



# THE REVIEW OF INTERNATIONAL AFFAIRS

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## **ECONOMIC EFFECTS OF BREXIT – PRELIMINARY COST- BENEFIT ANALYSIS**

Bojan DIMITRIJEVIĆ<sup>1</sup>  
Milenko DŽELETOVIĆ<sup>2</sup>

*Abstract:* On 23 June, the British citizens voted for leaving the full membership in the European Union. It is a historical event for the country, but also results in many economic and geopolitical consequences for Europe and the whole world. Therefore, the goal of the paper is to show the most important short and long-term costs and benefits from leaving the European Union. The paper is to overview the comprehensive context of effects considering the uncertainty of the outcome of negotiations about the withdrawal from the union. In addition to the Introduction and Methodological Notes, the paper shows the short and the long-term costs and benefits, states optimistic and pessimistic scenarios, quantifies the effects where applicable and describes consequences in a balanced manner. Considering the economic results in the post-referendum first quarter, it is concluded that the negative results from Brexit are, for the time being, overestimated.

*Key words:* Brexit, costs and benefits, European Union, Free Trade Agreement, European Economic Area, foreign trade.

### **INTRODUCTION**

In January 2013 in his speech held in the Bloomberg Club, the British Prime Minister David Cameron announced that Great Britain would hold the referendum on leaving the European Union, which was his pre-election promise as a part of election program, based on which he was granted a new mandate. In the meantime, negotiating with leaders and key countries of the European Union he tried to provide better autonomy and more concessions for his country (in particular as

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regards immigration policy, contributions to the budget and financial services); thereafter his campaign continued to aim at Britain's further full membership in the European Union.

The pre-election polls reflected great uncertainty regarding the electoral body's pros and cons of leaving the EU; the campaign was held between those who were for the Britain's membership in the EU and those who were for exiting the EU. The Europhiles and the Eurosceptics were on the scene, but also the strong opponents of the European Union. As well, the polls reflected that the older population over 55-year of age was for Brexit, whereas the younger population (aged 18-34) was for the Great Britain membership in the European Union. Although the major part of Cameron's government was for the EU membership, even 40% of the Parliament Members from the Conservative Party were for Brexit and also significant parts of the Labour Party, the Nigel Farage's party and some GB regions (Wells, North Ireland, Britain's periphery). In a word, the public was split, the campaign intensive and strong, and the referendum outcome uncertain.

One of the campaign key issues referred to the economic side and economic consequences of the referendum, which resulted in a great number of economic analyses and estimations of costs and benefits aimed at assisting the public, voters, common people and businesspersons to make a final voting decision. Of course, those analyses are also significant for the government, especially for the referendum attendance. The referendum was held in the very specific economic and political moment: the global financial crisis was still present in some parts of the world and Europe, the economic recovery has been weak and uncertain, the protectionist measures have become more intense, growing resistance to economic and political globalism (BRICS, etc.). The European Union is in the political, economic and institutional crisis (weak euro, economic problems in Greece, Spain, Italy, refugees all over Europe, the European varied response to the refugee crisis, triumph of the political forces opposing the European Union), the immigrants from the European Union, especially the refugees, raise dissatisfaction of the Great Britain's citizens, thus increasing a chance for making decision to exit the European Union (Dimitrijević, Fabris, Vladušić, Radović and Jandrić, 2016). Such pre-referendum atmosphere is also supported by the fact that the UN economic importance for the Great Britain has been declining during the last ten years, whereas the importance of other countries has been growing (among them, important roles are taken by China, India, Japan and some countries in the Far East and Asia). In so heated and uncertain atmosphere, the referendum was held on 23 June 2016 with entirely unexpected and historical results, which will surely result in far-reaching economic, political and strategic consequences for the remaining world, but first of all for Great Britain. The referendum results were both unexpected and inevitable: 17.41 million citizens were for a Brexit or 51.89%, and 16.141 million citizens or 48.11% of voters were for Great Britain staying in the European Union.

This short survey is not aimed at analyzing the impacts on such referendum results, but at making a summary of the most important costs and benefits, as well as challenges, possibilities and consequences of Brexit, first of all to Great Britain, then partly to the other countries of the European Union and to Serbia, too. Our approach has been based on several analyses and research conducted before the referendum by well-known research institutes, renowned economists and businesspersons. Below are only best-known institutes:

- March 2016 – Oxford Economics
- March 2016 Centre for Economic Performance (CEP), LSE
- March 2016 PwC
- April 2016. Centre for European Reform Commission (CER)
- Estimation made by GB Treasury in 2016
- Estimations made by OECD, NIESR, Woodford Investment Management – WIM (February 2016)

There should be emphasized that estimations were also made by famous economists and experts, the IMF and the GB Industrial Union, Stiglitz, Krugman, many well-known economists from the London School of Economics, experts in international trade, finance and foreign direct investments, and also many macroeconomists. Most economists shared the same opinion: the Great Britain's exit from the European Union will result in significant negative consequences for Great Britain, its economic position, competitiveness, macroeconomic performances and standard of living, both on the short and long-term basis. There were a small number of economists who had a positive opinion about the Brexit economic outcome; among them was Professor Patrick Minford, who said that the economic growth could top four per cent. (Minford, Mahambare and Nowell, 2005; Minford, 2015)

At the end of the Introduction, we would like to mention the opinion of two distinguished economists, the Nobel Prize Winners. In his column in *The New York Times* of 24 June 2016, Paul Krugman wrote: 'The big mistakes of the European Project were the adoption of the euro without careful thought about how a single currency would work without a unified government... the establishment of free labor mobility among culturally diverse countries... weakness of the European economy, which is a prime candidate for 'secular stagnation'. Brexit is probably just the beginning, as populist/separatist/xenophobic movements gain influence across the continent.'

Professor Stiglitz outlined the following: the European Union should stop with austerity policies and accept the policy of aggregate demand, restructure the fiscal policy or accept gradual leaving the euro, then follows 'amicable divorce' with the EU member countries. As well, he pointed out possible consequences on the Great



Britain in the field of FDI inflows and competitiveness in providing the financial services. (Stiglitz, 2016)

## **METHODOLOGICAL NOTES ON BREXIT COSTS AND BENEFITS**

The paper deals with the analysis of costs and benefits for Great Britain resulted from leaving the full membership in the European Union. Costs and benefits will be shown quantitatively, in tables and graphs where applicable and based on available real data. Three aspects of time will be applied: 1) immediately after Brexit, 2) a short-term (1-2 year period) and 3) a long-term (a period of three or several years).

All estimations were made in the circumstances of the great uncertainty of negotiations between the GB Government and the EU, when Article 50 of the Treaty on European Union, which sets out the withdrawal of a member state from the EU, should be activated. The outcome of negotiations and the other GB's trade and economic agreements and contracts will have a strong impact on the GB's economic future and also on estimation of the long-term effects in the sectors of trade, foreign direct investments, position of the City of London, consequences on the GDP, employment and the living standard. Thus, all short-term estimations, and especially the long-term ones, are conditional because they depend on the key factors that are unknown; first of all, the outcome of the post-referendum trade negotiations and negotiations on withdrawal from the European Union. In such context, at least three scenarios are possible for Great Britain:

1. Withdrawal from the EU, but staying in the European Economic Area as Norway;
2. Withdrawal from the EU and entering into bilateral trade agreements with the EU according to the Swiss model;
3. Withdrawal from the EU and agreements according to the rules of the World Trade Organization under the most-favoured-nation model.

In addition to these basic scenarios, there are also mentioned 4) EFTA – European Free Trade Agreement, which is a model similar to the agreement between the EU and Canada that is soon to be signed (opposed by Wallonia region of Belgium), and an option to create the customs union with the remaining Europe. Each scenario has its costs and benefits – positive and negative consequences for the GB's economy; estimations often include both optimistic and pessimistic scenarios. The optimistic scenario is linked to Great Britain and a part of the European Economic Zone, whereas the pessimistic one is linked to Great Britain, which will establish the economic and trade relationships with the EU and the remaining world according to the rules of WTO (World Trade Organisation).

Reasonably, the pessimistic scenario implies higher costs and lower benefits than the optimistic one.

- The key effects of Brexit could be grouped into several most important areas:
- Macroeconomic consequences of Brexit,
- Effects on international trade, balance of payments, export and import,
- Fiscal effects of withdrawal,
- Impact on the City of London as the financial center of Europe and the world – financial effects,
- Foreign direct investments,
- Regulations,
- Real estate market,
- Consumption and living standard of population,
- Immigration and immigration policy, impact on the labor market,
- Industry and other branches of economy,
- British productivity and competitiveness in the global market.

At the end of this section, the basic economic results will be shown in the first three post-referendum months, compared with forecasts and expectations, and a conclusion will be made about the GB prospects in the future. *Some graphs for illustration of the arguments are given in the Appendix at the end of the paper to make reading more convenient.*

In the analysis, the negative expectations predominate regarding the economic effects of Brexit. Nevertheless, we will give the survey made by WIM, which outlines the benefits and lessen the negative effects of the Brexit supporters' triumph. (Woodford, February 2016; Minford, Mahambare and Nowell, 2005; Minford, 2015; Confederation of British Industry, 2013) Those are the basic consequences of Brexit.

What are the key challenges? They are linked to the GB's success in negotiations with the European Union and the other countries for securing a more favorable position of Great Britain in the world. The basic chances and possibilities are based upon comparative and competitive advantages of GB especially in the fields of regulations, trade, foreign direct investments and financial services.

## **ESTIMATION OF SHORT-TERM AND LONG-TERM COSTS AND BENEFITS FROM BREXIT**

1. Brexit consequences before the referendum and immediately after releasing the referendum results (Giles, 2016a; Giles, 2016b):

- The pound has dropped by 10% reaching the lowest value since 1987; the Bank of England injected more than £250 billion, which stabilized the economic situation;
- Share prices in the GB's stock market dropped, a hundred of British major companies suffered a loss of £120 billion;
- Share prices dropped also in Tokyo stock exchange (8%), but also in Sidney, Seoul and Hong Kong stock exchanges (3%-4%);
- Share prices drop is announced also by leading share indices in New York, Frankfurt DAX30, London FTSE100 (whereas the negative expectations on the stock exchanges were monitored by Morgan Stanley, Deutsche Bank, JP Morgan and HSBC Holding);
- Dollar strengthened on the world stock exchanges, which immediately resulted in oil price drop by 6%, although such decline was later reduced below 4%;
- Value of the state bonds issued by Germany and the USA increased because funds were transferred to secured bonds;
- Gold price increased by 8% reaching the top value in the last two decades;
- Many companies postponed acquisition of other enterprises in the Great Britain VB (more than 30 companies in the second quarter were waiting for the referendum results), and more than 100 companies postponed their plans for enlarging the capacities and for new investments due to Brexit campaign;
- The value of signed contracts in the circumstance of uncertain referendum results was reduced in the second quarter from £69 billion to £14 billion;
- Bank of England, but also the other central banks reduced interest rates to prevent stronger recession trends and pessimistic economic expectations.

In the post-referendum period, the bond prices on stock exchanges were stable, the oil price on the world market increased, the pound value did not additionally drop, and the parity against the euro, dollar and the Swiss franc was maintained; the British pound decline produced a positive impact on GB's export (made it cheaper), influenced the GB's market of services including growth of income from tourism. Thus, there could be concluded that the short-term losses due to voting for Brexit have been compensated, no panic occurred and the other markets became stable. Any catastrophic scenario did not develop, and data on the GB's economy in the third quarter show neither recession nor unfavorable macroeconomic indicators.

Estimation of short-term costs and benefits:

Short-term effects of Brexit are summarized in the following Table:

**Table 1** - Overview of short-term effects of leaving the European Union

<b>Costs</b>	<b>Amounts per costs</b>
GDP decline	1.5% - 3.9%
Pound's depreciation	10% of its value
Possible increase in inflation rate	from 2% to 4%-5% p.a.
Increase in unemployment	from 4.9 to 5.6% or 220 thousand work posts
Loss per household	approx. £750 p.a.
Real income losses	1.5% - 3.9%
Foreign direct investments	decline by 22% vs. present level

- The short-term effects, as it can be seen, could be grouped into several areas:
  - Macroeconomic effects refer to the following indicators (Dhingra, Ottaviano, & Sampson, 2015; Pain, & Young, 2004; Thompson, & Harari, 2013; Cambridge Econometrics, 2016; HM Government, 2016)
  - A GDP decline in the third and fourth quarters (total growth below 1.5% p.a.),
  - Pound's depreciation (10%-20 % p.a.),
  - Increase in the inflation rate (up to 4%-5% until year-end, prices continue to increase in 2017 due to a worse international trade position of GB); the business uncertainty, postponing the business decision making, especially in the domain of investing;
  - Expected increase in the inflation rate would reduce the real salaries, domestic consumption and household consumption, which would also jeopardize the real annual income of households that influences the consumption;
  - Yields on government bonds dropped, which implies that the holders are less paid;
  - A CEP (2016) estimation indicates that the GDP loss will soon amount to 1.8% - 3.9%, that pensioners will lose 2%-4% p.a. of their real income within a short period of time, and that losses per household will amount to £750 p.a. in case of an optimistic scenario, but according to a pessimistic one those losses will amount approximately £1600 p.a.;
  - Net effect on the fiscal sector could be directly calculated and it amounts to around £ 9.1 billion (which is 0.5 % to 0.7% of the GB's GDP).

Table 2 summarizes concrete and direct fiscal effects of leaving the European Union on the GB's economy.

**Table 2** -Net fiscal effects of leaving the European Union (in £ billion)

Contribution to the EU budget	13.7
Value added tax	2.3
Tax refund to Great Britain	- 4.8
Refund against customs duty collection	- 0.8
Net contribution	10.4
Refunding from CAP Fund	- 4.4
Customs duty refund	- 3.0
Net contributions to the EU after CAP and customs duty deductions	6.1

As it can be seen, the GB's contribution to the EU budget amounts to £ 13.7 billion and it is proportionate to its economy. The total net effect amounts to £6.1 billion after tax deduction, payment of customs duty and deduction of subsidy that GB receives from the *CAP Fund* (*CAP – Common Agriculture Policy*), which will be an *instant short-term benefit* from leaving the European Union. However, as it will be seen later, this benefit will be probably diminished; if Great Britain successfully finalizes negotiations and be included in the European Economic Area (EEA), it will have to pay the membership fee amounting to 80% of its nowadays EU full membership fee. There are also other calculations which indicate that the GB's contribution to the EU amounts to £17.8 billion before customs duty and tax refunding, whereas after refund it amounts to approx. £12.9 billion. On the other hand, the EU funds refund GB the subsidies for science and agriculture in the amount of £6 billion, thus the net effect of leaving the EU amounts to approx. £6.9 billion, which is close to the above-mentioned figure (See: Springford, Tilford, Odendahl and McCann, 2016).

## 1. Estimation of key long-term effects of leaving the European Union

Table 3 summarizes quantitative estimations of the Brexit effects and costs on the long-term basis:

Table 3—Estimation of the Brexit long-term costs  
(Estimation is based on CEP analysis, 2016)

Key indicators	Cost estimation
GDP	6.3 % – 9.5 % (-)
Per capita income	6%-13.4% (-) £4200-£6400 p.a. (-)
Foreign trade volume	£26-£55 billion
Foreign direct investments	22% for 10 years (3.4% of GDP); £2200 per household; (-)
Labor productivity	£2500-£5500 p.a. (-)
Employment	Jeopardized 3 million of work posts

The long-term negative effects of Brexit could be summarized even without stating the precise quantitative effects that cannot be precisely estimated (it can be seen in Table 3 which shows the wide scope of possible effects):

- Exit from the European Union will increase costs of goods and services (customs duties, regulations, non-customs barriers), which will result in reducing the foreign trade volume, increase in prices, decline in productivity and potential GDP;
- Lower inflows of FDI will reduce the competitiveness of the GB's economy and productivity;
- Potential decline in the number of immigrants will reduce the labor market, lower inflows of qualified labor force from the EU countries could affect productivity and reduce income from taxes since analyses show that immigrants have made a positive net effect on the GB budget; (They are not consumers of health care and education services, social funds like the GB's citizens, but due to higher qualification they exert influence on increase in fiscal revenues and aggregate demands in the consumption sector. See details under: Springford, Tilford, Odendahl, & McCann, 2016).
- Significant losses are expected in the service industry, especially in the field of finance due to losing the EU full membership status and accessing the single European market;
- Despite the estimation that bonds, insurance, foreign exchange markets, property control will not suffer major losses, the losses from reduced activities of the City of London due to exit from the EU and lost pass porting rights of

financial companies to operate all over Europe will be considerable on the long-term basis;

- If subsidies from the EU were reduced in the field of research and agriculture, the government would possibly try to compensate it to the important interest groups, due to which the fiscal grants would increase as the counterbalance to an increase in fiscal revenues due to non-payment of contribution to the EU budget;
- Deterioration of the country's fiscal position and a possible decline in GDP could increase a share of the public debt in GDP, thus introducing the GB in the zone of huge foreign indebtedness. (See the graphs in Appendix at the end of the paper)

## **BREXIT IMPACT ON SOME IMPORTANT SECTORS OF THE GREAT BRITAIN'S ECONOMY**

### **I – Impact on foreign trade**

The GB's economy is considerably linked to the European Union and the statistics show that around 50% of the GB's goods and 45% of services are exported to the EU! Considering that the EU has free trade agreements with 60 countries more, the EU's share in the GB's export amounts to almost 65% of the total export. If it is expressed in absolute values, the trade with the EU amounts to £130 billion, whereas total exchange with China (including FDI) amounts to £43 billion. Also, many arguments indicate that the EU membership makes no obstacle to an increase in trading with the remaining world, which is obviously supported by the example of Germany that is considerably increasing its export to China. The analysts outline several significant arguments (Springford, et al., 2016; CEP, 2016; Giles, 2016a; Giles, 2016b; Cambridge Econometrics, 2016; Bruno, Campos, Estrin and Tian, 2016; HM Government, 2016) (The foreign trade impact is theoretically based on the so-called *Gravity model* which was developed by J. Tinbergen in 1960, based on which research was conducted by Bruno, Campos, Estrin and Tian (2016)): 1) the EU membership has considerably increased the foreign trade volume of the Great Britain, especially after 1973 and accessing the EEZ; 2) the EU membership makes no obstacle to an increase in trading with other non-EU countries and has not reduced the trade volume; 3) according to data, it is obvious an increase in intra-trade (among the EU member countries), whereas there is a declining trend in the so-called extra trade with the non-EU countries; 4) among the groups of countries that influence the GB's GDP growth, the largest influence is exerted by the European Union (more than 10%), the importance of which is larger than the influence of the USA, China, Russia, India, Canada and Australia together; 5) the

European Union dominates also as a destination of the considerable demands for the GB's goods and services (more than 45% of total demands). Those are the obvious arguments against leaving the European Union.

