

**Master in Diplomacy and International Public Service**

***BREXIT: A CHALLENGING PROCESS  
WITH VITAL IMPLICATIONS FOR THE  
UNITED KINGDOM AND THE EUROPEAN  
UNION***

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## ABBREVIATIONS

<b>CETA</b>	Comprehensive Economic and Trade Agreement
<b>CJEU</b>	Court of Justice of the European Union
<b>DUP</b>	Democratic Unionist Party
<b>EC</b>	European Communities
<b>ECJ</b>	European Court of Justice
<b>EEA</b>	European Economic Area
<b>EEC</b>	European Economic Community
<b>EFTA</b>	European Free Trade Association
<b>EP</b>	European Parliament
<b>EPC</b>	European Policy Center
<b>EU</b>	European Union
<b>FTA</b>	Free Trade Agreement
<b>GDP</b>	Gross Domestic Product
<b>IMF</b>	International Monetary Fund
<b>JHA</b>	Judicial and Home Affairs
<b>MP</b>	Member of Parliament
<b>MEP</b>	Member of the European Parliament
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>ONS</b>	Office for National Statistics
<b>SNP</b>	Scottish National Party
<b>TEEC</b>	Treaty establishing the European Economic Community
<b>TEU</b>	Treaty on European Union
<b>UK</b>	United Kingdom
<b>UKIP</b>	UK Independence Party
<b>WTO</b>	World Trade Organisation

## INTRODUCTION

On the 23<sup>rd</sup> of June 2016, the United Kingdom (UK) voted to leave the European Union (EU) after forty-three years of membership. This represents an historical moment given that it is the first time that the bloc, after decades of expansion, is formally facing the loss of one of its largest members.

The main objective of this paper is to explain the lengthy and complex process of *Brexit* from both an historical and a procedural point of view, as well as to address the possible consequences that have been put on the table after Theresa May formally triggered Article 50 of the Lisbon Treaty in late March 2017.

First of all, this paper sets out that *Brexit* is the result of the traditional unenthusiastic and uninclined British tendency towards the European political integration project, which had its origins in the very first UK negotiations to take part in the European Economic Community (EEC) and which continued with the celebration of the first referendum on the UK membership of the European Community.

Secondly, it summarises and analyses briefly the procedure for a country to withdraw from the European Union, as established by Article 50 of the Lisbon Treaty, and its interpretation by the UK Supreme Court due to the extraordinary case of the United Kingdom, a country regulated by an unwritten constitution. Particularly relevant in this regard is the fact that *Brexit* has raised the very significant issue of the limits of the executive powers in Britain. Moreover, the fact that Theresa May officially invoked Article 50 was soon followed by the response of the European Union, providing its guidelines and core principles for negotiations.

Thirdly, some of the most significant expected effects of *Brexit* on the economy, the law, politics and institutions will be outlined. This paper looks into the steps taken, or to be taken, both by the United Kingdom and by the European Union and into how matters may evolve in the following time. It provides, in broad terms, the possibilities for a future association between the Union and its departing member and, finally, the consequences that the departure of a large Member State like the United Kingdom may entail for the rest of the policies of the Union and for the Union itself.

At last, the methodology that will be used in order to do so is based on a set of resources, including articles, books, legislation, case law, conclusions of the European Council, EU legal acts, legislation, political statements, UK political manifestos, press sources, statistical data, white papers of both the United Kingdom and the European Union, the opinion of some of the most relevant experts in *Brexit* and Internet sources.

## **1. THE UNITED KINGDOM'S PARTICULAR APPROACH WITH REGARD TO THE EUROPEAN INTEGRATION PROJECT**

The United Kingdom's demand for a special status in the European Union is not something new. Neither is the holding of a referendum on the United Kingdom's membership of the Union. Since the creation of the European Economic Community in 1958, the British have remained ambivalent towards their Community partners and have often been distant from the European integration project.

### **1.1 The breakdown of the United Kingdom's negotiations to integrate in the European Economic Community**

In 1955, the six states which were participating in the elaboration of the Treaty of Rome (France, Germany, Italy, the Netherlands, Belgium and Luxembourg), officially the Treaty establishing the European Economic Community (TEEC), invited the United Kingdom to join them. The aim of this Treaty was economic integration: it was intended to create a common market based on a customs union with an external tariff for third countries and common policies among its Member States.<sup>1</sup>

The Treaty of Rome did not directly mention political integration but it is quite impossible to separate economics from politics in this context. Governments are by their nature political and decisions on economic matters cannot be made without taking political considerations into account.<sup>2</sup> In this sense, the founding fathers of the TEEC were aware of this idea and stated in its Preamble that they 'were determined to lay the foundations of an ever closer union among the peoples of Europe'.

However, the United Kingdom refused to participate in the creation of the European Economic Community for different reasons. It thought that a common market based on a customs union with an external tariff could harm its privileged trading position in the sterling zone and with the Commonwealth.<sup>3</sup> In addition, Britain was reluctant to the idea of political integration, as it did not want to 'embark on a project whose long-term aim was to surrender its sovereignty as a national state to supranational European institutions'.<sup>4</sup>

Britain not only opposed to become a member of the European Economic Community but it proposed the foundation of the European Free Trade Association

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<sup>1</sup> Treaty establishing the European Economic Community, signed in Rome on the 25<sup>th</sup> of March 1957 and in force since the 1<sup>st</sup> of January 1958.

<sup>2</sup> Watts, D. and Pilkington, C. (2005). *Britain in the European Union Today: Third Edition*. Manchester and New York: Manchester University Press, p. 22.

<sup>3</sup> The Commonwealth is an intergovernmental organisation that is mostly integrated by former territories of the British Empire. Notably, the United Kingdom was the only European Member of the Commonwealth by the year 1955; Wilkes, G. (2001). *The Commonwealth in British European Policy: Politics and Sentiment*. In May, A. (ed.), *Britain, The Commonwealth and Europe: The Commonwealth and Britain's Applications to Join the European Communities*. New York: Palgrave Macmillan, pp. 53-81.

<sup>4</sup> Watts, D. and Pilkington, C., *op. cit.* 2, p. 115.

(EFTA) in 1960.<sup>5</sup> Sweden, Switzerland, Norway, Denmark, Austria and Portugal joined that new organisation, which constituted a mere free trade area and did not foresee any project of political integration.

With the absence of the United Kingdom, the Treaty of Rome was signed by its six original members in 1957. As a matter of fact, the TEEC certainly created a common market based on a customs union among its members (although it meant exclusively free circulation of goods in practice),<sup>6</sup> it developed common policies such as the ones related to transport and agriculture and it designed an institutional apparatus which still exists today: the European Commission, the European Assembly (later known as European Parliament), the Court of Justice and the Economic and Social Committee, thus making a great advance in building Europe.<sup>7</sup>

Shortly after, the United Kingdom realised its mistake. Whereas the European Economic Community experimented a spectacular economic growth, Britain maintained its downward trend in relation to the Community.<sup>8</sup>

## 1.2 De Gaulle's double veto to the UK application to join the EEC

In August 1961 the Conservative Government of Harold Macmillan requested the beginning of negotiations on the accession to the European Economic Community. Nonetheless, after starting negotiations, the President Charles de Gaulle vetoed this accession in 1963.<sup>9</sup> The French leader reasoned that the British would be reluctant to lose some of their preferences concerning trade with the Commonwealth and this would not only be problematic for the United Kingdom but also for other Member States:

‘England in effect is insular, she is maritime, she is linked through her exchanges, her markets, her supply lines to the most diverse and often the most distant countries; she pursues essentially industrial and commercial activities, and only slight agricultural ones. She has in all her doings very marked and very original habits and traditions’.<sup>10</sup>

Although it may be thought that he was just describing the British national character, De Gaulle also explained the main reason why he opposed to such entry: if the British economy depended on the Commonwealth and the United States for much

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<sup>5</sup> Campos, N. and Coricelli, F. (2015). Why did Britain join the EU? A new insight from economic history. Retrieved 9 February 2017 at <http://voxeu.org/article/britain-s-eu-membership-new-insight-economic-history>

<sup>6</sup> Free movement of persons, capitals and services continued to be subject to numerous limitations. It was necessary to wait until the Single European Act in 1987, when a definitive boost was given in order to establish a genuine unified market. This brought about the Treaty on European Union in 1992.

<sup>7</sup> *Op. cit.* 1.

<sup>8</sup> Campos, N. and Coricelli, F., *op. cit.* 5.

<sup>9</sup> Kandiah, M. D. and Staerk, G. (2001). Commonwealth International Financial Arrangements and Britain's First Application to Join the EEC in May, A. (ed.), *Britain, The Commonwealth and Europe: The Commonwealth and Britain's Applications to Join the European Communities*. New York: Palgrave Macmillan, pp. 111-131.

<sup>10</sup> President Charles de Gaulle's press conference in Paris on the 14<sup>th</sup> of January 1963. Retrieved 10 February 2017 at <http://aei.pitt.edu/5777/>

of its trade, what would be the benefits for the European Economic Community if the United Kingdom was admitted? By words of De Gaulle:

‘The question...[is] whether Great Britain can now place herself like the Continent and with it inside a tariff which is genuinely common, to renounce all Commonwealth preferences, to cease any pretence that her agriculture be privileged, and, more than that, to treat her engagements with other countries of the free trade area as null and void — that question is the whole question’.<sup>11</sup>

When the British Labour Prime Minister Harold Wilson again requested to join the European Economic Community in 1967, De Gaulle once more banned the accession of Britain.<sup>12</sup>

### **1.3 Once it gets in, the United Kingdom still doubts whether to remain in the European Communities: the first referendum**

With De Gaulle’s resignation in 1969, the United Kingdom had the doors opened to join the European Economic Community. Under the Conservative Government of Edward Heath, the British Parliament passed an act in 1971 which legislated for the accession of the United Kingdom to the European Communities (EC)<sup>13</sup>: the European Communities Act.

From the first moment, Britain’s partners accused the United Kingdom of maintaining a distant and obstructionist attitude. And the increasingly divergent views held by different sections of the British society on the advantages and disadvantages of this membership were aggravated. Within this context, the new Labour Government of Harold Wilson, elected in October 1974, pledged to immediately renegotiate the conditions of adhesion to the European Communities.<sup>14</sup>

The Labour Party had always feared the consequences of being in the common market, such as the difference regarding the prices of food under the European Common Agricultural Policy and the Commonwealth markets, much lower than the European ones, as well as the loss of economic sovereignty. Leaders of the Labour Government had also put forward the argument that the Conservatives had negotiated unfavourable terms for Britain in the Labour’s manifesto for the October 1974 general election.<sup>15</sup>

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<sup>11</sup> *Ibid.*

<sup>12</sup> Alexander, P. R. (2001). The Labour Government, Commonwealth Policy, and the Second Application to Join the EEC in May, A. (ed.), *Britain, The Commonwealth and Europe: The Commonwealth and Britain's Applications to Join the European Communities*. New York: Palgrave Macmillan, pp. 132-155.

<sup>13</sup> The European Communities was the collective term for the European Coal and Steel Community (ECSC), the European Economic Community (EEC), also known as the Common Market or the Single Market, and the European Atomic Energy Community (EAEC). All three of these institutions would later form part of what is now known as the European Union.

<sup>14</sup> Miller, V. (2015). The 1974-75 UK Renegotiation of EEC Membership and Referendum. Retrieved 11 February 2017 at <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7253>

<sup>15</sup> The Labour Party (1974). Britain will win with Labour: Labour Party Manifesto: October, 1974. Retrieved 11 February 2017 at <http://www.politicsresources.net/area/uk/man/lab74oct.htm>

In order to make conditions more favourable to Britain, Prime Minister Harold Wilson demanded the European Communities to reduce the British contribution to the Community budget. The Heads of Government of the EC Member States agreed to the British pretension in the Summit of Dublin celebrated on the 11<sup>st</sup> of March 1975.<sup>16</sup> However, Wilson was not totally satisfied with the result: 'I believe that our renegotiation objectives have been substantially though not completely achieved'.<sup>17</sup>

Moreover, the Labour's manifesto for the October 1974 general election had promised that if the Labour Party won, people would decide 'through the ballot box' whether Britain should stay in the European Communities on the new terms.<sup>18</sup> In the same sense, the White Paper of the 26<sup>th</sup> of February 1975, 'The Referendum on UK Membership of the European Communities'<sup>19</sup>, announced that a referendum would be held after the outcome of the renegotiation was known.

