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THE BREXIT PHENOMENON

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Abstract

On June 23, 2016, citizens of the United Kingdom of Great Britain and Northern Ireland voted, approximately 52%, to leave the country in the European Union. More than 40 years have passed since the British joined the Community Bloc, and it seems that then, as it is now, the process was laborious and indescribable. The phenomenon called Brexit is announcing a difficult process in practice that is expected to be completed on March 29, 2019 at 23 o'clock in England. The talks are taking place on three levels of how Brexit will work and how much Britain holds in the European Union, what will happen to the Northern Ireland border and what will happen to the British citizens who are settled in other parts of the EU and at the same time what will happen to Union citizens living in the UK. Of course, the legal consequences of the UK's exit from the European Union are complex and can not yet be fully elucidated, given that the phenomenon is an absolutely new one in the field of international law. In particular, we are witnessing a genuine negotiation process between the UK and the EU: the UK discusses future trade and exchange relations and a plan for the two transition years set to smooth the way for post-Brexit international relations, and the EU refuses to talk about the future until there is enough progress on the various issues that have arisen. We are currently witnessing the reconstruction of Europe as we know it, remodeling the shape of the old continent, and we look forward to seeing the final shape that Brexit will wear, with all its legal consequences.

Keywords:

Brexit, international law, European Union, citizens, consequences.

JEL classification: K33.

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I. INTRODUCTION

In order for our readers to fully understand this phenomenon, it is necessary to explain the terminology of the word Brexit. Thus, the word comes from abridging the way to say that Britain is leaving the European Union, deriving from the words Britain and Exit.³ We would like to remind you that in 2012 the word Grexit was formed in the same way, when Greece was about to leave the EU, but the process was abandoned in 2015 because of the fear that exports and tourism will fall dramatically, which would lead to a strong destabilization of the economy.

The referendum on 23 June 2016, attended by almost all citizens with voting rights, had to decide whether the UK should leave the EU or stay. The result was 51.9% of votes for leaving the EU and 48.1% of staying. The vote was 71.8%, which meant that over 30 million people voted. Extrapolated, the result was as follows: England voted for Brexit at 53.4% to 46.6% against; Wales also voiced Brexit with 52.5% of votes to 47.5% against. Scotland and Northern Ireland voted for staying in the EU as follows: Scotland with 62% for and 38% against Brexit, and Northern Ireland 55.8% of the votes for staying in the EU and 44.2% against Brexit.⁴

After the referendum, the British chose a new prime minister in Theresa May. Like her predecessor David Cameron, Theresa May was opposed to Britain's exit from the EU during the referendum campaign, but she changed her policy with the result of the referendum. Therefore, it set a 2-year period for transit and started the negotiation process with the EU.

II. BRIEF HISTORY OF THE EUROPEAN UNION AND THE ACCESSION OF THE UNITED KINGDOM TO THE EU

Throughout its history, Europe has faced serious and serious problems culminating in the two world wars, moments that have destroyed it and rebuilt it at the same time, in different configurations.

The imprint of the idea of European unity, however, has accompanied the centuries of European history, although it has only taken shape after the Second World War. This grave, most painful event in Europe's history led to its division into two opposing ideological, economic and military blocks, the

³ Source: <http://www.bbc.com/news/uk-politics>, All you need about the UK leaving EU, By Alex Hunt & Brian Wheeler BBC News

⁴ Data taken over: http://www.bbc.com/news/uk-politics/eu_referendum/results

division of Germany and the Berlin Wall becoming symbols of this destructuring. Practically, Europe is divided between a liberal Western Europe, reuniting the most developed countries from this continent, and an Oriental Europe (Central and Eastern), which regrouped the countries with a socialist economy and a communist ideology, under the dictatorship of the Soviet Empire.

If the idea of European unity has taken shape and has given hope in the 1950s, by creating the first economic communities in Western Europe, the last decade of the twentieth century has made clear that pan-European unity is possible. The European area, despite its economic, ethnic or linguistic diversity, seemed to aim for an unprecedented political and economic unity in its multimillenary history, but it is now showing signs of division.