The key costs that could be imposed due to leaving the EU will depend on the GB's economy status after finalizing the negotiations on withdrawal from the EU, which is the biggest uncertainty regarding the Brexit possible costs, not only in the foreign trade! Those are costs regarding the following: possible customs duties from the EU that will make imported goods more expensive and exert influence on domestic prices, non-customs and technical barriers and standards imposed by the EU, possible quotas and other quantity limits, whereas the indirect effects refer to the GDP decline, decrease in the international competitiveness and productivity of the GB's economy, a possible decline in the number of work posts. What options – scenarios are possible in the negotiations and what are their consequences?

1. Membership in the European Economic Area, like Norway's, implies the following obligations:

- The free flow of goods, services, labor, and capital,
- Common employment policy and social policy,
- Production standards and company law
- Separate agreements referring to Schengen, security policy, defense, power and protection of the human environment,
- No participation in common fiscal, agricultural and fisheries policy,
- There is freedom in entering into trade agreements with third countries outside the European Union.

Important note: As the EEA member state, Great Britain will implement many EU regulations thus making a contribution to the common budget, but it will not be allowed to influence the creation of rules and policies in Brussels as regards most of the EU institutions!

2. Status like Switzerland's, with many bilateral agreements and arrangements with the EU:

- Free flow of goods and people,
- Schengen Agreement,
- Protection of human environment,
- Research programs and agriculture,
- There is neither common agriculture policy, nor fiscal policy, as well as common social policy and employment policy,
- No free flow of financial services,
- There is a freedom of entering into trade agreements with third countries.



The free trade agreement implies full implementation of the EU regulations, which was one of the major reasons for leaving the EU. The Swiss model includes a huge adverse item for Great Britain, because staying beyond the free flow of financial services, which is extremely important for Great Britain. The agreements based upon the WTO rules are unfavorable since they impose the customs problem and non-customs standard and barriers.

Two important arguments should be mentioned in the analysis of possible effects and obstacles for establishing the favorable trade status of the GB: 1) Power in negotiations and economic power of GB outside the EU is weaker than if being the EU member country. Such weaker power could especially influence the negotiations with the USA, China, and with other BRIC countries; 2). There could be reasonably expected that the EU's negotiating status vs. Great Britain will be very 'tough' lacking goodwill for reaching the favorable agreement due to the fact that Great Britain has left the single market. Therefore, the negotiations can be too long, difficult, and uncertain and their final outcome could be less favorable for Great Britain.

## **II – Impact on immigration policy**

The number of immigrants from the European Union increased from 900 thousand in 1995 to 3.3 million registered ones in 2015, where of 172 thousand are from the EU countries in 2015 and around 191 thousand from the countries outside the EU. It is interesting to point out that among the EU immigrants 29% come from Poland. The EU immigrants are young, educated, they mainly live in London so contributing to the GB's budget, encouraging the aggregate demand and consumption, increasing productivity and improving the qualification structure. At the same time, they increase the labor market flexibility. Research conducted by economists showed (if they are reliable) that neither the number of work posts nor salaries have been reduced for the native British people, and that the real salaries dropped by 8% after 2008 as the consequence of the global financial crisis (Good and detailed analyses of immigration policy impact on the labor market are under Springford, et al., 2016; CEP, 2016). The analysts especially emphasize that there is a difference in quality in the labor force structure of the EU immigrants and the non-EU immigrants in favor of the first ones, whereas the migrant crisis, which disturbs the European unity, does not result from the European Union existence as such.

## **III – Distribution of costs per social groups**

Most of the researches of the Brexit effects show that leaving the EU will mainly affect the middle class, then the poorest population, and at least the richest

one. We have already mentioned that a loss per household amounts to £750 p.a. according to the optimistic scenario and up to £1600 according to the pessimistic one. No doubt, in the first years after Brexit a large number of households will become a little bit poorer due to decline in GDP and in real income. According to all scenarios, it is expected an increase in prices of transportation, clothes, alcohol, but not in financial services. If the government continues to subsidize domestic agriculture, the food prices are not expected to increase considerably. Nevertheless, possible increase in the imported goods prices will reduce the living standard of citizens and especially of the middle class.

#### **IV – Effects on foreign direct investments and on the City of London**

The importance of the European Union is huge for the foreign direct investments in Great Britain, and also for the financial services of the City as the largest financial center in the world. Below are mentioned only some data and illustrations:

- The export of services from GB to the EU increased from £8 billion in 2004 to £18 billion in 2013 and it was not fundamentally affected by the financial crisis;
- Statistical data show that export of insurance, finance and pension services from GB to the EU increased by more than 3.5 times during the last 15 years (2000–2015);
- Europe (the EU) is the most important partner to GB, since in 2013 its export of all financial services amounted to 41%, and the per cent reaches even 45%;
- Many countries make FDI in GB as the EU member country taking into consideration the comparative advantages of GB as the country that provides the financial services; therefore GB is the first destination for foreign investors in the European Union;
- Many banks from the USA, Switzerland and other parts of the world are located in GB mainly due to its being the UN member country;
- The FDI inflow from the EU to GB amounted to £25 billion in 2004 reaching the value of £70 billion in 2005. Thereafter, the inflow gradually decreased down to approx. £5 billion in 2013;
- The econometric analyses estimate the exit from the EU could reduce investments in the GB's economy by more than 20%.

In conclusion, although the importance of the European Union as the economic area from which FDI's come and to which the GB's financial services are exported is declining, the European Union is still the most important economic partner to Great Britain, thus the exit from the EU will significantly affect the level of economic activities of these two important sections of the GB's economy.

## V – Consequences as for regulations

One of the main arguments of the Brexit supporters was that the European Union is ruled by the Brussels bureaucrats, that huge regulations make the economic activities very difficult, impose barriers to the GB's economy and make enormous costs, diminish freedom of government and other bodies in reducing the regulations, making the economic activities free and creating more favorable rules within their borders.

Most of the research papers and analyses dealing with regulations point out that even nowadays GB is among the countries with the smallest scope of regulations (together with the Netherlands in the European Union) and that the EU membership does not make any obstacle to register the company in a short period of time, to favorable conditions and stimulative taxes (Springford, et al., 2016; CEP, 2016; Woodford, 2016; Doing Business 2015, 2014). The Appendix at the end of the paper gives the most important graphs illustrating the Brexit economic effects.

As it can be seen, the level of regulations is below developed and less developed countries in the EU, and it is more favorable than the average of the OECD member countries, which are the most developed ones in the world. As well, if GB remains in the EEA, it will have to accept a large number of the European regulations, but this time having no impact on their creation. The lower level of regulations is even nowadays present in the financial markets, the GB's labor market is factually more flexible than in the remaining part of the continental Europe. On the other hand, the EU supporters point out that high-level regulations (more than 90,000 rules and directives in *Acquis Communautaire* – the EU's legal heritage) are necessary to create a single market, which is to be arranged according to the rules aimed at providing the unique standards and free inflows of labor, capital, goods, and services. Critics say that arguments regarding regulations underestimate the benefits that GB has from the European regulations and also relate to the issues of the unique 'passport' for financial services (Switzerland does not have such approach), using the European funds in agriculture and science, the benefits from social and labor policy, unique regulations in the field of technical standards, protection of human environment, etc. The announced deepening of the European integrations, which will probably result in the GDP 3% growth (the GB will be excluded from it in the future), is not possible without additional regulations, but it will generate the additional benefits. According to the CER's Report many arguments expressed by the critics of the European regulations are not exact: the European radon legislation does not generate any additional costs to the GB's economy, unsuccessful strain offers have resulted from the GB economy's weakness, but not from the EU regulations, the EU harmonization is not too rigid, so it gives freedom to the member countries. In any case, even after the GB's exit from the

European Union, it will be obliged to implement most of the European rules and regulations (See more details in graphs and illustrations in Appendix).

### **KEY ARGUMENTS OF BREXIT SUPPORTERS AND ECONOMIC TRENDS OF THE GREAT BRITAIN ECONOMY IN THE THIRD QUARTER OF 2016**

The most important benefits could be grouped into several basic arguments (Springford, et al., 2016; CEP, 2016; Woodford, 2016; Pain and Young, 2004; Giles, 2016a; Cambridge Econometrics, 2016; HM Government, 2016) (For this section of the paper it is of special importance the research conducted by Woodford (2016)):

1. Benefits from reduced EU regulations and from the GB's freedom to regulate the level and contents of its regulations in economic cooperation with the world;
2. Savings of at least 0.5% of GDP p.a. due to smaller contributions to the EU budget;
3. Possibility of establishing new trade agreements which can be favorable for Great Britain;
4. Better managing the immigration policy and the refugee crisis and an option to select immigrants based on the qualification level;
5. gradual lessening of the EU importance in the fields of investments, foreign trade, financial services provided for the EU market, and growing importance of China and other BRIC countries.

Since 2012 the number of immigrants in the Great Britain has doubled (in March 2015 the number of refugees reached 183 thousand), which additionally increased fear of the British voters and deteriorated earlier neutral estimations of the immigration effects. An option of better selection of immigrants due to full autonomy in creating the immigration policy can improve the GB's productivity and competitiveness without jeopardizing the work posts or wages of the native British population according to the Brexit supporters' opinion.

In the case of optimistic negotiating scenario (EEA), Great Britain will benefit from both sides: from the member countries and from other countries, with which it would have more favorable trade arrangements (the USA, China, India, Russia, Australia, Canada, etc.). There is a two-year deadline for the new negotiations on withdrawal from the EU and for the new arrangements. Declining EU importance and growing the non-EU countries importance for the GB's economy develop optimism that even the scenario with the WTO rules would not be catastrophic. The newly achieved freedom and more favorable agreements with the remaining world will, in due course, compensate the starting negative impacts of leaving the EU, thus the foreign trade losses will be relatively small.

The City will be vulnerable for a short period of time (stock exchanges, real estate, banks, and pound's exchange rate), but great importance of four significant fields (foreign exchange markets, bonds, insurance, and property management) will still remain without bigger consequences of Brexit. The City has numerous competitive advantages: competitive and reliable flat system, the English language, favorable and adjustable business surrounding, many experts, agencies and companies in the field of financial services available to the business partners, complete market infrastructure, London's openness and integrity of business people in the finance field.

The EEA membership will lessen the consequences on increase in prices (imported and domestic goods), whereas it will contribute to retaining the competitive position and high productivity of the GB's economy. Good agreements with the UE and other countries after the withdrawal with well-known comparative advantages of the GB market will not considerably reduce FDI, especially for the reason of the non-European countries' increasing share. There will be the positive consequences on fiscal revenues, but the revenue volume will not be too big.

Possible losses in the real estate trading could be compensated by good agreements after leaving the EU and their negative impact on aggregate demand and consumption is overestimated.

The total losses in the GB's economy are overestimated; such estimation is uncertain due to the unknown outcome of negotiations and cannot be based on economic trends and data. The negative macroeconomic effects could be compensated with positive effects due to the GB's orientation to remain growing world economy. The positive effects of immigration, fiscal and free trade policy, with fully domestic regulations, could be sufficient to neutralize the long-term negative effects of lost access to a single market. The financial service industry and FDI will not suffer any considerable loss and will be, in due course, compensated with a small positive effect.

Let us see the first economic reports on the GB's economy in July, August and September (the first quarter). The basic data were taken from *The Guardian* (Katie, 2016; but also texts of 8 July and 22 July 2016), which was more inclined to Brexit supporters, but data were taken from the official British statistics. The Report of 18 October states that the unemployment increased, the private consumption did not decline, whereas a weaker pound had a positive impact on an increase in income from tourism. The inflation rate stabilized amounting to 0.6%, which is below the target level of 2%; the prices of houses are steady, but the investments are uncertain. The employment rate of 74.5% is high and does not indicate any post-Brexit crisis. The Bank of England's forecast that Brexit will produce the loss of 250 thousand work posts and increase in unemployment rate from 4.9% to 5.6% has not been realized yet. The retail volume increased by 1.4%, which is more than the forecasted

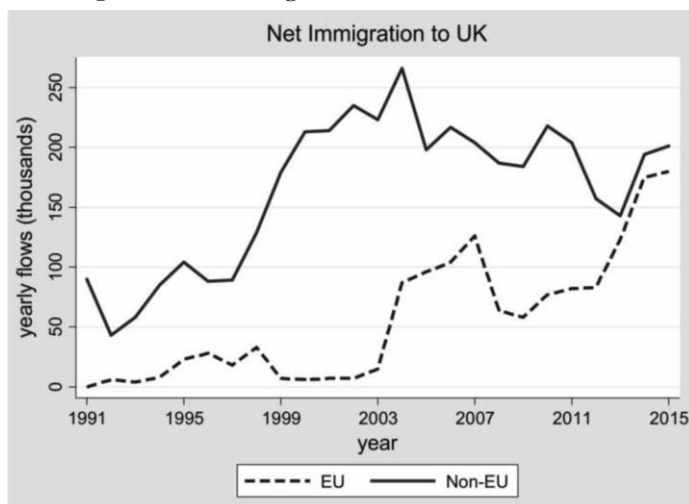
0.2% points. In August the Bank of England created the anti-recession package of measures, the interest rate is low and stable, prices are steady, unemployment declines, whereas the real estate prices remain steady. There is not even a trace of tragic events and the key indicator is the GDP growth in the third quarter by around 0.6%, which will generate the annual growth of around 2%. The above mentioned indicated that the GB growth will be one of a more dynamic among the EU member countries. The research of the business climate barometers shows an improvement in market expectations, which is also supported by polls of households' attitude. The pound weakening has not continued, which has a positive impact on export, although it makes the imported goods a little bit more expensive. Major economic indicators show that either loss was overestimated or growth was higher than expected. Surely, there is no panic, catastrophe or disturbing results, also the bond markets have stabilized. Interest in new trade agreements has been expressed by India, Australia, New Zealand, Ghana and Mexico. The British public is mostly worried about the fact that 330 thousand immigrants are expected until the year-end.

## CONCLUSION

The paper presents the most important costs and benefits concerning the results of the referendum on leaving the European Union. The consequences and the effects are presented on the short and long-term basis according to optimistic and pessimistic scenarios and analyses, which were not inclined to Brexit and also those that were inclined to Brexit. As well, the possible quantitative effects are presented, whereas key uncertainty refers to the results of negotiations on withdrawal from the European Union, designing the new trade agreements and regulating the economy, which will now be mostly the Britain's. The cost level will surely depend on the Great Britain being the EEA member or not, and on which withdrawal scenario will be applied. Therefore, the Brexit effects cannot still be precisely estimated. In addition to possible costs in the key sectors, there are also conveniences, benefits and facilities offered by the new status of Great Britain. First data three months after Brexit do not indicate any crisis, panic or recession. Moreover, the economy is stable, uncertainty has been reduced, whereas consumption, employment and GDP grow. In conclusion, the starting short-term negative effects of Brexit were overestimated, but more precise conclusions can be made only after expiry of the post-referendum second and third quarters. Estimation of the long-term effects requires a period of several years, whereas the first estimations are possible in two years. If morning glory shows the day, Brexit could prove to be a smart decision of the British voters, who are the first to leave the EU ship that is slowly sinking.