The referendum took place on the 5<sup>th</sup> of June 1975, and both the Labour Party and the new elected leader of the Conservative Party Margaret Thatcher openly recommended voting in favour of the continued membership on the basis that remaining in Europe will provide the United Kingdom with new trade opportunities, as British companies would have tariff-free access to the expanding European markets.<sup>20</sup>

The referendum result was not legally binding due to the concept of parliamentary sovereignty.<sup>21</sup> However, as a matter of fact, it was widely known that the final outcome would be accepted by the Government, as Prime Minister Harold Wilson had stated in a pamphlet: 'I ask you to use your vote. For it is your vote that will now decide. The Government will accept your verdict'.<sup>22</sup>

This was the first referendum in the United Kingdom. In total, over two-thirds of voters (67.2%) supported the continuation in the European Communities and only 32.8% voted against the continued membership.<sup>23</sup>

## 1.4 Britain's privileges over the other Community Members

As Margaret Thatcher became Prime Minister in May 1979, she relaunched the campaign to reduce the contribution of the United Kingdom to the Community budget

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<sup>16</sup> Council of the European Union (1975). European Council conclusions, 10-11 March 1975. Retrieved 11 February 2017 at <http://www.consilium.europa.eu/en/european-council/conclusions/1992-1975/>

<sup>17</sup> Prime Minister Harold Wilson's statement in the House of Lords on the 18<sup>th</sup> of March 1975; HC Deb 18 March 1975 cc1456-80.

<sup>18</sup> The Labour Party, *op. cit.* 15.

<sup>19</sup> UK Government (1975). The Referendum on UK Membership of the European Community, White Paper, Cm 5925. Retrieved 11 February 2017 at <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7253#fullreport>

<sup>20</sup> Williamson, A. (2015). The case for *Brexit*: lessons from the 1960s and 1970s. Retrieved 11 February 2017 at <http://www.historyandpolicy.org/policy-papers/papers/the-case-for-brexit-lessons-from-1960s-and-1970s>

<sup>21</sup> It is a principle of the UK constitution that makes Parliament the supreme legal authority in Britain, which can enact or repeal any law. In order to hold a referendum, an act of the Parliament is required.

<sup>22</sup> Labour Government's pamphlet advocating a vote to stay in the 'European Community (Common Market)' in the 1975 British Referendum on continuing British membership. Retrieved 11 February 2017 at <http://www.harvard-digital.co.uk/euro/pamphlet.htm>

<sup>23</sup> Miller, V. (2015), *op. cit.* 14.



because she was not satisfied with the outcome of the renegotiation carried out by the Labour leader Harold Wilson. Like Wilson, Thatcher complained that the vast majority of aid went to farmers,<sup>24</sup> and this barely benefited the British due to the fact that the United Kingdom had a small agricultural sector. In this regard, at the Dublin Summit of November 1979<sup>25</sup> Thatcher delivered one of her most famous sentences: 'I want my money back!'

The conflict was not resolved until the Summit of Fontainebleau in June 1984<sup>26</sup>, when Britain achieved the famous UK rebate, a financial mechanism that reduced the United Kingdom's contribution to the Community budget since 1985<sup>27</sup> and that has continued up to the present day.

The UK rebate was just the first special measure of United Kingdom, out of many others. Since then, Britain began to design its own Europe *à la carte*, and avoided participating in policies in which it had not any substantial interest.

For example, during the negotiation of the Treaty of Maastricht, also known as the Treaty on the European Union (TEU), signed in 1992 in order to create the European Union and to establish the single European currency (the euro), British Prime Minister John Major negotiated an opt-out from<sup>28</sup> this single currency and from the social policy, in the same way that Denmark did.<sup>29</sup> Both countries maintained their local currencies.

Moreover, the United Kingdom and Ireland were the only two European countries that opted out from the Schengen borderless area when this was incorporated into EU legislation by the Treaty of Amsterdam in 1997. The main point of the Schengen rules was to abolish border checks between the participating Member States in order to accelerate the movement of people and goods, with external border controls for travellers entering and exiting the area and common visas, but with no internal border controls.<sup>30</sup> The United Kingdom, however, wished to maintain its own borders and Ireland preferred to preserve its free movement arrangement with Britain, called the Common Travel Area.<sup>31</sup>

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<sup>24</sup> In fact, around 70% of the European Budget was used to finance the Common Agricultural Policy; European Union (2012). *The Common Agricultural Policy: A story to be continued*. Retrieved 11 February 2017 at [http://ec.europa.eu/agriculture/50-years-of-cap/files/history/history\\_book\\_lr\\_en.pdf](http://ec.europa.eu/agriculture/50-years-of-cap/files/history/history_book_lr_en.pdf)

<sup>25</sup> Council of the European Union (1979). *European Council conclusions, 29-30 November 1979*. Retrieved 11 February 2017 at <http://www.consilium.europa.eu/en/european-council/conclusions/1992-1975/>

<sup>26</sup> Council of the European Union (1984). *European Council conclusions, 25-26 June 1984*. Retrieved 11 February 2017 at <http://www.consilium.europa.eu/en/european-council/conclusions/1992-1975/>

<sup>27</sup> Council Decision 85/257/EEC, Euratom of 7 May 1985 on the Communities' system of own resources. Retrieved 12 February 2017 at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31985D0257>

<sup>28</sup> The 'opt-outs' are a means of ensuring that when a state does not wish to join the others in a particular field of EU policy, it can opt out, thus avoiding participating in it.

<sup>29</sup> Forster, A. (1999). *Britain and the Maastricht Negotiations*. London: Palgrave Macmillan, p. 67.

<sup>30</sup> EUR-Lex (2009). *The Schengen area and cooperation*. Retrieved 12 February 2017 at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV%3A133020>

<sup>31</sup> UK Visas and Immigration (2012). *Guidance: Common Travel Area (CTA)*. Retrieved 12 February 2012 at <https://www.gov.uk/government/publications/common-travel-area-cta/common-travel-area-cta>

In 1997 the United Kingdom also secured an EU agreement to give Britain the right to choose whether to take part in any new EU legislation regarding asylum and judicial cooperation in civil matters.<sup>32</sup> By the year 2007 this right to ‘opt in’ was broadened to cooperation in policing and criminal justice, meaning that the United Kingdom has the choice to opt into EU Judicial and Home Affairs (JHA) measures when it determines that it is in the national interest to do so,<sup>33</sup> but it is not bound by these measures when it does not opt in.

In addition, Britain secured a Protocol to the Charter of Fundamental Rights to the European Union along with Poland relating to the application of the Charter in their territories. Article 1(1) of this Protocol provides that the ‘Charter does not extend the ability of the Court of Justice of the European Union, or any court or tribunal of Poland or of the United Kingdom, to find that the laws, regulations or administrative provisions, practices or actions of Poland or of the United Kingdom are inconsistent with the fundamental rights, freedoms and principles that it reaffirms’. Article 1(2) enshrines that the Title IV of the Charter, which contains economic and social rights, does not create justiciable rights, unless Poland and the United Kingdom have provided for such rights in their national laws.

## 2. THE PATH TO *BREXIT*

As a result of the Maastricht Treaty, the European Communities became the European Union on the 1<sup>st</sup> of November 1993. This was illustrated by Article 1 of such Treaty: ‘By this Treaty, the HIGH CONTRACTING PARTIES establish among themselves a EUROPEAN UNION... on which the Member States confer competences to attain objectives they have in common’. The European Union hence marked ‘a new stage in the process of creating an ever closer union among the peoples of Europe’.<sup>34</sup>

However, as a matter of fact, the United Kingdom was not as willing as other Member States to achieve such union, following its traditional tendency against the EU integration project. This idea was highlighted by Professor Stephen George in his book *An Awkward Partner: Britain in the European Community*.<sup>35</sup>

Remarkably, after the Treaty on the European Union came into force two of the most relevant Eurosceptic<sup>36</sup> political parties, the UK Independence Party (UKIP) and the Referendum Party, were formed in the years 1993 and 1994 respectively. In the following years, UKIP was not as successful in gaining the UK general election due to the British first-past-the-post election system<sup>37</sup> as it was in the election to the European Parliament (EP). The reason was twofold. Firstly, following the European

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<sup>32</sup> Protocol on the position of the United Kingdom and Ireland adopted as part of the Amsterdam Treaty, signed on the 2<sup>nd</sup> of October 1997.

<sup>33</sup> Protocol (No. 21) to the EU Treaties, Articles 3 and 4.

<sup>34</sup> Article 1(2) of the Treaty on the European Union 1992.

<sup>35</sup> George, S. (1998). *An Awkward Partner: Britain in the European Community*, 3<sup>rd</sup> edn. London: Oxford University Press.

<sup>36</sup> Euroscepticism is the criticism of and strong opposition to the European Union.

<sup>37</sup> It is a voting method in which voters are required to indicate on the ballot the candidate of their choice, and the candidate who receives more votes than any other candidate wins.

Parliamentary Election Act of 1999, EP elections in the United Kingdom were held using a system of proportional representation<sup>38</sup>. Secondly, when it came to EP elections, voters were more focused on European issues as opposed to the national election. This is why UKIP achieved third place in Britain during the 2004 European election<sup>39</sup> and second position in 2009, Euroscepticism combined with anti-immigration<sup>40</sup> sentiments being the main driving forces of its success.<sup>41</sup>

The term *Brexit* was first used by Peter Wilding in a Euractiv blog post on the 15<sup>th</sup> of May 2012<sup>42</sup> with regard to a possible UK withdrawal from the European Union. It is a compound noun formed by fusing together the words 'Britain' and 'exit', and it derived from *Grexit*, which referred to the potential departure of Greece from the Eurozone in 2010.<sup>43</sup>

In January 2013, British Prime Minister David Cameron returned to the subject of the UK's departure from the European Union in his Bloomberg speech. He announced that the Conservative Government would hold an in/out referendum on EU membership during the early part of the next parliament if winning the 2015 general election, pointing that such referendum would take place after renegotiation of some key points.<sup>44</sup>

UKIP reached the top position in the 2014 EP election with 27.50% of the total vote<sup>45</sup> and it got 24 MEPs<sup>46</sup>, more than any other British party. This fact was strongly associated with the latter support for the leave campaign in the 2016 referendum.<sup>47</sup>

The Conservative Party led by Cameron unexpectedly won the 2015 UK general election with a majority<sup>48</sup> and subsequently the European Union Referendum Act 2015

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<sup>38</sup> Proportional representation is an electoral system in which the distribution of seats corresponds closely with the proportion of the total votes for each party. For example, if a party gained 30% of the total votes, a perfectly proportional system would allow them to gain 30% of the seats.

<sup>39</sup> BBC News (2004). European Election: United Kingdom Result. Retrieved 15 February 2017 at [http://news.bbc.co.uk/2/hi/in\\_depth/uk\\_politics/2004/vote\\_2004/default.stm](http://news.bbc.co.uk/2/hi/in_depth/uk_politics/2004/vote_2004/default.stm)

<sup>40</sup> The 2004 accession of 8 Eastern European countries (plus Cyprus and Malta) to the European Union was overshadowed by feared mass migration of workers from the East due to the EU's rules on free mobility of labour. While many EU countries imposed temporary restrictions on labour mobility, the United Kingdom did not impose any such restrictions.

<sup>41</sup> BBC News (2009). European Election 2009: UK Results. Retrieved 15 February 2017 at [http://news.bbc.co.uk/2/shared/bsp/hi/elections/euro/09/html/ukregion\\_999999.stm](http://news.bbc.co.uk/2/shared/bsp/hi/elections/euro/09/html/ukregion_999999.stm)

<sup>42</sup> Wilding, P. (2012). Stumbling towards the *Brexit*. Retrieved 14 February 2017 at <http://blogactiv.eu/blog/2012/05/15/stumbling-towards-the-brexit/>

<sup>43</sup> Hjelmggaard, K. and Onyanga-Omara, J. (2016). Explainer: The what, when and why of '*Brexit*'. Retrieved 14 February 2017 at <http://www.usatoday.com/story/news/world/2016/02/22/explainer-what-when-and-why-brexit/80723334/>

<sup>44</sup> BBC News (2013). David Cameron promises in/out referendum on EU. Retrieved 15 February 2017 at <http://www.bbc.com/news/uk-politics-21148282>

<sup>45</sup> BBC News (2014). Vote 2014: European election results. Retrieved 15 February 2017 at <http://www.bbc.com/news/uk-27407926>

<sup>46</sup> Members of the European Parliament (MEP) are the people who have been elected to serve as popular representatives in the European Parliament.