The European Union, as an expression of the realization of the idea of European unity across the continent, is today a reality, not only political and economic, but also legal [4: p. 3].

From the outset, the European Communities have pursued as their **primary objective** *the achievement of stronger cooperation* between Member States than that resulting from the cooperative organizations. With this in mind, they have placed themselves closer to federal aspirations, however, expressed at *the Hague Congress in May 1948*, then striking the ideals of the partisans of institutionalized co-operation.

The rise of Europe after the Second World War determines in a very dramatic way, the accomplishment of European cooperation relationships in the following fields: economical, military, political, premises of the European Community States [4: p. 86] .

In response to a possible German threat, on March 4, 1947 for the first time the representatives of England and France, concluded a *Pact of alliances and mutual assistance* at Dunkirk.

Less than an year later (February 1948), *France and England* invite the Benelux countries to also participate in a mutual guarantee system. A new treaty was signed between *England and France*, on the one hand, and *Belgium, the Netherlands and Luxembourg*, on the other, and on 17 March 1948 the Western Union was established.

Although the Treaty of Brussels first consented to an automatic assistance agreement against any aggression (Germany was specifically targeted), it organized a much wider network of relations, which aimed, besides military cooperation and political, economic, cultural [3: p. 125].

Politically, an advisory council, consisting of the Foreign Affairs Ministers, is set up, alternately in the capitals of the Member States (France, England and Benelux). Between meetings, the council is doubled by a standing committee based in *London*.

On the military level, a Committee of Defense Ministers assisted by specialized committees (having as their main mission the strategic planning of weapons) was set up. There are also joint military forces that are ready to be placed under a common command (in case of war under the command of the commanders' committee).

Economically, the *Treaty of Brussels* proposed the creation of a customs union, open to all European countries (and the establishment of a European assembly as an organization with international parliamentary powers) [1: p.5].

Thus, the *Marshall Plan* is launched, through which "a financial system for re-launching the economies of the European states is being launched" [4: p.12]. This plan benefited only Western Europe, but it would have to participate in an institution responsible for the collective management of aid and the development of a European reconstruction program.

British diplomats have made it possible for the United Kingdom to enter the EEC member countries. During the 1960s and 1970s, the Franco-British relations were dominated by the efforts of European leaders to persuade France to accept it. The whole decision was in the hands of President Charles de Gaulle.

UK diplomats have played an important role in the United Kingdom's accession process to CEE. They realized that they had to support François Mitterrand, then Prime Minister of France, because he could have become president and facilitated the entry of the British into the Community Bloc. As a result, London officials began to move closer to the French Socialists to persuade them that De Gaulle was not right.

In 1967, the French president again said "No" to the British accession to the European Economic Community, but British diplomats realized that they had no chance to fulfill their purpose as long as De Gaulle was acting as president, neither after the general's resignation, two years later, London officials failed to convince the Paris decision-making bodies that the UK deserves to join the EEC member countries.

In 1970, seven years after De Gaulle's first refusal, in a final attempt to improve Franco-British relations, members of the Conservative Group for Europe gave the French an unprecedented suggestion. On December 22,

1970, group leader Tufton Beamish wrote to the Undersecretary of State in the British Foreign Ministry, Anthony Royle, saying that the following year the two peoples had to mark the centenary of Emperor Napoleon III's exile in England, giving the French the bones of the Farnborough mausoleum soldiers for the purpose of being placed in the Invalides Dome⁵. The idea was taken into account and implemented, opening the way for the British to join the European Economic Community, a process completed in 1973 by the legal instrument called the *Acts on the Accession to the European Communities of the Kingdom of Denmark, Ireland and the United Kingdom Great Britain*, January 22, 1972, came into force on January 1, 1973. Now, after 44 years, all Britons are the ones who take their fate in their own hands and decide to leave the European Union.

