

<b>Institution:</b> University of Nottingham		
<b>Unit of Assessment:</b> 20 Social Work and Social Policy		
<b>Title of case study:</b> Optimising European Labour Markets and workers' rights through policy change.		
<b>Period when the underpinning research was undertaken:</b> 2007 - present		
<b>Details of staff conducting the underpinning research from the submitting unit:</b>		
<b>Name(s):</b>	<b>Role(s) (e.g. job title):</b>	<b>Period(s) employed by submitting HEI:</b>
Dr Simon Roberts	Special Lecturer/Honorary Associate Professor  Associate Professor of Public and Social Policy	2007 – 2013  1st August 2013 - present
<b>Period when the claimed impact occurred:</b> 2017 – 31st December 2020		
<b>Is this case study continued from a case study submitted in 2014?</b> N		
<b>1. Summary of the impact</b>		
<p>Free movement of labour is a cornerstone of the European Union (EU) Single Market and a fundamental right of all EU citizens. Dr Simon Roberts' research and consultancy for the European Commission (EC) has directly contributed to the reform of regulations on free movement of workers and improved the quality of governance of labour market fluidity across the 27 EU Member States as well as Iceland, Liechtenstein, Norway (EEA) and Switzerland through the establishment of the European Labour Authority in 2019. This work has also informed the on-going Brexit negotiations from both EU and UK perspectives.</p>		
<b>2. Underpinning research</b>		
<p>Roberts is a long-standing academic consultant to the EC on labour mobility, free movement of citizens and coordination of social security and healthcare issues. He has been the UK National Expert on a series of EC Networks of Experts, including the Network of legal experts on intra EU-mobility [FreSsco] (2013-2017), and Free Movement of Workers and Social Security Coordination [MoveS], (2017- to date). Roberts has participated in and led several Think Tanks for the EC, producing various research reports that have fed directly into policymaking at the Council of the EU, European Parliament and the EC (e.g. R1).</p> <p>The FreSsco Think Tank, comprised of five high-profile EU legal and policy experts, was commissioned by the EC to make recommendations for policy change on key issues concerning free movement of workers across the EU. As one of those experts, Roberts was decisive in the design of the 32-country survey, its analysis and report, which was fundamental to the production of the 'Analytical Report on mutual assistance and sincere cooperation', published by the EC in 2017 (R1, C). The report (R1) specifies eleven recommendations for policy and legal changes, as well as governance, to the EC and Member States (MS). These include, for example, joint teams and officials from one MS working in other MSs; the setting-up of central European data repositories; and the strengthening of institutional networks and national contact points (R1).</p> <p>Roberts' research with the EC and analysis on free movement and social security coordination has been extended and published internationally (R2, 3, 4, 5 and 6). It establishes the technical complexity involved in coordinating contributory (including contributory pensions) and non-contributory (e.g. disability allowances) benefits across the variety of different national</p>		

social security systems in the EU (R2, 3, 4, 5, and 6). These issues have become particularly acute following the decision of the UK to exit the EU. For example, R3 and R4 report parts of a longitudinal study of EU law and policy on coordination of social security and healthcare, policy design and governance (see also R6). R3 and R6 build upon the research findings reported in R4 by concluding that the most effective arrangement to secure social security and healthcare rights for mobile workers and citizens after Brexit would look similar to the current Coordinating Regulations 883/2004 and 987/2009. While the persons and benefits included in social security coordination under the Withdrawal Agreement mirror those of the current Coordinating Regulations, the procedure for identifying eligibility is complicated and future arrangements might not provide comprehensive coverage and legal certainty for people who have already exercised (or may exercise in the future) their right to free movement (R3, 4). Complementary research (R2) shows that 'special non-contributory benefits' for people with a disability, coordinated by the EU Regulations, should be included in a review of the compatibility of EU legislation with the United Nations Convention on the Rights of Persons with Disabilities. Roberts' research in this field has informed EU and UK policymakers involved in negotiating the Withdrawal Agreement. He has recently been appointed (02.11.2020 - 30.04.2021) an Academic Fellow at the Scottish Parliament to research and brief MSPs on the impact of Brexit on devolved Scottish social security to enhance their scrutiny of Scottish Government policy.