<sup>47</sup> Becker, S. O. and Fetzer T. (2016). Does Migration Cause Extreme Voting? Retrieved 16 February 2017 at [http://www2.warwick.ac.uk/fac/soc/economics/research/centres/cage/manage/publications/306-2016\\_becker\\_fetzer.pdf](http://www2.warwick.ac.uk/fac/soc/economics/research/centres/cage/manage/publications/306-2016_becker_fetzer.pdf)

<sup>48</sup> BBC News (2015). Conservatives win UK election. Retrieved 16 February 2017 at <http://www.bbc.com/news/election/2015>

was introduced to the British Parliament in order to enable the referendum announced by Cameron in 2013, favouring to remain in a renegotiated European Union.

Cameron sought to reform four key points: protection of the single market for Britain and other non-euro countries, boosting competitiveness by setting a target for the reduction of the burden of red tape<sup>49</sup>, exempting Britain from ‘ever-closer union’ and bolstering national Parliament, and restricting EU migrants' access to in-work benefits such as tax credits.<sup>50</sup>

The result of renegotiation came out on the 19<sup>th</sup> of February 2016, including changes on restricting in-work benefits for new EU immigrants,<sup>51</sup> stronger British sovereignty resulted from amending existing treaties to make it clear that the references to ‘ever closer union’ would not ever apply to Britain, and protection surrounding the Eurozone, namely based on the idea that that decisions would not be made favouring Eurozone Members over non-Euro countries. For example, non-Euro Members would not be asked to fund euro bailouts, like those paid during the Greek debt crisis.<sup>52</sup>

Then Cameron said that he had achieved the reforms that he wanted, claiming that such reforms would put the United Kingdom ‘in the driving seat’ of one of the world's biggest markets and create a ‘more flexible’ European Union.<sup>53</sup>

But some Eurosceptics, like Matthew Elliott, chief executive of the Vote Leave campaign, shared the view that Cameron ‘[had declared] victory but it [was] an entirely hollow one’.<sup>54</sup> In the same sense UKIP leader Nigel Farage tweeted: ‘This is a truly pathetic deal. Let's Leave the EU, control our borders, run our own country and stop handing £55m every day to Brussels. I believe in Britain. We are good enough to be an independent, self-governing nation outside of the EU. This is our golden opportunity’.<sup>55</sup>

## **2.1 The United Kingdom decision to withdraw from the EU: the referendum of June 2016**

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<sup>49</sup> In many cases, practices have become extremely complex, generating unnecessary regulatory burdens – so-called red tape.

<sup>50</sup> BBC News (2015). David Cameron sets out EU reform goals. Retrieved 16 February 2017 at <http://www.bbc.com/news/uk-politics-34770875>

<sup>51</sup> Although before they could be applied, the United Kingdom would have to get permission from the European Commission and then from the European Council; Spaventa, E. (2016). Explaining the EU deal: the emergency brake. Retrieved 16 February 2017 at <https://fullfact.org/europe/explaining-eu-deal-emergency-brake/>

<sup>52</sup> Council of the European Union (2016). European Council conclusions, 18-19 February 2016. Retrieved 17 February 2017 at <http://www.consilium.europa.eu/en/press/press-releases/2016/02/19-euco-conclusions/>

<sup>53</sup> Prime Minister David Cameron’s statement following European Council meeting on the 19<sup>th</sup> of February 2016. Retrieved 17 February 2017 at <https://www.gov.uk/government/speeches/pms-statement-following-european-council-meeting-19-february-2016>

<sup>54</sup> BBC News (2015). EU deal gives UK special status, says David Cameron. Retrieved 16 February 2017 at <http://www.bbc.com/news/uk-politics-35616768>

<sup>55</sup> *Ibid.*

On the 22<sup>th</sup> of February 2016 Cameron gave a speech in the House of Commons in which he announced the referendum date: 23<sup>rd</sup> of June 2016. He also commented the process that would be followed in the event that Britain voted against remaining in the European Union:

‘If the British people vote to leave, there is only one way to bring that about, namely to trigger article 50<sup>56</sup> of the treaties and begin the process of exit, and the British people would rightly expect that to start straight away. Let me be absolutely clear about how this works. It triggers a two-year time period to negotiate the arrangements for exit. At the end of this period, if no agreement is in place, then exit is automatic unless every one of the 27 other EU Member States agrees to a delay’.<sup>57</sup>

Prime Minister Cameron led the campaign for the United Kingdom to remain a member of the Union under the conditions negotiated by his Government, providing the electorate with abundant information about the special status of the United Kingdom in the European Union, the alternatives to membership and different analysis on the procedure for withdrawing and on the cooperation in the fields of justice and defence.<sup>58</sup> Both the Labour Party<sup>59</sup> and the Liberal Democrats<sup>60</sup> also supported the option to remain in the bloc.

The most influential national and international economic organisations such as the International Monetary Fund (IMF) and the Organisation for Economic Co-operation and Development (OECD) published some reports on the possible economic and financial consequences. Most of them forecasted a negative impact on the economy in the event of an effective withdrawal of the United Kingdom from the European Union.<sup>61</sup>

However, much of the media, and especially the newspaper industry, followed a pro-Leave line, with six out of nine newspapers showing a dominance of pro-Leave articles.<sup>62</sup>

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<sup>56</sup> He was referring to Article 50 of the Lisbon Treaty 2009, which amended the Maastricht Treaty 1992.

<sup>57</sup> Prime Minister David Cameron’s statement on the European Council on the 22<sup>th</sup> of February 2016. Retrieved 20 February 2017 at <http://www.parliament.uk/business/news/2016/february/statement-on-european-council-22-february-2016/>

<sup>58</sup> UK Government (2016). Why the Government believes that voting to remain in the European Union is the best decision for the UK. Retrieved 20 February 2017 at [http://webarchive.nationalarchives.gov.uk/20160815143715/https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/517014/EU\\_referendum\\_leaflet\\_large\\_print.pdf](http://webarchive.nationalarchives.gov.uk/20160815143715/https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/517014/EU_referendum_leaflet_large_print.pdf)

<sup>59</sup> Labour Party (2016). Labour In for Britain. The facts. Retrieved 20 February 2017 at <http://www.labour.org.uk/page/content/thefacts/>

<sup>60</sup> Liberal Democrats (2016). Why are Liberal Democrats campaigning to remain in Europe? Retrieved 20 February 2017 at <http://www.libdems.org.uk/europe-why-remain>

<sup>61</sup> OECD (2016). The Economic Consequences of *Brexit*: A Taxing Decision, OECD Economic Policy Paper No 16. Retrieved 20 February 2017 at <https://www.oecd.org/eco/The-Economic-consequences-of-Brexit-27-april-2016.pdf>

<sup>62</sup> Bennett, A. (2016). Here's where Britain's newspapers stand on the EU referendum. Retrieved 22 February 2017 at <http://www.telegraph.co.uk/news/0/heres-where-britains-newspapers-stand-on-the-eu-referendum/>

The question put to the electorate was: ‘Should the United Kingdom remain a member of the European Union or leave the European Union?’ The outcome was published on the morning of the 24<sup>th</sup> of June: 51.9% voted for the country to ‘Leave’ and 48.2% of voters decided to ‘Remain’.<sup>63</sup> England (53.4%) and Wales (52.5%) voted in favour of leaving while Scotland, Northern Ireland and Gibraltar backed remaining in the Union by 62%, 55.8% and 95.9% respectively.<sup>64</sup>

Slogans such as ‘Take back control’ and ‘Britain first’ had strong impact on important sectors of the electorate, which were more focused on immigration issues, the UK financial contribution to the EU budget and the democratic deficit in EU governance, rather than on the economic benefits of the EU membership.<sup>65</sup>

Given the unexpected result in the referendum, Cameron declared that he would resign, pointing that it would be for the incoming Prime Minister to invoke Article 50 of the Lisbon Treaty. He said that ‘A negotiation with the European Union will need to begin under a new Prime Minister, and I think it is right that this new Prime Minister takes the decision about when to trigger Article 50 and start the formal and legal process of leaving the EU’.<sup>66</sup>

Beside Cameron’s resignation, the idea of a second referendum was called for with over four million signatures, but the Government rejected it on the 9<sup>th</sup> of July 2016 on the basis that ‘33 million people had had their say and the decision must be respected’.<sup>67</sup> The UK Foreign Office also stated that:

‘The Prime Minister and Government have been clear that this was a once-in-a-generation vote and, as the Prime Minister has said, the decision must be respected. We must now prepare for the process to exit the EU and the Government is committed to ensuring the best possible outcome for the British people in the negotiations’.<sup>68</sup>

Another immediate consequence after the outcome of the referendum was the financial distress in both European and world stock markets and the fall of the sterling pound’s value to historical lows in comparison with other major currencies.<sup>69</sup>

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<sup>63</sup> For a more detailed breakdown across the United Kingdom: [http://www.bbc.com/news/politics/eu\\_referendum/results](http://www.bbc.com/news/politics/eu_referendum/results)

<sup>64</sup> *Ibid.*

<sup>65</sup> Fitzgibbon, J. (2016). How the *Brexit* outcome has changed our understanding of referendums. Retrieved 20 February 2017 at <http://www.referendumanalysis.eu/eu-referendum-analysis-2016/section-1-context/how-the-brexit-outcome-has-changed-our-understanding-of-referendums/>

<sup>66</sup> UK Government (2016). EU referendum outcome: PM statement, 24 June 2016. Retrieved 26 February 2017 at <https://www.gov.uk/government/speeches/eu-referendum-outcome-pm-statement-24-june-2016>

<sup>67</sup> Slawson, N. (2016). *Brexit*: no second EU referendum despite e-petition, says government. Retrieved 28 February 2017 at <https://www.theguardian.com/politics/2016/jul/09/government-dashes-hopes-of-second-eu-referendum-in-e-petition-response>

<sup>68</sup> *Ibid.*

<sup>69</sup> Hobolt, S. B. (2016). *The Brexit vote: a divided nation, a divided continent*. Journal of European Public Policy, 23 (9), pp. 1259-1277.

From the perspective of the European Union, there was a general feeling of regret and disappointment, but at the same time acceptance for the democratically reached decision.<sup>70</sup>

## 2.2 Application of Article 50 of the Lisbon Treaty

Since the Lisbon Treaty entered into force on the 1<sup>st</sup> of December 2009, the process of withdrawal from the Union has been governed by Article 50 of this Treaty, which enshrines that:

‘1. Any Member State may decide to withdraw from the Union in accordance with *its own constitutional requirements*.

2. A Member State which decides to withdraw *shall notify the European Council* of its intention. In the light of the guidelines provided by the European Council, *the Union shall negotiate and conclude an agreement with that State*, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article 218(3) of the Treaty on the Functioning of the European Union. It shall be concluded on behalf of the Union by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.

3. The Treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, *two years after the notification* referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period.

4. For the purposes of paragraphs 2 and 3, the member of the European Council or of the Council representing the withdrawing Member State shall not participate in the discussions of the European Council or Council or in decisions concerning it.

A qualified majority shall be defined in accordance with Article 238(3)(b) of the Treaty on the Functioning of the European Union.

5. If a State which has withdrawn from the Union asks to rejoin, its request shall be subject to the procedure referred to in Article 49’.