III. THE CONSEQUENCES OF EUROPEAN UNION RECONFIGURATION AFTER BREXIT

The United Kingdom's disengagement of Great Britain already generates effects of an economic, social, political and legal nature. Before looking briefly at the consequences of Britain's separation from the European Union, we must refer to the Treaty of Lisbon, which, according to Art. 50, allows a member to leave the Union.

The Treaty of Lisbon, known in the project phase as the Reform Treaty, is a treaty designed to replace the European constitutional treaty, a project abandoned following the rejection by referendum by the Netherlands and France. Its official name is the Treaty of Lisbon amending the Treaty of the European Union and the Treaty establishing the European Community.

The treaty was signed on 13 December 2007 and ratified by Romania in 2008 (by Law no. 13/2008), which is the fourth member state of the European Union to have completed the ratification process after Hungary, Slovenia and Malta. Following the ratification of the other Member States as a result of the joint will and the joint actions of political actors, the document entered into force on 1 December 2009, aiming to ensure the European Union's response to the new global challenges and issues that matter most to citizens, bringing Europe closer to them⁶.

⁵ Cited by www.theguardian.com

⁶ Art. from the Treaty of the European Union (amended by the Treaty of Lisbon) „ Every citizen has the right to participate to the democratic life of the Union. The decisions are taken openly and as closer as possible from the citizen”.

Pursuant to Article 1 (4) of this Treaty⁷, its objectives are: to form a more democratic and more transparent Union; creating a more efficient Union with simplified working methods and voting rules, with modern institutions for a 27-member European Union capable of acting better in areas of major priority; building a Europe of rights, freedom, solidarity and security that promotes the values of the Union, introduces the Charter of Fundamental Rights into European primary law, provides for new solidarity and ensures a better protection for the European citizens; promoting Europe as an actor on the international stage - Europe's foreign policy instruments will be regrouped both in the development and of new policies;

The analysis of the Treaty's objectives shows that for the first time the European Union has set itself the objective of protecting citizens from the effects of globalization⁸ and competitiveness is no longer an objective in itself, but becomes an instrument in the development strategies of the economic environment. Also, by using the term values: "The Union is founded on respect for human dignity, freedom, democracy, equality, rule of law" instead of the term "*principles*" (the preamble to the Treaty on European Union), a broader view is given to the Union's objectives, this being outlined both in terms of their nuance and accuracy in relation to human rights and in a global context, in relation to international law⁹.

Despite community treaties, we believe that at the time of Brexit's launch, not all possibilities, scenarios and all the costs associated with the phenomenon have been taken into account. Even if the Treaty of Lisbon apparently provided an unprecedented degree of stability in the evolution of the community space, financial analysts are of the opinion that the departure of Britain will cost the British much and the conditions of an inflationary wave are becoming more and more preconceived. At the same time, it is estimated that British citizens will lose about 950000 jobs and investment of 66 million pounds a day as a result of EU detachment. According to a report by the International Monetary Fund, it is believed that every British will lose between 4,000 and 5,000 pounds a year.

British economic situation is both highly sensitive, due to the departure of the United Kingdom in the EU. Bank of England, the first ever established central bank is unable to act really. Under a wave of inflation, the looming louder, the central bank does not have a very large room for

⁷ The Treaty of Lisbon, <http://eur-lex.europa.eu/jOHtml.do?uri=OJ:C:2007:306:SOM:RO:HTML>.

⁸ Art.1 alin. (4) from the Treaty of Lisbon

⁹According European Institute for Romania, "Lisabona Treaty Glossar, 2009.

maneuver, given that the policy rate is very low, no longer having where to shrink.

PwC Consulting Company showed in a study that 950,000 jobs would be lost, while the country's energy bill will increase every day with 1.5 million pounds. On the other hand, British flights in Europe are 40% cheaper due to the EU member state, and they will be more expensive due to the cost of the British mobility.

More than three million jobs are directly related to trade with the European Union, and as a consequence of Great Britain's leaving the European gear, most of them are likely to be lost.