### 3. References to the research

1. JORENS, Y., GARCIA DE CORTAZAR, C., MEISSNITZER, M., **ROBERTS**, S. AND SPIEGEL, B (2017). *Analytical Report on mutual assistance and sincere cooperation*. European Commission Publications Office, see <https://ec.europa.eu/social/BlobServlet?docId=19403&langId=en>
- \***Note: After Jorens (the Editor) the authors' names in the above reference are presented in alphabetical order.**
2. **ROBERTS**, S. (2016). 'Free Movement and Special Non- Contributory Benefits for Disabled People: Between the Devil and the Deep Blue Sea', *ERA Forum*, 17(2), 221-232, see <https://link.springer.com/article/10.1007/s12027-016-0434-3>
3. **ROBERTS**, S. (2020). 'Social security coordination after Brexit: Trying to take an egg out of an omelette?' *ERA Forum*, (20), 531–547, see <https://link.springer.com/article/10.1007/s12027-019-00591-9>
4. **ROBERTS**, S. (2018). The Devil Is in the Detail: Some Early Thoughts of EU Policy Makers on Negotiating Post-Brexit Coordination of Social Security, In: Koldinska, K. and Pichrt, J. (ed.) *Labour Law and Social Protection in a Globalized World*, Kluwer Law International, Chapter 29, ISBN13: 9789403500935, see <https://www.wildy.com/isbn/9789403500935/labour-law-and-social-protection-in-a-globalized-world-changing-realities-in-selected-areas-of-law-and-policy-softcover-kluwer-law-international>
5. **ROBERTS**, S. (2017). *The UK and social security coordination after Brexit: reinventing the wheel or Mad Hatter's tea party*. Zabezpieczenie Społeczne. Teoria, Prawo, Praktyka (Social Security. Theory, Law, Practice), 6. pp. 13-27. ISSN 2299-2332, see <http://eprints.nottingham.ac.uk/46545/>
6. **ROBERTS**, S. (2020). Brexit and the reform of social security coordination: The UK's metamorphosis from rule maker to rule taker. *European Journal of Social Security*, 22 (2), see <https://doi.org/10.1177/1388262720927113>

### 3. Details of the impact

Prior to and since 2013, Roberts has been extensively building networks between EU stakeholders (such as public administrators, employers' organisations and trade unions, judges and lawyers, NGOs, and independent experts) as well as sharing his research and expertise on aspects of the EU law and policy (R2, 3, 4 and 5) through keynotes and seminars with senior EC and national officials, and other stakeholders (A, E). "These seminars also

*identify and inform the EC of problems and challenges at operational level in the MSs which in turn feeds into policy developments” (A).*

The contributions of Roberts to EU policymaking on free movement and social security have been acknowledged by senior EU policymakers. For example, the Director of Finland’s Ministry of Social Affairs and Health explained that: *“Dr Roberts’ research including the ‘Analytical report on mutual assistance and sincere cooperation’ has had a direct and significant impact on EU law and policy making on free movement of workers and social security and healthcare coordination in the European Union contributing to improvements to the functioning of the Single Market which will improve the practices of international business, trade unions and public employment services to positively impact the lives of millions workers and citizens across the EU” (B, R1).* The paragraphs below outline two major areas of policy impact associated with Roberts’ research and policy-engagement work.

### **Changing Policy Regulation**

Strengthening the social fairness of the Internal Market is one of the EC’s priorities. In 2017, the European Parliament, the Council and the EC proclaimed the Pillar of Social Rights, which is intended to ensure EU citizens’ equal opportunities and access to the labour market, fair working conditions and social protection and inclusion. However, increased concerns about the adequacy of existing rules on fair competition and social standards, prompted the revisions of the Posting of Workers Directive and the Regulations on the Coordination of Social Security systems (C, F). In response, R1 formed the basis for a meeting (30.11.2017) between the Head of Unit for Labour Mobility and Social Security Coordination at the Directorate-General for Employment, Social Affairs and Inclusion in the EC and the Think Tank experts, including Roberts, to discuss its findings and possible implementation into EU policy (A). The report provided recommendations for inserting new provisions for strengthening existing provisions in Regulations (EC) No. 883/2004 and No. 987/2009, which coordinate social security and healthcare for mobile workers in the EU/EEA, in order to mitigate the risks of transnational fraud and abuse (R1, A, B, D, E).