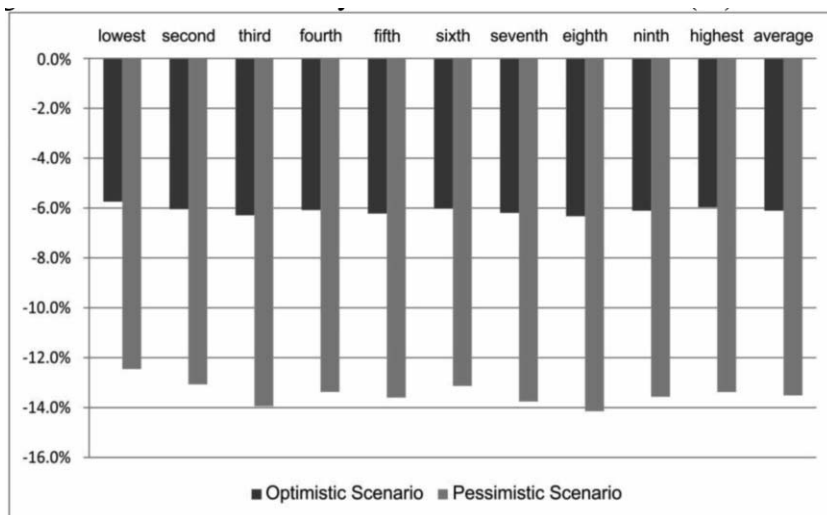
## APPENDIX – GRAPHS ILLUSTRATING THE ECONOMIC EFFECTS OF BREXIT

Figure 1. Net immigration to the UK, 1991–2015



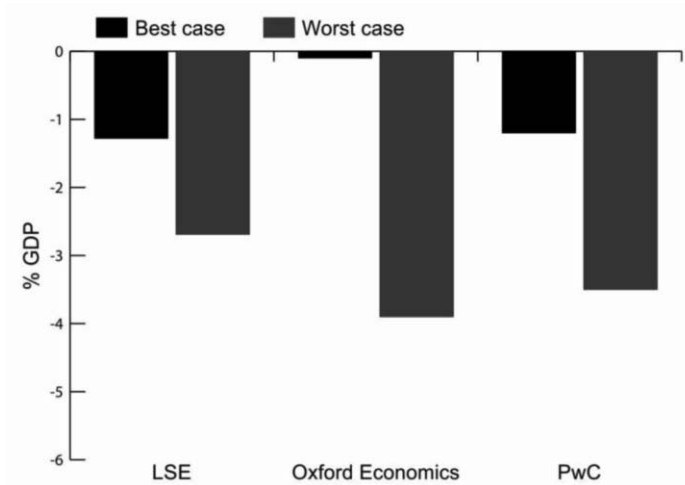
Source: (Centre for Economic Performance (CEP), June 2016, p. 35)

Figure 2. Long-run real income losses by household income decile (%)



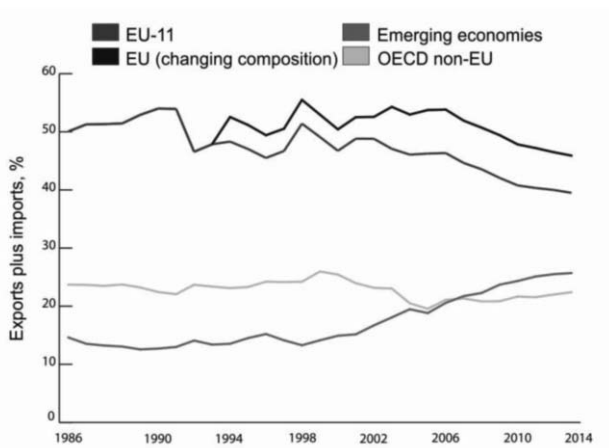
Source: (CEP, June 2016, p. 59)

Figure 3. Three Brexit forecasts



Source: (Springford, Tilford, Odendahl, & McCann, April 2016, p. 12)

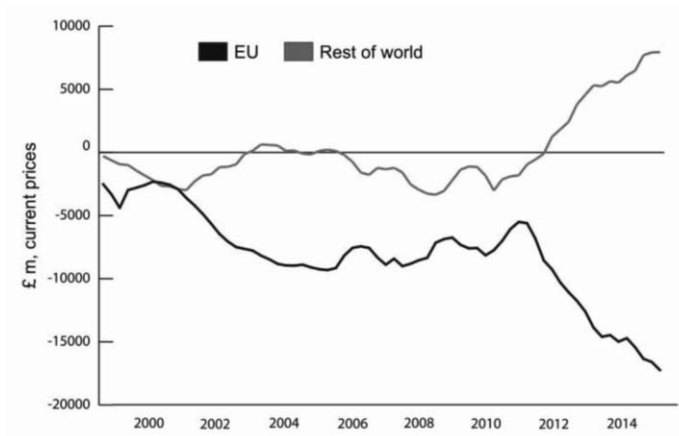
Figure 4. Trends in UK goods trade with the EU and the rest of the world



Source: (Springford, et al., April 2016, p. 27)

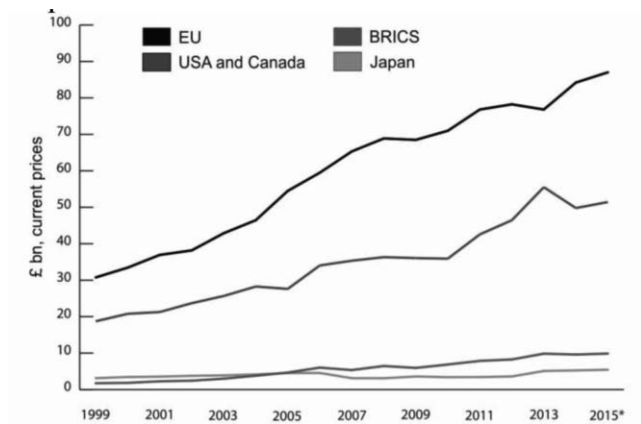


Figure 5. UK trade balances



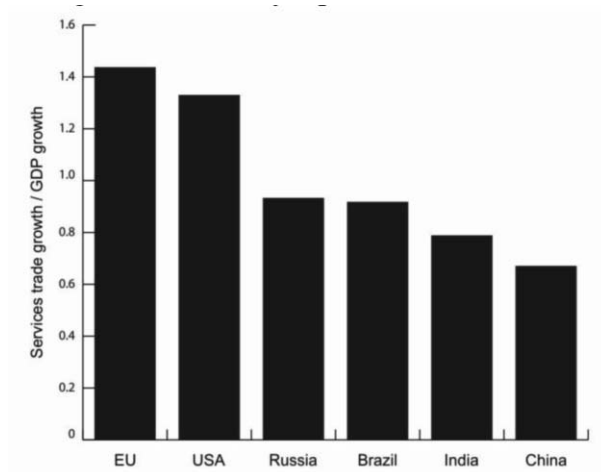
Source: (Springford, et al., April 2016, p. 39)

Figure 6. UK services exports



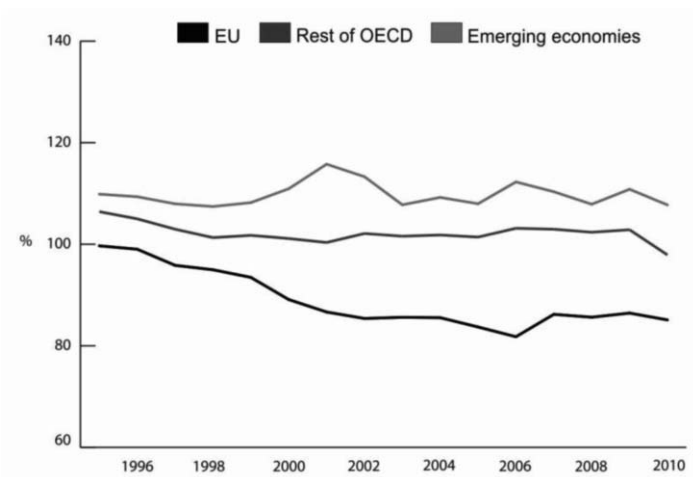
Source: Source: (Springford, et al., April 2016, p. 37)

Figure 7. UK services trade growth with major partners, 1999-2015



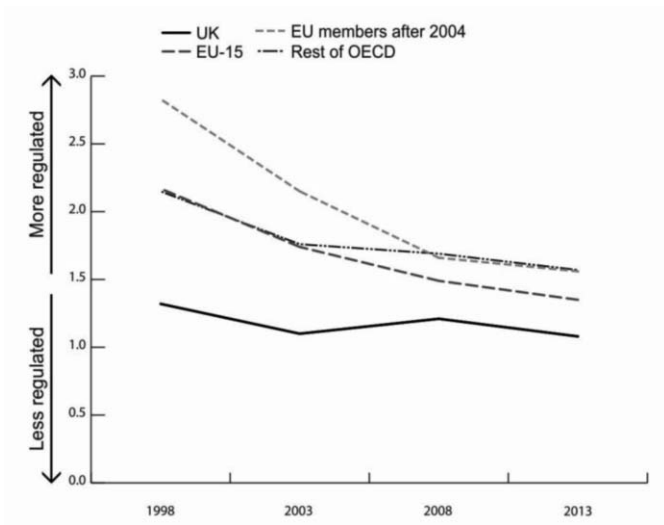
Source: (Springford, et al., April 2016, p. 37)

Figure 8. Trade costs between Britain and the EU, the rest of the OECD, and emerging economies



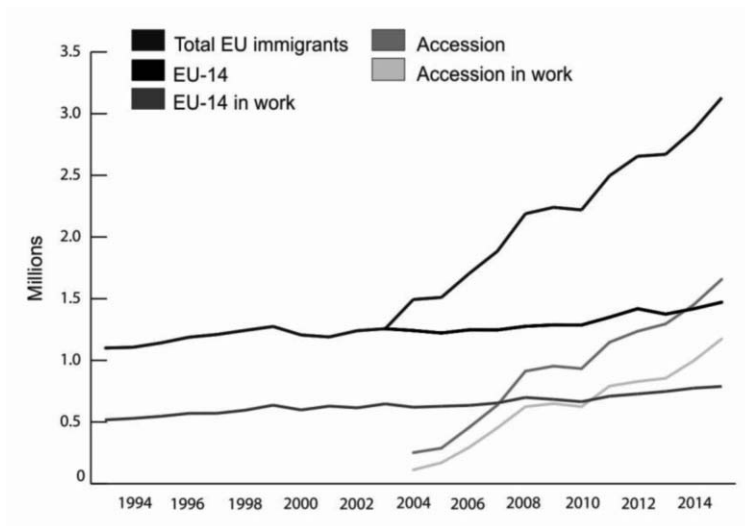
Source: (Springford, et al., April 2016, p. 49)

Figure 9. Levels of product market regulation



Source: (Springford, et al., April 2016, p. 60)

Figure 10. Rapid growth in EU immigration from 2004.



Source: (Springford, et al., April 2016, p. 88)

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Bojan DIMITRIJEVIĆ  
Milenko DŽELETOVIĆ

### **EKONOMSKE POSLEDICE BREXITA – PRELIMINARNA ANALIZA TROŠKOVA I KORISTI**

*Apstrakt:* Građani Velike Britanije su 23. juna na referendumu izglasali izlazak iz punopravnog članstva Evropske unije. To je istorijski događaj za samu zemlju, ali nosi brojne ekonomske i geopolitičke posledice za Evropu i čitav svet. Stoga je zadatak rada bio da prikaže najvažnije kratkoročne i dugoročne troškove i koristi od istupanja zemlje iz Evropske unije. Cilj rada je sagleda što je moguće širi kontekst ekonomskih efekata uzimajući u obzir neizvesnost u pogledu ishoda pregovora o razdruživanju. Pored uvoda i metodoloških napomena, rad prikazuje kratkoročne i dugoročne troškove i koristi, navodi optimistički i pesimistički scenario, pokava da kvantifikuje efekte, tamo gde je moguće i da posledice prikaže na balansirani način. Osnovni zaključak, koji uzima u obzir i rezultate privrede u prvom tromesečju posle referenduma, jeste da su negativni efekti Brexita, za sada, preценjeni.

*Ključne reči:* Brexit, troškovi i koristi, Evropska unija, Zona slobodne trgovine, Evropska ekonomska zona, spoljna trgovina.

## THE FUTURE OF THE EUROPEAN UNION AFTER BREXIT HOW TO GO FORWARD OR HOW TO GO BACK?

Tanja MIŠČEVIĆ<sup>1</sup>  
Stevan NEDELJKOVIĆ<sup>2</sup>

*Abstract:* The question about the future of the European Union, formerly European Communities, is set from its beginning. The EU has always aroused the interest of researchers, because its nature, structure and level of organization are not so usual. It is not a typical international organization, not even the state, but it is an example of the most advanced regional integration that has ever existed. Over time, it faced a large number of crises and always came out stronger. Last in a series of crises was caused by the decision of British citizens to choose the option 'Leave' in the referendum on June 23, 2016. Since then, the interest of researchers for the future of the European Union seems to be greater than ever. The key objective of this article is to analyse the options which the European Union has for its operation in the future. Also, we will try to determine which factors influenced the decision of Britain to leave the EU.

*Key words:* European Union, Britain, Brexit, EU future, Article 50, negotiation, unity.

### INTRODUCTION: EUROPEAN UNION – ACHIEVEMENTS, CHALLENGES AND CRISIS

*'If we left the European Union, it would be a one-way ticket, not a return. So, we will have time for a proper, reasoned debate. At the end of that debate you, the British people, will decide'.*

David Cameron, January 2013

Seventy years ago, during his famous speech in Zurich, Winston Churchill announced his vision for Europe, a continent fresh out of the horrors of the

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Second World War. While addressing students at the University of Zurich in September 1946, he called for a renewal of the European family through a regional structure he referred to as the United States of Europe. The structure was meant to achieve ‘...the salvation of the common people of every race and every land from war and servitude...established on solid foundations’ (Churchill, 1946). If all states were not willing or able to enter the union, those who wished to do so would have to gather and continue on their joint path. The idea was for Germany and France to lead the process, while ‘...Great Britain, the British Commonwealth of Nations, mighty America – and...Soviet Russia... – must be the friends and sponsors of the new Europe.’

Altiero Spinelli, another renowned European who deliberated on the post-war Europe during World War II, clearly stated in his *Ventotene Manifesto* that the future of the continent must be one without borders, based on unity among its nations and rooted in European values. This is the same Spinelli, who served as a president in the first directly elected European Parliament in 1979, and also one of the authors of the Treaty of the European Union Proposal in the 1980s.

The European Union (EU) we know today rests on these very ideas and is essentially a political project. The 28 member states do not merely cooperate but have created, over the course of several decades, supranational institutions with the executive and judicial jurisdiction over them, and those institutions can pass laws that apply to both natural and legal persons. The EU has its own court, The Court of Justice of the European Union, with legal precedence over national courts, as well as the European Parliament, which along with the Council of the European Union, passes laws that have primacy over national laws. Another body that holds supranational and executive functions is the European Commission, primarily in matters of competition and public aid, as well as the foreign trade where it plays the leading role.

The EU’s market is especially integrated – there are no customs between the Member States, and there is a single and common set of rules and standards regulated by the European Commission, with common rules having supremacy in several areas, namely competition, public aid control and equitable contribution to the common good, including funds coming from the budget.

However, the European Union does not consist solely of its successes, but also of various challenges it has taken on. The turn of the 21<sup>st</sup> century was not an easy period for Europe. The idea of building and developing a Common Foreign and Security Policy was disrupted by the Member States failing to reach common ground regarding the 2003 war in Iraq. At this time, it seemed the EU was divided into the ‘Old’ and the ‘New’ Europe, or Europeans and Euroatlantists. After that, the dream of creating a European Constitution was put to an end due to referenda results in France and the Netherlands. International conditions were not ideal

either. The global economic crisis began in 2008 after the fall of Lehman Brothers in the United States, and later spread all around the world. It seriously shook the EU and resulted in the European Debt Crisis, or the Eurozone Crisis, that started at the end of 2009 when Greece admitted their government debt had reached 113% of the Greek GDP. It was later found that Greece's budget deficit was unacceptably high and that Greece had been submitting false data by using 'different accounting procedures'. The Crisis spread to Ireland, which was at the brink of bankruptcy and then to Spain, Portugal and Italy, and the rest of the member states experienced it at least through GDP declines.

There are numerous academic discussions about the importance and power the EU carries. In them, critics never seem to miss the opportunity to point out that the European Union is not a major power because it fails to solve the crises in its own backyard.<sup>3</sup> Even if we agree that opinions were reconciled regarding the Ukrainian Crisis, this was not the case with the refugees. The Refugee Crisis began in the early 2010s with waves of migrants and refugees coming from the territories affected by the Arab Spring. It intensified in the spring of 2015 when a large number of migrants, running away from the war but also in search of better living conditions and asylum in developed countries, started heading towards Europe. The EU, at the initiative of Italian Prime Minister Matteo Renzi, tried to give a joint response as early as in April. An extraordinary meeting of the European Council was held on April 20, 2015, that resulted in the 10-point plan.

The situation exacerbated in September when the European Commission's suggestion on allocating 160,000 migrants using the quota system was met with strong resistance. First, Hungarian Prime Minister Viktor Orbán criticized the Commission's plan, and later, at the Heads of State or Government of the Visegrád Group meeting in Prague, it was decided that 'they will not accept any compulsory long-term quota on redistribution of immigrants' (Ian Traynor, 2015). Many were disappointed by European states' actions seeing as they themselves had millions of refugees in the middle of the previous century. The Migrant Crisis especially shook the "ethical foundations" (Hartmut Mayer and Ethical foundations, Vogt, 2006) the EU external operations are based on.

The last in line is the crisis caused by the outcome of the referendum in the United Kingdom of Great Britain and Northern Ireland held on June 23, 2016, where the citizens decided to leave the European Union. It seems that the question of the future of Europe, and even its survival, has never been more uncertain than it is today. Some authors believe that 'Brexit will erode values that have defined Europe (Bremmer, 2016, p. 18), others that Britain leaving has nothing to do with the EU, but is merely a 'mutiny against the cosmopolitan elite' (Calhoun, 2016),

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<sup>3</sup> The EU is mostly criticized for failing to prevent and contain the conflict in the Socialist Federal Republic of Yugoslavia.



while some have even said that we are close to ‘the end of the EU as we know it’ (Tim King, 2016). Brexit has definitely opened the question of Europe’s future. It would take a thorough analysis just to get a vague outline of the future, which is why this research is extremely relevant and scientifically justified.

### **CHRONOLOGY OF EU-BRITAIN RELATIONS: FROM ‘WHAT IF?’ TO ‘WHAT NOW?’**

Few topics have occupied the British public as much as the relationship between Britain and the EU and British involvement in European integration. These issues have divided political parties, as well as the society as a whole. Without exception, it has been so ever since the founding of the European Coal and Steel Community up until Britain’s decision to leave the EU. Perhaps the best indicator of the importance of the topic is the number of the referendum held in this country. In the entire history of Great Britain, there have only been three referenda, two of which concerned membership in the EU. The question remains whether Britain has ever, and if so - to what extent, felt as a member of the Union. Many British citizens have thought, and still think today, that the ‘British membership of the EU has not put Britain at heart of Europe, but it has put Europe in the heart of Britain’ (Gowland et al., 2010, p. 5). There was little consistency in terms of British policy towards the EU – the only constant was skepticism regarding further integration (Jones, 2007, p. 6).

The feeling of losing sovereignty, identity and money was constantly present in the minds of the British. The word of Chris Patten that ‘Britain has never actually joined Europe’ (Gowland et al., 2010, p. 3) may be too harsh, but to some extent represent what a major part of British citizens thought of European integration. Politicians played a significant role in shaping the public opinion. Too often, drawing ‘red lines’ or negotiating ‘opt-outs’ were celebrated as victories. Benefits caused by the integration were, however, rarely pointed out. All of the above brought forth Britain’s inglorious nicknames, such as ‘Reluctant European’ (Jones, 2007, p. 2) and ‘awkward partner’ of the EU (Oliver, 2013, p. 19).

Reasons behind Brexit are not easy to explain. Some authors claim that UK citizens were ‘sleepwalking towards a British exit’ (Oliver, 2013, p. 7). Still, drawing an analogy with the great powers entering WW1 (Clark, 2013) would be too simple of an explanation, and citizens are often aware of the decisions they are making, even though they can be irrational. A number of interconnected and intertwined reasons caused the citizens to circle ‘Leave’ on the ballot.