Therefore the process of withdrawal provided in Article 50 aims at ‘setting out the arrangements’ for the withdrawal of the Member State, while further ‘taking account of the framework of the future relationship with the Union’. This means that, in the *Brexit* case, the future UK-EU relationship is to be set out in an instrument separated from the withdrawal treaty due to the constitutional nature of both instruments.<sup>71</sup> The withdrawal treaty will be concluded solely by Britain and the European Union (without its Member States, as this is not to be a ‘mixed agreement’<sup>72</sup>), whereas the

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<sup>70</sup> Tell Cremades, M. and Novak, P. (2017). *Brexit and the European Union: General Institutional and Legal Considerations*. Retrieved 1 March 2017 at [http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL\\_STU\(2017\)571404](http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_STU(2017)571404)

<sup>71</sup> *Ibid.*

<sup>72</sup> Mixed agreements cover subject matters in respect of which both the European Union and the Member States have competence. For mixed agreements to take effect, the Member States as well as the European Union must sign and conclude/ratify them

instrument regulating the future relationship, which will have an impact on the existing rights and obligations of all Member States, will have to be concluded by the European Union as a bloc, each of its Members and the United Kingdom, as this will be a ‘mixed agreement’.<sup>73</sup>

Notably, the procedural consequence of ‘mixity’ is that Member States have to ratify the agreement according to their own constitutional ratification procedures,<sup>74</sup> and this may lead to the difficulty in reaching an agreement that benefits all parts involved. As pointed by Van der Loo and Blockmans:

‘In some cases, for example Belgium, this will require the consent of the constituting parts of the federation. When more than 35 national and regional parliaments are involved on the EU side alone, one can imagine that this renders the disentanglement of mixed agreements much more vulnerable, requiring negotiations that provide an opportunity for each of the respective third parties too to try and squeeze out a better deal’.<sup>75</sup>

The European Parliament adopted on the 28<sup>th</sup> of June 2016 a resolution highlighting that the will of the majority of the British people should be respected and calling for the activation of Article 50 of the Lisbon Treaty.<sup>76</sup>

David Cameron stood down on the 13<sup>th</sup> of July 2016 and Theresa May replaced him as Prime Minister. But Mrs. May made it clear that neither discussions with the European Union would start nor the UK Government would trigger Article 50 in 2016:

‘I want to work with... the European Council in a constructive spirit to make this a sensible and orderly departure... All of us will need time to prepare for these negotiations and the United Kingdom will not invoke Article 50 until our objectives are clear’.<sup>77</sup>

In order to leave the Union Britain has to do it in accordance with ‘its own constitutional requirements’. Nonetheless, the Constitution in the United Kingdom is unwritten, it is based on the Acts of Parliament, court judgments and conventions. The fact that no legal precedence about this issue existed generated mass uncertainty and debate.

Opinions differed on whether notification to the European Council could be given by the UK Government without the explicit approval of the British Parliament. The Government’s view was clear: the decision to leave the EU was taken by the public in

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<sup>73</sup> Tell Cremades, M. and Novak, P., *op. cit.* 70.

<sup>74</sup> Van der Loo, G. and Blockmans, S. (2016). The impact of *Brexit* on the EU’s International Agreements. Retrieved 6 March 2017 at <https://www.ceps.eu/publications/impact-brexit-eu%E2%80%99s-international-agreements>

<sup>75</sup> *Ibid.*

<sup>76</sup> European Parliament Resolution of 28 June 2016 on the Decision to leave the EU resulting from the UK referendum. Retrieved 6 March 2017 at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2016-0294+0+DOC+XML+V0//EN>

<sup>77</sup> Sparrow, A. and Phipps, C. (2016). Theresa May arrives in Berlin for *Brexit* talks with Merkel – as it happened. Retrieved 6 March 2017 at <https://www.theguardian.com/politics/live/2016/jul/20/germany-uk-brexit-theresa-may-angela-merkel-politics-live>



the referendum on the 23<sup>rd</sup> of June 2016 and the UK Government's executive powers, under the royal prerogative, were sufficient to give notice to the EU on behalf of the cabinet.<sup>78</sup>

This approach was challenged by a number of claimants, who brought the case before the High Court of England and Wales on the basis that 'it would frustrate the rights and duties enacted by Parliament in the European Communities Act 1972, and would be inconsistent with the object and purpose of that Act, namely to give effect to the rights and duties consequent on membership of the EU'.<sup>79</sup> On the 3<sup>rd</sup> of November 2016, the Court ruled that Britain required the Parliament's approval (the majority of all MPs voting in favour in both the House of Commons and the House of Lords) before formally starting the process to leave the EU, describing the passing of the European Communities Act 1972 as the major step of 'switching on the direct effect of EU law in the national legal systems'. The Court also explained that it is implausible that Parliament's intention was that the Crown should be able to switch it off unilaterally by exercise of its prerogative powers.<sup>80</sup>

The UK Government appealed against this ruling and the Supreme Court's decision was given on the 24<sup>th</sup> of January 2017, upholding the judgment of the High Court on the basis that an act of Parliament was required to invoke Article 50. The Supreme Court also concluded that legislatures in Scotland, Wales and Northern Ireland had no legal right to veto the Act.<sup>81</sup>

After this dispute, David Davis, Secretary of State for Exiting the European Union, formally introduced the 'Act to Confer power on the Prime Minister to notify, under Article 50(2) of the Treaty on European Union, the United Kingdom's intention to withdraw from the EU', for first reading in the House of Commons on the 26<sup>th</sup> of January 2017. The vote for the bill's second reading was carried on the 1<sup>st</sup> of February by 498 to 114 in favour and, at third reading, the Commons passed the bill by 494 to 122 on the 8<sup>th</sup> of February, sending it for debate in the House of Lords.<sup>82</sup> The upper chamber made two amendments based on the guarantee of the rights of EU citizens living in Britain and giving lawmakers more powers to reject the final terms of negotiations with the bloc, but Mr. Davis stated that the UK Government aimed to overturn the Lords amendments in the House of Commons.<sup>83</sup> On the 13<sup>th</sup> of March the Commons voted against the first Lords amendment by 335 to 287 and against the

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<sup>78</sup> Herbert Smith Freehills LLP (2016). Judicial review litigation over the correct constitutional process for triggering Article 50 TEU. Retrieved 6 March 2017 at <http://www.lexology.com/library/detail.aspx?g=f43e102f-ea09-4449-b781-a35ecfe628fe>

<sup>79</sup> *Ibid.*

<sup>80</sup> *R (Miller and Dos Santos) v Secretary of State for Exiting the European Union* [2016] EWHC 2768 (Admin), para. 6.

<sup>81</sup> *R (Miller) v Secretary of State for Exiting the European Union* [2017] UKSC 5.

<sup>82</sup> UK Parliament (2017). European Union (Notification of Withdrawal) Bill – House of Commons Hansard. Retrieved 9 February 2017 at [https://hansard.parliament.uk/commons/2017-02-08/debates/B9545C0C-B593-43E4-A12E-2AD5D47DEFE4/EuropeanUnion\(NotificationOfWithdrawal\)Bill](https://hansard.parliament.uk/commons/2017-02-08/debates/B9545C0C-B593-43E4-A12E-2AD5D47DEFE4/EuropeanUnion(NotificationOfWithdrawal)Bill)

<sup>83</sup> Hughes, L. (2017). Article 50 bill: Theresa May suffers defeat on 'meaningful vote' amendment as peers back the change by 366 to 268. Retrieved 9 March 2017 at <http://www.telegraph.co.uk/news/2017/03/07/brexit-lords-vote-article-50-amendment-watch-live/>

second by 331 to 286.<sup>84</sup> As a result, the bill was finally passed into law unamended by both Houses of Parliament as the European Union (Notification of Withdrawal) Act 2017, receiving royal assent on the 16<sup>th</sup> of March<sup>85</sup> and hence conferring Prime Minister Theresa May the power to invoke Article 50.

Meanwhile the legislative procedure was taking place, the UK Government published a white paper reporting the twelve points which were set out by Prime Minister Theresa May in her speech at Lancaster on the 17<sup>th</sup> of January 2017.<sup>86</sup> The document called for a new, positive and constructive partnership ‘in the mutual interest’ of the United Kingdom and the European Union for when the United Kingdom left the single market that included ‘providing certainty and clarity wherever possible, ensuring free trade with European markets, controlling immigration and taking control of our own law’.<sup>87</sup>

Theresa May signed the letter invoking Article 50 of the Lisbon Treaty on the 28<sup>th</sup> of March 2017 and the letter was delivered on the 29<sup>th</sup> March by the UK's envoy to the European Union, Tim Barrow, to the President of the European Council Donald Tusk,<sup>88</sup> firing the starting gun on the two-year departure process from the EU.

### 2.3 Revocability of notification?

There is a slight possibility that, in the course of the negotiations, Britain could revoke or withdraw its notification. The Lisbon Treaty does not provide explicitly for such a situation, and it has not been dealt in the academic literature either, as it has been generally assumed that a withdrawal decision would be irrevocable.

The issue is controversial. On the one hand, Article 68 of the Vienna Convention on the Law of Treaties of 1969 enshrines the general rule that ‘a notification or instrument provided for in Article 65 or 67 [regarding the procedures for withdrawal and termination] may be revoked at any time before it takes effect’. Several legal experts support this argument on the basis that ‘there is nothing in Article 50 formally to prevent a Member State from reversing its decision to withdraw in the course of the negotiations’<sup>89</sup>, together with the idea that the Treaty is generally aimed at preserving the Union.

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<sup>84</sup> UK Parliament (2017). European Union (Notification of Withdrawal) Bill: Commons Stages. Retrieved 18 March 2017 at <http://www.parliament.uk/business/news/2017/january/commons-european-union-notification-of-withdrawal-bill/>

<sup>85</sup> *Ibid.*

<sup>86</sup> HM Government (2017). The United Kingdom's Exit from and New Partnership with the European Union, White Paper, Cm 9417. Retrieved 2 February 2017 at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/589189/The\\_United\\_Kingdoms\\_exit\\_from\\_and\\_partnership\\_with\\_the\\_EU\\_Print.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/589189/The_United_Kingdoms_exit_from_and_partnership_with_the_EU_Print.pdf)

<sup>87</sup> *Ibid.*

<sup>88</sup> BBC News (2017). Article 50: UK set to formally trigger *Brexit* process. Retrieved 11 March 2017 at <http://www.bbc.com/news/uk-politics-39422353>

<sup>89</sup> 11<sup>th</sup> Report of the House of Lords. The process of withdrawing from the European Union, HL, 138, 4 May 2016. Retrieved 11 March 2017 at <https://www.publications.parliament.uk/pa/ld201516/ldselect/ldcom/138/138.pdf>

On the other hand, the fact that ‘no reference to such a contingency is made in Article 50 of the Lisbon Treaty should not lead to the conclusion that a revocation is allowed unless the opposite can be inferred’.<sup>90</sup> Some have noted that the reference in Article 50(6) allowing the withdrawing state to reapply for membership can be interpreted to mean that the drafters of the Treaty took into consideration the possibility of such state changing its mind, and provided that a new application would be the only possible answer.<sup>91</sup>

The matter emerged briefly during the court action on *Brexit* mentioned above. In this instance, the High Court stated the issue as ‘common ground between the parties’, pointing that both parties had agreed that notice under Article 50 of the Lisbon Treaty is definite and cannot be conditional.<sup>92</sup> However, the High Court did not provide any final solution to this issue due to the fact that it was not considered relevant to the case.

In any circumstance, should the problem arise in practice, the Court of Justice of the European Union (CJEU) will ultimately make a determination, as no national court has jurisdiction to interpret Article 50.

## 2.4 The EU facing the withdrawal agreement’s negotiations

The European Union named its chief *Brexit* negotiator, Michel Barnier, in late July 2016, in order to be prepared for the EU-UK negotiations.

After many months of debate and following the formal activation of Article 50 of the Lisbon Treaty by Theresa May, the European Parliament adopted a resolution on the 5<sup>th</sup> of April 2017 officially laying down its key principles and conditions for its approval of the UK's withdrawal agreement, noting that any such agreement at the end of UK-EU negotiations will need to be approved by the European Parliament.<sup>93</sup> MEPs stressed the importance of ensuring equal and fair treatment for EU citizens living in the United Kingdom and British citizens living in the Union.<sup>94</sup> They also pointed out that Britain remains a EU member until its official departure, and that this entails rights but also obligations, including financial commitments which may run beyond the withdrawal date.<sup>95</sup>

The EP resolution warns against any trade-off between security and the future EU-UK economic relationship, opposes any sort of ‘cherry picking’ or a piecemeal economic relationship based on sector-specific deals, and reiterates the indivisibility of the four freedoms of the single market –free movement of goods, capital, services, and people–.<sup>96</sup> Finally, the resolution says that discussions on possible transitional

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<sup>90</sup> Tell Cremades, M. and Novak, P., *op. cit.* 70.

<sup>91</sup> Lazowski, A. (2012). *Withdrawal from the European Union and Alternatives to Membership*, European Law Review, Vol. 37, pp. 523-540.

<sup>92</sup> *R (Miller and Dos Santos) v Secretary of State for Exiting the European Union*, *op. cit.* 80.

