
Editorial

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The 2016 UK referendum has led by a majority of 51.89% to the decision of leaving the EU. Today, after two years of negotiations between the UK and the EU, the withdrawal of the former member state is planned to take place on March 29, 2019. Nevertheless, and though the negotiations have reached their final stage still a strong debate exists on whether the withdrawal agreement will lead to a hard or soft Brexit, while many still argue that the negative consequences of the UK leaving the EU by far exceed the positive ones. Following the latest political developments, the Theresa May government is facing a no confidence vote on December 2018, following the presentation of the draft withdrawal agreement to her cabinet and the subsequent resignations of several of its members.

The UK entered the former European Communities in 1973, a membership which has been certified by a referendum vote in 1975. During the '70s and '80s the debate regarding leaving the EU has been advocated mainly by the left, by the UK Labour Party. In the late '80s, Euroscepticism has started to grow also in the right, the Conservative Party which was ambivalent towards the political integration of the EU and was against the developments set forward by the Maastricht Treaty in 1992. The growing popularity of UKIP, the UK Independence Party after 2010, along with the eurozone crisis has reinstated the question of leaving the EU in the political agenda. During his election campaign, the Prime Minister David Cameron, leader of the Conservative Party has promised that a new referendum could take place after his re-election, thus satisfying the growing Eurosceptic wing of its party. Though Cameron have supported to remain in the EU, he has resigned after the negative result of the referendum and he was succeeded by Theresa May who after a snap general election the following year has formed a minority government supported by the Democratic Unionist Party.

During the negotiations between the UK and the EU a strong debate has been developed regarding the negative effects of a Brexit. The debate mainly rooted in the fact that though Brexit has been favoured by the referendum, still the very close majority has left room for those advocating in favour of remaining in the EU. A theoretical analysis today exists regarding the negative effects that Brexit may have in trade, in higher education and academic research, in international relation, while even the positive effects on migration which have been in the centre of the Eurosceptics agenda have been contested. Moreover, the EU agencies stated in the UK would have to leave, as well as the UK industries that are currently situated in other member states of the EU.

Following the invocation procedures of Article 50 of the Treaty of the European Union, a member state that wishes to exit the Union, notifies the European Council which afterwards should "negotiate and conclude an agreement with State, setting out the arrangements for its withdrawal, taking account of the framework for its future

relationship with the Union.” The negotiation period is no more than two years unless is extended. After this period all EU legal *acquis* ceases to apply in the former member state. According to the UK Supreme Court decision of January 24, 2017, *R (Miller) versus Secretary of State for Leaving the European Union*, the Prime Minister could not deliver the notification for the UK to leave the EU under Article 50 without a bill authorising the invocation procedure. Such a Bill has passed on February 2017 followed by a letter invoking Article 50 on March 2018 of the same year. This Bill, known as *Withdrawal Act* fixed a period of two years, for the UK government to proceed with the necessary negotiations and reach an agreement for the future relations between the UK and the EU, a period that will soon expire.

The question raised at this point, given the present political pressure against an agreement which can lead to a hard rather than a soft Brexit is whether this procedure can be reversed. As far as the referendum is concerned one could say, that from the democratic point of view, the 2016 referendum outcome can be overturned by a new majority formed either after general elections or by a new referendum. A referral by Scottish politicians and the *Good Law Project* has been filed to the European Court of Justice regarding the ability of a state to unilaterally cancel its withdrawal from the EU. In its 10 December 2018 (C-621, 2018), the European Court of Justice ruled in favour of such an interpretation of Article 50 provided that a country will stop the procedure before actual departure, unconditionally and in good faith and mainly following a democratic process, thus general elections, parliamentary decision or a referendum on the subject. Subsequent to this decision, the UK government has immediately responded that had no interest in exercising such a right.

Though, the present UK government seems determined to bring this procedure to an end and conclude the most debated Brexit, one must wonder not if it is or not the right decision, a question which is as ambivalent as in futile to answer but whether the referendum of 2016 can legitimise it. Brexit as decided in the 2016 referendum was won over a small percent of votes and the no vote has also expressed a no confidence vote against the Cameron administration. Nevertheless, from then until now, an open ongoing discussion in the public sphere has taken place, regarding the advantages and disadvantages of leaving the EU which can provide with the opportunity of giving the people the opportunity to re-examine their former decision from a more mature and well-informed point of view. The political decisions formed by referendums though of high political and democratic value are not set in stone and can be changed under different political conditions, with the vote and legitimacy provided by the people majority. The ghost of the 2016 referendum should not prevent of providing the UK people with such a choice, which is after all the democratic choice in what today seems as a dead end procedure.