The history of Britain’s relationship with the European Union, formerly the European Communities (EC), began shortly after World War II. It was not long after war drums had ceased that ideas of economic, political and defense

cooperation started emerging. European states and the Founding Fathers of the EC/EU 'saw unity as the only way of achieving eternal peace on a continent with a long history of deep divisions and devastating wars' (El-Agraa, 2015, p. 243). At this time, Britain was sending out 'mixed signals'. They participated in the signing of the Treaty of Brussels and the founding of the North Atlantic Treaty Organization (NATO), but the Labour Party, which was in power back then refused to take part in the unofficial Congress of Europe in 1948 in the Hague. Britain was unclear about how far it was willing to go in connecting with the continent, but things became much clearer during the 1950s.

French Prime Minister Robert Schuman presented the Schuman's Plan on May 9, 1950, a plan operationally drafted by Jean Monnet. A month later, Britain's limits in terms of being willing to forgo integration were more than clear. They found Schuman's Plan unacceptable. Reasons for this were numerous. First of all, Britain's strategic culture implied not connecting with European states thoroughly, and not being present on the continent more than necessary. Second, Britain's trade exchange with European states was, at the time, at 20% of trade in total, and with the Commonwealth over 50% (Gowland et al., 2010, p. 24). Third, the majority of Commonwealth states used the British Pound, and Britain served as the central banker, while half of world payments used their very currency (Gowland et al., 2010, pp. 24-25). Finally, 'special relations' with the United States became the foundation of British foreign policy, but also an important element, sometimes even a stumbling block, of their relationship with other European countries.

Britain also refused to take part in the Conference of Foreign Ministers of 'The Six' in Messina in 1955. This conference was of great importance – it was where European states agreed to establish the European Economic Community (EEC). The EEC began working when the Treaty of Rome came into force in 1958. The 1950s, in general, went by without British aspirations to join the Community.

The early 1960s were a completely different story. Britain was facing serious economic problems. The Bank of England had devalued the Pound multiple times, unemployment was being handled through government projects, and GDP growth was much lower than in France or Germany. During the 1960s, the process of decolonization was accelerated, and Britain was moving further and further away from 'the empire on which the sun never sets' it used to be. It was far from a great power, and was trying to save itself in various ways. In order to encourage economic growth and development, Britain initiated the establishment of the European Free Trade Association (EFTA) in 1960. However, just a year later Britain finally applied for membership at the European Economic Community. The EEC membership was seen as 'panacea for Britain's political and economic ills' (Gowland et al., 2010, p. 42). British Prime Minister Harold Macmillan justified this step by emphasizing trade interests and the importance of having access to the Common Market.

Britain's application was denied at the request of French President Charles De Gaulle. Britain applied for membership in 1967 as well but was rejected once more because De Gaulle 'could not let such a weak currency enter the EEC and drag down the collective European economy' (Jones, 2007, p. 15). The official cause for such a statement was the new devaluation of the Pound, but the actual reasons were quite different. De Gaulle distrusted Britain because he saw it as a 'Trojan horse that would let the United States interfere in European matters' (Jones, 2007, p. 15). He feared an excessive 'Atlantic influence' would prevent a deeper intergovernmental integration in foreign policy and security within the EC. The other five member states did not share De Gaulle's opinion, but his veto remained in force all through the 1960s.

Finally, in 1971 Britain applied for membership for the third and the last time. De Gaulle was no longer in power and the new French president Georges Pompidou was much more enthusiastic regarding Britain's membership. Negotiations lasted for two years and were the 'first negotiations where a collective EEC position was developed' (Jones, 2007, p. 15). With all previous membership requests, the applying state had to negotiate with all six member states separately. After successful negotiations, Britain, along with Denmark and Ireland, joined the EEC in 1973.

Becoming a member of the EEC did not solve all of Britain's problems. British society and political elite were still highly divided around European integration. One of the pre-election promises the Labour Party made in 1974 was that, should they win, there would be a referendum on membership in the EEC. This was the first referendum in British history. This was also the time of the 1973/1974 Oil Crisis, and the economic situation was devastating. It was during that period that the idea of a common energy policy came to be and further caused a fear of stronger integration. Nevertheless, 63% of the citizens who came out to vote on the referendum chose to stay in the EEC.

In 1975, Britain voted to stay in the EEC almost by a two-thirds majority. However, the general opinion on further integration remained unchanged. European institutions did not enjoy a high level of trust, either. At the first direct elections for the European Parliament, voter turnout was 32,3% in Britain, and 63% on the EEC level (Ayres, 2014, pp. 2-10). There were more and more public debates on losing sovereignty and identity within the EEC. Politicians had a tough job of explaining the benefits of the Common Market with ongoing discussions about the declining importance of their national Parliament and the British Constitution<sup>4</sup>, as well as wasting British money on the EEC.

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<sup>4</sup> Britain does not have a written Constitution typical for most developed democracies. Its Constitution consists of Statute Law, EU Law, Law and Custom of Parliament and Works of Authority.

In 1979, Margaret Thatcher – the ‘Iron Lady’ – became Prime Minister. At the very beginning of her term, she initiated talks on the British Budget Question (BBQ). Here, she showed her firm and tough diplomatic style, something she would later use in dealing with most of the problems at hand. In spite of her great commitment to the matter, the BBQ issue remained unsolved. After the EC Summit in 1982, she spoke openly at a press conference: ‘I am stubborn and I intend to go on being stubborn. I have much to be stubborn about’ (Wall, 2008, p. 10). She had a good relationship with German Chancellor Helmut Schmidt, but despised French President Giscard d’Estaing (Jenkins, 1992, p. 495). In the years to come, she strongly opposed Mitterrand’s conception of a ‘two-speed Europe’ because she feared the ‘spillover effect’, as well as the possibility of Britain not being ‘at the table’ during crucial decision-making. She would often find herself in a ‘defensive mode’, but also managed to accomplish Britain’s national interests quite a few times – at least the way she understood them.

There have been, of course, many positive things regarding EC-Britain relations during Margaret Thatcher’s time in office, especially after 1984 when an agreement about a rebate formula<sup>5</sup> for Britain was reached. Prime Minister Thatcher strongly supported the ideas of economic integration and never opposed the Single European Act, which was supposed to establish the Single Market by the end of 1992. Her successor was John Major. Even though the two had different diplomatic manners and negotiating styles, their priorities were quite similar. Major supported adopting the Maastricht Treaty (officially the Treaty on European Union, TEU) and put across an ‘opt-out’ for Britain from the TEU’s social provisions. He presented this to the public as a ‘game, set and match’ (Young, 1998, p. 432). All British politicians, up until 1997, presented EU-Britain relations to the citizens as a win or lose situation. This contributed to the false image of Europe constantly demanding something of Britain, and the latter being an exclusive provider of services for the EC.

When the Labour Party came into power, and Tony Blair became Prime Minister, Britain’s relationship toward the EU changed thoroughly. Blair sought to show initiative and not allow himself to become isolated, which is what often happened to Thatcher and Mayor. He was probably the first British Prime Minister to be proactive instead of reactive. Along with the German Chancellor Gerhard Schröder, he proposed a unique economic program called the ‘Third Way’, which connected ‘two potentially conflicting goals: economic efficiency and social justice. (Gowland, 2010, p. 147). While Blair was in office, the European Union adopted the Treaty of Amsterdam in 1997<sup>6</sup>, the Treaty of Nice

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<sup>5</sup> This agreement implied Britain would retrieve a partial amount of funds they put into EC’s budget

<sup>6</sup> Entered into force on May 1st 1999

in 2001<sup>7</sup>, negotiated the Treaty Establishing a Constitution of Europe<sup>8</sup> and brought the negotiations on the Lisbon Treaty<sup>9</sup> close to the end. Generally, this was a period of rather good cooperation between member states' leaders – with, of course, the exception of the Iraq Crisis in 2003.

Gordon Brown succeeded Blair as Prime Minister in 2007 and remained in Office until 2010 with no significant changes in relations with the EU. The Lisbon Treaty came into force on December 1, 2009, but there was no time for celebration. Around the same time, the Eurozone Crisis started and fewer and fewer British citizens trusted the EU. The Labour Party lost the 2010 elections and was replaced by the Conservative Party – a party much less devoted to 'European ideas'.

David Cameron was elected Prime Minister – until then, he was Leader of the Opposition in the British Parliament and strongly objected the Lisbon Treaty. He thought the Treaty had too many 'ratchet clauses' that might help move power away from the member states. Cameron feared federal ideas so much that even five years before coming to power he 'used the private hustings for the 197 Conservative MPs to agree with Eurosceptic calls to withdraw Tory MEPs from the "federalist" European People's Party grouping in Strasbourg' (White and Branigan, 2005). He strongly advocated renegotiating relations with the EU because they were based on the Lisbon Treaty and previous agreements he deemed unacceptable. His famous speech from January 23, 2013, will be long remembered as the first step of the process that has become known as Brexit. In that speech, he promised to, should he win the general elections in 2015, request 'to negotiate a new settlement with (...) European partners' and after that call a referendum for citizens to decide whether they want to remain in the EU under new conditions or leave the Union.

The time between this speech and the referendum was filled with numerous discussions and cost and benefit analyses of the remaining in and leaving the EU (Gow and Meyer, 2016; Springford et. all 2014; Dhingra et. all, 2015; Stokes, 2016). Almost every analysis showed a number of economic and political repercussions Britain, and the EU itself, would face in case of Brexit. It seemed rational for citizens to vote to remain in the Union, and not just because 'in the world we live in, acting alone is neither possible nor desirable' (Solana, 2014, p. 45). Additionally, all economic indicators were pointing to the 'Remain' option, while the 'Leave' campaign was based on unverified information and unfounded

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<sup>7</sup> Entered into force on February 1st 2003

<sup>8</sup> This Treaty never entered into force because France and the Netherlands discarded it through referenda

<sup>9</sup> Signed on December 13th 2007 (four months after Tony Blair left Downing Street no. 10) and entered into force on December 1st 2009

forecasts. Apparently, these analyses were not sufficient to persuade the citizens to stay in the EU, nor were major parties' representatives, along with Cameron, who all advocated the 'Remain' option. Britain voted on the referendum on June 23, 2016.

Cameron fulfilled his promise. The fate of Britain was put to a vote. Almost 52% of citizens that voted chose the 'Leave' option. Many raised the question of how Brexit could possibly have happened. They put their hopes in rationality and were proven wrong. Maybe the best answer lies in the words that 'every important decision is taken with inadequate knowledge, by imperfect men and women whom the future will confound' (Gowland, 2010, p. 10). One thing is certain: after Brexit, the EU-Britain relationship will never be the same again. As Cameron predicted in 2013, leaving the Union is a 'one-way street' and there is no turning back. Many people in Britain, Europe and the World hoped to never have to look for an answer to 'what if Britain leaves the EU?', and that all those cost and benefit analyses of leaving would simply become an argument against new referenda. However, this did not occur, and EU citizens, as well as those in Britain (that will remain a member state for a while) are demanding an answer to the question 'what now?'

### **A UNION WITHOUT BRITAIN – A 'REVERSE' ENLARGEMENT'**

Surely, the EU will not be the same without the United Kingdom, but we are far from talking about the end of the Union. The UK can step out of the EU, but it cannot relocate out of Europe. Britain's exit will stir a great number of debates regarding the consequences of the first post-Lisbon withdrawal from the Union. The Lisbon Treaty introduced the well-known Article 50 concerning this possibility, but with hopes of never having to implement it. The intention was to make the means and procedures of withdrawal vague in order to express the notion that none of the member states will, in fact, leave the EU.

Nevertheless, the referendum took place and we are all familiar with the results by now. After a couple of months of discussions, the new Prime Minister Theresa May announced that Great Britain would commence the procedure based on Article 50 in March 2017. Here are a couple of legal details concerning this scenario. When a member state, after having decided to leave the Union in accordance with its Constitution, informs the European Council of this intention, the two sides may begin negotiating the arrangements of the withdrawal in order to establish the framework for future relations with the EU (TEU, Article 50, Paragraph 2). The Council of Ministers will then adopt, according to the European Commission's recommendation, a decision to open negotiations on the 'Withdrawal agreement', as well as name the negotiator or the head of the negotiating team (TFEU, Article 218, Paragraph 3). The agreement is to be

concluded by the Council on behalf of the EU, acting by a qualified majority after obtaining the consent of the European Parliament.

The Founding Treaties of the EU cease to apply to the state that is withdrawing on the date of entry into force of the withdrawal agreement, or alternately, two years after the notification of withdrawal, unless the European Council decides to extend this period in agreement with the member state in question. During the negotiations, representatives of the withdrawing member state do not participate in the discussions of the European Council or Council or in decisions concerning it. In order to prevent interference with the Council's work, a new qualified majority will be defined in accordance with this Treaty.<sup>10</sup> Finally, if the withdrawing member state wishes to re-join the Union, the same procedure regarding all other member states will take action in accordance with Article 49 of the Treaty on the European Union. In other words, if Britain wanted to re-join the EU, it would have to go through negotiations on accession and harmonization with European standards the same way Serbia is doing right now.

After the referendum and the decision to leave the EU, nobody actually knows what the next steps are. Obviously, there were no plans on either of the sides, which is why they are just now starting to think about the course of action and the content of the withdrawal agreement. The phrase “reverse enlargement” is becoming more common in order to position thinking about possible solutions into a familiar framework. What this means is that the subject of withdrawal negotiations will differ from that of the accession negotiations. In the latter, the central question concerns the moment the candidate state will be able to adjust its law, politics and standard with those within the EU, while in the case of withdrawal the issue regards the moment and the means of separating Britain's law, politics and standards from the EU, as well as the ways this will affect the remaining 27 member states' level of integration.

In fact, no one is really thinking about the entire *acquis* because everyone's attention is focused on the access to the European market. As prime minister, May clearly has explained: ‘...Brexit has to mean the full repatriation of political power from Brussels. Anything less was unacceptable...it means having the freedom to make our own decisions on a whole host of different matters, from how we label our food to the way in which we choose to control immigration’ (McTagoe and Cooper, 2016). This means that Britain would accept an agreement on free trade rather than a compromise around a completely free market, in order for companies to have maximum freedom to trade and operate in the European market. However, this excludes the freedom of movement of labour for the EU

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<sup>10</sup> Article 238 (3) Treaty on the Functioning of the European Union is to be implemented in this case, meaning that a qualified majority is to be determined so as to contain at least 55% of all member states participating in the Council, as well as 65% of their residents.

member states, as well as the jurisdiction of the Court of Justice of the European Union (McTagoe and Cooper, 2016, p. 4).

Brussels' reaction was more than interesting – there was, in fact, no actual reaction! The online response came from Juncker's office saying that they will not react based on media statements, but only after they have received a withdrawal notification, which they expect to happen as soon as possible. However, the EU officials have warned Britain multiple times that they will not allow for informal conversation to take place, since they are aware that member states are not unanimous on what the outcome of the withdrawal agreement should be.

Even now, it is possible to predict which parts of the negotiations will be hard to accomplish. Without a doubt, the EU's starting position will be that they will not allow Britain to be the one to choose which segments of the *acquis* to keep and which to disregard, and that participating in the single market implies providing the funds for it to function properly, or simply to make payments towards the EU budget. Another thing is certain – should the two sides fail in reaching an agreement, Article 50 of the Treaty calls for an automatic transition to trade based on WTO rules, both the UK and the EU being members, which implies having the same rules regarding foreign trade as, for example, with the Russian Federation.

There are other options, but none of those could be applied in their pure form. The model that almost everyone considered at first was the one the EU has with the European Economic Area (EEA), primarily Norway, but that implies freedom of movement of labour which is something Britain is excluding as a possibility. The relationship the Union has with Switzerland, based on numerous bilateral agreements is, however, not suitable for the EU because (as is the case with the Swiss referendum regarding immigrants) things may severely change without the Union having an impact on them. It is possible to arrange a lower level of integration through agreements, for example a Customs union like the one with Turkey – for Britain, this would imply independent negotiations on free trade with all of the partners they had while being a member state, but would put them in an unequal position of being more concerned about the agreement.

Another possible solution is for the UK and the EU to have an agreement on free trade, similar to the Serbian Stabilization and Association Agreement, a Partnership Agreement, or a Trade Agreement recently concluded with Canada. This would allow member states to demand from Britain that the agreement predict immediate harmonization with any new regulations within the EU law, as well as to have control and supervision of the implementation of these rules.

All of the above implies the negotiations will most likely be long and interesting. The Chief EU Negotiator, Michel Barnier, a former member of the



European Commission in the field of trade, is more than skilled at reaching agreements and has excellent knowledge of the European Union Law. He still, however, has not shared his ideas publicly. His plan is to ensure support from the Member States during the negotiations so that all of them may stand behind the reached agreement.

The first consequence of the British vote regards internal changes in the EU. That includes altering vote weighting within qualified majority decision-making, a new distribution of members in the European Parliament, the issue of British officials in the EU institutions, as well as making changes in the budget and spending. This last matter – UK's contribution to the budget, as well as that of every other member state, is and will be one of the most significant points of discussion and negotiation, and will directly depend on the chosen model. These are not mere technical changes and adjustments of management due to one member state leaving the Union, but rather an important question of balance of power within the institutional balance in the EU.

At the same time, the Eurozone may strengthen its position in light of its biggest opponent not being able to influence these policies anymore. There are indicators that facing Britain's leave would lead to stronger integration. This would be quite difficult seeing that an intense shift would cause resistance within the public opinion due to rising Euroscepticism, populism and far-right politics – not only in member states but in the European Parliament as well.

### **EUROPEAN UNION AFTER BREXIT – A UNION WITHOUT UNITY**

Jean-Claude Juncker, president of the European Commission, delivered his State of the Union address in September 2016 and in it clearly stated that ‘...We are not the United States of Europe. Our European Union is much more complex. And, ignoring this complexity would be a mistake that would lead us to the wrong solutions’ (Juncker, 2016). He emphasized the fact that there is neither enough Europe in the Union, nor enough Union in it. He even spoke of an existential crisis and said he cannot see sufficient common ground where member states could agree to work together. Juncker added that member states’ leaders mostly talk about their domestic issues, and even if they do mention Europe, it is only in passing. He expressed his worry that representatives of the EU institutions have never before set such different priorities, sometimes directly opposing national governments and parliaments. He concluded that there is ‘so much fragmentation and so little commonality in our Union.’