<sup>93</sup> European Parliament News (2017). Red lines on *Brexit* negotiations. Retrieved 8 April at <http://www.europarl.europa.eu/news/en/news-room/20170329IPR69054/red-lines-on-brexit-negotiations>

<sup>94</sup> *Ibid.*

<sup>95</sup> *Ibid.*

<sup>96</sup> *Ibid.*

arrangements could only begin when ‘substantial progress’ has been made in talks on how the Britain is going to leave the Union.<sup>97</sup>

Moreover, the European Council published its guidelines for *Brexit* negotiations on the 29<sup>th</sup> of April, in which it welcomes the resolution of the European Parliament.<sup>98</sup> In this document the Council makes clear that ‘the Union's overall objective in these negotiations will be to preserve its interests, those of its citizens, its businesses and its Member States’.<sup>99</sup> It also provides the EU core principles: the four freedoms of the single market are indivisible and separate negotiations between individual Member States and Britain on matters pertaining to the withdrawal of the United Kingdom from the European Union could not be made. The guidelines also mention that the first phase of the negotiations will aim to provide as much clarity and legal certainty to citizens, businesses, stakeholders and international partners on the immediate effects of the UK’s withdrawal from the bloc, and to settle the disentanglement of Britain from the Union and from all the rights and obligations that derive from commitments undertaken as a Member State. They add that ‘an overall understanding on the framework for the future relationship should be identified during a second phase of the negotiations under Article 50 of the Lisbon Treaty’, finally stating that the European Union stands ready to engage in preliminary and preparatory discussions as soon as the European Council decides that sufficient progress has been made in the first phase towards reaching a satisfactory agreement on the arrangements for an orderly withdrawal.<sup>100</sup>

More recently the Council, meeting in a EU27 format (without Britain), adopted a decision on the 22<sup>th</sup> of May authorising the opening of *Brexit* negotiations with the United Kingdom and nominating the European Commission as the EU negotiator institution.<sup>101</sup> In the same day the Council published the ‘Directives for the negotiation of an agreement with the United Kingdom of Great Britain and Northern Ireland setting out the arrangements for its withdrawal from the European Union’<sup>102</sup> (a mandate for the Commission), intended for the first phase of the negotiations starting on the 19<sup>th</sup> of June 2017.<sup>103</sup> The Directives mainly describe the nature of the withdrawal agreement, which is to be solely negotiated and concluded by the Union, and the content which will have to be necessary included in it, such as the withdrawal date (30<sup>th</sup> of March 2019 unless both sides agree to an extension, as provided in Article 50 of the Lisbon Treaty), the citizens’ rights to be covered, the financial settlement, the situation of goods placed on the market, the outcome of procedures based on Union law and other administrative issues relating to the functioning of the Union. The agreement should also ‘set up an institutional structure to ensure an effective

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<sup>97</sup> *Ibid.*

<sup>98</sup> European Council (2017). European Council (Art. 50) guidelines for *Brexit* negotiations. Retrieved 30 April at <http://www.consilium.europa.eu/en/press/press-releases/2017/04/29-euco-brexit-guidelines/>

<sup>99</sup> *Ibid.*

<sup>100</sup> *Ibid.*

<sup>101</sup> European Council (2017). Council (Art 50) authorises the start of *Brexit* talks and adopts negotiating directives. Retrieved 24 May 2017 at <http://www.consilium.europa.eu/en/press/press-releases/2017/05/22-brexit-negotiating-directives/>

<sup>102</sup> European Council (2017). General Affairs Council (Art. 50), 22/05/2017. Retrieved 24 May 2017 at <http://www.consilium.europa.eu/en/meetings/gac/2017/05/22/>

<sup>103</sup> Boffey, D. (2017). *Brexit* negotiations set to start on 19 June. Retrieved 22 May 2017 at <https://www.theguardian.com/politics/2017/may/19/brexit-uk-eu-talks-start-19-june>

enforcement of the commitments under the Agreement, bearing in mind the Union's interest in effectively protecting its autonomy and its legal order, including the role of the Court of Justice of the European Union'.<sup>104</sup>

### 3. A EUROPEAN UNION WITHOUT THE UNITED KINGDOM

#### 3.1 The European response

Aware of the importance of this historical vote, some EU institutions emphasized the need for stronger measures within the Union itself. 'If the European Union is to boost its capacity to act, restore citizens' trust and make the euro zone economy more resilient to outside shocks, it needs to make full use of the Lisbon Treaty. But to go further, it needs to reform itself more fundamentally'.<sup>105</sup> This was the main message of three resolutions exploring the future development of the bloc approved by the European Parliament on the 16<sup>th</sup> of February 2017.<sup>106</sup> Some of the changes include 'creating an EU finance minister and giving the EU Commission the power to formulate and give effect to a common EU economic policy, backed up by a euro-area budget... turning the Council of Ministers into a genuine second legislative chamber, and its configurations into preparatory bodies similar to Parliament's committees', and 'reducing the size of the College of EU Commissioners substantially, including by cutting the number of Vice-Presidents to two'.<sup>107</sup>

Furthermore, immediately after Theresa May formally triggered Article 50, the European Commission outlined five scenarios for the future of the European Union in the White Paper on the future of the European Union published on the 1<sup>st</sup> of April 2017.<sup>108</sup> The paper is an attempt by the Commission, led by its President Jean-Claude Juncker, to shape a major debate about the EU's future reforms after the *Brexit* vote.

It starts acknowledging the existential struggle that the European Union is facing due to crises over *Brexit*, migration and the eurozone. 'Europe's challenges show no sign of abating', the paper noted.<sup>109</sup> Then the paper introduces the five scenarios.

The first scenario, named 'carrying on', assumes that the remaining Member States would stick on the current course, continuing to focus on reforms, jobs, growth and investment.<sup>110</sup> There would be only 'incremental progress' on strengthening the single currency, and citizens' rights derived from EU law would be upheld. The second one, 'nothing but the single market', would clearly put the single market in the EU's focus.<sup>111</sup> This scenario contains plans to perform harder work on migration, security or defence but it is more reluctant to agree new common rules on the mobility of workers,

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<sup>104</sup> *Ibid.*

<sup>105</sup> European Parliament News (2017). Parliament sets out its vision for the future of Europe. Retrieved 11 March 2017 at <http://www.europarl.europa.eu/news/en/news-room/20170210IPR61812/parliament-sets-out-its-vision-for-the-future-of-europe>

<sup>106</sup> *Ibid.*

<sup>107</sup> *Ibid.*

<sup>108</sup> European Commission (2017). White Paper on the future of Europe: Avenues for unity for the EU at 27. Retrieved 2 April 2017 at [http://europa.eu/rapid/press-release\\_IP-17-385\\_en.htm](http://europa.eu/rapid/press-release_IP-17-385_en.htm)

<sup>109</sup> *Ibid.*

<sup>110</sup> *Ibid.*

<sup>111</sup> *Ibid.*

so free movement of workers and services would not be fully guaranteed under this path. According to the third one, ‘those who want to do more’, if the Member States want to work more together with others, they could.<sup>112</sup> Willing groups of countries could form coalitions on key areas, such as defence, internal security, taxation and justice. Relations with third countries, including trade negotiations, would remain managed at the EU level on behalf of all Member States. Under the scenario number four, known as ‘doing less, more effectively’, the European Union would focus on a reduced agenda: technological innovation, trade, security, immigration, borders and defence.<sup>113</sup> It would leave other areas, such as regional development, health, employment, social policy, to the Member States' own governments, and it would also leave counter-terrorism work, asylum claims and border control to be tackled by EU agencies. Finally, the fifth scenario, ‘doing much more together’, observes EU members agreeing to expand the Union's role. Members would agree ‘to share more power, resources and decision-making across the board’. The single currency would be in the spotlight, and EU law would have a much larger role. Decisions and actions would also be taken more quickly.

However, the paper warns that ‘there is the risk of alienating parts of society which feel that the EU lacks legitimacy or has taken too much power away from national authorities’.

‘I shall not tell you my absolute preference today, because it is not up to me all to take this decision’, Juncker said in the European Parliament’s debate on the White Paper on the future of the European Union,<sup>114</sup> inviting the European Parliament, national parliaments, governments and citizens to participate in the debate.

Some lead MEPs from Parliament’s political groups welcomed the Commission’s decision to outline five possible paths for the European Union to take in the coming years, while others showed dissatisfaction with it for not picking a clear preferred path or providing concrete examples.<sup>115</sup>

### **3.2 The ‘soft’ and ‘hard’ *Brexit***

Since Britain’s decision to withdraw from the EU in June 2016 speculations immediately remained over what kind of relationship the United Kingdom would develop with their partners after leaving the bloc.

There are a several possible post-EU arrangements for both the United Kingdom and the European Union which are still being discussed. Although there are no definitive guidelines yet, analysts have mostly categorised the possible exit strategies into two broad types: ‘hard’ and ‘soft’.

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<sup>112</sup> *Ibid.*

<sup>113</sup> *Ibid.*

<sup>114</sup> European Parliament News (2017). Future of the EU: MEPs discuss five scenarios set out by Jean-Claude Juncker. Retrieved 2 April 2017 at <http://www.europarl.europa.eu/news/en/news-room/20170228IPR64287/future-of-the-eu-meps-discuss-five-scenarios-set-out-by-jean-claude-juncker>

<sup>115</sup> *Ibid.*

Both terms were coined more than a year before the referendum in a report to HSBC by Simon Wells and Liz Martins of February 2015.<sup>116</sup> In the report, the economists distinguished between hard and soft exits from the Union, pointing out that whereas the former would be a ‘huge risk’ and ‘operationally complicated’, the latter would be ‘less risky, but maintains much of the *status quo*’.<sup>117</sup>

Adopting the same terminology, the UK Parliament produced a *Brexit* glossary<sup>118</sup> in order to clarify the jargon being used about Britain’s departure from the European Union.

Desirable by many who voted to remain in the Union, the soft *Brexit* approach would leave the United Kingdom's relationship with the European Union close to the existing arrangements. It is true that Britain would no longer be a member of the European Union and would not have a seat on the European Council, but it would still keep access to the European single market. By words of the UK Parliament, soft *Brexit* would be ‘a situation in which the UK leaves the EU but negotiates continued membership of the European Economic Area and largely staying in the single market while giving up influence over single market rules’.<sup>119</sup> National models which have adopted this kind of deal include Norway, Iceland and Liechtenstein, which are not Members of the EU but have access to the single market by being part of the European Economic Area. In return, these states must make payments to EU budgets and accept the ‘four freedoms’ of movement of goods, services, capital and people.

As Britain would observe the four freedoms and would have access to the single market, soft *Brexit* would mean in practice continued free access for European nationals to work and settle in the United Kingdom, British trade of goods and services with the remaining EU states on a tariff-free basis and ‘passporting rights’<sup>120</sup> for financial firms to sell services and operate branches in the EU.<sup>121</sup> Moreover, provided that Britain would remain within the EU's customs union, exports would not be subject to border checks.

On the contrary, hard *Brexit*, as defined by the UK Parliament, would be ‘a situation in which the UK leaves the EU swiftly and probably with a free trade agreement (FTA) with the EU. A very hard *Brexit* would involve resorting to World Trade Organisation (WTO) rules’.<sup>122</sup> According to this view, the United Kingdom would undoubtedly give up full access to the EU's single market in order to have full

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<sup>116</sup> Wells, S. and Martins, L. (2015). A very British dilemma. Retrieved 14 March 2017 at <http://www.capitalsynthesis.com/wp-content/uploads/2015/03/HSBC-FX-GBPelections-10-3-15.pdf>

<sup>117</sup> *Ibid.*

<sup>118</sup> Gadd, E. (2017). *Brexit* Glossary. Retrieved 14 March 2017 at <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7840#fullreport>

<sup>119</sup> *Ibid.*

<sup>120</sup> The EU's passporting rules allow businesses to sell services across the union from anywhere within it and only require companies to be regulated in one country, rather than everywhere they operate. Normally, UK financial firms have been able to provide a range of financial services anywhere in the EU and in the wider European Economic Area (EEA) while being based in the United Kingdom and regulated by UK authorities.