Several of these recommendations were implemented by the European Council when it adopted its General Approach on the EC’s proposal to amend these regulations, on 15.06.2018 (A, F). The proposal includes *“...the introduction of a permissive ground for Member States to periodically exchange personal data. In addition, the procedures for recovery of unduly paid social security benefits have been revised to align them with the equivalent procedures in Directive 2010/24/EU concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures in particular to provide for a uniform instrument to be used for enforcement measures as well as standard procedures for requesting mutual assistance and notification of instruments and decisions relating to a claim” (F).* More specifically, the key policy changes refer to the following elements:

- The insertion of a provision in Regulation 987/2009 with a clear legal basis for permitting competent institutions to exchange personal data with relevant authorities in other Member States, in order to prevent or identify fraud and error (A, F).
- The provision of new procedures in Regulation 987/2009 for transnational recovery of contributions (A, F).
- Expediting the procedure for the verification and withdrawal of documents in cases of fraud and error foreseen by Regulation 987/2009. (A, D, F).

These changes serve both to streamline the administration of social security and healthcare benefits for mobile workers across the EU and to protect the contributions due to MSs to finance these benefits. Roberts’ research for the EC, including R1, has extensive reach and significance for EU countries’ governments in their joint effort to improve the functioning of the EU Single Labour Market by combating fraud and error. For example, following the outcomes of the Report, Poland’s Ministry of Family, Labour and Social Policy expanded the role of the Polish National Contact Point (NCP) of the European Platform on Combating Fraud and Errors in the area of coordination of social security systems and its activities. The NCP has enabled

new practices, such as agreements on electronic data exchange to avoid overpayments of pensions after the death of the recipient; such agreements were concluded, among others, with Germany and Sweden (E).

### **Establishing better governance: The European Labour Authority (ELA)**

Another major impact associated with Roberts' research, and particularly with the implementation of the recommendations of R1, is the establishment in 2019 of the European Labour Authority (ELA, see G), as a structural solution to the problems around free movement of labour and related issues that have been researched by Roberts and colleagues and presented/discussed in the EU forums by Roberts. The ELA represents a structural reform, which is linked to the European Employment Services (EURES) and provides a new level of coordination between Member States (A, B, D, E, H). In the words of the Director of the Department of Coordination of Social Security Systems at Poland's Ministry of Family, Labour and Social Policy: *"It should be noted that the justification for the establishment of ELA was to address problems of inadequate cooperation between national authorities on rule enforcement and proposed solutions concerned sharing of administrative information, capacity to organize cooperation, and lack of mechanisms for joint enforcement actions, cross-border mediation mechanism and EU-level cooperation, all of which the Think Tank's Analytical Report examined"* (E).

The ELA proposes to align the policies of MSs concerning movement of labour including facilitating access for individuals and employers to information on their rights and obligations as well as to relevant services; supporting cooperation between EU countries in the cross-border enforcement of relevant Union law; mediating and facilitating a solution in cases of cross-border disputes between national authorities or labour market disruptions. It now has authority to challenge practices that tend to abuse the system or exploit the workforce, by calling MSs to account: e.g. for non-compliance with requirements for posting workers. In so doing, it reduces the injustices that have emerged in the present climate and overcomes obstacles to labour fluidity (A, B, D, E, H). The ELA was announced in September 2017 by the President of the European Commission in his State of the Union address to ensure that EU rules on labour mobility are enforced in a fair, simple and effective way. Following consultations and an Impact Assessment (C), which R1 has fed into, a legislative proposal was presented on 13.03.2018 (H). On 21 September 2020 the ELA carried out its first multi-country inspection - of the construction industry's compliance with labour mobility standards.

