

The Brexit consequences on the European single market

Associate professor **Gabriel Liviu ISPAS**¹

Abstract

Brexit represents one of the biggest challenges for the European Union since its establishment. The recent political and institutional developments, the decision of the British Parliament not to accept the exit of the United Kingdom from the European Union without a signed agreement, the decision to negotiate a new deal that must be ratified by both the Member States of the EU and the British Parliament, points towards the fact that neither the Union nor the United Kingdom are effectively prepared for such a decision. The paper presents the recent evolution of Brexit, as well as its possible consequences regarding the internal market. We will present, above all, how the free movement of goods will be affected and how the free movement of persons will be realized, for lucrative purposes. A political analysis of the events will be conducted, as well as an analysis of the applicable normative acts in question. The implications of Brexit on the economy of the Member States and on trade within and outside the European Union will be evaluated, both quantitatively and qualitatively.

Keywords: *Brexit, the European Union, Union policies, voluntary withdrawal, Brexit influences.*

JEL Classification: K23, K33

1. Voluntary withdrawal from the Union. Article 50 of the Treaty on European Union

Article 50 of the Treaty on European Union states that any Member State may decide to withdraw from the Union, following the constitutionally assumed decision within that State. Afterwards, the European Council must be notified of the decision to voluntarily withdraw, with at least 2 years before the expected date of effective withdrawal, following an extensive process of negotiations between the parties for the signing, approval and ratification of a Treaty on the withdrawal from the Union. The treaty is meant to establish the conditions and terms of the exit, the financial compensations, the regulation of the positioning regarding the internal market and the way in which the protection of the citizens who will continue to carry out their lucrative activity or studies after the voluntary withdrawal will be carried out². On a hypothetical level, one of the following situations can be reached: leaving the Union is accomplished with a treaty, the moment of voluntary exit is delayed until there is an identification of mutually agreed terms, or by way of a no-deal exit, without any agreement.

¹ Gabriel Liviu Ispas – Dean, Faculty of Law, „Titu Maiorescu” University of Bucharest, Romania, gabrielliviu.ispas@gmail.com.

² Ispas Gabriel Liviu, Daniela Panc, *Drept instituțional al Uniunii Europene*, Hamangiu Publishing House, Bucharest, 2019, pp. 53-65.

In the literature, in the absence of explicit withdrawal provisions, there has been a debate on the idea of introducing a new rule in favor of Member States, through art. 50 TEU³. We consider that, in the absence of the explicit provisions, the norms of the general law, namely of the Vienna Convention on the Law of Treaties of 1969, apply within the branch of public international law, without there being any need for the introduction of a new law. The decision of the Constitutional Court of Germany of June 30, 2009 supports this theory, mentioning the possibility of unilaterally revoking European integration⁴.

Taken from the Constitutional Treaty, art. 50 TEU has an important political significance, by which the federal vocation of the Union is compensated, by sending a message of national sovereignty. The withdrawal clause is the only legal basis regulating the conditions and the procedure for the voluntary withdrawal of a Member State from the European Union, the main value of art. 50 TEU, being procedural in nature, beyond the important political burden. Prior to the Lisbon Treaty, the withdrawal procedure was unclear.

Since from the perspective of public international law, the renunciation of the right to be a member of an international intergovernmental organization represents a voluntary act of the state, formal declarations made by states, with the intention of producing legal effects under international public law, art. 50 TEU does not regulate substantive conditions for withdrawal (reasons for withdrawal or the condition of approval of the decision by the other Member States), but only stipulates the procedural perspective to be followed.

The first paragraph of art. 50 stipulates the obligation to respect the constitutional norms of the state which wishes to withdraw from the Union. With regard to the United Kingdom, the Supreme Court of the United Kingdom states in its judgment of 24 January 2017⁵, the fact that the government cannot trigger art. 50 TEU without the approval of the national parliamentary power, highlighting the need to adopt an act of the National Parliament for the initiation by the government of the withdrawal process. Paragraph 150 of the Supreme Court ruling emphasizes that decentralized lawmakers in Scotland, Wales and Northern Ireland cannot have right of veto over the Kingdom's decision to withdraw from the EU. In accordance with this procedure, the Parliament of the United Kingdom adopted, on March 16, 2017, *The European Union (Notification of Withdrawal) Act*, by which it mandates the government to initiate the withdrawal procedure from the Union.

³ J.-C. Piris, *The Lisbon Treaty. A Legal and Political Analysis*, Cambridge University Press, Cambridge, 2010, p. 110-111, 346-349 *apud* I. Gâlea, *Tratatetele Uniunii Europene. Comentarii și explicații*, C.H. Beck Publishing House, Bucharest, 2012, p. 125.