<sup>121</sup> Sims, A. (2016). What is the difference between hard and soft *Brexit*? Everything you need to know. Retrieved 14 March 2017 at <http://www.independent.co.uk/news/uk/politics/brexit-hard-soft-what-is-the-difference-uk-eu-single-market-freedom-movement-theresa-may-a7342591.html>

<sup>122</sup> Gadd, E. *op. cit.* 118.

control over its borders and it would withdraw from the EU's customs union, meaning this in practice refusing the free movement of people, trading with the European Union as if it were any other nation, losing its passporting rights and a significant increase in bureaucratic checks on goods passing through ports and airports.<sup>123</sup>

After many months of uncertainty, Theresa May finally put an end to speculation over what kind of *Brexit* would try to seek in her speech at Lancaster on the 17<sup>th</sup> of January 2017. Both in this speech and in the white paper of the UK Government that was published after the House of Commons authorised Mrs. May to invoke Article 50<sup>124</sup>, Britain set out its *Brexit* plans over twelve points, amongst which the most relevant were the commitments for the United Kingdom to leave the EU's single market, to withdraw from the customs union and to bring an end to the jurisdiction of the Court of Justice of the European Union in the United Kingdom.<sup>125</sup> This is clearly a hard *Brexit* approach. However, in her letter to Donald Tusk invoking Article 50 Theresa May adopted a conciliatory tone, which was said to be polite but forceful compared to speeches she has given earlier. In the letter, she emphasized post-*Brexit* cooperation and her sincere wish that the European Union succeeds and prospers in the future.<sup>126</sup>

Mrs. May's real plan for hard *Brexit* rapidly got back on track just the day after delivering such letter, when the UK Government published details of its 'Great Repeal Bill'.<sup>127</sup> 'We will end the supremacy of the EU law', said the Secretary of State for Exiting the European Union David Davis.<sup>128</sup>

After the majority of voters said 'Leave' in the referendum of June 2016, the idea of ending the European Union's legal supremacy gradually became prominent in the UK Government's agenda.

In October 2016, the UK Government promised a Great Repeal Bill which would abolish the European Communities Act 1972, the historic law that took Britain into the Union and that gives EU law instant effect in this country, and that would empower the UK Parliament to absorb parts of EU legislation into UK law and to eliminate the elements that it does not want to preserve.<sup>129</sup> Then, until the United Kingdom actually leaves, EU law would continue to apply. But after leaving, the Great Repeal Act would come into force.<sup>130</sup>

In April 2017, Theresa May called a snap general election to be held on the 8<sup>th</sup> of June 2017, claiming that divisions at Westminster risked hampering the *Brexit*

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<sup>123</sup> Sims, A. *op. cit.* 121.

<sup>124</sup> HM Government, *op. cit.* 86.

<sup>125</sup> BBC News (2017). *Brexit*: UK to leave single market, says Theresa May. Retrieved 15 March 2017 at <http://www.bbc.com/news/uk-politics-38641208>

<sup>126</sup> BBC News, *op. cit.* 88.

<sup>127</sup> UK Government (2017). Legislating for the United Kingdom's withdrawal from the European Union, White Paper, Cm 9446. Retrieved 15 March 2017 at <https://www.gov.uk/government/publications/the-great-repeal-bill-white-paper>

<sup>128</sup> BBC News (2017). *Brexit*: UK sets out plans to replace all EU laws. Retrieved 3 April 2017 at <http://www.bbc.co.uk/news/uk-politics-39439554>

<sup>129</sup> *Ibid.*

<sup>130</sup> BBC News (2017). Great Repeal Bill: All you need to know. Retrieved 3 April 2017 at <http://www.bbc.com/news/uk-politics-39266723>



negotiations.<sup>131</sup> ‘The country is coming together but Westminster is not... The division in Westminster will risk our ability to make a success of *Brexit*’, Mrs. May said.<sup>132</sup>

Given this context, all political parties launched their manifestos. In relation to the UK’s withdrawal, Labour’s Manifesto, ‘Negotiating *Brexit*’, aimed at dropping the Conservatives’ Great Repeal Bill, with a strong emphasis on retaining the single market and the customs union.<sup>133</sup> Labour also rejected ‘no deal’ as a possible option. On the opposite, the Conservative Manifesto, ‘Forward Together, Our Plan for a Stronger Britain and a Prosperous Future’, sought a new ‘deep and special partnership with the European Union’, while leaving the single market and customs union and maintaining a common travel area with a ‘frictionless’ border with Ireland. The Conservative approach also defended that ‘no deal is better than a bad deal’ for the United Kingdom.<sup>134</sup> The Liberal Democrats’ central pledge was giving voters another say on *Brexit* with a second referendum, with an option of staying in the European Union, at the same time that it pushed for the membership of the single market and the customs union and for the protection of rights for EU citizens living in Britain and UK citizens living abroad.<sup>135</sup>

The result was that the Conservatives not only lost 13 seats since 2015 but also lost their parliamentary majority and had to turn to the Democratic Unionist Party (DUP) to support them in forming a new government.<sup>136</sup> The Labour, in the second position after the Conservative Party, were the most benefited by the election, as they gained 30 seats at the expense of all of their rivals.<sup>137</sup>

The deal to be reached by the Conservatives and the DUP, which is expected sooner rather than later, is of paramount importance as it challenges Mrs. May’s hard *Brexit* approach in favour of a softer *Brexit*, with particular emphasis on not disrupting movement across the Irish border.<sup>138</sup>

Although the DUP was the only party in Northern Ireland to campaign for the departure from the European Union in last year’s referendum, its leader Arlene Foster never considered leaving the single market. ‘No-one wants to see a hard *Brexit*, what we want to see is a workable plan to leave the European Union, and that’s what the national vote was about... therefore we need to get on with that’, she said in an

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<sup>131</sup> Boyle, D. and Maidment, J. (2017). Theresa May announces snap general election on June 8 to 'make a success of *Brexit*'. Retrieved 20 April 2017 at <http://www.telegraph.co.uk/news/2017/04/18/breaking-theresa-may-make-statement-downing-street-1115am1/>

<sup>132</sup> *Ibid.*

<sup>133</sup> Labour Party (2017). Negotiating *Brexit*. Retrieved 2 June 2017 at <http://www.labour.org.uk/index.php/manifesto2017/brexit>

<sup>134</sup> Conservative and Unionist Party (2017). Forward Together, Our Plan for a Stronger Britain and a Prosperous Future. Retrieved 2 June 2017 at <https://www.conservatives.com/manifesto>

<sup>135</sup> Liberal Democrats (2017). Our Manifesto. Retrieved 2 June 2017 at <http://www.libdems.org.uk/manifesto>

<sup>136</sup> BBC News (2017). Results of the 2017 General Election. Retrieved 10 June 2017 at <http://www.bbc.com/news/election/2017/results>

<sup>137</sup> *Ibid.*

<sup>138</sup> Telegraph Reporters (2017). What will the DUP's Arlene Foster ask for in deal with Theresa May? Retrieved 13 June 2017 at <http://www.telegraph.co.uk/news/0/will-dups-arlene-fosterask-deal-theresa-may/>

interview for Sky News.<sup>139</sup> ‘We need to do it in a way that respects the specific circumstances of Northern Ireland, and, of course, our shared history and geography with the Republic of Ireland’, she added.<sup>140</sup>

Instead, DUP advocates for a comprehensive free trade and customs agreement with the bloc and for an arrangement to facilitate ease of movement of people, goods and services, as it has to be heard in mind that one-third of the Northern Ireland exports in 2015 went to the Republic of Ireland, which is already a EU Member.<sup>141</sup>

### 3.3 Economical, legal, political and institutional effects

It has repeatedly been noted that Britain has not actually left the European Union yet. The real change may only happen once it does. The current uncertainty, ahead of talks between the United Kingdom and the rest of the Union over what form *Brexit* will take, has been an issue for many experts, politics and the mass media, that have tried to warn, inform and explain the consequences that *Brexit* is causing and may cause both for Britain and the rest of the Union.

#### 3.3.1 Economy

The European Union is facing a very important challenge: the departure of one of its largest and most important Member States. Britain is the fifth largest economy in the world and the second largest in the European Union.<sup>142</sup> However, all studies agree that the losses will be considerably larger for the United Kingdom than for the other 27 Members of the Union.<sup>143</sup>

Theresa May and her cabinet want to launch the United Kingdom towards a hard *Brexit* that would take Britain outside the single market and the customs union, giving up the free space of internal borders and regulatory obstacles where people, goods, capital and services may move freely. Nonetheless, this approach was challenged after the outcome of the UK general election of June 2017, as DUP does not support leaving the single market.

Belonging to this kind of market offers evident economic advantages, such as the passporting rights that have already been mentioned. That is why until the moment of signing the letter invoking Article 50, Theresa May insisted that she intended to control the entry of Europeans into the United Kingdom without leaving such market.

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<sup>139</sup> Allen, E. (2017). How will the general election result affect *Brexit*? Retrieved 13 June 2017 at <http://www.telegraph.co.uk/news/0/will-general-election-result-affect-brexit/>

<sup>140</sup> *Ibid.*

<sup>141</sup> Stennett, A. (2016). The EU referendum and potential implications for Northern Ireland. Retrieved 13 June 2017 at <http://www.niassembly.gov.uk/globalassets/documents/raise/publications/2016/eti/2116.pdf>

<sup>142</sup> Gray, A. (2017). The world’s 10 biggest economies in 2017. Retrieved 3 April 2017 at <https://www.weforum.org/agenda/2017/03/worlds-biggest-economies-in-2017/>

<sup>143</sup> Emerson, M., Busse, M., Di Salvo, M., Gros, D. and Pelkmans, J. (2017). An Assesment of the Economic Impact of *Brexit* on the EU27. Retrieved 5 April 2017 at [http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL\\_STU\(2017\)595374](http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_STU(2017)595374)

But the European Union repeatedly emphasized that the four fundamental freedoms of movement are ‘indivisible’.<sup>144</sup>

The United Kingdom will now have to negotiate a new free trade agreement with Brussels, which May wants to be ‘bold and ambitious’ and not a scrap of one of those that the European Union actually has with countries such as Iceland, Liechtenstein, Norway or Switzerland, that participate in the single market but are also abided by the decisions of the European Council.<sup>145</sup>

Nonetheless, it seems unlikely to have a final UK-EU free trade deal by March 2019. ‘Experience tells us that very complicated trade agreements take time’, pointed the expert of the European Policy Centre (EPC) in Brussels Janis Emmanouilidis,<sup>146</sup> referring to free trade agreements such as the Comprehensive Economic and Trade Agreement (CETA) reached by the European Union and Canada in October 2016, which has been negotiated since 2009 and is still pending ratification.

There is also a possibility of no reaching a EU-UK free trade deal. ‘No deal is better than a bad deal’<sup>147</sup>, declared Theresa May in January 2017. And the same statement was reproduced in the Conservative Manifesto for the 2017 general election.

In the event that Britain fell out of the European Union without a deal, it would mean relying on WTO rules to govern trade.<sup>148</sup> In light of this, Emmanouilidis noted that ‘a growing number of [European] companies... will consider whether they should remain or invest in the United Kingdom’.<sup>149</sup> In fact, one of the biggest concerns in the context of the *Brexit* vote has been about the future of London as the largest European financial centre, since some of the biggest investment banks in the City of London such as HSBC and UBS already confirmed the transfer of part of their activities abroad when the United Kingdom leaves the Union.<sup>150</sup>

For its part, the Bank of England has written hundreds of banks, insurers and financial firms warning them to be ready for all possible outcomes and giving them a deadline, the 14<sup>th</sup> of July 2017, to explain how they are planning the UK’s departure, especially given the uncertain issue of the British passporting rights that nowadays allow British-based banks and insurers to do business with the remaining Members of the Union. Mark Carney, the Bank’s Governor, said that the main purpose of this order is to ensure that ‘all firms are making, and stand ready to execute in good time should

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<sup>144</sup> Council of the European Union (2014). European Council conclusions, 26-27 June 2014. Retrieved 5 April 2017 at [https://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/er/146315.pdf](https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/er/146315.pdf)

<sup>145</sup> BBC News (2017). *Brexit*: Fresh legal challenge blocked by High Court. Retrieved 5 April 2017 at <http://www.bbc.co.uk/news/uk-politics-38854095>

<sup>146</sup> EFE (2017). ¿Qué consecuencias tendrá la renuncia del Reino Unido al mercado único?. Retrieved 5 April 2017 at <http://www.expansion.com/economia/2017/01/21/588357ce22601d480f8b45ce.html>

<sup>147</sup> Portes, J. (2017). No EU trade deal is better than a bad deal? Don’t be on it, Theresa May. Retrieved 6 April 2017 at <https://www.theguardian.com/commentisfree/2017/mar/23/eu-trade-deal-theresa-may-brexit-divorce>

<sup>148</sup> *Ibid.*

<sup>149</sup> Council of the European Union, *op. cit.* 52.