Juncker deemed it necessary to tend to five crucial issues: having a Europe that protects, preserves the European way of life, empowers its citizens, defends

at home and abroad, and takes responsibility. A summit meeting of Heads of States or Governments will be held in Rome in March 2017 in order to celebrate the anniversary of the Treaties of EEC. For this occasion, the European Commission is preparing a White Paper that is meant to address ways of strengthening and reforming the Economic and Monetary Union. He concluded his State of the Union speech by saying that no one can defend the rationale for unity but the European nations themselves (Juncker, 2016).

This opens a question of the options the European Commission could suggest as a plan to salvage the European project. Somewhat of a race has been started in academic circles, and there has hardly been a single serious article in a previous couple of months where the author has not deliberated on possible future scenarios for the EU (Walt, 2015; Oliver, 2016; New Pact for Europe Future, 2016). It appears there is a consensus that this is the right moment to rethink the future of the Union – not in terms of the final outlook, but rather in regards to the transition meant to help the EU survive the biggest challenges it is facing today. It is as if there is neither strength nor candidates for a strategic discussion on the *finalité Européen*.

It is possible to systematize these suggestions regarding the future of the EU – it is not a waste of time for citizens of non-member states, on the contrary – it leads to an understanding of our position in every one of the options that might end up on European leaders' desks in the following years. As a country in the process of the EU membership negotiations, Serbia needs to not only be prepared to understand possible courses but also find its place in each one of them during the negotiations as well as after they are finished. We have always known the EU to be a moving target seeing as it changes on a daily basis, but we could not have predicted such essential modifications of the European integration process among member states to occur during our own process of integration.

The first and the simplest scenario would be the one that Britain advocated for quite some time before the referendum, which calls for a return to the basics, with the single market being the key element of the Union. Representatives of this option hold the Euro to be the main issue and believe that discussions of a closer Union need to be put to an end. They call for correcting the mistakes that were made. The first solution being to abandon the Euro which would not destroy the EU, but rather open up a way for a pragmatic and efficient integration process. This would also lead to re-evaluating whether EU activities have any additional value in major policies and could evoke, later on, renationalization of some of those areas. This would mean, of course, limiting the position of the European Parliament and the Commission, while strengthening national governments' and parliaments' roles in decision-making on the EU level. These changes would dilute, naturally, supranationality and supremacy would cease to

be the chief feature of the European integration. In fact, instead of having more Union, this would lead to a rise of national elements within the EU.

The second option is proposed by those authors who believe the Lisbon Treaty secondary legislation and the Court of Justice of the EU's decisions, altogether comprising the *acquis*, actually contain all the instruments needed to solve the existing problems. Their main objection, or the main mistake in EU's actions, is that all those instruments were never used adequately and completely due to the lack of political agreement between member states. Their complete application would not imply further limiting member states' sovereignty in areas they are not prepared for, such as taxation or social and employment policy. These authors believe it is necessary to restore the reputation of the Union among the public, and this can only be done if the EU remains consistent and dedicated to existing arrangements.

The third option implies ambitious further development, but gradually (in accordance with the roots of the European project and its evolving nature), and mere consolidation of the existing level of integration is not enough for this model. What is needed is a further integration that would give the EU greater authority in order to be more efficient in terms of facing challenges, as well as to increase democratic legitimacy. All of this calls for an open debate on making amendments to the treaties the EU rests upon, and that debate would need to include the wider public. At the same time, it would require caution in terms of not deepening the existing differences among the member states. Advocates of this option disagree on whether this would mean permanently introducing the 'multi-speed' Europe principle, or simply its short term use as an element of a previously defined cooperation between voluntary actors. This would result, naturally, in the EU institutions having higher authority and a much stronger supranationality, including domains such as the budget and structural policies, in order to ensure financial support for further integration.

Clearly, there are two completely extreme possibilities coming from the fact that the EU we know today is not functional or able to respond to the upcoming challenges. Some believe that the European experience so far shows that further transmission of concepts from national politics and democracy to the European level was in fact never possible, primarily due to the lack of these very concepts in member states. They see the solution in creating a Union more responsible towards its public, one that would repeatedly find new ways of including citizens in decision-making. This new Union would strive to strengthen its capacities for preserving fundamental rights, as well as guarantee basic social rights by improving its own social dimension.

Finally, according to a significant number of authors, there is a possibility that the EU does not possess adequate instruments for dealing with the problems

it is facing. Therefore, they recommend a complete economic, fiscal, financial, social and political union with a strong European government and legislative power. This kind of a Union is meant to be capable of making autonomous decisions that truly would be in the best European interest. These authors also suggest that the member states that oppose this model should be ignored in order to give a chance to those who actually want such an integration.

One thing is certain. In every one of these options and scenarios, nobody is even considering abandoning the concept of European values. To be honest, they are not really talking about them, either. Let us assume that none of the authors are mentioning these values because they are implied. What this means for us is that, no matter which direction the EU takes or from which perspective we observe its development, our process of reaching European values will neither be obstructed nor inadequate. Surely, it might become slower due to the member states' attention being focused on other issues. However, if we look at our integration process more as a matter of domestic reforms rather than of joining certain institutions, there should be no deadlocks whatsoever. After having opened chapters of the *acquis* regarding rule of law (Chapters 23 and 24), there is still a lot of work to be done in terms of introducing the measures that will accomplish legal certainty in Serbia. The desirable course of action would be to prolong the negotiating momentum by opening new chapters – this would lead to further domestic reforms and inspire us to deliberate on the future of Europe.

Due to both, our European path, as well as the security threats in the European, Asian and Middle Eastern regions, the EU is expected to show consolidated management. Such a Union requires a strong, and not a weakened Europe – one that can respond to security needs and tend to the freedom and well-being of its citizens.

## CONCLUSION

*'We know what we are, but know not what we may be'.*

William Shakespeare

Many might say the future of the European Union is not a bright one. While it is true that the process of integration has slowed down, it is still going on nevertheless. Montenegro and Serbia began negotiating accession a couple of years ago, and have already opened quite a few chapters of the *acquis*. There is still no consensus regarding the Refugee Crisis, Britain has decided to leave the Union, the Ukrainian Crisis is slowly becoming a frozen conflict without a permanent solution, and Europe is still struggling with the consequences of the Eurozone Crisis. However, the entire human history has been permeated with

numerous crises. They affect states, international organizations, and every other subject of global relations. We are living in a world of ‘complex interdependence’ (Koehane and Nye, 1997). Global interconnection has made it possible for both opportunities and crises to easily transfer from one part of the world to the other. The EU is surely not responsible for the Refugee or the Ukrainian crises, but it still has to face and deal with their repercussions.

One more thing needs to be emphasized: just like human history, the history of the EU is filled with crises – it is not easy to even list them all. There are even authors who claim the EU is in a state of permanent crisis. However, it has come out stronger than before from every one of those crises. The Union is a successful experiment, a *novum*, and as such was often a target of misunderstandings. Its nature is impossible to grasp. It is not a state because it does not have all the elements of statehood, but at the same time has many more developed forms of cooperation that international organizations do. It is often defined as a *sui generis* formation. ‘States have foreign policies. International organizations struggle to define and maintain common positions’ (Wallace, 2007, p. 9), and it seems this very vagueness is the reason we cannot always understand the EU’s actions. Of course, there are bases for criticism, but even then we must remember the EU is an example of the most advanced regional integration that ever existed, and that it has developed over the years and has ‘brought the greatest changes for its citizens’ (McCormick, 2002, p. 1). We should never forget such achievements as are peace among European powers, the development of human rights and democratic values and forming a Single Market or a Common Currency. If we look at all the crises, but also all the accomplishments that came after them, it seems overly confident to write off the European Union. The future of the European Union will certainly consist of a political compromise (Mišćević, 2009), because it was created and developed in exactly this way.

Let us, in conclusion, go back to Churchill and Spinelli, but also Monet, Schumann and Delors – none of them insisted that the European Community project would be simple, cheap and easy. However, they did claim its additional value was high enough to respond to most problems concerning Europeans (both of security and economic nature), and to correspond to Europe’s interests. The only logical conclusion is that the EU should commence further integration in order to go back to its starting position of strengthening unity and dividing responsibility for promoting European values.

It takes little wisdom to state this, but a lot of skill, knowledge and tact to accomplish it.

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### **BUDUĆNOST EVROPSKE UNIJE NAKON BREGZITA – KAKO NAPRED ILI KAKO NAZAD?**

*Apstrakt:* Pitanje budućnosti Evropske unije, nekada Evropskih zajednica, postavlja se od njenog nastanka. Evropska unija je uvek budila interesovanje istraživača jer su njena priroda, struktura i nivo organizovanja krajnje neuobičajeni. Ona nije tipična međunarodna organizacija, niti je država, ali istovremeno predstavlja najrazvijeniji oblik regionalne integracije koji je ikada postojao. Vremenom se suočavala sa velikim brojem kriza i, po pravilu, iz njih izlazila snažnija. Poslednja u nizu kriza uzrokovana je odlukom građana Velike Britanije da na referendumu održanom 23. juna 2016. godine odaberu opciju 'Izaći'. Čini se da je od tada interesovanje istraživača za budućnost Evropske unije prisutnije nego ikada ranije. Ključni cilj našeg članka je analiza opcija koje Evropska unija ima za delovanje u budućnosti. Takođe, pokušaćemo da istražimo faktore koji su uticali na odluku da Britanija napusti Evropsku uniju.

*Ključne reči:* Evropska unija, Britanija, Bregzit, budućnost EU, član 50, pregovori, jedinstvo.

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## SOME CONTRADICTIONS OF BREXIT

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*Abstract:* With the referendum held in June 2016, the circle of participation of the United Kingdom in the European integration process begun in 1973 was closed. The objectives of this article are to show some contradictions of Brexit. The UK referendum is inherently contradictory because it occurred at a time when the European Union more than ever conforms to British views on the European project. The European Union has never been closer to the concept of a weak confederal union where each sovereign Member State defends its views in accordance with the daily political interests. As a large country and the former imperial power, the United Kingdom tends to preserve his influence in Europe. Leaving the European Union, the United Kingdom will lose the right to decision-making in the European Union institutions, which means that its political influence in the continental Europe will be weaker. The Brexit is a failure for the European Union, but it also may be an opportunity for progress in the areas where the former impeded and prevented integrative steps. It is primarily about creating a structured European defence, autonomous in relation to the NATO.

*Key words:* Brexit, United Kingdom, European Union, referendum, federalism, secessionism, intergovernmental cooperation, European sovereignty.

### INTRODUCTION

The result of the referendum on the United Kingdom leaving the European Union surprised the world public. During the Referendum Night on 23 June 2016, predictions were that the result would be 52 to 48 percent of votes in favour of the United Kingdom remaining in the European Union. The next day, early in the morning this estimate fell through and, finally, the vote count gave the same ratio but in favour of the British leaving the European Union. A risky, almost hazardous political move of the former British Prime Minister David Cameron, who wanted

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by calling a referendum and winning in it to silence and defeat Europhobes within his Conservative Party, proved to be disastrous. Cameron actually drove Britain and the European Union into the field of economic and political uncertainty, and may be deemed as one of those British Prime Ministers who made historical failures like Chamberlain, who signed a peace treaty with German Chancellor Adolf Hitler and Anthony Eden, who brought decision on military intervention in the Suez canal in the 50s of the last century.

Cameron's decision to call a referendum on the United Kingdom leaving the European Union is all the stranger as in the British constitutional system a referendum does not decide on anything but has a symbolic and advisory nature. In Britain, all important matters were decided by the Parliament whose MPs in a large majority (about 70 percent), as members of different parties, were committed to the United Kingdom remaining in the European Union. The referendum campaign itself was burlesque and tragic in character. The Labour MP in the British Parliament Jo Cox committed to "Remain" was killed during this campaign otherwise marked by rough deceiving of the public opinion by supporters for "Leave" the European Union. Thus, the secessionist party UKIP leader Nigel Farage claimed that the funds paid into the EU budget in case of leaving the United Kingdom would be used to improve the British health care system, but the next day after the end of voting he admitted that he had lied to the public about that. Fabrications of the current Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom, Boris Johnson, were also part of the pre-election folklore. He, for instance, claimed that due to European regulations in the United Kingdom a bunch of more than three bananas could not be sold. The aforementioned was followed by sensationalist headlines in the British tabloid press.

Anyway, despite the relatively tight election result and pre-election deception, the majority will of the British people expressed in the referendum on 23 June this year to leave the European Union can no longer be called into question. The held referendum, regardless of the legal concerns, has a huge political significance. British politicians do not have room for maneuvering to take a step backward and, by remaining in the European Union, to openly violate the will of the people. British withdrawal from the European Union, although marked by contradictions, is final.

### **THE UNITED KINGDOM WITHDRAWS FROM THE EUROPEAN UNION, EVEN THOUGH THE LATTER MORE THAN EVER CONFORMS TO BRITISH VIEWS ON THE EUROPEAN PROJECT**

The UK referendum is inherently contradictory because it occurred at a time when the European Union more than ever conforms to British views on the European project. Actually, thanks to the individual solutions entered into the Treaty of Lisbon (ban on the tacit transfer of competencies from the Member States to

the EU institutions, emphasised the possibility of leaving the Union), a restrained policy of Germany towards further federalisation of the European Union, the latter has never been closer to the concept of a loose confederal union where each Member State defends its views in accordance with the daily political interests.

Traditionally, the United Kingdom has been resolved for the policy of preserving national sovereignty and the concept of inter-governmental cooperation in relations between European countries. The problem was that this attitude is contrary to the spirit of the Treaty establishing the European Community and the European Union, the specificity of which was the very introduction of federal mechanisms (Samardžić, 1998, p. 51 and on) of the irreversible transfer of competencies from the Member States to the institutions in Brussels, as well as legal regulations at the EU level (Clapie, 2010, p. 117). The European common market was not only duty-free area of the free economic exchange, but a customs union within which the jurisdiction of the Community institutions and the Union today was foreseen to regulate and establish, by legislative acts, the rules of production, protection of competition, provision of services, agricultural production, transport, environmental standards, regime of movement of people and capital, etc... This European legislative process has in time received more federal characteristics in the sense that the Commission as a kind of the Union government proposes legal acts to the European Parliament and the Council, as the two legislative councils (Manin, 2005, p. 20). Federal aspects of the Community or the Union were intensified also by the fact that the legal order of the Union takes precedence over national laws of the Member States (Isaac and Blanquet, 2012, p. 397) and that it is directly applicable to legal and natural persons who can invoke it before national courts in exercising their rights. In this legal context, the Court of Justice of the European Union fought to be the ultimate editor and interpreter of the law, like the Supreme Court in federal states (Moreau Defarges, 1998, p. 22).

Given the substantial conceptual differences in the approach to European integration, between France and Germany on the one hand and the United Kingdom, on the other hand, the question is why the United Kingdom joined the European Communities and the European Union in 1973. The answer to this question lies in the economic interests of the United Kingdom, the economy of which could not withstand to be isolated by customs and other barriers from its economic partners from the continent (Simon, 2001, p. 46). The attempt of the United Kingdom to compete with the European Economic Community by establishing a rival organisation “European Association for the free exchange - EFTA”, founded on 20 November 1959, could not replace the British handicap in the Community market (Moreau Defarges, 1998, p. 22). The EFTA was established in accordance with the British perception so that it respects the national sovereignty of the Member States, which deprived it of integrative and federal characteristics. The EFTA was not like the Community, a customs union, only a free business zone between the State Parties. A

customs union involves the establishment of a common customs tariff as well as the implementation of the previously identified common commercial policy in relations with third countries. This removes the problems related to the determination of the origin of the product, smuggling and endangerment of competition within the common market. In practice, it also showed that European countries, for the purpose of economic development, need a stronger entity with federal legislation and the model of adoption of legislative acts in the field of economy. Therefore, most of the EFTA members at periodic intervals joined the European Communities and the European Union, including the United Kingdom (Ireland, Denmark, Portugal, Sweden and Austria) (Zečević, 2011, p. 106 and on). In this context, it should be borne in mind that after only 7 years of membership in the Community, the United Kingdom raised the placement of its goods in the European market by 25 percent (Shapira, Le Tallec and Blaise, 1994, p. 151).

The entry of the United Kingdom into the European Economic Community out of economic interest did not, however, diminish the British resistance to the supranational or the federal concept on which the Community was based. Thus, immediately after the accession of the United Kingdom to the Community, there was a change of government in the country. The newly appointed Labour government was not satisfied with the conditions under which the United Kingdom acceded to the Community, considering that it did not receive sufficient funds for development. Actually, the substantial European funds went to the Common agricultural policy in which the United Kingdom, due to weak agriculture, took part insignificantly (Moreau Defarges, 1998, p. 56). Therefore, in 1975 the Labour Party announced the first referendum on leaving the European Economic Community. Opinion polls forecast the victory of those who opposed remaining of the United Kingdom in the Community, but on the referendum, the overwhelming majority of Britons voted for remaining (Isaac and Blanquet, 2012, p. 42).

A little later British Prime Minister Margaret Thatcher in 1979 challenged the concept of “own revenues of the Community” as a mirage, asking for the following principles to be respected: contributions of the Member States to the Community budget should correspond to the participation of their gross national product in the gross national product community (each according to their wealth); each Member State should receive nearly as much as it paid to the Community Budget.

