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AFTER BREXIT. BRIEF REVIEW ON THE EFFECTS OF BREXIT

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AFTER BREXIT. BRIEF REVIEW ON THE EFFECTS OF BREXIT

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Abstract

We believe that a large part of our readers have asked themselves what will happen after the signing of the Brexit Agreement or at least they have followed with interest the information developed on social media on this subject. We believe that we are witnessing a historic moment in terms of international relations and the whole evolution of the European Union. We stated in our first study The Brexit phenomenon in 2017 that it is possible to witness a reshaping of the Union as we know it, a reconstruction perhaps on a more solid basis or perhaps, in the worst case scenario, its dismemberment. Euro-sceptics certainly see the beginning of the peak of the European Union, an idea we consider worthy of consideration. We must confess that we started the analysis of this kind of phenomenon since the first attempt of Brexit in 2015, on the occasion of the research carried out for the doctoral thesis. We recall that in the period 2012-2015, after the European crisis between 2010 and 2015, Greece took the initiative to take advantage of the Lisbon Treaty of 2009 to withdraw from the EU. But unlike the UK, Greece is a small European state with a weak economy and institutions, but also a considerable recipient of European funds. The unanimous opinion was that Greece would leave the euro-area. The attempt failed, Greece remained a full member of the EU, but it was followed by the United Kingdom, which, in the year of grace 2020, signed the Final Brexit Agreement. We believe that the Brexit model could have been used, at some point, as a benchmark or example or even an important lesson during Britain's long and heated negotiations with the European Union.

Keywords:

Brexit, internațional law; European Union; eurozone; consequences.

JEL classification: K33.

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I. Introduction

Europe is waiting to see what will happen after Britain leaves the EU. If until now British citizens enjoyed the same rights as the rest of the citizens of the EU Member States, the question is what real problems will arise from the 1st of February 2020 or, rather, after the transit period negotiated in the withdrawal agreement.

The notion of citizenship has its origins in domestic law [1]. According to the conception proposed by Aristotle, the citizen was defined by participating in judicial and public functions in general. On the positive side, citizenship continues to designate the legal quality that allows a person to take part in the life of the state, enjoying civil and political rights and being subject, in return, to certain obligations such as compulsory voting or military service. As a rule, citizenship was recognized by the state to its citizens who, as members of the Citadel, participated in the governance of the Citadel. International law recognizes this privileged status, conditioned by nationality, which mainly involves the right to stay on the national territory, participation in political life (the right to choose and be elected), access to public functions, the right to diplomatic protection. The notion of European citizenship is based on these corresponding rights and obligations. It implies that the citizens of the European Union enjoy, in this capacity, the same rights that are traditionally granted to their own citizens in the internal legal order. As a holder of rights, the citizen becomes an element of the exercise of power and of the principle of sovereignty. Through its ability to influence the configuration of political power, the citizen is the holder of a part of political sovereignty, because, by voting, he can decide on the government. Both the structure of political power and the execution of the decisions taken by the rulers depend on the will of the citizens.

Far from abolishing national citizenships, European citizenship is being added to them. Citizens of the Member States of the European Union thus enjoy dual citizenship. Thus, a French citizen is both a French citizen and a European citizen. European citizenship is governed by Union law, in which it finds its sources; national citizenship belongs only to national law. European citizenship does not suppress any of the rights inherent in national citizenship. It simply confers additional rights that are exercised, either at Union level or at Member State level.

II. Some possible scenarios after the entry into force of the Brexit Agreement

Towards the final stage of the negotiations on the UK's withdrawal agreement from the European Union and the European Atomic Energy Community, there was a suspicion that the deal could stall if the London government did not respect the rights of European citizens. In fact, European leaders have taken such a scenario into account and warned against it. The European Parliament voted in favour of the Brexit agreement after making sure that citizens' rights issues were resolved.

Another delicate issue that arose during the negotiations was that the British Prime Minister intended to abandon the post-Brexit transition period, which would lead to serious problems for both sides, as the UK's sudden withdrawal from EU regulations, as well as the lack of a commercial agreement with the EU, would cause inconveniences in, for example, transport, trafficking in goods, trade, free movement of persons, security, energy, fisheries and much more. On the other hand, if we consider the more than 70 existing international agreements on the common market in the Customs Union, it is easy to understand that the United Kingdom would be at a disadvantage compared to the EU. In the absence of a trade agreement, economic relations between Brussels and London will be governed by much less advantageous World Trade Organization (WTO) rules, as they set customs duties on goods. At the beginning of February, Boris Johnson presented „his ambitions to reach a free trade agreement of the same type as the one recently signed by the EU and Canada, and alignment with European rules. By the way, we emphasize that the Free Trade Agreement between the European Union and Canada (whose entry into force was originally scheduled for the 8th of July 2017 and which entered into force provisionally on the 21st of September 2017), provides for the elimination of 98% of trade tariffs between Canada and the EU, among other trade advantages. According to a study by the Impact and Sustainability Commission (ISA), the European Union's economy would grow by 0.02-0.03% in the long run due to the CETA agreement, while Canada's economy would grow by 0.18-0.36%" [2]. The context of the „*EU-Canada relationship is set out in the Strategic Partnership Agreement*, which allows for enhanced cooperation in strategic areas of common interest and responsibility, such as climate, security and foreign and security policy. The Strategic Partnership Agreement has been provisionally applied since the 1st of April 2017 and, together with CETA, allows for a greater deepening of EU-Canada relations" [3]. We note that the United Kingdom signed this Agreement on the 8th of November 2018.