⁴ *The Federal Constitutional Court, Judgement of 30 June 2009*, decision available online at http://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2009/06/es20090630_2bve000208en.html (consulted on 1.10.2019).

⁵ Decision of November 3, 2016, available online at <https://www.judiciary.gov.uk/wp-content/uploads/2016/11/r-miller-v-secretary-of-state-for-exiting-eu-amended-20161122.pdf> (consulted on 1.10.2019), was appealed against, after which followed the judgment of January 24, 2017, *Judgment of the UK Supreme Court of 24 January 2017, R (on the application of Miller and another) (Respondents) v Secretary of State for Exiting the European Union (Appellant)*, available online at <https://www.supremecourt.uk/cases/docs/uksc-2016-0196-judgment.pdf> (consulted on 1.10.2019).

2. The history of the relationship between the United Kingdom and the European Union

Analyzing the evolution of the relationship between the United Kingdom and the European Union, we consider that even from the accession process⁶, the United Kingdom had a particular status in relation to the Union, based in some respects on the intergovernmental method of cooperation, to the detriment of supporting the idea of European integration, of federalization. The different political orientations and priorities of the United Kingdom were highlighted in the *opt-outs* from key initiatives in EU policies, among which we mention the refusal to participate in the Schengen area in what concerned internal and external borders, staying out of the Economic and Monetary Union or the response to the 2015 refugee and immigrant crisis⁷.

Even before the effective accession to the Communities, there were tensions between Britain and the 6 founding states. Britain's refusal to accept the Schuman plan in 1950 prompted a reaction from French President Charles de Gaulle which blocked the accession of the United Kingdom in 1963 and 1965. The challenges were not so few in this relationship: the European budgetary system, the common agricultural policy, the development of integration policies, the introduction of the single currency, the development of a common foreign policy. Moreover, the British tendency to move closer to Atlantic cooperation, than to European integration, has generated constant dissatisfaction in European institutions.⁸

The European Union Referendum Act of December 17, 2015⁹ set out the details of the organization of the referendum by which the population would decide whether the UK should remain a member of the European Union or withdraw. Organized on June 23, 2016, the result of the referendum reflects the desire of the population to leave the European Union, with a percentage of 51.9% to 48.1%, in favor of Brexit¹⁰. Maintaining national sovereignty, maintaining legislative powers in national parliaments and protecting the national labor market are recurring themes within the British public discourse, from that moment up until the present day.

⁶ N. Foster, *Foster on EU Law, 6th edition, Oxford University Press*, 2018, pp. 32-34.

⁷ According to a BBC article *Migrant crisis: Migration to Europe explained in seven charts*, 4 March 2016, available online at <http://www.bbc.com/news/world-europe-34131911> (consulted on 1.10.2019), at the level of 2015, in the situation of refusal to accept the system of relocation of immigrants according to compulsory quotas, the United Kingdom received 60 asylum applications for every 100,000 inhabitants, in case in which the EU average was 260 applications, and Hungary received 1799 asylum applications per 100,000 inhabitants, being the state with the highest number of asylum applications in relation to its population.

⁸ Simon Bulmer, Lucia Quaglia, *The politics and economics of Brexit*, *Journal of European Public Policy*, 2018, 25:8, 1089-1098, DOI: 10.1080/13501763.2018.1467957, pp. 1090-1091.

⁹ *The European Union Referendum Act 2015*, available online at http://www.legislation.gov.uk/ukpga/2015/36/pdfs/ukpga_2015003_6_en.pdf (consulted on 1.10.2019).

¹⁰ According to official Election Commission data, available online at <http://www.electoralcommission.org.uk/find-information-by-subject/elections-and-referendums/past-elections-and-referendums/eu-referendum/electorate-and-count-information> (consulted on 1.10.2019).

3. The procedures for voluntary withdrawal

Following the outcome of the referendum in favor of the UK withdrawal from the EU, on June 28, 2016, the European Parliament adopted a resolution¹¹, by which it took note of the decision of the citizens of the United Kingdom and requested the swift commencement of the procedure to withdrawal from the Union of the United Kingdom. At the same time, the Parliament invited the Council to designate the Commission as a negotiator for the application of art. 50 TEU and called for the development of a roadmap for a better Union, based on the full exploitation of the Lisbon Treaty, to be supplemented by a revision of the Treaties. The resolution of the European Parliament cancels the agreement concluded in February 2016 at the level of the European Council¹², whereby the Union was willing to give the United Kingdom a special status, within the Union, if the result of the referendum were in favor of a continued membership¹³.