The United Kingdom refused to accede to the Schengen agreements from 1985 and 1990 which abolished border controls for the States Parties (Zečević, 2011, p. 269). Yet the United Kingdom made an important break with the federal supranational concept of the gradual transfer of responsibilities in reaching agreement on the European Union, The Treaty of Maastricht in 1993, (La documentation française, 2002) and then the Treaty of Amsterdam in 1999. (Berthu and Souchet, 1998) Bearing in mind that there was a gradual but steady transfer of responsibilities from the Member States to the Community and the Union, at one

moment very sensitive areas closely related to national sovereignty came onto the agenda. It is, for example, the monetary jurisdiction or responsibilities related to the supervision of national borders and migration flows (Clapie, 2010, p. 26). In this regard, the United Kingdom refused to give up their national currency and participate in creating “Euro” as a common European currency under the jurisdiction of the European Central Bank as a federal authority (Isaac and Blanquet, 2012, p. 11). In addition, the United Kingdom opted for the “opting out” formula when it comes to the border control and the implementation of the Schengen acquis, set out in the Treaty of Amsterdam in 1999 (Jacqué, 2009, p. 174). Herewith for the first time a uniform deepening of integration processes in all Member States, or the emergence of the practice of “Multi-speed Europe” was abandoned. This decision of The United Kingdom led to the gap in the integration between the Member States. The United Kingdom was also very restrained in terms of achieving the proposed contract, which established a European constitution in 2004, (Giscard d’Estaing, 2003, p. 11) which, fortunately, was not ratified by France and the Netherlands in referendums in 2005 so it did not enter into force (Isaac and Blanquet, 2012, p. 19).

From the previously mentioned, it is clear that the United Kingdom wanted a Europe based on inter-governmental cooperation with respect for national sovereignty. It is precisely this concept that proved unsuccessful in providing dynamic economic development and conflict prevention on a national basis in Europe.

### **VAGUE AND AMBIGUOUS ATTITUDE OF THE UNITED KINGDOM TOWARDS THE FUTURE RELATIONS WITH THE EUROPEAN UNION**

The United Kingdom as a large European state tended to be one of the European leaders who will gather as many countries as possible around its standpoint. Leaving the European Union inflicts a serious blow to such ambitions. From the economic point of view, the United Kingdom deems it unacceptable for the European tariffs to be re-introduced for its goods, which would cause a further blow to British economic growth already called into question.

British advocates of leaving did not work out a concept of future relations with the European Union. That is why the new British Prime Minister Theresa May announced that she needed time until the end of the year to officially announce to the European Council that Britain intended to leave the Union and to determine its negotiating position. This announcement would formally mark the beginning of negotiations between the United Kingdom and the European Union on “withdrawal agreement” which would determine the way out and a framework for future relations between the two sides. The deadline for the conclusion of a withdrawal agreement is no longer than two years, unless the European Council, in agreement with the other side, by a unanimous decision of all its members, extends

that deadline for a while. This means that in the absence of agreement upon expiry of two years for the British goods there would be automatically imposed tariffs.

The problem is that the United Kingdom does not fully correspond to the known model of partnership with the European Union. The first option would be for the United Kingdom to join the Member States of the European Economic Area, namely Norway, Iceland and Liechtenstein. This would provide the United Kingdom, just like Norway, free access for its goods to the EU market, but it would not participate in certain common policies (fisheries, foreign and defence policy) (Diffalah, 2016). Although seemingly perfect, this solution is not entirely acceptable to the United Kingdom. In fact, Norway accepted in the context of joining the European internal market, free movement of workers as well as the exercise of independent professions. On the contrary, British politicians advocating Brexit promised to restrict the immigration of workers from other Member States, particularly from Poland. In addition, they argued that leaving the European Union eliminates the need for the British contribution to the budget of the Union. However, the Member States of the European Economic Area must pay annually significant funds into the budget of the Union to have the right of access to the internal European market. The height of the British contribution would be one of the particularly difficult issues in future negotiations on the withdrawal agreement. What is even worse for the United Kingdom, Norway has only a symbolic participation in enacting European economic legislation which applies to it in full measure. By leaving the European Union, the United Kingdom is excluded from the decision-making in the European institutions in Brussels.

Another option is the Swiss model. Switzerland is linked to the European Union by a general agreement on economic exchange in 1972, (European Commission, 2016) which is complemented by a series of similar agreements for certain industries that a general agreement did not apply to. However, the Swiss financial sector is not entitled to the free provision of financial services in the financial market of the European Union which does not correspond to the British “City”.

Finally, there is the Turkish model which is based on a customs union with the European Union. This relates to the free flow of goods along the common customs tariff to third countries. This model implies that the United Kingdom still lacks its sovereignty in determining the amount of customs tariffs to third countries. On the other hand, the British workers, such as the Turkish ones, would have difficulties in finding jobs and settle in other Member States of the European Union.

### **CAN THE EUROPEAN UNION TURN THE DEVASTATING BREXIT IN A NEW SUCCESSFUL START?**

The European Union loses, as a member, a large democratic country with over 65 million inhabitants, which gave no small contribution to its budget. Namely,

the British paid to the budget of the Union 11 billion and 342 million Euros, Germany 25 billion and 815 million, France 19 billion and 574 million, while the Italian contribution is 14 billion and 368 million Euros (Le Monde, 2016). Besides, with regard to the military service the United Kingdom was the most important member France could count on for the partnership in developing the Union's military capabilities.

The crisis provoked by the British government comes at a time when the European Union is confronted with an even more serious crisis, which is the influx of over a million migrants from North Africa into its territory. In addition, last year the European Union barely weathered the debt crisis of Greece, which threatened to discredit the European Monetary Union and the Euro as a common currency. Thus, the British secessionist performance reinforces the impression that “the European Union is bursting at the seams”.

Yet the fact is that the United Kingdom through its membership in the Union strived to achieve the greatest possible economic benefit and to be less involved in the integration processes. By this, the British were actually destroying the European harmony and hindering the progress towards greater unity and solidarity, which is obviously necessary for the European Union to respond to the challenges in today's globalised world (economic crises, migrations). The United Kingdom has already put itself in a “special position” in relation to the other European Union Member States which would, even if the United Kingdom had remained in the Union, increasingly have resembled that of Norway or Switzerland which are not its members. Furthermore, the UK government strived to establish itself as an alternative European leader compared to Germany and France, attracting to itself Euro-phobic governments of the Member States from Eastern Europe. Therefore, there was a dilemma whether the European Union found it suitable, regardless of the great economic and political importance that the United Kingdom has, to tolerate such a “special member” that was destroying the inner being and the essential objectives the European Union was created for.

Does the United Kingdom leaving the European Union mean the biggest failure and the beginning of the end of the latter? This prediction does not have to prove to be the only right one. The United Kingdom leaving the European Union may be an opportunity for progress in the areas where the former impeded and prevented integrative steps. It is primarily about creating a structured European defence, autonomous in relation to the NATO. The European Union has its own military interests and the need to protect its territory, irrespective of the strategic interests of the United States of America. European defence would not rule out the role of the NATO, but would be established in cooperation with it. In addition, it is clear that a great achievement in the form of the abolition of internal borders between the Member States of the Schengen agreement can be preserved only if effective protection of the external borders of the European Union is established.

The European Union must no longer be an entity entered by millions of people in an unorganised and uncontrolled manner, because that is neither the USA, Australia nor Russia, just to name a few. Therefore, this area requires structured strengths of the European Union with a unified command that would assist the national authorities of the Member States in the protection of external borders.

The European Union has reached a high level of federal integration in the economic sphere. It is about creating a single internal market, a single European currency managed by the European Central Bank, the European economic legislative framework governing the production and marketing of products and services but also the movement of workers and the exercise of independent professions. European economic, environmental and other legislation was adopted by the institutions of the European Union in accordance with the federal model, given that a significant role in the legislative process is entrusted with the European supranational institutions, i.e. the European Commission and the European Parliament. The internal European market, however, is not completed by a single European economic policy, which would be led by a kind of federal government, at least for those Member States that have adopted the Euro as their currency. The single economic policy is necessary in order to quickly and adequately respond to the global economic crises which destabilise the weakest members of the European Union, which is then reflected negatively on the Union as a whole. The federal government of the Eurozone would have to have access to considerable funds to promote economic development but also to help the underdeveloped states, especially in acute crisis situations. Therefore, the introduction of European federal taxes is in correlation with the establishment of the Government of the Euro area.

In the context of Brexit, the question is whether it would be advisable for the remaining Member States, which have not adopted the single European currency, to do so. The past experience has shown that asymmetric European integration does not give any positive results. Meeting the need of the United Kingdom to be, in many areas, in an asymmetric position in relation to other Member States (Schengen, European currency) has only fed the British secessionism which culminated in the course of 2016. In any case, the example of the SFR Yugoslavia also speaks in favour of the instability of asymmetrical and confederal projects.

## **CONCLUSION**

Given its island location, the United Kingdom had a special relationship towards European integration. Namely, even Winston Churchill defined British foreign policy with three rounds of action. It is about giving priority to the construction of extremely close relations with the United States of America. With the American help, the United Kingdom managed to remain one of the few European countries that withstood the attacks of the Nazi Germany. After World War II the British



government was convinced that only in a solid alliance with the United States of America could it resist the Soviet Union and other socialist countries. In addition, it had an objective to maintain a close relationship with its former colonies in the framework of the Commonwealth. In the first years after World War II there was a belief among the British politicians that the United Kingdom maintained to be a colonial power and the real winner of the war alongside the United States of America and the Soviet Union, and that trade within the Commonwealth was the most important and sufficient for its economic prosperity. In this regard, the United Kingdom remained aloof during the establishment of the European Coal and Steel Community in 1951 and the European Economic Community in 1957. In addition to the belief that Britain was a world power, it was deemed impossible to transfer part of its sovereignty and rights to legislative decisions from the British Parliament to the authorities of the European Communities in Brussels. This attitude changed in the early sixties of the last century when the United Kingdom was faced with economic stagnation and isolation in relation to the Member States of the Community, and the British governments on two occasions in 1961 and 1967 sought to accede to the above-mentioned, but it was not successful due to the veto of the French President De Gaulle. After the fall of De Gaulle in 1968, the new French president Pompidou was more favourable to British accession to the Community, and it was achieved on 1 January 1973 (Cartou, Clergerie, Gruber and Rambaud, 2006, p. 50).

With the referendum held in June 2016, the circle of participation of the United Kingdom in the European integration process begun in 1973 was closed. With the will of its citizens, the United Kingdom will no longer continue to be a member of the European Union, although it is very likely that Brexit will not meet the expected results and promises of British politicians secessionists. In order to have access to the European market share of revenues collected by taxing its citizens, the United Kingdom will have to pay to the budget of the European Union. As a large country and the former imperial power, the United Kingdom will lose the right to decision-making in the European Union institutions which means that its political influence in the continental Europe will be weaker. Brexit is the British strategic success only if the underlying intention of the British politicians was to awaken secessionism in other Member States as well, and thus give a fatal blow to the project of creating a sovereign European state.

Would the nations of Europe continue to live without the European Union? The answer to this question is, of course, 'yes', except that a significant part of political and economic decision-making would be moved from Brussels to Washington, and perhaps partly to Moscow or Ankara. European states are too small to have their own political influence in today's globalised world dominated by mega-states like the USA, Russia or China.

The European integration project was aimed to create conditions so that European nations and states in the European institutions decide their own destiny, i.e. the social and economic model in which they want to live. Whether Brexit has marked the end of this political project, i.e. the end of building European sovereignty, the forthcoming years will show.

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Slobodan ZEČEVIĆ

### NEKE PROTIVREČNOSTI BREXIT-A

*Apstrakt:* Referendumom održanim u junu 2016. godine krug učešća Velike Britanije u procesu evropske integracije započeo 1973. godine je zatvoren. Predmet ovog članka je da pokaže neke od protivrečnosti Brexit-a. Britanski referendum je sam po sebi protivrečan jer se javio u trenutku kada Evropska unija više nego ikada odgovara britanskim pogledima na evropski projekat gde svaka od suverenih država članica brani svoje stavove u skladu sa dnevno-političkim interesima. Kao velika država i nekadašnja imperijalna sila Velika Britanija će da izgubi pravo na odlučivanje u institucijama Evropske unije što znači da će njen politički uticaj u kontinentalnoj Evropi da bude slabiji. Izlazak Britanije iz Evropske unije može da bude prilika za napredak u oblastima u kojima je ova prva kočila i spečavala integrativne iskorake. Reč je pre svega o stvaranju strukturirane evropske odbrane, samostalne u odnosu na NATO pakt.

*Ključne reči:* Brexit, Velika Britanija, Evropska unija, referendum, federalizam, secesionizam, međudržavna saradnja, evropski suverenitet.

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## BREXIT IN THE LIGHT OF THE INTERNATIONAL LAW ON TREATIES

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*Abstract:* The European Union presents a unique organism. It is international organization *sui generis*, characterized as supranational. Specific relations and ties bound states united in the European Union, thus posing an intriguing question – is a withdrawal from the EU an option at all. The Treaty of Lisbon has identified for the first time the option of termination of the membership status. After Brexit, the withdrawal clause has come under attention and in the near future, it will be applied. Compliance with the withdrawal clause is a long-term process. It supposes negotiating period and conclusion of a new international treaty. As first ever in the history of the EU, it will for sure generate precedents, and be an important reservoir of experience, for all potential future cases. Nevertheless, the main focus of this paper is on resolving the relation between general international law and EU law. The importance of this relation can emerge in the situation if there is no arrangement between the EU and Great Britain on elements of the termination of the member status.

*Key words:* international law on treaties, international customary law, EU law, negotiations, accession, withdrawal.

### INTRODUCTION

As the first state ever leaving the EU, Great Britain has entered the period of uncertainty.<sup>2</sup> After several decades of participating and creating a completely new form of cooperation among states, Britain is faced with many questions and also

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<sup>2</sup> Greenland presents the first example of the withdrawal, yet with some very specific elements that disable this example to constitute a precedent. Greenland decided to leave the then European Communities on the referendum held in 1982, voting for exit by 53% and to remain by 47%. However, since Greenland was not an independent state, member of the EC, but part of Denmark, member state of the EC, referendum could not be considered as the legal basis for the EC withdrawal. The outcome of the referendum was found in the reduction of the territorial

many potentially complicate discussions that may arise during the time. The period of uncertainty is also appearing for the EU itself and other EU member states, as well as for other non-EU member states and international organizations that are in the multiple legal relations with the EU and with the GB (Nicolaidis, 2013).

Thus, analyses and interpretations of various modalities of the withdrawal are of the utmost importance. At the moment it is debatable what corpus of norms governs the termination of the membership status in the EU; is it an *acquis* or international law, or both of them?

Legal stability is one of the essential elements of every legal system. Its function, *inter alia*, is to provide an applicable legal formula for each and every situation that appears in relations. Examination of the withdrawal modalities should help us understand the rights and obligations of each side in the process, as well as a procedural mechanism that is triggered. Rules on withdrawal as they are stipulated in the Lisbon Treaty are rather new and they cannot be applied routinely (Zečević, 2015).<sup>3</sup> It is worth mentioning, in the addition to these introductory notes, that the issue of withdrawal and legal analysis of the Article 50 of the Treaty on the European Union did not attract a significant legal theoretical examination either (Hillion, 2015). It has become an interesting issue since the Britain has started formalizing its referendum (Kulpa, 2016). In such a combination – of a rather young legal norm, theoretically non-examined sufficiently, it becomes more understandable why such attention has been attracted to the elaboration of the forthcoming legal procedure of the withdrawal.

At the moment, a well-known fact is that Great Britain has undertaken the referendum on the issue of its status in the EU, which resulted in the prevailing opinion for exit from the EU.<sup>4</sup> From the purely legal side, it is also well known that Britain's referendum is not self-executive, thus it is not providing an immediate legal effect. Referendum provides the Government with the information on the public opinion of Britons about the membership in the EU and obliges the Government to undertake all necessary steps to fulfill the will of its citizens.<sup>5</sup>

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jurisdiction of the Treaties through a Treaty change ratified by all Member States of the EC. Such an arrangement is exception, grounded on specific Greenland status of former colony, geographically distanced from Europe.

<sup>3</sup> The Treaty of Lisbon was signed by the EU member states on 13 December 2007 and entered into force on 1 December 2009.

<sup>4</sup> The referendum was held on 23<sup>rd</sup> June 2016, opting for leave or remain in the EU. The outcome was 51,89 % to leave, while 48.11 % voted to remain in the EU. It should be remembered that Great Britain held a referendum in 1975 on whether it should stay in the European Economic Community. Britain proved its euro-skeptic position also in avoiding the monetary union and rejecting to accept the euro as a common currency.

<sup>5</sup> There is the ongoing debate in Great Britain on who has the power within the GB to trigger Article 50 of the Treaty on the European Union. There are four groups of opinions – power is on the

During several previous months, since the referendum, the focus was placed on the elaboration of the legal basis and proper method of terminating Britain's membership in the European Union. The most usual approach was that legal formula for the withdrawal should be found in the Treaty on the EU and its Article 50.

Terminating the status of a member in an international organization is governed by its main founding documents, but yet again founding treaty for an international organization is an international treaty, and it is governed by the corpus of international public law on treaties. Consequently, the syllogism for Britain's withdrawal from the EU should be perceived in a wider range of international norms.

### **ARTICLE 50 OF THE TREATY ON EUROPEAN UNION**

Termination of a membership status, whether in international treaties or international organizations, is quite a delicate topic for the international law (Milisavljević, 2008). The main logic of every entity, legal system as well, is to provide existence and stability. The League of Nations presents a helpful example, providing the conclusion that easy exit mechanism is not proven as a quality solution, neither for the organization itself nor for the goals that it is supposed to achieve.

Post Second World War approach was generally built on that experience, discouraging options for an easy termination of the membership status. Such an approach was incorporated within the UN Charter. The same can be stated for the EU (Athassiou, 2009).