Going on withthe analysis, we point out that, in such conditions, the emergence of an internal crisis in the UK would not be surprising, if we take into account the fact that politicians in Scotland, Northern Ireland and Wales plead for independence, amid dissatisfaction with the country's exit from the European Union. This aspect was obviously rejected by the British Prime Minister Boris Johnson. Most people in Scotland in the 2016 British Brexit referendum voted in favour of staying in the European Union. Given the new international context, Scottish leaders are being insistent towards a new independence referendum in Britain, given that Scots share this desire. Recall that in 2014 Scotland held a *referendum on independence* from the United Kingdom and over 55% of Scots voted against independence at the time [4]. In the context of the entry into force of the Brexit Agreement, the result could now be in favour of independence.

III. Provisions of the Agreement on the withdrawal of the United Kingdom from the European Union

Article 126 of the Agreement establishes a transitional or implementation period, from the date of entry into force of the Agreement until 31st of December 2020. As regards the territorial scope of Article 3 of the Agreement provides that „'its territory shall be construed as a reference to: (a) the United Kingdom; (b) Gibraltar, in so far as Union law applies to it before the date of entry into force of this Agreement; (c) the Channel Islands and the Isle of Man, in so far as Union law applies to them before the date of entry into force of this Agreement; (d) the Akrotiri and Dhekelia areas of sovereignty in Cyprus, to the extent necessary to ensure the implementation of the arrangements provided for in the Protocol on the areas of sovereignty of the United Kingdom of Great Britain and Northern Ireland in Cyprus, annexed to the Act of Accession the European Union of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic; (e) the overseas countries and territories listed in Annex II to the TFEU which have special relations with the United Kingdom (3), where the provisions of this Agreement concern the special arrangements for the association of the overseas countries and territories with the Union" [5].

The second part of the Agreement states the Rights of Citizens and in this regard we list some provisions:

- „*in respect of citizens of the Union and their family members - the United Kingdom, if they exercised their right of residence in the United Kingdom* in accordance with

Union law before the end of the transitional period, continue to have residence in the United Kingdom even after the end of the transitional period;
- *in respect of nationals of the United Kingdom and their family members - the Member State in which they exercised their right of residence* in accordance with Union law before the end of the transitional period continues to have their residence after the end of the period transition;
- *as regards citizens of the Union - United Kingdom, if they were engaged in economic activity in the United Kingdom as frontier workers before the end of the transitional period, continue to do so even after the end of the transitional period*;
- *family members who are neither citizens of the Union nor nationals of the United Kingdom have the right to reside in the host State* pursuant to Article 21 TFEU and as provided for in Article 6 (2), Article 7 (2)), Article 12 (2) or (3), Article 13 (2), Article 14. Article 16 (2), Article 17 (3) or (4) or Article 18 of Directive 2004/38/EC, subject to the limitations and conditions laid down in those provisions; The Host State may not impose any limitations or conditions other than those provided for in this title for the acquisition, retention or loss of residence rights to the persons referred to in paragraphs 1, 2 and 3. No other margin of discretion shall be provided, in application of the limitations and conditions set out in this Title, than in favour of the person concerned" [6];
- *citizens of the Union and nationals of the United Kingdom, their family members and other persons residing in the territory of the host State in accordance with the conditions laid down in this title shall have the right to leave the host State and to enter the Host State*, as provided for in Article 4 (1) and the first subparagraph of Article 5 (1) of Directive 2004/38/EC, with a valid passport or national identity card, in the case of Union citizens and nationals of the United Kingdom and with a valid passport in the case of their family members and other persons who are not citizens of the Union or nationals of the United Kingdom;
- *five years after the end of the transitional period, the host State may decide not to accept national identity cards for the purpose of entering or leaving its territory if such identity cards do not include a chip that complies with applicable standards of the International Civil Aviation Organization on biometric identification*;
- *citizens of the Union, nationals of the United Kingdom and members of their families who have been legally resident in the host State in accordance with Union law for a continuous period of five years* or for the period specified in Article 17 of Directive 2004/38/EC have the right of permanent residence in the host State under the conditions laid down in Articles 16, 17 and 18 of Directive 2004/38 / EC. Periods of legal residence or work carried out in accordance with Union law before and after the end of the transitional period shall be included in the calculation of the period of seniority required for the

acquisition of the right of permanent residence. Continuity of residence for the purpose of acquiring the right of permanent residence shall be determined in accordance with Article 16 (3) and Article 21 of Directive 2004/38 / EC;