The consequences of Brexit on the Romanians

Approximately three million citizens from other EU countries, including a few hundred thousand Romanians, live in the UK. Poles are the most numerous, with about 800,000 living in the UK, followed by Irish (383,000) and Germans (301,000), according to the latest available data from the National Bureau of Statistics.¹⁰ The number of Romanians and Bulgarians, often the target of the campaign in favor of leaving the EU, where they were categorized as "job thieves" and "social assistants", amounts to 175,000 people, respectively 59,000, but the number of immigrants from these two countries increased in 2015 and 2016.

Romanians living in the UK have shared opinions on the effects of the referendum, but most hope they will manage even if the UK leaves the European Union. Of course, the views of the Romanian community settled in the UK are pros and cons. For example, some think that: leaving the Union would lead to a period of uncertainty of about 10 years for both foreigners and the British; exports would drop dramatically; that tourism would suffer greatly; that Romanians would no longer be able to start their own business; that they will no longer benefit from medical insurance; that they will lose the right to study in the UK or the right to free movement. Others are of the opinion that Britain's separation from the EU would only be effective for Romania and for those who want to get a job there.¹¹

On the other hand, it is well known that many firms in China, the Middle East, the US or India prefer London because of their EU membership. But it would be equally realistic for these companies to set up

¹⁰ According, the Daily The Guardian.

¹¹ Cited by Financial Time publication

their offices in Paris, Frankfurt, Vienna or Munich where they would benefit from fruitful and long-term collaborations.

The British businessman of Romanian origin, decorated as the Knight of the British Empire Order in 2013, also spoke about the geopolitical risks of Britain's outflow of the European Union: "I grew up behind the Iron Curtain and have a direct experience in this respect I look with fear that Russia will again start intervening in Eastern European countries. If the United Kingdom leaves the EU, and this leads to its collapse, as some Brexit supporters predict, Russia will expand "We need to maintain a close relationship with our partners to make sure this is not going to happen," says the businessman in the editorial published by The Evening Standard. "Britain is safer in the EU, and the EU is stronger with the UK. Our stability is our strongest asset and our membership in the EU is a component of this stability," Iacobescu concluded.¹²

Another issue concerns the visa and passport regime, meaning that after March 29, 2019, when the official date of exit is set, foreigners entering the UK may need entry visas British territory and passports.

The consequences of Brexit on foreign citizens living in the UK

All EU nationals lawfully resident in the UK for at least five years will be able to apply for "settled status" and be able to bring over spouses and children. Mrs May says she wants to give reassurance and certainty to the 3.2 million EU citizens in the UK - as well as citizens of the three EEA countries and Switzerland. But any deal on their future legal status and rights must be reciprocal and also give certainty to the 1.2 million British expats living on the continent after the UK leaves the EU - expected to be on 29 March 2019, she says. Michel Barnier, who is leading the Brexit negotiations for the EU, said the UK's proposals did not go far enough and he wanted the same level of protection citizens currently have under EU law. He has demanded more clarity and ambition from the UK government. The key points of the UK's proposals are: those granted settled status will be able to live, work, study and claim benefits just as they can now; the cut-off date for eligibility is undecided but will be between 29 March 2017 and 29 March 2019; family members of EU citizens living abroad will be able to return and apply for settled status; EU nationals in the UK for less than five years at the specified date will be able to continue living and working in the UK; once resident for five years, they can apply for settled status; those arriving after

¹² Interview of Sir George Iacobescu to the editorial The Evening Standard

the cut-off point will be able to stay temporarily; but there should be "no expectation" they will be granted permanent residence; a period of "blanket residence permission" may apply to give officials time to process applications to stay in the UK; the Home Office will no longer require evidence that EU citizens who weren't working held "comprehensive sickness insurance".¹³

A lot depends on the kind of deal the UK agrees with the EU. If the government opted to impose work permit restrictions on EU nationals, then other countries could reciprocate, meaning Britons would have to apply for visas to work. Any EU citizen already living and working in the UK will be able to carry on working and living in the UK after Brexit. The current plan is that even after Brexit, people from the EU will be able to move to work in the UK during a "transition" phase of up to three years. However they will have to register. A permanent proposal for post-Brexit immigration is not likely to be known for a few months yet, although it is widely expected that there will be a work permit system along the lines of that for non-EU nationals.

