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## Why I don't think Brexit is going to happen (or, at least not the way the British thought it would)

### Only losers left behind?

It has only been a few weeks since the June 23<sup>rd</sup> referendum in the United Kingdom which resulted in a narrow majority of participants supporting the Brexit camp. Since then, academic argument<sup>1</sup>, the media and the general public forum have been dominated by questions about what will happen next and how the British departure from the European Union can be accomplished in practice. Perhaps this debate should also be examining whether or not Brexit is actually going to happen and, assuming this is the case, whether this will be a true departure from EU integration or rather a bogus exit whereby the status quo does not significantly change. Indeed, such a bogus exit would mean in practice that key aspects of British integration into the EU would remain in place, whilst at the same time the situation of the UK would drastically deteriorate in terms of its institutional involvement and the price to be paid in exchange for future British access to the EU single market. Needless to say, the bogus exit option would especially bring little change to those aspects identified by the Brexit supporters as main obstacles for a future EU membership: first, the alleged loss of sovereignty, second, the already mentioned contribution to the EU budget, money allegedly better spent on domestic issues such as the National Health Service, and, third, the migration into the UK from other EU Member States.

It remains unclear who would really benefit from a Brexit apart from those nationalists and populists throughout Europe who continually campaign against any kind of EU integration, espousing the antiquated idea and fake ideal of the national State and seeking easy answers to complex questions, especially the argument that after regaining “full sovereignty” or “independence” from the EU, a golden future would lie ahead for all those States currently held in the paralysing and deadly stranglehold of the European Union. This handful of die-hards would benefit politically whilst at the same time personally suffer the negative consequences of the ideas they propagate in the same way that ordinary people will be affected. Nigel Farage, truly British by name and nature, married,

as he is, to a German woman, driving a Swedish car and being on the payroll of a French- and Belgium-based institution, serves as an excellent example here.

Apart from these few winners, Brexit seems to leave only losers behind. Because of this, a Brexit appears, though not impossible, unlikely. In the following paper, I will present reasons for this, focussing on the most important ones and on the UK only and recommend further measures to be taken both by the British government, the European Union, and its 27 other Member States in order to productively move ahead.

### Economic implications of Brexit on the UK

It is obvious that a British departure from the European Union would impact negatively on the EU-27 single market and the market economies of the remaining Member States. Even so, this in itself may not serve as a basis for avoiding Brexit. What may well prove decisive, however, are the economic implications for the UK that the electorate was warned about prior to the public referendum, many of which seem realistic.<sup>2</sup>

First and foremost, the British might lose access to the single market, an option even Nigel Farage has ruled out. It is, however, not exclusively up to the British to decide about their future involvement as regards the single market but mainly a decision of the EU-27. There are four options imaginable: the Norwegian, Swiss, Turkish/Korean and WTO models. The latter is highly unlikely, given it would base EU-British trade relations exclusively on WTO rules, allowing for tariffs to be set up between them, and consequently excluding unhindered access to the single market. This would damage UK trade with the EU in terms of goods as well as services, and further exacerbate economic consequences for the UK. Over time, additional non-tariff barriers could emerge to damage trade in services in particular. The WTO model would, however, also exclude free movement of citizens and hence meet one of the main objectives of the Brexit camp. This particular objective could also be achieved by agreeing on the

Turkish/Korean model, i.e. the establishment of a customs union between the EU and UK or a free trade agreement respectively. Whether the EU would agree to such models in the British case is questionable, though, since this would mean nothing less than allowing the British to cherry-pick by giving British goods unhindered access to the single market whilst excluding any free movement. It is also questionable whether a customs union or free trade agreement would serve British needs: an important part of the British economy is service-based, especially in the banking and financial services sector. The somewhat loose forms of economic integration such as those in question in the Turkish or Korean model would focus exclusively on opening markets for the trade in goods but would not apply to services. Using these approaches would not invalidate one of the big British fears, the City of London losing access to the EU single market. Consequently, the models preferred in the UK and propagated by the Brexit camp, are the Norwegian and Swiss<sup>3</sup> examples. Switzerland is very closely linked to the EU with around 120 bilateral agreements providing for, i.a., almost full access to the single market and even participation in the Schengen area of borderless travel. However, to a great extent, these numerous agreements take into account particular Swiss interests and motivations. This may sound tempting for the British (though less attractive to the EU), but one must not forget that despite internal opposition, even Switzerland has agreed to labour migration and also contributes to the budget of the European Union. For exactly this reason, the Norwegian model will not really match British interests either: Norway, alongside fellow EFTA members Iceland and Liechtenstein, is extremely closely linked to the EU via the European Economic Area (EEA). The three countries have almost full access to the single market, but this also includes the free movement of workers. They also contribute to the EU budget, Norway with even a higher per capita contribution than the UK currently has. What is more, in terms of their relation to the EU, the three EFTA EEA States are merely “law-takers” or -shapers rather than lawmakers: about 2/3 of the *acquis communautaire* apply to those States (law-taking). They do not, however, participate in the legislative processes of the EU (law-making) but are instead limited to providing legally non-binding input which may or may well not be taken into account (law-shaping). I cannot imagine the British agreeing to the kind of regime which limits them to the role of spectator in EU decision-making whilst being obliged to apply and implement EU secondary