Following the Informal Meeting in 27 Member States, of June 29, 2016, the European Council indicated the stages of the withdrawal procedure regulated by art. 50 TEU, complete with details following the informal meeting of December 15, 2016, the process being under the political control of the EU-27 European Council. On October 2, 2016, the United Kingdom Government, which was led by Theresa May from July 2016, announces the start of the EU withdrawal procedure until the end of March 2017. In this context, on January 17, 2017, the British Prime Minister launches the 12 principles that they will guide the government in the process of withdrawal from the EU, which it integrates into a White Paper¹⁴, intended to provide the Parliament and the citizens of the United Kingdom with the government's perspective on the objectives of the withdrawal negotiations. The 12 principles that shape the UK's EU withdrawal strategy are: 1. to provide certainty and clarity; 2. to take control of their own laws; 3. to strengthen the unity of the United Kingdom; 4. to protect the strong historical links with Ireland and maintaining the Common Travel Area; 5. migration control; 6. to ensure the rights of EU citizens in the United Kingdom and the citizens of the United Kingdom in the EU; 7. to protect workers' rights; 8. to ensure free trade with the European markets; 9. to ensure new trade agreements with other countries; 10. to ensure that the UK remains the best place for science and innovation; 11. to cooperate in the fight against crime and terrorism; and 12. to ensure an orderly withdrawal from the EU.

¹¹ Available online at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P8-TA-2016-0294+0+DOC+PDF+V0//RO> (consulted on 1.10.2019).

¹² *A new deal for the United Kingdom in the European Union*. Extract from the conclusions of the European Council of 18 and 19 February 2016, J.O.C no. 69 I of February 23, 2016, available online at [http://eur-lex.europa.eu/legal-content/RO/TXT/PDF/?uri=CELEX:52016XG0223\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/RO/TXT/PDF/?uri=CELEX:52016XG0223(01)&from=EN) (consulted on 1.10.2019).

¹³ *The best of both worlds: the United Kingdom's special status in a reformed European Union*, February 2016, available online at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/504220/The_best_of_both_worlds_the_UKs_special_status_in_a_reformed_EU_print_ready.pdf (consulted on 1.10.2019).

¹⁴ *The United Kingdom's exit from, and new partnership with, the European Union White Paper*, 2 February 2017, <https://www.gov.uk/government/publications/the-united-kingdoms-exit-from-and-new-partnership-with-the-european-union-white-paper> (consulted on 1.10.2019).

According to Supreme Court case law¹⁵, on March 16, 2017, the United Kingdom Parliament adopts the *European Union (Notification of Withdrawal) Act 2017*, whereby the national legislator gives the prime minister the power to notify the United Kingdom of the intention to withdraw from the EU, in accordance with art. 50 (2) TEU.

On 29 March 2017 the European Council UK submits *Letter of notification of the European Council regarding the withdrawal of the United Kingdom from the European Union*. Notification of the invocation of art. 50 by the United Kingdom represents the official moment from which the EU can start negotiating procedures for withdrawal from the Union. Starting from March 29, 2017, the two-year period begins, in which negotiations are taking place in order to draw up a formal withdrawal agreement, according to art. 50 (3) TEU.

The letter explains the reasons for the withdrawal decision, based, in principle, on the desire to restore national sovereignty. In a conciliatory approach, the letter from the government presents the British perspective on the departure of the United Kingdom and of the partnership it wants to establish with the Union after Brexit. At the same time as the conditions for withdrawal have been settled upon in a comprehensive agreement, the United Kingdom proposes to accept the negotiation of a sound and special partnership agreement with the Union, which will address economic cooperation and security issues.

The United Kingdom Government outlines seven principles to guide the negotiation process: sincere cooperation, prioritizing the interests of citizens, ensuring a comprehensive agreement, minimizing disruptions and providing certainty, the attention of the United Kingdom given to its relationship with Ireland, especially with regard to the peace process with Northern Ireland, the need for detailed technical discussions, prioritizing the biggest challenges, respectively, protecting common European values.

From the perspective of the legislative effort of the United Kingdom, in order to ensure an orderly transition, on March 30, 2017 the *White Paper for Legislating for the United Kingdom's withdrawal from the European Union*, was adopted¹⁶. The paper proposes the adoption, even on the day of leaving the European Union, of a legislative project entitled *The Great Repeal Bill*, repealing the European Communities Act of 1972. The European Communities Act of 1972 is the main normative instrument for the implementation of EU law and which states on the pre-eminence of EU law in relation to British law. At the same time, upon leaving the EU, *The Great Repeal Bill* will transpose the EU *acquis* into UK law and ensure the adoption by the national powers of the secondary national law so that the legal system will work properly outside the EU.