The consequences of Brexit on Britain's economy

Some distinguished personalities of England, such as David Cameron or his chancellor George Osborne who pleaded for Britain's status as an EU member, predicted an imminent economic crisis if England left the EU and the immediate effects were reflected in the decline of the pound against the dollar by around 10% and against the euro by 15%. But the predictions were relatively wrong as it is estimated that England's economy grew by 1.8%, only second after Germany, which had a 1.9% increase in the G7's most industrialized countries from the whole world.¹⁴ We specify the fact that the G7 was formed in 1975 by the six countries of US, France, Germany, Italy, Japan, and the UK with the exception country. Canada was invited the following year making membership to seven G7 countries. The representatives of the G7 countries meet annually to discuss international economic and monetary issues. In 1998, Russia was fully admitted making it G8, though Russia had been attending the meetings since the 1990s. In 2014

¹³ Source: <http://www.bbc.com/news/uk-politics>.

¹⁴ Group of Seven (G7) is an organization of the highly industrialized countries of the United States (US), Canada, France, Germany, Italy, Japan, and the United Kingdom (UK). The G7 countries possess 64% of the world's wealth and have a very high human development index. Member countries also represent 46% of the global GDP. The group's most recent 42nd meeting was held in Japan in May 2016.

Russia was suspended from the group after it annexed Crimea and the disputes it had with Ukraine. Initially when G6 was formed it was exclusively major noncommunist countries and inclusion of Russia later was a gesture to help the post-soviet Union Russia to participate and have more say in world issues.¹⁵

In 2017 the economy of the UK has continued to grow at almost the same rate. Inflation has risen since June 2016 to stand at 3.9%, but unemployment has continued to fall, to stand at a 42 year low of 4.3%. Annual house price increases have fallen from 9.4% in June 2016 but were still at an inflation-beating 5% in the year to August 2017, according to official ONS figures.

The UK and EU negotiating teams meet face-to-face for one week each month. Their first tasks have been trying to get an agreement on the rights of UK and EU expat citizens after Brexit, reaching a figure for the amount of money the UK will need to pay on leaving, the so-called "divorce bill", and what happens to the Northern Ireland border.

The consequences on the EU law in force in the UK

The Conservative government has introduced the European Union (Withdrawal) Bill to Parliament. If passed, it will end the primacy of EU law in the UK. This "Great Repeal Bill" as it has been called, is supposed to incorporate all EU legislation into UK law in one lump, after which the government will decide over a period of time which parts to keep, change or remove. The government is facing claims from Remain supporting MPs that it is giving itself sweeping powers to change legislation without proper Parliamentary scrutiny.

Lately, there is talk about *soft Brexit* and *hard Brexit*. These terms are used during debate on the terms of the UK's departure from the EU. There is no strict definition of either, but they are used to refer to the closeness of the UK's relationship with the EU post-Brexit. So at one extreme, "hard" Brexit could involve the UK refusing to compromise on issues like the free movement of people even if meant leaving the single market. At the other end of the scale, a "soft" Brexit might follow a similar path to Norway, which is a member of the single market and has to accept the free movement of people as a result of that.

¹⁵ According <http://www.worldatlas.com/articles/group-of-seven-g7-countries>.

The consequences of the Brexit on single market

The single market is seen by its advocates as the EU's biggest achievement and one of the main reasons it was set up in the first place. Britain was a member of a free trade area in Europe before it joined what was then known as the common market. In a free trade area countries can trade with each other without paying tariffs - but it is not a single market because the member states do not have to merge their economies together.

The European Union single market, which was completed in 1992, allows the free movement of goods, services, money and people within the European Union, as if it was a single country. It is possible to set up a business or take a job anywhere within it. The idea was to boost trade, create jobs and lower prices. But it requires common law-making to ensure products are made to the same technical standards and imposes other rules to ensure a "level playing field".