<sup>150</sup> BBC News (2017). City banks warn of *Brexit* job moves. Retrieved 6 April 2017 at <http://www.bbc.com/news/business-38663537>

the need arise, contingency plans for the full range of possible scenarios',<sup>151</sup> particularly now that the UK's economy growth is slowing due to the higher inflation.

According to Carney, the United Kingdom was relying on consumer spending for economic growth, rather than exports or investment, but it 'bodes poorly for the future'.<sup>152</sup> Despite the fell of the sterling pound's value to historical lows after the referendum, Britain had one of the world's fastest-growing advanced economies in 2016. The Office for National Statistics (ONS) reported that growth in 2016 was 1.8% higher than that in 2015.<sup>153</sup> Consumers played a key role: confidence remained strong and subsequently unemployment declined further. Additionally, the service sector remained the main contributor to the gross domestic product (GDP).<sup>154</sup> But the UK's economy seems to be no longer growing this year. The Bank of England forecasted that growth would slow in 2017 as higher inflation is weighting on consumer spending.<sup>155</sup>

### 3.3.2 Law

As previously mentioned, the biggest legal impact of *Brexit* intended by the UK Government would be transferring the whole of EU law on to the UK statute book as soon as the United Kingdom get separated from the Union, what is aimed by the Great Repeal Bill. Described by Theresa May as an 'essential step', the Bill wants to avoid both a 'black hole in [the UK] statute book' and disruption to businesses and individual citizens when Britain officially leaves.<sup>156</sup>

The Great Repeal Bill can be summarized in three principal ideas.<sup>157</sup> Firstly, it would repeal the European Communities Act 1972, the historic law that took Britain into the Union and that gives EU law instant effect in this country. Secondly, the Bill would convert all EU law concerning environment, health, safety, immigration, consumer protection... into UK law to prevent a legal black hole after *Brexit*. Thirdly, it would create the necessary powers for Members of Parliament (MPs) to 'correct the statute book where necessary' once Britain has left the EU, without seeking full Parliamentary approval. This latter point was the most criticised due to the concentration of power in the hands of the executive and the evident circumvention of parliamentary control.<sup>158</sup> There are concerns that under the so-called Henry VIII

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<sup>151</sup> Allen, K. (2017). Bank of England orders financial firms to draft *Brexit* contingency plans. Retrieved 6 April 2017 at <https://www.theguardian.com/business/2017/apr/07/brexit-city-europe-carney-bank-of-england-uk-eu>

<sup>152</sup> Plummer, R. (2017). Mark Carney warns of consumer slowdown this year. Retrieved 6 April 2017 at <http://www.bbc.com/news/business-38644963>

<sup>153</sup> Office for National Statistics (2016). Gross Domestic Product (GDP). Retrieved 6 April 2017 at <https://www.ons.gov.uk/economy/grossdomesticproductgdp>

<sup>154</sup> Hermes, E. (2017). Euler Hermes: *Brexit's* economic impact on UK and European economies. Retrieved 8 April 2017 at <http://www.eulerhermes.com/mediacenter/news/Lists/NewsDocuments/press-release-Euler-Hermes-Brexit-economic-impact-UK-European-economies-16-03-17.pdf>

<sup>155</sup> Plummer, R., *op. cit.* 152.

<sup>156</sup> BBC News (2017). Great Repeal Bill: All you need to know. Retrieved 8 April 2017 at <http://www.bbc.com/news/uk-politics-39266723>

<sup>157</sup> UK Government, *op. cit.* 127.

<sup>158</sup> Peer, S. (2017). The White Paper on the Great Repeal Bill: Invasion of the Parliamentary Control Snatchers. Retrieved 8 April 2017 at <http://eulawanalysis.blogspot.com.es/2017/03/the-white-paper-on-great-repeal-bill.html>

clauses<sup>159</sup>, dated as of 1539, the Government may be empowered to change previous laws (about 12.000 EU regulations in force, as noted by the UK Government's White Paper<sup>160</sup>) that have already been passed by Parliament, without seeking further parliamentary approval.

Bill Cash, a Tory eurosceptic MP, supported the Government's plans: 'What we will be doing is returning sovereignty to this house so that the decisions taken in our law making are made by the British people's representatives in this House'.<sup>161</sup>

Other Ministers also tried to reassure critics by pointing that such measures will be temporary and will not be used to make policy changes.<sup>162</sup> But many others, including Scotland's *Brexit* Minister Mike Russel, shared the contrary view.<sup>163</sup> 'Brexit is likely to cause the biggest legal train crash in modern history', said Robert Bell, head of the EU and UK competition team at the international law firm Bryan Cave.<sup>164</sup> He also added that 'The consequences, together with the problems of legal interpretation and the uncertainties created, will be felt for generations. It is the modern equivalent of Henry VIII's break with Rome, except many times more complex'.<sup>165</sup>

This was not the only criticism. One of the messages that the UK Government has repeated since the decision of the British people to leave the Union is that the withdrawal would not entail a loss of any right, particularly of social rights. However, the Government's White Paper on the Great Repeal Bill states that the Charter of Fundamental Rights of the European Union would not be incorporated into UK law on the basis that 'the Charter was not designed to create any new rights or alter the circumstances in which individuals could rely on fundamental rights to challenge the actions of the EU Institutions or Member States in relation to EU law'.<sup>166</sup> This argument is incorrect, as the Charter introduced many new rights and principles of enormous relevance and non-existent under EU law until the entry into force of the Charter in 2009, such as the prohibition of human cloning as part of the fundamental right to physical integrity (article 2.2.d), the freedom to found educational establishments (article 14.3) and the right to working conditions equivalent to those of citizens of the Union (article 15.3).<sup>167</sup>

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<sup>159</sup> Named for the king who forced the passing of the Statute of Proclamations 1539 empowering his decisions both to change and have the same force as legislative acts, such a clause enables government to repeal or amend primary legislation by means of a secondary act with limited or no further parliamentary scrutiny.

<sup>160</sup> UK Government, *op. cit.* 127.

<sup>161</sup> David Davis' statement in the House of Commons on the 30<sup>th</sup> of March 2017. Retrieved 9 April 2017 at <https://www.gov.uk/government/speeches/david-davis-commons-statement-on-the-great-repeal-bill-white-paper>

<sup>162</sup> Hermes, E., *op. cit.* 154.

<sup>163</sup> Kerr, A. (2017). Scottish Government 'will block *Brexit* bill power grab'. Retrieved 9 April 2017 at <https://stv.tv/news/politics/1384421-scottish-government-will-block-brexit-bill-power-grab/>

<sup>164</sup> Roberts, D., Bowcott, O. and O'Carroll, L. (2017). 'Great Repeal Bill' offers little detail and even less security. Retrieved 9 April 2017 at <https://www.theguardian.com/politics/2017/mar/30/great-repeal-bill-offers-little-detail-and-even-less-security>

<sup>165</sup> *Ibid.*

<sup>166</sup> UK Government, *op. cit.* 127.

<sup>167</sup> Sarmiento, D. (2017). The Great Repeal Bill and the Charter of Fundamental Rights – not a promising start. Retrieved 9 April 2017 at <http://verfassungsblog.de/the-great-repeal-bill-and-the-charter-of-fundamental-rights-not-a-promising-start/>

Additionally, David Davis announced that Britain would resolve disputes over EU law on Britain's statute books by referring to ECJ case law. 'Our intention is not to fossilise past decisions of the European Court of Justice (ECJ)', he says.<sup>168</sup> In other words, after *Brexit* ECJ rulings would have the same status as the UK Supreme Court decisions, which can be overturned by subsequent rulings. But the Bill would not give the European Court of Justice a 'future role' in the interpretation of UK laws and the UK courts will not be obliged to consider cases decided by the ECJ, thus ending the jurisdiction of the European Court of Justice after the official separation.<sup>169</sup>

At this time, the UK Government has its work related to the Bill done. Now it will need to build a constructive dialogue with Parliament, giving further assurances that new powers will not be abused. But anti-*Brexit* campaigners are increasingly confident that they can stop the law going through after the Conservatives lost their majority in the last general election. 'The Great Repeal Bill is facing a long, hard battle and I plan to fight the Tories every step of the way', announced the Liberal Democrat leader Tim Farron after the election.<sup>170</sup>

### 3.3.3 Politics

Scotland and Northern Ireland, both of which voted to stay in the Union, are reconsidering their position as part of the United Kingdom. Moreover, Gibraltar raised its concerns after Theresa May's failure to mention 'the rock' in her letter to the President Donald Tusk.

The first referendum on Scottish independence was held in September 2014, with a total result of 55.3% against the proposal.<sup>171</sup> One of the reasons cited by those opposing to the Scottish independence was that it would risk the permanence of Scotland in the European Union.<sup>172</sup> The Scottish National Party (SNP), supporting the Scottish independence, stated in its manifesto for the Scottish Parliament election of May 2016<sup>173</sup> that it would consider holding a second independence referendum if there was a substantial change of circumstances after the referendum on the UK membership on the European Union.<sup>174</sup> As previously mentioned, the 'Leave' side won the June 2016 referendum with 52% of the total vote, but in Scotland 62% of votes were to remain in the EU.<sup>175</sup>

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<sup>168</sup> David Davis' statement, *op. cit.* 161.

<sup>169</sup> UK Government, *op. cit.* 127.

<sup>170</sup> Bleckford, M. and Owen, G. (2017). We'll block the crucial Great Repeal Bill: Remain backers believe they can defeat the flagship *Brexit* Bill because the Government is now so weak. Retrieved 13 June 2017 at <http://www.dailymail.co.uk/news/article-4592360/Remain-backers-ll-block-crucial-Great-Repeal-Bill.html>

<sup>171</sup> BBC News (2014). Scotland votes no. Retrieved 9 April 2017 at <http://www.bbc.com/news/events/scotland-decides/results>

<sup>172</sup> Edinburgh News (2014). Scottish independence: 10 reasons for Yes and No. Retrieved 9 April 2017 at <http://www.edinburghnews.scotsman.com/news/politics/scottish-independence-10-reasons-for-yes-and-no-1-3542968>

<sup>173</sup> SNP (2016). Manifesto 2016. Retrieved 10 April 2017 at <https://www.snp.org/manifesto>

<sup>174</sup> *Ibid.*

<sup>175</sup> *Op. cit.* 61.

Since then it has been a strong debate about whether holding such second Scottish independence referendum or if there would be any possibility for Scotland to maintain links with the European Union after the United Kingdom leaves the bloc. On the 16<sup>th</sup> of March 2017, Prime Minister Theresa May said that ‘now is not the time’ to discuss another referendum, because the main point of the relationship between England and Scotland should be ‘working together, not pulling apart’ for *Brexit* negotiations.<sup>176</sup>

Scottish First Minister and leader of the SNP Nicola Sturgeon ignored May’s view and announced that she would seek Scottish Parliament’s approval to negotiate with the UK Government for a Section 30 order<sup>177</sup> enabling a second independence referendum in late 2018 or early 2019, ‘when the shape of the UK’s *Brexit* deal will become clear’.<sup>178</sup>

The Scottish Parliament effectively voted in favour of holding the referendum by 69 to 59,<sup>179</sup> but the Government in Westminster must also give its approval to it. That is why Sturgeon wrote to Prime Minister Theresa May in the end of March 2017 formally demanding ‘to begin early discussions between our governments to agree an Order under section 30 of the Scotland Act 1998 that would enable a referendum to be legislated for by the Scottish Parliament’.<sup>180</sup> But the request was declined, as the Conservative Manifesto for the 2017 general election clearly provided that, if the Conservatives win the general election, they would block a second independence referendum unless there is ‘public consent’ for rerun.<sup>181</sup>

As the general election results came out, Nicola Sturgeon hinted that a second Scottish referendum could be shelved after 21 Nationalist MPs lost their seats since 2015.<sup>182</sup> The First Minister said she would ‘reflect carefully on the result’ as she acknowledged that the SNP’s support for independence had cost them votes.

In the case of Northern Ireland, this territory is unable to survive on its own. Traditionally it has been the region that receives more public money in the United Kingdom,<sup>183</sup> so a Scottish-style consultation for independence is not viable. Yet there have been increasing calls for Northern Ireland to leave the United Kingdom and

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<sup>176</sup> BBC News (2017). Scottish independence: Referendum demand ‘will be rejected’. Retrieved 10 April 2017 at <http://www.bbc.com/news/uk-scotland-39293513>

<sup>177</sup> A Section 30 order is the formal mechanism by which the UK Government would temporarily hand power to the Scottish Assembly to organise a referendum.