Founding legal acts of the EEC and later of the EU did not incorporate an exit clause. The Treaty of Maastricht from 1992, although characterized as a turning point from the EEC to the EU, did not invoke the exit clause (Baroncelli, Spagnolo and Talani, 2008). Prior to the naissance of the Lisbon Treaty, withdrawal issue was considered as the notion of general International Public Law, already prescribed in the Vienna Convention on the Law of Treaties and in the customary international law.<sup>6</sup>

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Government on the basis on its "prerogative powers"; Government is to trigger the Article 50 after the authorization of the Parliament; Government has the power itself to trigger Article 50 on the statutory basis; power is on the Parliament based on the constitutional convention. For further reading on diversity of thoughts, following web-sites could be advised: <https://publiclawforeveryone.com/2016/06/26/brexit-can-the-eu-force-the-uk-to-trigger-the-two-year-brexit-process/>; <http://jackofkent.com/2016/06/where-we-are-now-with-article-50-decision-notify-and-devolution-issues/>; <https://ukconstitutionallaw.org/2016/06/27/nick-barber-tom-hickman-and-jeff-king-pulling-the-article-50-trigger-parliaments-indispensable-role/>; <https://ukconstitutionallaw.org/2016/06/29/adam-tucker-triggering-brexit-a-decision-for-the-government-but-under-parliamentary-scrutiny/>; <https://ukconstitutionallaw.org/2016/07/01/alison-l-young-brexit-article-50-and-the-joys-of-a-flexible-evolving-un-codified-constitution/>

<sup>6</sup> With the purpose of clarification it could be mentioned that Treaty of Maastricht from 1992, also known as the Treaty on the European Union (TEU) and the Treaty of Rome from 1958, also

Generally, exit modalities were developed in the Vienna Convention on International Law on Treaties, allowing even unilateral exit from a treaty. This possibility is firmly embodied in the well-known principle *rebus sic stantibus*. The Vienna Convention approach was considered suitable for the application in the EU as well. Notwithstanding rightness of such approach, it should be stressed that international law on treaties is prescribed in a general manner, covering a wide variety of various treaties. One of a kind is an international treaty as a founding legal act for an international organization. Yet, quite another is a kind of an international treaty as a founding legal act for an international organization that is *sui generis* (Klabers, 2016).

It is helpful for the upcoming analysis to clarify that the Lisbon Treaty, by its legal nature, is the international treaty, concluded and finalized according to the International Public Law (Ziegler, 2016; Wyrozumska, 2013). Although the relation between international public law and the law of the European Union is very requiring topic in itself and certainly cannot be elaborated within this paper, it is nevertheless necessary to mention just several most important standpoints. From the purely theoretical standpoint, the relation between the international law and the EU law can be considered in theoretical terms of the relationship between international law and national law, i.e. in the frames of two major doctrines of monism and dualism (Wessel, 2012). From the point of the normative framework, a tripartite relation exists between international law – EU law – national law of the EU member states. The Lisbon Treaty in Article 3 (5) establishes compatibility of the EU law with the international law, elaborating the manifestation of “the relation with the wider world”.<sup>7</sup> From the point of the law applied it should be underlined that the Court of Justice of the European Union strongly supports the direct application of the international law, both treaty and customary (Simović, 2012; Ziegler, 2016).<sup>8</sup> The same applies to the methods of the interpretation.

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known as the Treaty on the Functioning of the European Union (TFEU) were modified and collected within the Treaty of Lisbon from 2007. The Treaty of Lisbon, also known as the Reform Treaty, is the first EU treaty defining withdrawal of a member state. Yet, the title and the abbreviation TEU is still in use, marking the Treaty on the European Union as amended by the Reform Treaty. Article 50 TEU as it is usually marked is the article of the Treaty of Lisbon and not of the Treaty of Maastricht.

<sup>7</sup> Treaty on the European Union, Article 3 (5): “In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.”

<sup>8</sup> Cases that are usually considered as turning point in direct application of the international law before the EU courts are *Opel Austria GmbH v. Council of the European Union*, Judgment of 22 January 1997; *Racke GmbH & Co. v Hauptzollamt Mainz*, Judgment of 16 June 1998. For further reading on the jurisprudence of Court of Justice of the European Union see: Allan Rosas,

On the other side, the Lisbon Treaty is the founding treaty of a very specific international organization (Simović, 2008). During the process of the creation of a constitution for Europe, main tendency was to organize a closer Union with more firm structure. Although it was a specific organization from the very beginning, the organization was going through the developing process from *sui generis* organization towards the supranational organization. This should be inevitably remembered when applying and interpreting the Treaty of Lisbon.

The wording of the withdrawal from the EU as stipulated in the Article 50 (1) provides the general possibility for a member state to exit the EU. It is formulated in a manner with no restrictions whatsoever to the free will of a member state not to prolong its membership status. It reads: `Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements. An additional element to the open-exit approach is to be found in addressing to the accordance with constitutional requirements. That could be understood twofold: 1) a manner of expressing the will to exit and 2) triggering power to start the procedure of exit.

Stipulation of the first paragraph shows a discrepancy between the EU accession procedure and exit procedure (Hillion, 2012). While other international organizations propose easy entering into the organization and difficult withdrawal, rules for membership in the EU are constructed oppositely. An applicant state to the membership in the EU is required to adapt its national legal system to the EU communitarian law for the admission (Todić, 2014). Thus, even in the process of the accession a new member state should thoroughly adapt its legal system to the EU legal system. Consequently, it can be even more intriguing why the first step of the withdrawal procedure is stipulated in terms of national, i.e. constitutional regime rather than the EU law. Reference to act “according” to its law is notorious for a state, for it is expected for a state to act in accordance with its law.

Sequel of the Article 50 imposes several requirements. Withdrawal, although decided by the free will of a member state, is not unilateral. On the contrary, it is an issue negotiated and précised within the new international treaty. Such a treaty covers arrangements for the withdrawal and the framework for the future relationship of ex-member state and the Union. Fields of the treaty and the procedure for its adoption, nevertheless, can prove to be very complicated, even non-reachable in some aspects.

In paragraph 2, further formal procedural steps of the withdrawal are described. Paragraph 2 reads as follows:

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EgilsLevits, Yves Bot (eds.), *The Court of Justice and the Construction of Europe: Analyses and Perspectives on Sixty Years of Case Law*, Springer, 2013; Jan Wouters, Dries Van Eeckhoutte, *Giving Effect to Customary International Law through European Community Law*, Institute for International Law, Faculty of Law, Leuven, 2001.



“2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article 218(3) of the Treaty on the Functioning of the European Union. It shall be concluded on behalf of the Union by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.”

The approach of both Article 50, paragraph 2 of the Treaty on the EU and Article 218, paragraph 3 of the Treaty on the Functioning of the EU is predominantly procedural. It basically stipulates jurisdiction of the EU organs (Šabić, Cerjak, 2012).

It is worth mentioning Article 218:

3. The Commission, or the High Representative of the Union for Foreign Affairs and Security Policy where the agreement envisaged relates exclusively or principally to the common foreign and security policy, shall submit recommendations to the Council, which shall adopt a decision authorising the opening of negotiations and, depending on the subject of the agreement envisaged, nominating the Union negotiator or the head of the Union’s negotiating team.

The rest of the TEU Article 50 is also dedicated to the procedural matters. It stipulates that treaties will cease to apply to the withdrawing State from the date of entry into force of the withdrawal agreement. If the withdrawing state and the EU could not reach an agreement within the period of two years, following solutions could be applied – termination of the membership as notified *ex nunc* or the extension of the negotiating process if unanimously decided by the European Council. Other procedural elements cover composition of the European Council, the voting majority, as well as the procedure of rejoining.

The procedure itself cannot be characterized as complicated or simple by the procedural arrangement only. While there are no substantive requirements in the Article 50, they are nevertheless embedded in the withdrawal procedure.

If we try once again to compare the accession and withdrawing procedure in pursuit for a constant, we will realize easily that in the process of accession there are two parties with the same aim, while in the process of the withdrawal two parties do not necessarily share the same goal and harmonized standpoints. Thus, if the procedure of the accession was considered as complicated and requiring, procedure of withdrawing can turn into even more complicated and even hostile.

The technique of the withdrawal defining is, as already cleared, in the form of a treaty. One of the presumptions of the international law on treaties is that, when negotiating, parties should be in the same position or at least to hold similar negotiating power. Since Brexit, it has been argued that the withdrawal provision

advantages the EU and that a withdrawing state is not in the same position, since it should face 27 states on the other side (Kulpa, 2016). Previously, paragraph 3 was read oppositely. One of the interpretations was that negotiation is obliged as a process, not as an outcome. The wording of the Article 50 (3) does not require negotiation to be successful and finalized, since the withdrawing state can nevertheless cease to be a member after two years of unsuccessful negotiations (Hillion, 2015).

When opting for the interpretation – *pro* prevailing withdrawing states position or *pro* prevailing influence of the EU, it should be kept in mind that negotiations could be extended unilaterally by the EU.

Elaboration of the Article 50 turned to be strikingly different before and after Brexit. While the pure theoretical analysis does not focus on the exact example or case, interpretation of the norm in the context of concrete case does have the optic of that very specific case. This is exactly how Brexit influenced the interpretation of the Article 50. Brexit has emerged in a very difficult period for the EU. Europe, already struck by the economic crisis, has been suffering under the enormous migrant crisis. In circumstances like that, leaving the EU could be understood as a hostile gesture and as such provide negotiations that are not friendly. At the moment when this paper is created, there is no yet an outcome; on the contrary, the negotiations did not yet start. There are just comments from various actors in the forthcoming process that do show tension.

The process of negotiations could turn to be very difficult. Although Article 50 in paragraph 3 stipulates that “Treaties shall cease to apply” the rest of the huge *acquis* stays already embedded into the national legal system of the withdrawing state. As such, it still can provoke rights and duties in all areas of cooperation between the EU states. A huge amount of legislation in combination with different subject matters and jurisdictional aspects (for example, whether an issue is in an exclusive EU jurisdiction, whether it is in the field of relation with non-EU states etc.) makes it impossible to formulate one formula and apply it identically in all potential situations. A withdrawing state would find itself obliged to replace EU law with its own, new legislation and to isolate itself as well from the effects of the already existing EU law. The same can be stated for the agreements between EU and non-EU states. After terminating its status, a withdrawing state should arrange and regulate its relations and cooperation with non-EU states from the beginning. All these issues should be defined in the withdrawing treaties. It is of the utmost importance for both sides to precise in what time frame withdrawing state should exclude its national legal system from the effects of the *acquis*.

Although substantial aspects of negotiation are not précised in the Article 50, areas that should be negotiated could be classified into two general categories: (1) issues concerning directly individuals and (2) issues concerning a withdrawing state

and the EU (Reider, 2013). Issues concerning individuals should generally be negotiated in the light of the main European values – free movement of persons, with all other aspects attached to it. One of the most important and far-reaching aspects of the free movement of persons is free movement of workers and employment law issues. Issues concerning the withdrawing state that could prove to be the most difficult are in the sphere of trade and the access to the EU market (Loo, Blockmans, 2016). For the EU itself, on the other hand, one of the most important issues would be financial aspect of the withdrawal and especially – potential financial arrangements approved only for the EU states that the withdrawing state would have a legal basis to continue absorbing, special loan agreements shaped exclusively for the EU states and lack of the income as the consequence of one member-less. The question of damages for the other states that may be provoked by the termination of the membership status is yet another financial-trade issue that may occur as complicated and difficult to solve during the process of negotiations (Wyrozumska, 2013; Loo et al., 2016).

Other consequences for the EU would be a slightly different composition of organs, less diversity in staff and state officials (Nicolaidis, 2013).<sup>9</sup> These consequences are a direct and inevitable outcome of the termination of the membership status. There is yet another aspect that should be cleared through the withdrawing negotiations and formulated directly in the treaty. It concerns the jurisdiction of the Court of Justice of the European Union in all inter-temporal cases. There is a wide range of possible cases where legal relation has been created in terms of the EU law and where a legal consequence emerges after cessation of membership status, causing damage. Another aspect would be recognition and enforcement of the Courts decisions after the cessation.

## **REDIRECTION TOWARDS INTERNATIONAL LAW**

The real complication may arise if a withdrawing member state and EU organs, i.e. other member states cannot reach the agreement on the termination of the membership status. What has the law to offer in that situation? Treaty on the European Union is the source of law that should be primarily applied, but if its application is blocked, international law could provide redirection.

As cleared earlier in this paper, the EU law must be coordinated with the international law. In other words, the EU is obliged to comply with the International

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<sup>9</sup> For example Article 28(a) of the EU Staff Regulations stipulates that ‘An official may be appointed only on condition that: he is a national of one of the Member States of the Union, unless an exception is authorised by the appointing authority, and enjoys his full rights as a citizen;’ The same applies to contractual staff. According to the Staff Regulations, an official may be required to resign where he ceases to fulfil the conditions laid down in Article 28(a), which includes the nationality requirement (Article 49 of the Staff Regulation).

Law (Martines, 2014; Klabbers, 2015). Specifically, Treaty on the European Union, by its legal nature the international treaty, it is governed by international law, i.e. treaties and customs as the main sources (Ziegler, 2016). Thus, international law could offer the proper legal mechanism if by any chance Treaty on the EU is inapplicable (Lang, 2014).

International law on treaties is governed mostly by the Vienna Convention on Law of Treaties from 1969. If we go quickly through its Section 3 Termination and Suspension of the operation of treaties, the first model that is offered is the model grounded on the consent of the parties. The first version of this model is (a) withdrawal as précised in the very treaty; or, (b) if not précised in the treaty, reached by consent between parties (Article 54).

If we apply this rule to the present Brexit case, it is quite clear that the Vienna Convention Article 54 (a) is satisfied with the Article 50 of the Treaty on the European Union. The question is what happens if Article 50 is not applicable, meaning that parties, through the negotiation process, cannot reach the agreement?

A way out for the party, not willing to be the party anymore, can be found within the wording of the Article 62. A fundamental change of circumstances or better known in its Latin version *rebus sic stantibus*, as stipulated in the mentioned article, is not just another treaty norm. It is the general principle of law and it is also embedded in the corpus of common law (Garner, 1927). From the point of international law, it is with no doubt a norm of the customary international law and as such, it can be applied within and by the EU.

*Rebus sic stantibus* is not a provisory phrase. Its meaning is defined in literature in many different styles and with various adjectives (Shaw and Fournet, 2011). It is usually described as total, vital, essential, substantial change of circumstances since the entry of a treaty. It is a change that conflicts party-status to a treaty with the rights and welfare of the people (Garner, 1927).

Yet, there is not one and overwhelmingly accepted understanding of what exactly can be considered under fundamental change despite all offered descriptions and adjectives.

In the Brexit case, if we suppose that negotiations are deadlocked, it would be legally acceptable to turn to the Vienna Convention and to consider the referendum result as a fundamental change of circumstances. At the very beginning of this syllogism, let us underline once again that before the Lisbon Treaty withdrawal issue was considered as an issue regulated by the international law on treaties. The first conclusion would be with no doubt that Vienna Convention could be applied. Another aspect would be in the assessment on whether a referendum can be considered as a fundamental change of circumstances. Classical international law interpretation of the meaning of fundamental change given by Garner relies on the influence that change provokes on the rights and welfare of the people (Garner,

1927). If we apply that test to Brexit, it would for sure fulfill offered criteria (Herbst, 2005; Hofmeister, 2010).

For the purpose of yet another précising of the meaning of the fundamental change of circumstances, it should be stressed that the International Court of Justice has chosen the restrictive approach. In the Case concerning the Gabčíkovo-Nagymaros Project (Hungary/Slovakia), in the Judgment from 1997, the International Court of Justice confirmed that “the stability of treaty relations requires that the plea of fundamental change of circumstances be applied only in exceptional cases” (paragraph 104). The Convention itself presents combined approach to the stipulation of *rebus sic stantibus* (Shaw and Fournet, 2011). It reads in its first paragraph - A fundamental change of circumstances which has occurred with regard to those existing at the time of the conclusion of a treaty, and which was not foreseen by the parties, may not be invoked as a ground for terminating or withdrawing from the treaty unless: (a) The existence of those circumstances constituted an essential basis of the consent of the parties to be bound by the treaty; and (b) The effect of the change is radically to transform the extent of obligations still to be performed under the treaty.

The opinion of the legal community of scholars that is presently discussing Brexit phenomena differs in various directions. There are firm standpoints that the Vienna Convention cannot be applied at all, toward opinions that the Vienna Convention can be applied, but not *rebus sic stantibus* clause, finalizing with the conclusion that application of the Vienna Convention and especially Article 62 would be *deus ex machina* (Armstrong, 2016; Georgopoulos, 2016; Odermatt, 2016; Gehring, 2016).

If we try to apply Article 62 to the present Brexit case, it would become obvious that it would be necessary to go through the process of interpretation (Viliger, 2011). Article 62 is not the type of a norm that can be just applied; it needs to be interpreted. From the previous analysis, it is clear that pure and simple linguistic interpretation is not sufficient. Means of interpretation should encompass *ratio* and *telos* of the referendum, or *ratio* and *telos* of arguments on which the referendum outcome was grounded. Thus, we can consider referendum as it is, as a specific procedural mean of expressing the will. On the other hand, we can consider the reasons that led to the outcome of the referendum as it is. Certainly, both aspects considered – substantive and procedural, form one whole when elaborating the potential for fundamental change. The most important difference between them is that the referendum outcome is clear and need no more elaboration. It is the prime method of expressing the will, where the international law must always rely on the free will of its subjects. It presents the will of the majority, modified compared to the primary expressed will at the moment of accession and as such could be (should be) considered as a fundamental change of circumstances for Great Britain. If we turn to the elaboration of the ground for the referendum outcome, dozens of them

could be offered. Probably, the most important fundamental change that occurred in the EU itself is a shift from primarily economic to primarily political organization. Another similarly important fundamental change within the EU is an expansion of EU members that unexpectedly led to a development of a deeply unbalanced Union rather than balanced one, what was the fundamental aim for the very founding of the Union. If we try to advocate different approach and state that Vienna Conventions Article 62 asks that the change of circumstances could not be foreseen by the parties, it is quite clear that Great Britain knew about the shift of the organization's character as well as for its extension. On the other hand, we can argue that those changes did constitute 'the essential basis' for the referendum outcome and as such essentially changed the will towards the membership status in the EU.

In the period that is to come, we will get the whole relationship between Great Britain and EU solved. In that sense, Brexit would be an excellent example and experience, probably capable of creating even a precedent in terms of withdrawal from the EU. Obviously, the essential collision in this case at the very end would be – loyalty to the treaty arrangement or loyalty to its own people.