¹⁵ *Judgment of the UK Supreme Court of 24 January 2017, R (on the application of Miller and another) (Respondents) v Secretary of State for Exiting the European Union (Appellant)*, judgment available online at <https://www.supremecourt.uk/cases/docs/uksc-2016-0196-judgment.pdf> (consulted on 1.10.2019).

¹⁶ *Legislating for the United Kingdom's withdrawal from the European Union White Paper*, 30 March 2017, available online at <https://www.gov.uk/government/publications/the-great-repeal-bill-white-paper/legislating-for-the-united-kingdoms-withdrawal-from-the-european-union#glossary> (consulted on 1.10.2019).

In order to ensure consistent national political support in EU negotiation and withdrawal efforts, the United Kingdom held early parliamentary elections on June 8, 2017, with Prime Minister Theresa May's political term ending at the moment of the Brexit. Following the election, Prime Minister Theresa May received Parliament's confidence for a new term in Downing Street, 10.

4. The negotiations on withdrawal from the Union.

The signing of the agreement. The postponement of the exit

In the *Guidelines of the European Council* of April 29, 2017, the EU aims to obtain a withdrawal agreement in the interests of both parties. The guidelines define the negotiation framework in accordance with art. 50 TEU and the positions and principles that the Union pursues throughout the negotiations. The European Council reiterates the EU's desire to have a close partner in the UK in the future, while also establishing that the partnership must be based on a balance of rights and obligations of the parties, by ensuring fair competition conditions. In order to maintain the Union's message and position unity, the Guidelines of the European Council contain the obligation of Member States to not conduct separate individual negotiations with the United Kingdom on Brexit issues.

Four days after the adoption of the guidelines, the European Commission, in the Commissioner's forum, presented to the Council the recommendation to start the negotiations, the Council authorized the start of negotiations, by adopting negotiating directives with a qualified majority (72% of the Member States, representing 65% of the EU-27 population). Once the negotiating directives have been adopted, the Council shall appoint a negotiator, mandated to negotiate and conclude the agreement setting the conditions for withdrawal, taking into account the framework of its future relations with the Union. According to in art. 50 (3) TEU, the treaties shall cease to apply to the State concerned from the date of entry into force of the withdrawal agreement or, in the absence of such agreement, after two years from the moment of the withdrawal procedure, by notification. The two-year term may be extended by the European Council, which shall decide by way of unanimous vote, in agreement with the Member State concerned. At the end of the negotiation period, the Union negotiator submits the proposal for agreement to the Council, which shall decide by way of a qualified majority, following the simple majority approval of the European Parliament (including the members of the European Parliament of the United Kingdom, who fulfill their responsibilities until the effective withdrawal of the United Kingdom from EU). In order to produce legal effects in the national legal order, the withdrawal agreement must be ratified by the United Kingdom, according to its own legal provisions.

On November 14, 2018, after numerous rounds of negotiations, the parties reach an agreement for voluntary withdrawal from the Union¹⁷. Later, on

¹⁷ Available online at https://ec.europa.eu/commission/files/outline-political-declaration-setting-framework-future-relationship-between-european-union-and-united-kingdom-great-britain-and-northern-ireland-agreed-negotiators-level-14-november-2018_en (consulted on 1.10.2019).

November 25, the extraordinary meeting of the European Council approved the treaty form proposed by the chief negotiator Michel Barnier, approved by the General Affairs Council and the European Commission¹⁸. On January 11, the Council adopts the decision to sign the UK withdrawal agreement¹⁹, but On January 15, 2019, the British Parliament overwhelmingly rejects the Union's Leave Agreement. The inflexible position of the parties could lead to a Brexit without agreement, or to an indefinite postponement of Britain's exit from the European Union²⁰, but through successive agreements, the moment of Brexit is postponed until January 31, 2020. Even if, after rejecting the agreement negotiated by the House of Commons, Prime Minister Theresa May submits her resignation and the position of prime minister rests with Boris Johnson, the political tensions in the House of Commons continue. The Prime Minister's decision to suspend the work of the British Parliament for 5 weeks has triggered a natural reaction in the House of Commons and an amendment is being voted that prohibits the Government from leaving the Union in the absence of an agreement. Noted, the British Supreme Court ruled that the decision to propose to Her Majesty the suspension of Parliament was illegal because it had the effect of frustrating or limiting Parliament's ability to exercise its constitutional role without reasonable justification. The House of Commons refuses to vote on the renegotiated agreement of the European Union with the British Government²¹ before being presented with and voting on all the legislative acts that are subsequent to the process of leaving the Union.