law which may well not always meet British interests. In any practical sense, it makes no difference whether or not the UK becomes an EFTA member. The EFTA has already indicated it would welcome back their founding member, but Britain’s bargaining power vis-à-vis the EU-27 would not be strengthened by an EFTA membership.

I doubt whether an unprecedented “British model”, with or without EFTA membership, possibly based on a large number of Swiss-style bilaterals and providing for single market access for both British goods and services, but at the same time excluding free movement of persons, would be acceptable at all to the EU-27. Leading EU figures and politicians of the 27 Member States have ruled out any such option and if such an option were to be discussed seriously, this might well serve as an incentive for further EU States to bow out of the European Union. Having said this, it becomes obvious there is no option acceptable to the EU-27 that will fully meet British interests. Given that every single EU Member State will have to assent to any new regime, it rather seems that the UK will have to back down dramatically, resulting in the scenario mentioned above: in effect, nothing much is likely to change. The only difference is that the British will have practically no impact on further EU secondary law which will nonetheless to a large extent apply in the UK – consequently, the British will still have to accept EU made rules and won’t be able to regain control on a domestic level – and the UK will most likely end up with an even higher contribution to the EU budget, since the survival of the British rebate seems extremely unlikely post Brexit.

Apart from those mentioned above, numerous other negative effects of a possible Brexit on the British economy already began to emerge months ahead of the referendum and have now materialised since June 24th, the day of the result: a decrease in foreign investment in the UK, a drastic devaluation of the British pound compared to any major currency, severe losses on the stock market and threats of withdrawal from currently UK-based companies or British subsidiaries of multinationals. This has resulted in a predicted fall in British GDP, lower tax revenues, and an expected rise in unemployment. Accordingly, major credit rating agency S&P cut the UK’s rating by two steps only days after the referendum. By now, market analysts expect the UK was to slide into recession soon due to the vote. Economic hardship might result in budget gaps/deficits which again would result in cuts to social benefits and public health and educational expenditure whilst at

the same time domestic taxes might have to be increased. Parallel to this, loans from the European Investment Bank to the UK are at risk: the UK alone has so far received more than 40 times the amount of loans given to the four EFTA States put together. As regards external relations, the UK would have to negotiate and conclude new free trade agreements with its current partners which might result in less preferential terms and conditions compared to the status quo, given the loss of bargaining power of a UK outside the EU.

### **Political implications of Brexit on the UK**

In recent years, the political landscape in the UK has already experienced change and could only partially be preserved by the distinct British first past the post voting system. However, the need for a coalition government for the first time in 70 years, made up of Conservatives and Liberal Democrats between 2010 and 2015, the rise of UKIP and regional parties, especially in Scotland, or the referendum for Scottish independence (from the UK) in 2014 provide clear evidence of a change in the political climate. The events in June and July 2016, however, are particularly significant and could be considered a breaking point in modern British politics. We have experienced the political fall of a prime minister stepping down, sweeping away most of his cabinet in a rather chaotic procedure and against the clearly verbalised will of his opponents in his own, internally torn party. We see the major opposition party in a state of paralysis. We have experienced the main heads of the Brexit camp retiring, now appearing clueless as to how to move ahead. There is a House of Commons that will have to react to the outcome of a referendum, an outcome which is not in line with the large majority of parliamentarians. We were witness to a shameless referendum campaign dominated by false arguments and horror scenarios from both sides, culminating in the murder of a pro-European MP. In other words: the oldest of all modern democracies and the majority of its leading politicians have failed on the Brexit question, leaving many frustrated. The discussion has also shown a drastically torn and less united kingdom: whereas England and Wales, apart from London and some bigger cities, voted against a future EU membership, north of the Hadrian's Wall and in Northern Ireland, a huge majority were in favour of remaining inside the Club of 28. Not a single region here returned a majority vote for Brexit. It is exactly this division that poses the biggest political threat to