Critics say it generates too many petty regulations and robs members of control over their own affairs. Mass migration from poorer to richer countries has also raised questions about the free movement rule. Theresa May has ruled out the UK staying in the single market. Labour leader Jeremy Corbyn has said continued membership of the single has to be an option in negotiations with Brussels. The customs union ensures EU member states all charge the same import duties to countries outside the EU. It allows member states to trade freely with each other, without burdensome customs checks at borders, but it limits their freedom to strike their own trade deals. It is different from a free trade area. In a free trade area no tariffs, taxes or quotas are charged on goods and services moving within the area but members are free to strike their own external trade deals. The single market is a very different beast - it is not just about the trade in goods. It allows the free movement of people, money and services as if the EU was a single country.

Unpicking 43 years of treaties and agreements covering thousands of different subjects was never going to be a straightforward task. It is further complicated by the fact that it has never been done before and negotiators will, to some extent, be making it up as they go along. The post-Brexit trade deal is likely to be the most complex part of the negotiation because it needs the unanimous approval of more than 30 national and regional parliaments across Europe, some of whom may want to hold referendums. The UK could cut all ties, but Theresa May and others would like to avoid such a "cliff-edge" where current regulations on things like cross-border trade and

travel between the UK and the EU ends overnight. They think it would harm the economy.¹⁶

The consequences of Brexit on the European Court of Human Rights and the European Court of Justice

The European Court of Human Rights (ECHR) in Strasbourg is not a European Union institution. It was set up by the Council of Europe, which has 47 members including Russia and Ukraine. So quitting the EU will not exempt the UK from its decisions. The Conservatives are committed to sticking with the Human Rights Act which requires UK courts to treat the ECHR as setting legal precedents for the UK during the Brexit process. There have been longstanding plans to repeal the act and replace it with a British Bill of Rights. The Court of Justice of the European Union is the EU's highest legal authority and it is based in Luxembourg. It is an entirely different thing to the European Court of Human Rights (ECHR).

It is the ECHR not the ECJ that has often upset British politicians by making it harder, for example, to deport terrorist suspects. The ECJ interprets and enforces the rules of the single market, settling disputes between member countries over issues like free movement and trade. It is at the centre of pretty much everything the EU does. Prime Minister Theresa May has vowed that Britain will not be under the "direct" jurisdiction of the ECJ after Brexit. But the UK government has not ruled out remaining under its jurisdiction during the Brexit transition period that is planned after March 2019.¹⁷ After that, there will need to be a new mechanism for settling disputes between the UK and the EU but what form that take has yet to be decided. There has been talk of an ombudsman, or some other third party, being appointed to settle disagreements. The UK has set out some ideas in a position paper, which was criticised for being too "vague". The EU is insisting that its citizens in the UK should continue to enjoy the legal protection of the ECJ even after Brexit, guaranteeing their right to work and access to benefits among other things. This is a major sticking point in the negotiations, with the UK saying EU citizens living in the UK should be subject to British law only.

¹⁶ Cited by www.theguardian.com

¹⁷ Source: <http://www.bbc.com/news/uk-politics>

CONCLUSIONS

The few aspects presented in this paper are only a small part of our study. The implications are of multiple nature and we intend to analyze them in a future material. Of course, the real consequences of Brexit will be observed after the 2019 grace year and only then will we be able to compare our predictions and analysts with concrete reality.

Unfortunately, we are witnessing the beginning of the disintegration of the desiderata of Europe united under the umbrella of the European Union. Europe has been trying for centuries to concretize the idea of European unity, although it has only emerged from the outset after the Second World War. From the outset, the European Communities pursued as a primary goal the achievement of stronger co-operation between Member States than that resulting from cooperative organizations. The rise of Europe after World War II led to the establishment of European cooperation ties in the economic, military, political dimensions of European Community states.

The issue that arises after the Brexit phenomenon is that a rather grim scenario is emerging that will open the way for other EU member states to invoke art. 50 of the Treaty of Lisbon to demand its leaving the Union, in which case European unity itself remains questionable.

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