5. A justified decision?

A significant debate is that of the ideological, pragmatic or politico-economic motivations that the adherents of the Union remain/leave ideologies have. Those who pleaded to stay in the Union had a negative message: economic consequences for citizens, the abandonment of the common space and values, the isolation and limitation of the labor market. Many of those who opted to leave the Union compared this decision to two of the significant historical moments for the British empire: a new 1534 or a new 1688, both times when a small kingdom becomes a great empire, with unprecedented colonial and commercial development. During this time, leaving the Union would mean the restoration of British freedom and a new confidence in their own capabilities of international development. *“No such expansion looks possible today. This Brexit Vision also exaggerates the extent of the UK’s integration into Europe. The UK was already semi-detached from the European Union long before 2016. The vote for Brexit*

¹⁸ Available online at <https://www.consilium.europa.eu/ro/meetings/european-council/2018/11/25/> (consulted on 1.10.2019).

¹⁹ <https://eur-lex.europa.eu/legal-content/RO/TXT/?uri=CELEX:52018PC0833> (consulted on 1.10.2019).

²⁰ N. Foster, *op. cit.*, p. 36-37.

²¹ <https://eur-lex.europa.eu/> (consulted on 1.10.2019).

*makes that status explicit, ridding the EU of an increasingly troublesome and obstructive member. From the Maastricht Treaty onwards it was clear that Britain was never going to be a full member of any new project for European integration, so the vote for Brexit while costly in the short term to both sides and the cause of much uncertainty, may ultimately lead to the working out of a more durable associate status for the UK with the EU, which removes some of the frictions but also preserves some of the benefits of Britain 's 43 years membership'*²².

The rift between the British political class and the people was even more evident, in the context in which the vote showed that British politicians did not know how to show the benefits and the costs of having member status to the citizens. What was intended to be a negotiation of Cameron's cabinet and a repositioning of the United Kingdom within the Union, has transformed into a disorderly departure from the Union²³. Even though the results of the referendum were only consultative, no one questioned the possibility of ignoring the citizens' vote. At the same time, the complicated bureaucratic procedures in the House of Commons have determined a nuance of the political message, the negotiated terms and a possible return to the people, through a new referendum. In the absence of clear political messages, citizens voted for or against the exit for various reasons, many of them having no clear legal, economic or scientific basis. Thus, the will of the people, about how they see Brexit, about a Brexit without agreement or only with an approved and ratified agreement, remains to be interpreted by the Government and Parliament. And in September 2019, the Parliament forbade the British government from withdrawing from the Union without an agreement, beyond the previous doctrinal and political debates²⁴.

At the moment, in this broad, unfinished process, issues regarding the consequences of Brexit on the European Union are still being discussed. (especially the way by which to deepen the European integration, which will be the public policies for which the states will transfer their competences to the Union, how states will position themselves in the context of increasing nationalist and sovereigntist sentiments), what will be the consequences for Great Britain (especially in the field of territoriality management, the issues of Gibraltar, the Cypriot area, the Irish relationship, but also in the economic field, the customs regimes, the free movement of goods and the migration of persons for lucrative purposes) and whether the withdrawal from the Union by the UK will be a precedent used by other states or if full integration will be the answer to Brexit.

²² Andrew Gamble, *Taking back control- the political implications of Brexit*, „Journal of European Public Policy”, 2018, 25 (8), pp. 1215-1232, DOI>10.1080/13501763.2018.1467952, p. 1216.

²³ Frank Schimmelfennig(2018), *Brexit: differentiated desintegration in the European Union*, „Journal of European Public Policy”, 2018, 25:8, pp. 1154-1173, DOI: 10.10.80/13501763.2018.146754.

²⁴ Andrew Gamble, *op.cit.*, pp. 1218-1221.

6. The impact on immigration, for lucrative purposes

In 2015, the year before the Brexit vote, over 1.2 million British citizens were living in the other Member States, while about 3.1 million citizens from the other Member States were living in the United Kingdom²⁵. One of the important campaign themes was how European workers affect the right to work and social security of British citizens. One of the concerns of the researchers was about how immigration influenced the exit process, but also what are the possible parameters for an agreement covering both migration from the Member States and from non-EU countries²⁶. Other authors indicate that: *“even before Brexit results in any changes to UK immigration policy or law (that is, while the UK remains a member of the EU and free movement continues as now), some fall in net migration from the EU appears likely, for several reasons:*

- *Even before the referendum, employment growth in the UK had slowed (whether as a result of Brexit-related uncertainty or, perhaps more likely, of other factors). Meanwhile unemployment is falling both in the EU as a whole, and in the Eurozone.*