today's United Kingdom: its separation into "Leavia" and "Remainia" which might ultimately result in a breakup of the Kingdom. The "UK of Four" has only been in existence in its current form since 1927, the year of Northern Ireland's integration into the Union. Scotland has been part of the United Kingdom since 1707, whereas the union of England and Wales has existed since 1536. The fragility of the UK of Four was already evident in 2014 when a referendum on Scottish independence was held, resulting in 55% of the electorate voting in favour of remaining part of the UK and, consequently, the European Union. Staying inside the EU was one of the arguments of the winning camp of 2014 for opting against secession from the UK. After a Brexit, staying inside the EU or being a member of it will only be possible for Scotland and North Ireland as independent States. Therefore, it is no surprise that especially in Scotland, a movement for a second referendum on UK membership is gaining momentum. According to the Scottish First Minister, Nicola Sturgeon, there is a high probability of such a referendum taking place by the end of 2018. First polls have shown a clear majority for a Scottish secession from the UK in order to safeguard future membership in the EU. The situation may look a bit different in Northern Ireland, but even here, separation from the UK cannot be ultimately ruled out these days. Moreover, it is interesting to note that in Gibraltar 96% of the electorate voted in favour of remaining inside the European Union. Were all those territories, which enjoy certain autonomy within the United Kingdom, to leave the country in favour of independence, the UK would return to the geographical size it had between 1536 and 1707, most probably resulting in a loss of global political power. The consequences of such a development cannot even be foreseen at this time. Certainly, the UK will remain an important player on the international scene, not least because of its permanent seat in the UN Security Council, its position as a nuclear power and NATO member. However, a state facing such dramatic internal political changes will most likely carry less weight in international relations. There could (also) possibly be a huge impact on the Commonwealth of Nations if its leading nation were to suffer politically in the way outlined above. The British are aware of those risks. Theresa May, new Prime Minister of the UK since July 2016, has already made clear that triggering the exit negotiations will only happen once talks with Scotland on its future have been held, which will likely delay the Brexit process significantly.

Another challenge for the UK are its traditionally close relations with the Republic of Ireland. Both States have abandoned border controls between them, the reason for Ireland's non-participation in the Schengen area. After a Brexit, such border controls would have to be re-established to effectively control migration from the EU member Ireland into the UK. The advantage of this is the removal of the main obstacle for Ireland joining Schengen. The problem that a border closure might bring is a possible re-eruption of the Northern Irish conflicts that were pacified in 1998 by the Good Friday Agreement.

Also, political relations with the vast majority of EU Member States will, at least temporarily, deteriorate. Current generations of EU leaders and politicians might not be willing to fully return to the political status quo ante once the British have left the rest of the Union.

Neither must one forget that particular aspects of EU political integration are of utmost importance to the UK, i.a. the European Arrest Warrant or the joint fight against international crime and terrorism. The UK's further inclusion in common EU action in these areas would be at risk, should the UK depart from the Union.<sup>4</sup>

### **Societal implications of Brexit on the UK**

Not only will the UK as a state be severely affected by its departure from the EU. British citizens will also have to face a number of consequences which they might not have been aware of when participating in the referendum. Cuts to public spending due to economic hardship, directly affecting citizens, have already been mentioned above. They will affect every single citizen residing in the UK.

What is worse, though a smaller number of persons will be affected, are the effects on EU citizens from other Member States residing in the United Kingdom and British citizens resident in other EU Member States. Whereas the latter adds up to 1.2 million, 2.1 million EU citizens without British citizenship currently live in the UK. Whatever their motivation for moving to the British islands, they might face a forced return to their home countries or any other EU State after a Brexit. Many of those who have been in the UK since the 1970s are well integrated into British society and form a vital part of local, regional and domestic economies. Their forced exit from the UK would likely result in a lack

of workers needed for further economic growth. Some regions would lose important since skilled parts of their population, resulting in the need to adapt to a difficult and problematic situation, especially where EU migrants are needed for particular commercial sectors. Various studies have shown that EU migration into the UK has resulted in economic advantages which will clearly be reversed should EU foreigners be forced to leave.

All those British citizens temporarily or permanently residing in an EU country abroad have justified reasons to worry. Post Brexit, they would lose their Union citizenship and all those advantages and rights derived from it, especially free movement and non-discrimination on grounds of nationality. Students, workers, and pensioners would face a severe change in their lives: if they did not fulfil the criteria for citizenship in their host country they might have to return to the UK. In the future, in the worst case scenario, they and their fellow citizens might even have to apply for a visa in order to enter EU Member States, though this is unlikely.

### **A long, cumbersome, and frustrating Brexit process**

Never before has an EU Member State left the Union. Under EU constitutional law, this has only been possible since Article 50 of the EU Treaty, providing for such an exit, was introduced into the legal framework with the Treaty of Lisbon in 2009. For this reason, it is less clear how the exit procedure will take place in practice compared to the accession of new States.<sup>5</sup> What makes the British situation worse is the fact that neither the UK government nor the European Commission had a plan B in the case of a negative referendum outcome.

