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The relationship between the posting debate and the Brexit debate

By Frank Vandenbroucke
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Polish construction
workers. UK, 2005.
[Ryan Poplin/Flickr]



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The posting of workers and the issues regarding social security need to be looked at from a shared perspective, writes Frank Vandenbroucke. This op-ed summarises a paper published by the Notre Europe Jacques Delors Institute in Paris.

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SOCIAL BENEFITS AND CROSS-BORDER MOBILITY: LET'S RETURN TO CONSISTENT PRINCIPLES

Given the outcome of the referendum, Cameron's 'deal' with the EU is history, including the exception he negotiated with regard to the payment of British social benefits to non-nationals. We can now return to consistent principles. Consider the issue of benefits for non-nationals and the posting of workers. These debates have been separated. We should approach them from a single, principled perspective.

NON-DISCRIMINATION IN SOCIAL POLICY AND POSTING OF WORKERS

The EU is built on non-discrimination: Belgian social policy cannot be different for a Polish citizen in Belgium and a Belgian citizen in Belgium. This does not mean that a European citizen can enter Belgium without means of existence and immediately apply for social assistance: European legislation does not impose such generosity, at least not for those who are economically inactive.

But a Polish citizen working in Belgium enjoys the same social rights as the Belgian citizen working in Belgium: he is integrated into the Belgian solidarity circle. That principle supports an ideal of European citizenship. It also justifies the fact that the Polish worker's employer pays the same social security contributions to Belgian social security as the Belgian worker's employer, i.e. that we do not tolerate competition between the Polish and the Belgian social security system on Belgian territory.

Competition between the Polish and the Belgian social security system is exactly what happens in the context of 'posting': a Polish worker who is 'posted' in Belgium remains integrated in Polish social security. Thus, posting is an exception to a foundational principle of the EU. In order to accommodate work in other countries on short-term projects, such an exception is needed, a fortiori if one wants to develop an integrated market for services.

The scope for this exception has become large and there are problems of inspection and control. Therefore, member states such as France, the Netherlands and Belgium, ask for reform. The European Commission launched a proposal to reform the Posted Workers Directive in March, but it has been blocked by 11 (mainly Central and Eastern European) member states.

Posting is more than an exception to principles of social security coordination. It is an exception to a broader notion of integration into the solidarity circle of the member state in which one works, both in terms of wages, working conditions and social security contributions and entitlements. The challenge is to find a balance between the need for an integrated market in services (for which posting is necessary) on one hand, and the foundational role of that principle on the other hand.

WHICH LOGIC SHOULD GUIDE MEMBER STATES IN NEGOTIATIONS ON CROSS-BORDER MOBILITY?

There was a certain 'logic' in the British position: the UK was unconcerned by the posting debate, but wanted to safeguard its dual achievement of relatively high net disposable incomes for low-wage workers and relatively low labour costs for British employers (via so-called 'in-work benefits'), yet, safeguard it only for UK citizens. With the UK-EU deal off the table, we should return to a more consistent logic, based on a true sense of reciprocity among member states. That logic was lost over the last few months.

Member states such as Poland typically want as little limitations as possible on posting of workers (since a liberal posting regime is economically beneficial for them); simultaneously, they want as little limitations as possible on the principle of non-discrimination in social policy for non-posted workers (since such limitations imply a social relapse for Polish citizens). Thus, they entertain two positions that are at odds with each other, but that seem to serve their short-term interests best.

The Dutch government, to take an opposite example, has put the reform of posting high on the agenda during the recent Dutch EU Presidency. Simultaneously, the Dutch prime minister voiced sympathy with Cameron's agenda when he tabled it. There was no consistent logic in these statements.

Suppose, in contrast, that the Dutch government would address the Polish government in the following way: "We want to give Polish citizens, working and contributing to social security in the Netherlands, full access to our social benefits. But, please, understand that we do not want to see our social system undermined by excesses in the application of posting." If such would be the negotiating stance of mature welfare states, they may strike a better deal with less developed welfare states on both issues (posting, non-discrimination), compared to a situation in which deviations from the non-discrimination principle and uncontrollable posting proliferate. In the latter scenario, everybody will lose.

The debates on social security coordination and posting have been separated, but member states should consider them from the same, principled perspective. On that basis, it is possible to find an adequate balance between the need for an integrated market in services and the principle that mobile workers should be integrated into the solidarity circle of the member state where they work.

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