This EU legislation directly refers to some of the outcomes of R1 with respect to *"the capacities of labour inspectorates to deal with cross-border cases"* (p.7 of H). For example, as recommended in the R1, the ELA now supports cooperation between EU countries in the cross-border enforcement of relevant Union law, including facilitating joint inspections. The impacts that shape the ELA's strategy are specified in the EC's impact assessment report (C) and a related factsheet document (I). According to these documents, the ELA is a powerful mechanism for multi-level positive change. For example, the benefits for individuals (e.g. mobile workers) are better protection and reduced exposure to fraud and abuse, with benefits for all EU taxpayers; improved legal clarity and predictability of procedures; enhanced possibilities to exercise their rights to freedom of movement (C, I). Freedom of movement is a right of all EU citizens and numbers exercising this right has been increasing year on year with the latest available figures giving a snapshot for 2018 of 17.6 million long-term EU movers in the EU-28, with a further 1.9 million posted workers and 1.5 million cross-border workers (J). For businesses (especially SMEs) the benefits mean fairer competition and reduced uncertainty about their opportunities and obligations (C, I). National authorities benefit from reinforced cooperation and control capacities for better rule enforcement (C, I), while wider, macro-economic, benefits are associated with increased productivity, employment and GDP across the EU (C, I). These macro-economic benefits apply to the EU's 500 million citizens (A).

The issues identified, and the solutions proposed in R1 that are operationalised in the new EU Labour Mobility Package and the ELA are also relevant to the functioning of the Withdrawal

Agreement published on 17.10.2019, which provides for the continued application of the Coordinating Regulations for UK and EU nationals who exercised their freedom of movement rights before the UK leaves the Single Market (B, E). This includes amendments, amongst which are the reforms contained in the EC's current legislative proposal that are introduced after the UK's departure, and extends to on-going policy revisions on coordinating social security benefits, such as pensions, in the UK and across the EU (R3, 4 and 6). Roberts' work in this field is informing the policy approach of both the EU Member States and the UK. For example, Poland's Ministry of Family, Labour and Social Policy has found Roberts' research valuable to the Ministry's analysis of the UK's evolving positions on Brexit and the development of policies to protect the post-Brexit rights of Poland's citizens (E). As an Academic Fellow, on 17.12.2020 Roberts addressed the Scottish Parliament's Social Security Committee (K). He continues providing advice on devolved Scottish social security to the Parliament.

#### 5. Sources to corroborate the impact

- A. **Stakeholder Letter** from the Head of several departments of DG EMPLOYMENT at the **European Commission including**: Social Protection, Social Inclusion, Anti-racism, Free movement of Workers and Coordination of Social Security (1990 to 2008).
- B. **Stakeholder Letter** from the Director, **Ministry of Social Affairs and Health, Finland**. Lead of the Finnish delegation at the Administrative Commission on social security for migrant workers in Brussels.
- C. COMMISSION STAFF WORKING DOCUMENT IMPACT ASSESSMENT  
Accompanying the document Proposal for a Regulation of the European Parliament and of the Council establishing a European Labour Authority {COM(2018) 131 final} - {SWD(2018) 69 final}.
- D. **Stakeholder Letter** from the Head of International Social Security Division at the **Austrian Federal Ministry for Social Affairs and Consumer Protection** and Lead of Austrian delegation at the Administrative Commission on social security for migrant workers in Brussels.
- E. **Stakeholder Letter** from the Director, Department of Coordination of Social Security Systems, **Ministry of Family, Labour and Social Policy, Poland**.
- F. Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EC) No 883/2004 on the coordination of social security systems and Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004 (Text with relevance for the EEA and Switzerland) EXPLANATORY MEMORANDUM.
- G. European Labour Authority, see:  
<https://ec.europa.eu/social/main.jsp?catId=1414&langId=en> (screenshot is also available)
- H. Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a European Labour Authority (text with relevance for the EEA and for Switzerland) {SWD(2018) 68 final} - {SWD(2018) 69 final} - {SWD(2018) 80 final}.
- I. INCEPTION IMPACT ASSESSMENT: EC factsheet.
- J. 2019 Annual Report on Intra-EU Labour Mobility, European Commission.
- K. Scottish Parliament Social Security Committee 17 December 2020, Official Report.