<sup>178</sup> Scottish Government (2017). Scotland must have choice over future. Retrieved 10 April 2017 at <https://news.gov.scot/news/scotland-must-have-choice-over-future>

<sup>179</sup> BBC News (2017). Scottish Parliament backs referendum call. Retrieved 10 April 2017 at <http://www.bbc.com/news/uk-scotland-39422747>

<sup>180</sup> BBC News (2017). Sturgeon signs independence vote request. Retrieved 10 April 2017 at <http://www.bbc.com/news/uk-scotland-39449459>

<sup>181</sup> Conservative and Unionist Party, *op. cit.* 134.

<sup>182</sup> Carrell, S. (2017). Nicola Sturgeon hints independence off agenda after SNP loses seats. Retrieved 11 June 2017 at <https://www.theguardian.com/politics/2017/jun/09/nicola-sturgeon-hints-independence-off-agenda-catastrophic-losses>

<sup>183</sup> BBC News (2011). Northern Ireland receives most public money per head in UK. Retrieved 10 April 2017 at <http://www.bbc.com/news/uk-northern-ireland-14845296>

reunite, after 96 years of partition, with the Republic of Ireland.<sup>184</sup> The Good Friday Agreement (also known as the Belfast Agreement)<sup>185</sup> guarantees a path to reunification through a referendum whereby a majority of Northern Irish citizens must vote to leave the United Kingdom and join the Republic of Ireland.<sup>186</sup>

Put simply, if polls show support for a referendum on the Irish reunification then the Good Friday Agreement stipulates that the UK Government is legally obliged to offer one.<sup>187</sup> And in the event that the majority of voters in Northern Ireland wanted to remain in the European Union, Northern Ireland would get unified with the Republic of Ireland and both would remain in the Union as a united Ireland, unlike Scotland that would have to apply for membership of the bloc if the country votes for independence because it has never been a member of the European Union on its own.

When it comes to Gibraltar, the territory which Spain has been reclaiming almost since it was ceded to Britain in 1713, 96% of the voters agreed to remain in the European Union in June 2016.<sup>188</sup> After Theresa May formally triggered Article 50, the European Council President Donald Tusk sent a nine-page draft document to the EU Member States outlining negotiating guidelines for the upcoming *Brexit* talks. The paper conferred Spain the possibility to exclude Gibraltar from any UK-EU transitional single market access arrangement or future trade deal if it is not satisfied with the status of the territory. It also set out that once the UK leaves the bloc ‘no agreement between the EU and the United Kingdom may apply to the territory of Gibraltar without the agreement between the Kingdom of Spain and the United Kingdom’,<sup>189</sup> effectively signalling a lack of total British sovereignty over Gibraltar.

‘This unnecessary, unjustified and unacceptable discriminatory proposed singling out of Gibraltar and its people was the predictable machination of Spain that the people of Gibraltar foresaw and one of the reasons why we voted so massively to remain in the EU’,<sup>190</sup> said the Gibraltar’s Chief Minister Fabian Picardo. Picardo emphasized that the Gibraltar’s Government would fiercely oppose any Spanish moves to use *Brexit* negotiations as a means to gain more control over the territory: ‘Our sovereignty is not in play’.<sup>191</sup>

### 3.3.4 Institutions

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<sup>184</sup> Humphries, C. and Ferguson, A. (2016). How *Brexit* has suddenly made the prospect of a united Ireland thinkable. Retrieved 10 April 2017 at <http://www.independent.co.uk/news/uk/politics/brexit-what-it-means-for-northern-ireland-united-eu-referendum-result-irish-passport-a7117166.html>

<sup>185</sup> It is an agreement reached in 1998 on Good Friday (the first day of the Christian Easter Holiday) between the political parties of Northern Ireland and the Irish Republic to end 30 years of violence between catholic and protestant groups.

<sup>186</sup> UK Government (1998). The Belfast Agreement. Retrieved 10 April 2017 at <https://www.gov.uk/government/publications/the-belfast-agreement>

<sup>187</sup> *Ibid.*

<sup>188</sup> *Op. cit.* 63.

<sup>189</sup> BBC News (2017). *Brexit* and Gibraltar: May laughs off Spain 'war' talk. Retrieved 12 April 2017 at <http://www.bbc.com/news/uk-politics-39475127>

<sup>190</sup> Boffey, D., Jones, S. Mason, R and Henley, J. (2017). Gibraltar's future at stake in *Brexit* negotiations. Retrieved 12 April 2017 at <https://www.theguardian.com/world/2017/mar/31/future-of-gibraltar-at-stake-in-brexit-negotiations>

<sup>191</sup> *Ibid.*



Britain is the EU's third Member State with more population, amounting to 12.76% of the EU's overall population.<sup>192</sup> This means that the United Kingdom is an influential player in the European Parliament and in the Council of the European Union.

Since the United Kingdom announced that it is going to leave the European Union, one issue for the bloc to resolve is the implications of the UK's departure for the European Parliament. Currently, 73 MEPs are elected in the United Kingdom,<sup>193</sup> but this country is likely to have left the Union by the time of the next European elections in 2019. This has raised the concerns of whether these 73 UK seats should be dropped or reallocated to the rest of the 27 Member States.<sup>194</sup> And if they are to be reallocated, how would it be done?

The simplest option would be reducing the number of MEPs by 73. 'After all, the UK will have left the EU, the EU budget will have shrunk and parliamentarians cost taxpayers money. We calculate that the cost per MEP to the taxpayer is €554,881 per year', note the experts of Bruegel Robert Kalcik and Guntram B. Wolf.<sup>195</sup> The European Parliament would therefore be reduced to 678 MEPs.

A second option would be distributing the 73 seats to all the remaining countries without exceeding the constraint of a national maximum of 96 established in Article 14(2) of the Treaty on the European Union. However, this approach would dramatically increase the inequality of representation, which has already said to be a problem in the current composition of the European Parliament.<sup>196</sup>

The UK's departure will also impact the relative voting power of the remaining members of the European Council. The Council's voting system follows the 'double majority' rule since the 1<sup>st</sup> of November 2014: for a proposal to pass, approval by 55% of the Member States is required, which at the same time must represent 65% of the population of the EU. This rule is nowadays set in Article 16(4) of the Treaty on the European Union. Then if a country leaves the bloc, the share of any other country both regarding the number of states and the number of citizens will increase. Similarly, if a new country joins the Union, then all the other Member States should lose power as a result of transferring a part of their power to the new Member.

Nonetheless, as Werner Kirsch highlighted, 'this is not true in general nor is it the case for the *Brexit* in particular... the pending departure will most likely lead to 1) the smaller but more numerous EU countries losing rather than gaining power, and 2) if

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<sup>192</sup> Retrieved 13 April 2017 at [https://europa.eu/european-union/about-eu/figures/living\\_en](https://europa.eu/european-union/about-eu/figures/living_en)

<sup>193</sup> Retrieved 13 April 2017 at <http://www.europarl.org.uk/en/uk-meps/your-members-in-the-european-parliament>

<sup>194</sup> Kalcik, R. and Wolf, G. B. (2017). Is *Brexit* an opportunity to reform the European Parliament? Retrieved 12 April 2017 at [http://bruegel.org/wp-content/uploads/2017/01/PC-2017\\_02-Euro-Parl-310117.pdf](http://bruegel.org/wp-content/uploads/2017/01/PC-2017_02-Euro-Parl-310117.pdf)

<sup>195</sup> *Ibid.*

<sup>196</sup> Véron, N. (2014). How unequal is the European Parliament's representation? Retrieved 13 April 2017 at <http://bruegel.org/2014/05/how-unequal-is-the-european-parliaments-representation/>

Scotland joins the EU at a later point in time, it would only add to the larger states' strength'.<sup>197</sup>

Furthermore, it can be said that 'pushing trade liberalisation' has been one of the UK's main contributions to the EU due to the voting pattern that Britain has adopted in the Council up to date.<sup>198</sup> According to Stephen Wall, a former UK Permanent Representative to Brussels, in the long term *Brexit* could increase EU protectionism, as 'the strength of potentially protectionist Member States would grow'.<sup>199</sup> In fact, an Open Europe analysis of Council voting patterns<sup>200</sup> noted that both the Southern protectionist bloc (including France, Italy, Spain, Greece, Portugal and Cyprus) and the Northern liberal bloc (including the UK, Germany, Sweden, Denmark, the Netherlands, Finland and the Baltics) may hold a blocking minority under the Council's current voting system.<sup>201</sup> Without the United Kingdom, the collective weight of the liberal bloc would therefore decline, whereas the protectionist bloc would get strengthened.

## CONCLUSION

Since the beginning of its membership in the European Union, Britain has held a special status, achieving beneficial measures like the UK rebate to reduce the United Kingdom's contribution to the Community budget, and opting out those that it considered as not favourable, such as the single currency and the Schengen borderless area. Nonetheless, its traditional reluctance against the EU integration project has been evident all over the years. With two referendums on the membership on the bloc, more than any other country in the European Union, Britain finally decided to leave the Union in June 2016.

*Brexit* begun and has carried out its way with no minor controversies, such as the interpretation of Article 50 of the Lisbon Treaty given that the constitution in Britain is unwritten, the concerns of the so-called Henry VIII clauses regarding the Great Repeal Bill, the willingness of Scotland and Northern Ireland to reconsider their territories as part of the United Kingdom, Gibraltar's sovereignty dispute, the unexpected loss of Conservatives' parliamentary majority after the UK general election in June 2017...

Up to now, there is a lot of uncertainty concerning *Brexit* effects. When it comes to the economy, experts have noted that it seems unlikely to have a final UK-EU free trade deal by March 2019, and the Bank of England has written hundreds of banks,

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<sup>197</sup> Kirsch, W. (2016). *Brexit* and the Distribution of Power in the Council of the EU. Retrieved 13 April 2017 at <http://www.css.ethz.ch/content/dam/ethz/special-interest/gess/cis/center-for-securities-studies/resources/docs/CEPS-%20Brexit%20and%20the%20Distribution%20of%20Power%20in%20the%20Council%20of%20the%20EU.pdf>

<sup>198</sup> Patel, O. and Reh, C. (2016). *Brexit: The Consequences for the EU's Political System*. Retrieved 13 April 2017 at <https://www.ucl.ac.uk/constitution-unit/research/europe/briefing-papers/Briefing-paper-2>

<sup>199</sup> *Ibid.*

<sup>200</sup> Booth, S., Howarth, C., Persson, M., Ruparel, R. and Swidlicki, P. (2015). What if...? The Consequences, challenges & opportunities facing Britain outside EU. Retrieved 13 April 2017 at <http://2ihmoy1d3v7630ar9h2rsglp.wpengine.netdna-cdn.com/wp-content/uploads/2015/03/150507-Open-Europe-What-If-Report-Final-Digital-Copy.pdf>

<sup>201</sup> *Ibid.*

insurers and financial firms warning them to have their contingency plans prepared for the full range of possible scenarios, especially now that the UK's economy growth is slowing due to the higher inflation. In a plausible one, the biggest legal impact intended by the UK Government would be transferring the whole of EU law on to the UK statute book as soon as the United Kingdom leaves the Union under the controversial Great Repeal Bill. Less probable is the fact that Scotland and Northern Ireland, both of which voted to remain in the EU, could separate from the United Kingdom.

In what there is common agreement is that the UK Government pretended a hard *Brexit* that has been recently challenged by the result of the last UK general election in favour of a softer one, as the DUP does not consider leaving the single market due to the important trade relationship between Northern Ireland and the Republic of Ireland. Moreover, all studies acknowledge that, in whatever form *Brexit* may adopt, the losses will be considerably larger for the United Kingdom than for the other 27 remaining Members of the Union. Aware of this, some UK entities have already confirmed the transfer of part of their activities abroad and banks, insurers and financial firms are preparing contingency plans for the full range of possible scenarios.

From the point of view of the European Union, there is no doubt that *Brexit* will also mark a before and after, not only in the membership of the Union but in the traditional functioning of its institutions, especially concerning the issues of the distribution of the 73 UK seats of the European Parliament and the relative voting power of the European Council. Having the UK-EU negotiations started on the 19<sup>th</sup> June, the bloc has its red lines well defined, opposing to a UK-EU economic relationship based on sector-specific deals and to the division of the four freedoms of the single market.

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