One point must be clearly made: at this point, the exit mechanism has not even been triggered yet. To do so requires a respective notification to the European Council. The referendum result itself does not serve this purpose. What is more, it is not even legally binding, neither internally nor under public international law! That means the new British government of Theresa May could also just ignore the result. Such a move would, however, trigger well-founded protests and may result in the further radicalisation of those outside the traditional party system and opposing EU membership. The British government should instead call for a second referendum, based on post referendum disillusionment and on an honest campaign. Since Britons seem to have

realised by now what kind of implications a Brexit move could have on all of them, I am confident they will have changed their minds by the time a second referendum is held.<sup>6</sup> Such second referenda are nothing new. We have already experienced them in Denmark or Ireland on the Treaties of Maastricht and Lisbon, respectively. I do believe there is indeed reason enough to call for such a second referendum, since certain aspects have changed since June: the referendum result was pretty close, Britons have realised that many of their main objectives for an out vote can hardly be achieved, as described above, and that they have been strategically lied to by the Brexit camp. Furthermore, the EU has made clear the dividing lines concerning negotiations and possible consequences, there is a new UK government whilst Brexit main campaigners Boris Johnson, Michael Gove and Nigel Farage have resigned, and the first negative consequences for the country have become visible. An alternative to a second referendum could be snap elections. Were those parties campaigning for future EU membership to win these, the outcome of these elections could be regarded as de facto second referendum on the Brexit question.

If, however, no such referendum or snap elections were to be held, the British government will, at some point, have to initiate the proceedings (whether this needs confirmation by the House of Commons or whether Parliament could even block initiation is still unclear) and the two year deadline will start running. This will be the time frame for negotiating the divorce on many technical and practical aspects, including the huge body of *acquis communautaire*. However, negotiations regarding the future relationship are unlikely to take place at the same time, especially with regard to trade and economic integration. Throughout those negotiations, with Michel Barnier as chief EU negotiator, a period of uncertainty would determine EU-British relations. Should no agreement be reached within two years and unanimity in the European Council on an extension of the deadline were to prove impossible, the UK would have to leave the EU with many questions unanswered, many issues unsolved and, in the worst case, without any relations to the EU apart from those under public international law, e.g. WTO rules. Such a messy divorce will cause massive harm to the UK, especially to its economy.

But even if, probably after a number of years, an agreement was on the table, the result might be fully disillusioning for the British citizens. The European Union and its Member States will not wish to

give too many incentives for other States to leave the EU by being a gentle negotiator and meeting many of the British requests. I rather expect a very tough stance – at this point in time, the EU has an advantage over the UK. However, concluding such an agreement might make sense: it will very clearly show to the British population what is at stake and how unrealistic their expectations in the run-up to such an agreement will have been. This would be the right time to call for a referendum on whether the UK should indeed leave the EU according to the conditions laid down in the agreement. I would expect a huge majority to vote against such an agreement at that point, i.e. a vote for staying inside the Union. Based on this result, the House of Commons will not ratify the agreement which, lacking ratification in the UK, would not come into force and the EU would not end up without one of its most important Member States. At this point, however, it will be time for a reform of the EU at the very latest, taking into account the position of the Britons and citizens in the other 27 Member States.<sup>7</sup>

## Conclusion

A British departure from the European Union will definitely cause harm to the EU and its members. Most likely, the damage to the United Kingdom economically, politically and socially will be even greater. The next months will be crucial for future development: will the British government trigger the Article 50 mechanism and, if so, when is this going to happen? Most important will be to establish a clear negotiation mandate for both the British and the EU sides. I doubt the British mandate, adopted by a widely pro-European House of Commons, will be aiming towards total separation from the European Union. I expect the EU mandate to be tough, however. It will show that the EU won't be willing to make concessions to the UK and that it will be up to the latter to accept a number of concessions in order to secure an acceptable, yet feasible, deal. With that knowledge, the British government, if snap elections have not taken place anyway, should call for a second referendum, clearly explaining to the people that even outside of the European Union, nothing much will change for the United Kingdom if they still want to benefit from some of the most important advantages of the EU – However, the ability to systematically influence, shape or veto Brussels legislation will no longer exist. If, nonetheless, negotiations between the two sides were opened and not successfully finished after two

years, which is likely, the UK faces the real risk of being literally kicked out of the EU if just one single EU State were to refuse a deadline extension. Such an end to Union membership will probably push the UK into a deep crisis, especially in terms of its economy. Obviously, it could always apply for re-accession to the EU under the application of Article 49 of the EU Treaty. However, I strongly doubt that in re-accession negotiations, the EU will be happy to grant the UK all the opt-outs of important policy areas such as Schengen or the Euro that it currently enjoys. And that is what is also at stake when talking about Brexit – the UK would lose its particular role in the EU. I am afraid it would be a loss that could never be regained.

**\*Sebastian Zeitzmann** is Director of Studies and Academic Coordinator at the European Academy of Otzenhausen (Germany) and lecturer in European Law and European Integration at Saarland University.

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