- *Moreover, for some countries at least (in particular Romania and Bulgaria), the very high levels of recent inflows are likely to reflect the impact of the lifting of transitional controls: this seems likely to run its course. So even if there had been no referendum, it is plausible that immigration would have fallen back somewhat from its peak earlier this year.*

- *The referendum could make this fall much sharper, both through the overall economic impact of Brexit on growth, output, and employment, and because migration from some EU countries appears to respond to exchange rate changes.*

- *There are legal and psychological factors, relating both to uncertainty about future rights for EU citizens currently resident, and the more general political and social climate. This is not merely a matter of perceptions: it also reflects the fact that while EU citizens' rights will not change in the short term, they are likely to be considerably less in the long term, and rational decision-makers will take this into account”²⁷.*

The issue of migration for lucrative purposes is one of the recurring themes at European level. Even if the provisions of the treaty are clear, there is a nationalist trend in favor of stricter regulations in this area, an attitude that we do not share. The right of citizens to seek and receive job offers is a cornerstone in the construction of European integration, and the economic growth and the reduction of economic disparities between different European regions were the result of this process. In the negotiation process, both the United Kingdom and the Union

²⁵ <https://www.europarl.europa.eu/news/en/headlines/priorities/brexit/20170505STO73508/brexit-protecting-the-rights-of-eu-citizens-living-in-the-uk> (consulted on 1.10.2019).

²⁶Simon Bulmer, Lucia Quaglia, *op. cit.*, p. 1095.

²⁷Jonathan Portes, Giuseppe Forte, *The economic impact of Brexit- induced reductions in migration*, „Oxford Review of Economic Policy”, Volume 33, Number S1, 2017, p. 32.

negotiators emphasized the rights of citizens, the right to work, but also the right of citizens to choose their permanent residence. In a position paper of the British Government, the following principles for the regulation of rights of the citizens are specified, insisting on reciprocity of treatment:

“• until the UK’s exit, while the UK remains a member of the EU, EU citizens’ resident here will continue to enjoy the rights they have under EU Treaties. We will comply in full with our legal obligations, including in respect of administrative procedures for providing documentation for those exercising Treaty rights;

• after we leave the EU, we will create new rights in UK law for qualifying EU citizens’ resident here before our exit. Those rights will be enforceable in the UK legal system and will provide legal guarantees for these EU citizens. Furthermore, we are also ready to make commitments in the Withdrawal Agreement which will have the status of international law. The Court of Justice of the European Union (CJEU) will not have jurisdiction in the UK;

• these rights will apply to all EU citizens equally and we will not treat citizens of one-member state differently to those of another;

• qualifying EU citizens will have to apply for their residence status. The administrative procedures which they will need to comply with in order to obtain these new rights will be modernised and kept as smooth and simple as possible;

• the application process will be a separate legal scheme, in UK law, rather than the current one for certifying the exercise of rights under EU law. Accordingly, we will tailor the eligibility criteria so that, for example, we will no longer require evidence that economically inactive EU citizens have previously held “comprehensive sickness insurance” in order to be considered continuously resident;

• all qualifying EU citizens will be given adequate time to apply for their new residence status after our exit. There will be no cliff-edge at the point of the UK’s withdrawal from the EU;

• we guarantee that qualifying individuals will be granted “settled status” in UK law (indefinite leave to remain pursuant to the Immigration Act 1971). This means they will be free to reside in any capacity and undertake any lawful activity, to access public funds and services and to apply for British citizenship;

• to qualify, the EU citizen must have been resident in the UK before a specified date and must have completed a period of five years’ continuous residence in the UK before they apply for settled status, at which point they must still be resident;

• those EU citizens who arrived and became resident before the specified date but who have not accrued five years’ continuous residence at the time of the UK’s exit will be able to apply for temporary status in order to remain resident in the UK until they have accumulated five years, after which they will be eligible to apply for settled status;

• those EU citizens who arrived after the specified date will be allowed to remain in the UK for at least a temporary period and may become eligible to settle

permanently, depending on their circumstances – but this group should have no expectation of guaranteed settled status;

• family dependants who join a qualifying EU citizen in the UK before the UK's exit will be able to apply for settled status after five years (including where the five years falls after our exit), irrespective of the specified date. Those joining after our exit will be subject to the same rules as those joining British citizens or alternatively to the post-exit immigration arrangements for EU citizens who arrive after the specified date”²⁸.

