employment Bill; stresses that the level of protection currently provided for by law, regulations and practices must not be reduced below the level provided by the common standards applicable within the Union and the UK at the end of the transition period in the area of labour and social protection and as regards fundamental rights at work, occupational health and safety, fair working conditions and employment standards, information and consultation rights at company level, and restructuring; is concerned in this context, that there are currently little to no efforts by the UK to implement recent Union legislation in the area of social and employment affairs, such as the amendment to the Posting of Workers Directive, the Directive on work-life balance for parents and carers and the Directive on Transparent and Predictable Working Conditions in the European Union;
11. Regrets in particular that most of the level-playing field provisions contained in the former Annex 4 to the Protocol on Ireland/Northern Ireland will not apply to Northern Ireland under the Agreement, creating a potential risk to the Union internal market and

the all-island economy;

12. Further regrets the introduction of new subsection (1) to Clause 26 of the revised Withdrawal Agreement Bill, which allows the UK Government to specify circumstances in which certain lower courts and tribunals could depart from the rulings of the Court of Justice of the European Union (CJEU) after the transition period which could result in lower courts no longer being bound by the settled Union case-law of the CJEU relating to workers' rights that are derived from EU law;
13. Welcomes the fact that the Union and the UK are committed to reaching a future free trade agreement under Article 184 of the Agreement;
14. Welcomes the establishment of a dialogue between the European Parliament and the Parliament of the United Kingdom in order for the two legislatures to share views and expertise on issues related to the future relationship; is of the opinion that, in accordance with the Political Declaration, civil society dialogue should also be encouraged and should encompass in particular, youth organisations and employee associations representing Union citizens working in the UK and UK citizens working in the Union;
15. Stresses that any agreement on the future relationship needs to ensure that the UK fully respects the social and labour standards of the Union in order to safeguard a level playing field for open and fair competition, as highlighted in point XIV, paragraph 77 of the Political Declaration;
16. Welcomes therefore that paragraph 77 of the Political Declaration embraces the key elements of Annex 4 of the former version of the Agreement but is concerned that, while Annex 4, as an Annex to a Protocol of the former Agreement, was legally binding, the Political Declaration is a mere declaration of intent;
17. Stresses and recalls, in this context, that the three principles governing a future free trade agreement between the Union and the UK, namely no quotas, no tariffs and no dumping, also regarding social and employment standards, must be indivisible and urges the Union negotiator to be particularly vigilant in this regard in the course and at all stages of negotiations on the future relationship between the Union and the UK;
18. Strongly regrets the UK Government's introduction of the new clause 33 of the revised Withdrawal Agreement Bill which expressly prohibits any extension to the transition period beyond 2020 ; warns strongly that this provision could result in a 'no-deal' scenario with catastrophic impacts for people and companies in the Union and the UK alike as the timeframe to negotiate a comprehensive agreement on future relations between the Union and the UK is too short; strongly urges the UK Government and the British Parliament to reconsider their position; stresses that any agreement on future relations between the Union and the UK must include provisions on a level playing field with regard to social and labour standards; urges the UK Government to implement a new Employment Bill before the end of the transition period in order to avoid any gaps where workers' rights are neither protected by existing Union legislation nor the UK Employment Bill; stresses that social and labour standards in the Employment Bill should not be static, but directly follow any improvements made to social and labour standards in the European Union, as to ensure a level playing field between the European Union and the United Kingdom.

The EMPL Committee thus calls on the AFCO Committee as the committee responsible to take into account its position as set out above and to recommend that Parliament give its consent to the draft Council decision on the conclusion of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community.