- „*subject to the limitations laid down in Article 45 (3) and (4) TFEU, workers in the host State and frontier workers in the State or States in which they pursue their occupation shall enjoy the rights guaranteed* by Article 45 TFEU and the rights conferred by by Regulation (EU) no. 492/2011 of the European Parliament and of the Council. These rights include: the right not to be discriminated against on the grounds of nationality in respect of employment, the right to assistance provided by the employment offices of the host State or of the State of employment, in the same conditions as those offered to their own nationals; the right to equal treatment with regard to employment and occupation, in particular as regards remuneration, dismissal and, in the event of unemployment, professional reintegration or re - employment; the right to social and tax benefits; collective rights; the rights and benefits granted to national workers in the domain of houses; the right of their own children to be admitted to general education, apprenticeship and vocational training courses under the same conditions as nationals of the host State or of the State of employment, if such children reside on the territory on which the worker unfolds its activity" [7].

- as regards the *arrangements for goods, we note that goods which were lawfully placed on the market in the Union or the United Kingdom before the end of the transitional period may continue to be made available on the Union or United Kingdom market and may circulate between those two markets until they reach the end user*, as provided by art. 41;

- *regarding the status of union goods, article 47 provides that (EU) Regulation number 952/2013 of the European Parliament and of the Council (23) applies to Union goods referred to in Article 5 (23) of that Regulation, if those goods move from the customs territory of the United Kingdom to the customs territory of the Union, or conversely, provided that such movement began before the end of the transitional period and ended after that period.* A movement of goods which started before the end of the transitional period and which ends after that period shall be treated as a movement within the Union as regards the import and export licensing requirements of Union law;

- „*as regards VAT,* article 51 stipulates that Council Directive 2006/112/EC *applies to goods dispatched or transported from the territory of the United Kingdom to the territory of a Member State and vice versa, provided that the dispatch or transport began before the end of the transitional period; and to end after this period*. As regards the taxable person's rights and obligations in respect of transactions having a cross - border element between the United Kingdom and a Member State

which took place before the end of the transitional period and in respect of the transactions referred to in paragraph 1, Directive 2006 /112/EC shall continue to apply five years after the end of the transitional period" [8]. By way of derogation from paragraph 2 and Article 15 of Council Directive 2008/9 / EC, claims for refunds relating to VAT paid in a Member State by a taxable person established in the United Kingdom, or which has been paid in the United Kingdom by a taxable person established in a Member State shall be lodged in accordance with the conditions laid down in that Directive by 31st of March 2021. By way of derogation from paragraph 2 and Article 61 (1) (2) of Implementing Regulation (EU) number 282/2011 of the Council, amendments to VAT returns which have been lodged in accordance with Article 364 or Article 369f of Directive 2006/112 / EC or in the United Kingdom, as regards services provided in Member States of consumption before transition period, or in a Member State, in respect of services provided in the United Kingdom before the end of the transitional period, shall be submitted by 31st of December 2021 at the latest" [9].
Note: „*The Paris Treaty establishes the European Coal and Steel Community (ECSC) which creates a common market for coal and steel. This eases distrust and tensions between neighbouring European countries following World War II. The ECSC treaty, which expired in 2002, is the first founding treaty of the European Community*. *The Rome treaties establish the European Economic Community (EEC) and the European Atomic Economic Energy Community (Euratom).* The first meeting of the Council of the EEC takes place on 25 January 1958 under the chairmanship of Victor Larock, the Belgian Foreign Affairs Minister. Following the Copenhagen summit in December 1973, which made provision for summits to be held whenever necessary, the Paris summit of December 1974, hosted by President Valéry Giscard d'Estaing, *creates the European Council. It was created with the intention of establishing an informal forum for discussion between heads of state or government"* [10].

IV. Conclusions

Of course, many issues remain to be analysed and discussed in terms of the implementation of the provisions of the United Kingdom's Withdrawal Agreement. For the time being, we reserve the right to remain observant and to follow closely what will happen in practice and in terms of international relations. One thing remains certain: the common desire of EU Member States and the United Kingdom to maintain international peace and security, to bring economic, scientific, technical cooperation and collaboration to a different level, and respect for the rights of EU and United Kingdom citizens, ensuring the free movement of persons, goods,

services, etc. in compliance with the principles of international and European law.

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