The European perspective has been widely debated both in the Member States and in the European institutions. In a large study²⁹, both the concept of rights earned, their content and development in public international law are developed, as well as the way in which the European legal norms act with the rights of the citizens, with a wide analysis of the specific elements and of the possible developments for the European Union - Great Britain relationship. The negotiated positions can be found in the signed agreement and in the treaty that has not yet been ratified by the parties, without there being a limitation of the rights of the citizens to mobility and to search for a job. I estimate that in the period immediately following the Brexit (if it will take place on January 31, 2020) there will be no significant evolution in the area of immigration, the significant processes becoming observable after at least 3 years from EU-27. The current studies are lacking in the analysis of the evolution of migration for lucrative purposes, if the economic recession will settle in the European Union or in the United Kingdom.

7. Implications of Brexit on the free movement of goods

The internal market is defined in the first chapter of the third part of the Treaty on the Functioning of the European Union, called the Union Policies and Internal Actions. Article 26 (2) of the TFEU states that the internal market comprises an area without internal frontiers, in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of the Treaties.

The internal market comprises a wide range of policies, both the four freedoms of movement, as well as the sectoral policies that have the role of ensuring the functioning of fundamental freedoms (for example, the free movement of workers can be hindered if the regulations on health or social protection differ from one state to another)³⁰. Article 4 (2) TFUE establishes that the area of the internal market is in shared competence between the Union and the Member States.

²⁸ The United Kingdom's Exit from the European Union Safeguarding the Position of EU Citizens Living in the UK and UK Nationals Living in the EU, ISBN 9781474147194, available online at <https://www.carterthomas.co.uk/2017/06/29/safeguarding-position-eu-citizens-living-uk/> (consulted on 1.10. 2019).

²⁹ http://www.europarl.europa.eu/RegData/etudes/STUD/2017/583135/IPOL_STU%282017%29583135_EN.pdf (consulted on 1.10. 2019).

³⁰ Damian Chalmers, Gareth Davies, Giorgio Monti, *European Union Law*, third edition, Cambridge, 2014, pp. 756-796.

The objectives of the internal market are achieved by harmonizing the laws of the Member States, through the directives, as tools for positive integration, in accordance with Article 114-115 TFEU. By ordinary legislative procedure, the Parliament and the Council, after consulting the Economic and Social Committee, shall adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market, according to Article 114 (1) TFEU. Paragraph 2 of Article 114 TFEU limits the scope of application of legislative harmonization with regard to fiscal provisions, those relating to the free movement of persons and those relating to the rights and interests of employed persons. The ultimate goal of the internal market is the prosperity of European citizens, by reducing the discrepancies between Member States³¹.

A major theme of Brexit was the return to the status of an independent national economy, with its own regulation in finance, trade and labor, which will not be limited or constrained by the rules established by the European Union. The history of Atlantic relations, good cooperation with the Pacific area and with the Asian economies have stimulated the idea of a better organization of its own economic market. The economic crisis of 2007-2009, which also affected the British banking system³², had consequences for the British economy and for the stability and predictability of jobs, a criticism of British officials being that the European institutions had a late, bureaucratic reaction in combating the effects of the economic crisis. The sovereign debt crisis has, to a similar extent, created a reaction of economic policy of the British government, even if the stability of their own currency has not been affected.

The postponement of Brexit and the lack of agreement of the House of Commons on the issues negotiated by the British Government and the European Union leads to a difficulty in estimating the type of impact it will have on the movement of goods between the parties. The backstop clause, negotiated by Theresa May, but rejected by the House of Commons, would have allowed a long-term participation of the UK or at least Northern Ireland in the European internal market, at least until a consensus was reached in the Irish territorial and economic issue. The negotiations carried out by Boris Johnson and the new clause have not yet been analyzed scientifically, but the House of Commons debates pointed out that the new clause, which provides for a 2-year transition period for Northern Ireland, subsequently requiring the vote of the Irish parliament, is more imprecise and more difficult than the clause in the previous draft agreement.

In the context where the UK has an active population of 41 million people, out of a total of 50 million adults, the economic impact can be estimated both in relation to income per capita (between 0,15- 0.20%), as well as in relation to impact on British revenues (between 0,4-0,5%). Impact analyzes cannot be performed in the absence of the legal norm (both the bilateral agreement and the

³¹ Gabriel Liviu Ispas, Daniela Panc, *op. cit.*, pp. 266-273.

³² Ann Pettifor, *Brexit and its Consequences*, „Globalization”, 2017, 14:1, 127-132, DOI:10.1080/14747731.2016.1229953.

subsequent national legal regulation) and in the context of a turbulent international economic environment. Recession or the occurrence of a new global economic crisis can significantly affect the European economy and the British economy. Some national estimates in Romania, not publicized, estimate that depending on the scenario and the international context, the impact of Brexit can result between 0.5 and 3% of the GDP.

In an opinion I share, “the conventional wisdom has been that the UK’s withdrawal will push the EU in a less liberal policy direction. This expectation is based on an unduly static analysis of the consequences of Brexit. We cannot simply subtract UK representation from the EU when considering the impact of Brexit on this policy area as there are several dynamic factors that might affect EU trade policy going forward. First, there is the uncertainty about the future EU–UK relationship. This affects how both institutional and societal actors respond strategically to Brexit, for example by relocating their economic activities or reconsidering their alliances or positions within EU institutions. Second, there is the matter of how Brexit is diagnosed, and how this legitimates different EU trade policy responses. Even if Brexit does not ultimately occur, the dynamic effects of uncertainty will still have had an impact. Brexit may shape EU trade policy in counterintuitive ways. For example, a soft Brexit outcome, where the UK remains *de facto* in the Single Market and Customs Union while losing influence over EU decision-making, could change EU trade policy more than a hard Brexit.

In the case of the former, EU leverage in trade negotiations would remain unchanged, while we might expect little relocation by UK firms which would no longer be represented by the EU in trade policy. Consequently, the EU’s position could become somewhat less liberal. There might be less of a willingness to sacrifice defensive interests - such as agriculture - in order to secure offensive gains in business or financial services, with the EU retaining a similar amount of market power to defend this position. That said, this effect might be mitigated by high levels of interdependence between EU27 and UK firms. This might lead them to adopt similar positions on trade policy.

Studying the response of EU trade policy since the referendum shows us that so far, no radical change has materialised. The EU has continued its traditional position of progressive liberalisation in discourse and practice. Rather than interpreting Brexit as a sign that EU trade policy needs a fundamental rethink, the European Commission has framed it as demonstrating the need to ‘hold the line’. The Commission has even used Brexit, and the reinforcing presence of Donald Trump, to portray the EU as the champion of global free trade³³.

8. Conclusions

The exit of Great Britain from the European Union is the biggest challenge after the Second World War. Even if we are far from saying with absolute certainty

³³ Ferdi de Ville, Gabriel Siles-Brugge, *The impact of Brexit on EU Trade Policy*, „Politics and Governance”, 2019, volume 7, issue 3, pp. 7-18.

whether Brexit will really take place or not, even if the terms of the agreement and how relationships will be resized for the future are unclear, it is obvious that the break between Britain and the European Union-27 is producing effects, at least in shaping and maintaining trust between the parties. In the presented paper, we have shown the sinuous evolution of the relations between the parties, the way the negotiations took place and the positions of the parties.

The impact of Brexit has already occurred, even in the absence of a genuine departure from the Union, at least from a political point of view. The turmoil in the British Parliament, the lack of a predictable future, the uncertainties surrounding the economy and the relocation of some economic activities are realities of a policy that refuses to come to a conclusion. And, when asked what Brexit is, the best answer that can be given is the one given by the former British Prime Minister: Brexit means Brexit!

Bibliography

1. Andrew Gamble, *Taking back control- the political implications of Brexit*, *Journal of European Public Policy*, 2018, 25:8, 1215-1232, DOI:10.1080/13501763.2018.1467952
2. Ann Pettifor, *Brexit and its Consequences*, „Globalization”, 2017, 14:1, 127-132, DOI:10.1080/14747731.2016.1229953
3. Damian Chalmers, Gareth Davies, Giorgio Monti, *European Union Law*, third edition, Cambridge, 2014.
4. Ferdi de Ville, Gabriel Siles-Brugge, *The impact of Brexit on EU Trade Policy*, „Politics and Governance”, 2019, volume 7, issue 3.
5. Frank Schimmelfennig, *Brexit: differentiated desintegration in the European Union*, „Journal of European Public Policy”, 2018, 25:8, 1154-1173, DOI:10.1080/13501763.2018.146754.
6. Gabriel Liviu Ispas, Daniela Panc, *Drept instituțional al Uniunii Europene*, Hamangiu Publishing House, Bucharest, 2019.
7. Ionuț Gâlea, *Tratatele Uniunii Europene. Comentarii și explicații*, C.H. Beck Publishing House, Bucharest, 2012.
8. Jonathan Portes, Giuseppe Forte, *The economic impact of Brexit - induced reductions in migration*, „Oxford Review of Economic Policy”, Volume 33, Number S1, 2017.
9. Nigel Foster, *Foster on EU Law*, 6th edition, Oxford University Press, 2018.
10. Simon Bulmer, Lucia Quaglia, *The politics and economics of Brexit*, „Journal of European Public Policy”, 2018, 25:8, pp. 1089-1098, DOI: 10.1080/13501763.2018.1467957.