## CONCLUSION

The conclusion in terms of law, i.e. answering the question - what the law has to offer regarding the withdrawal from the EU, is clear and simple. Withdrawal from the EU is primarily defined within the Article 50 of the Treaty on the European Union. If the Treaty is inapplicable and serves as the means of blocking termination of member status, international law on treaties could be applied.

On the other hand, the conclusion on whether Brexit referendum could be treated as the fundamental change of circumstances for the membership status of Great Britain would be subjected to the interpretation process. Period of negotiations that is to come will certainly give directions how to value referendum in this very specific case.

Yet another conclusion that can be drawn is that redirecting the way-out from the EU by means of international law would be an extreme measure. If international law is needed, it would mean that relations between Great Britain and the EU are very hostile and tense. It would, by the very mechanism of *rebus sic stantibus* clause application, withdraw Great Britain completely from the Union, breaking all ties and relations, obligations and legal structure. At the end, it is not a scenario that would be appropriate for any side in this legal relationship.

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Tijana ŠURLAN

## **BREXIT U SVETLU MEĐUNARODNOG UGOVORNOG PRAVA**

*Apstrakt:* Evropska Unija je specifična međunarodna je organizacaija, *sui generis* karaktera. Takođe, određuje se i kao supranacionalna organizacija. Države Evropske Unije međusobom povezane su u odnosima i vezama tako specifičnim i jakim da se postavlja pitanje da li je istupanje iz EU uopšte opcija. Po prvi put, istupanje iz EU predviđeno je Lisabonskim ugovorom. Međutim, tek posle Brexita klauzula o istupanju izazvala je pažnju i podstakla analizu. Ono što je sada sasvim jasno je da je proces primene i usaglašavanja sa odredbom Lisabonskog ugovora o istupanju iz EU dugotrajan proces. On podrazumeva proces pregovaranja i zaključenje novog međunarodnog ugovora. S obzirom na to da je istupanje Velike Britanije prvo istupanje iz EU, ono će sigurno kreirati precedent za sledeće

potencijalne slučajeve. S druge strane, s obzirom na dugotrajnost, delikatnost i potencijalni sukob interesa EU i Velike Britanije postavlja se pitanje da li u slučaju nemogućnosti rešenja odnosa po odredbi Lisabonskog ugovora, postoji neko drugo pravno pravilo koje bi bilo primenjivo. Fokus ovog rada usmeren je upravo na ovog pitanje i na iznalaženje opravdanosti pozivanja na međunarodno pravo o ugovorima.

*Ključne reči:* međunarodno ugovorno pravo, međunarodno običajno pravo, pravo Evropske unije, pregovarenje, pristupanje, istupanje.

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## **BREXIT: IMPLICATIONS ON THE COMMUNITY BUDGET**

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*Abstract:* Following a referendum held in 2016, the United Kingdom will have to start the procedure for withdrawing from the membership in the European Union. Although the United Kingdom's contribution to the budget of the Community is extremely large, the country used its resources to a lesser extent. However, the UK has made a concession to the application of the corrective mechanism in order to reduce the disproportion between the means the country has given to the budget and the budgetary resources that are used.

Since in the 2016 referendum, most of the United Kingdom inhabitants voted for withdrawal from the Community, the question was raised about the consequences of such an act, especially for the European Union budget. The subject of analysis in this paper is the contribution to the budget of the Member States of the European Union, for the period 2010-2015, with a special reference to the contribution of the United Kingdom, as well as the analysis of the budgetary spending by the Member States. In this way, we will try to give answers which countries will mostly feel the consequences of the United Kingdom withdrawal from the membership in the European Union, in connection with the possibility of spending the funds from budget, as well as the implementation of the EU common policies. However, we should not make premature conclusions, given the fact that the withdrawal from the membership is an ongoing process.

*Key words:* Brexit, EU budget, United Kingdom, referendum, withdrawal, consequences.

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## INTRODUCTION

One of the EU member states with the highest gross domestic product, and thus one of the countries that have in the past largely involved in the income side of the EU budget is the United Kingdom. Despite that fact, EU-skepticism has always been present in the UK. Some authors claim that the emergence of the concept EU-skepticism is associated with the United Kingdom. The term EU-skepticism in the UK is conditioned by historical circumstances. The reason for this is imperialism and British relations with its overseas colonies, which later became independent states. Therefore, in the UK, public opinion and the main political parties' opinion has long been dominated by a view that Europe is something different and in relation to the UK, it differs in the economic, cultural and political sense (Eftimovski, 2013, p. 542). Given the above attitude of the majority of British, who in 2016 voted in a referendum for the withdrawal from the membership in the European Union, is conditioned not only by mistrust in the European institutions and their decisions, but also because of the existence of a dominant attitude that the UK does not belong to the European continent.<sup>3</sup>

Brexit is not the first case of leaving the European Union, but it is in many ways different from its predecessors. Before the UK leaving the EU, the case was about the countries that were part of some other country, and the decision on the accession to the European Community was not their own. This is, firstly, the case with Algeria, which until 1962 was a part of France, which has been a part of the European Economic Community. By acquiring the status of an independent state, Algeria has ceased to be a part of that community.

On the other hand, the Greenland's decision to leave the European Economic Community differs from the reasons for such a decision in Algeria. In fact, Greenland at the very beginning, as an integral part of Denmark, voted against its accession to the community. By gaining autonomy in 1979, Greenland held a referendum in which the majority of the population voted to leave the European Union. Thus, in 1985 Greenland left the European Community. The relationship between Greenland and the European Union is still a subject of the contract, through the provisions of the Overseas Countries and Territories of the European Union (OCTs).<sup>4</sup> Specifically, this relationship is regulated by the Greenland contract, which is a special agreement

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<sup>3</sup> The United Kingdom European Union membership referendum, also known as the EU referendum and the Brexit referendum, took place on 23 June 2016. The result was an overall vote to leave the EU, of 51.9% on a national turnout of 72%.

<sup>4</sup> Final decision on the withdrawal of Greenland from membership in the European Union was preceded by a referendum which was conducted in 1982. On the referendum, the majority of the population opted for withdrawal from the membership. Such a decision was preceded by overfishing from vessels of the EU Member States in the waters above the island, which resulted with dissatisfaction of Greenland inhabitants.

signed in 1984 in order to facilitate the withdrawal from the European Community. This way of regulating relations, in a way, preceded the decision of a withdrawal agreement, which is specifically regulated by the Lisbon Treaty.

There is some specificity related to the withdrawal of Islands Saint Barthelemy from the EU membership. This island has long been a part of the French department of Guadeloupe, and in this way become a part of the European community. Later in 2007, with the legislative changes in France, it ceased to be a part of the Community, given that it became an overseas community and was later classified as a group of Overseas Countries and Territories.

Unlike other countries that withdrew from the membership in the European Union, the United Kingdom seems to have a very long time reserved attitude towards the membership in the Community. In 1975, just two years after joining the EU, the United Kingdom held a referendum in which, at that time, the population voted for staying in the European Union. Yet in 2016, most of the inhabitants of United Kingdom decided to quit the membership in the European Union, which initiated the procedure for withdrawal. Bearing in mind the structure of the budget of the European Community, which is largely dependent on contributions from the member countries, the subject of analysis in this paper is precisely the contribution of the United Kingdom to the budget of the European Union. The aim of such research is to search for a conclusion on the possible consequences for the budget, and therefore effects on the implementation of the Community common policies from the withdrawal of the United Kingdom from the EU membership.

## **THE UNITED KINGDOM WITHDRAWAL FROM THE EUROPEAN UNION**

The process of withdrawal from the European Union for the first time is regulated by Article 50 of the Treaty of Lisbon. While for accession it is necessary that Member States sign the Treaty of Accession, for leaving it is necessary that Member States sign the Treaty of Withdrawal. According to Article 50, the country withdrawing from the European Union, should give notice of its intention to the European Council, which, after the completion of negotiations with the country in question, decide on its withdrawal on the basis of a qualified majority, after obtaining the European Parliament consent. Only after making a decision they approach to the conclusion of an agreement setting out the arrangements for that country's withdrawal. The conclusion of such an agreement is not a novelty. A similar model was applied in respect of Greenland, which is used to be a part of the Kingdom of Denmark, which was a part of the European Community. From such a Community act to the Greenland, you could see the EU concern for their own interests. In that respect, they made a Treaty which regulated the relationship

between Greenland and the European Community (now the European Union) related to fishing in the waters of Greenland. The fishing was one of the reasons why Greenland has decided to withdraw from the Community. Therefore, prescribing contract withdrawal is not a concession to member countries, in order to allow their voluntary withdrawal from membership, but a mechanism to protect the European Union own interests. The European Union, in recent years, expands its membership, but at the same time faces many challenges.

The United Kingdom showed the most critical attitude towards the expansion of the Union's Treaty of Lisbon and other forms of stronger integration within the European Union (such as the acceptance of a common currency – Euro, and the entry into the Schengen Area). They were the ones that took the opportunity from the Treaty of Lisbon to call a referendum in June 2016, during which they voted to withdraw from membership in the said community (Gasmi, 2016, p. 92).

The reasons for withdrawal are numerous, and one among them is the fact that the United Kingdom saw a threat to the country's economic growth in the decisions of the administration in Brussels (Gasmi, 2016, p. 236). Some authors, supported by arguments, estimate that after the withdrawal of the United Kingdom, the so-called domino effect cannot be excluded, given the Netherlands, where elections are scheduled for the spring of 2017 and the government is discontent with growing European Union membership. Netherlands rejected the Association Agreement on the 6th of April 2016. There is a reference to the same effect even in France, where the British referendum ignited a public debate on the so-called Frexit, i.e. the possibility that France leaves the European Union (Gasmi, 2016, p. 238). However, arguments for the UK staying in the European Union are also present. Thus, there is an argument that the withdrawal from the EU will cause job losses in the UK, particularly in the financial field (Gasmi, 2016, p. 236). Despite withdrawing from the Union, many influential sectors of British society are highlighting their interests for close ties and strong economic presence on the European Union internal market, in contrast to the expressed will of the people to exit the EU. Especially large companies expressed their fear of financial losses due to absence from the single European Union market (Gasmi, 2016, p. 239). However, according to some British, the withdrawal could contribute to the remaining twenty-seven member states of the European Union, which will be able to make decisions on strengthening the Eurozone easier - especially in the field of the future joint tax policy, (with the exception of Denmark, which is an exception to the economic and monetary union), which is legally agreed in provisions of the Maastricht Treaty, formally the Treaty on European Union (Gasmi, 2016, p. 242).

Although there are views that the Community existed before the United Kingdom accession in 1973, and so it will exist after its withdrawal, the consequences will still be felt in the UK, and in the other EU member states. The European Union speaks with one voice on the international scene and experience

has shown that in this way the EU can achieve results that no Member State could have achieved alone (Jović Lazić, Jelisavac Trošić, 2016, p. 159). Given that the UK gives a large amount to community budget, its withdrawal will greatly affect the budget of the European Union, and therefore the implementation of many communities' common policies, which are financed from the budget. Yet, we should not ignore the fact that in recent years a large number of countries, with lower economic development were admitted to the EU membership, in relation to countries that have stronger and stable economies, which joined the European Union much earlier. The contribution of "new" countries to the EU budget is much smaller than the contribution of the United Kingdom, but a request for use of funds from the budget are the same or higher. Therefore, it is reasonable to ask whether, after the withdrawal of the United Kingdom, the budget of the community will have sufficient funds for the realization of European objectives.

### **THE STRUCTURE OF THE EU BUDGET**

The budget is a financial instrument of great importance for the functioning of the European Union. Provisions which are regulating a budget in a general way are contained in the Treaty on the Functioning of the European Union and the Treaty on European Union. According to Article 210 of the Treaty on the Functioning of the European Union, all EU revenues and expenditures are expressed in a budget, which according to the same provision must be in balance. The same article stipulates that the budget funds can only be spent in the amount corresponding to the anticipated annual appropriation act on the budget. In addition to the annual budget at Community level, it is possible to adopt the Multiannual Financial Framework (MFF), which presents, in accordance with Article 212, the revenue and expenditure review for the EU six-year period. That plan is adopted in a situation where certain policies, at a Community level, cannot be implemented in the course of a budget year. Although the amount of the member states contributions to the European Union budget vary depending on their size and economic development, all of them are required to respect the rules of financial discipline. In order to prevent possible abuse, which would have a negative impact on the financing of the Community, the sixth chapter of the Treaty on the Functioning of the European Union contains provisions concerning the fight against financial fraud.

Initially, the budgets of the European Communities were fully financed from contributions paid by the Member States, and then in 1970 (implementation 01. 01. 1971.) a decision on Communities' own resources was adopted. Then they introduced their own revenues, which should eventually completely replace these contributions. That would mean that the budget of the European Communities would be fully financed from its own revenues. The European Council adopted a

new legislative package in 2014, which includes the decision governing the system of own resources of the European Union. These changes are related to a multi-year period from 2014–2020. The rules contained in the Decision are applicable after the entry into force, from 1 October 2016, and retroactive from January 1, 2014.<sup>5</sup> The three types of own resources of the European Community's budget are defined as follows:

- Traditional own resources - revenues that are realized as a direct consequence of the existence of a single customs territory. These are the duties on agricultural products and customs duties. Traditional own resources account for duties on imports of products outside the European Union, as well as levies on imports of sugar. The Member States may retain 20% of this amount, which comes down to cover the costs of collecting these resources;
- Own resources based on value added tax (VAT), arising from the application of rate, which initially does not exceed 1% of the VAT base determined uniformly for the Member States in accordance with the rules of the European Community. Own funds on the basis of value added tax are applied to the flat rate of 0.3% on the harmonized VAT basis of each Member State; and
- Own resources based on gross national income (GNI), derived from the application of a specific rate to the total GNI of the European Union community. Although the aim of this was exclusively covering total expenses, which are not covered by other sources of revenue of the EU budget, revenue collection in this way has become the largest source of income for the Community budget. (Stojanović, 2007, p. 273)

In addition to its own resources, the European Union also has expenses, which are predicted by the financial regulations. Those are the following expenses:

- Expenditure in agriculture, such as expenditure on the Common Agricultural Policy (CAP)
- Expenditure for rural development and measures related to it,
- Expenditure for operations under the EU funds,
- Expenditure on internal policies,
- Expenditure for external actions, administrative expenditure,
- Reserves (monetary reserve, emergency reserve),
- Guarantee reserves (to cover loans to non-member countries)
- Assistance to countries engaged in the accession process to the European Union (Pre-accession Assistance (IPA)). (Stojanović, 2007, p. 179)

<sup>5</sup> Article 2 of the Council decision on the system of own resources of the European Union, provided the categories of own revenue and methods for calculating its amount.



When it comes to the budget of the European Union, there are also corrective mechanisms because some countries felt that they were paying too much into the budget, compared to other countries. Thus was introduced to the United Kingdom. The UK has reimbursed a percentage of the difference between its contribution and what it receives back from the budget (the 'UK rebate'). With respect to the United Kingdom, this is justified, given that much less of the budget was used, but it contributed to the increase thereof.<sup>6</sup>

Given the above, it appears that the financial and budgetary system of the European Union is set to a relatively stable basis, but still, they are shaken every time when the EU membership expands. The reason for that is the fact that the New Members have a considerably poorer economy than the oldest members of the Union do. In addition, newer members mainly base its economic activities on agricultural production, which is in most cases, in a bad shape as a result of the command economy. Therefore, from the budget of the European Union, primarily from the European Agricultural Guarantee Fund (EAGF), is set aside vast resources to assist in the development and promotion of agriculture in the new Member States (Stojanović, 2007, p. 31). However, given that the UK has begun the process of withdrawing from the European Union, it seems that the missing of contributions from this country will be felt, regardless of the corrective mechanism in relation to the amount of funds that Britain gave the Community budget. That circumstance is likely to have a negative effect on the developed Member States, given that they are large consumers of the European Union budgetary resources, and also on the countries preparing to join the EU.

### **THE EU BUDGET – REVENUES AND EXPENDITURES**

Bearing in mind the structure of the EU budget, it is clear that the higher the level of economic development of a country, the bigger will be its contribution to the budget of the Union. The funds from the budget of the European Union are not equally distributed to all member countries but focus on the needs of the community as a whole. Thus, taking into account the data from 2014, it can be concluded that the United Kingdom has spent 6,985 million euros from the EU budget, while the contribution to the Community budget was nearly twice as high and amounted to 11,342 million or 0.52% of gross national income.<sup>7</sup> Given the

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<sup>6</sup> The method of calculation of the amount of funds that the United Kingdom is refunded after accounting for differences between means giving the Community budget and resources to benefit from its budget is stipulated in Article 4 and the fifth Council Decision on the system of own resources of the European Union adopted by the Council decision on the system of own resources of the European Union, February 2014, N. 5602/2014.

<sup>7</sup> According to: European Union. United Kingdom. Accessed October, 18, 2016, from [https://europa.eu/european-union/about-eu/countries/member-countries/unitedkingdom\\_en](https://europa.eu/european-union/about-eu/countries/member-countries/unitedkingdom_en).

way in which funds are collected for the budget of the European Union, the subject of analysis in this paper were the official data on the spending of those funds by the Member States, as well as data on the amount of funds that over the past six years, the Member States have contributed to the budget. The aim of the survey is to reach a conclusion about the Brexit implications on the community budget, and also on the activities to be carried out in order to implement EU common policies. Given that in recent years the European Union enlargement included countries of the former Eastern Bloc, when analyzing the data contained in the official records we took into account the total amount of contributions to the European Union budget of those countries.<sup>8</sup> The specific comparative analysis was carried out in relation to the annual amount of the contribution of the United Kingdom. Data are presented separately for each of the previous six years.

### **The United Kingdom's participation in income and expenditure of EU budget in 2010**

According to official data, in 2010, the UK was ranked sixth in terms of funds expenditure from the Community budget. During that year, most of the funds were spent in Spain, followed by France, Germany, Poland and Italy. When it comes to contribution to the budget, the United Kingdom is a member of the European Union which has made one of the largest contributions in 2010. Only Germany, France and Italy are in front of the UK. That outcome is quite expected, bearing in mind that in 2010 Germany had the highest GNI, followed by France and the United Kingdom. When it comes to contribution to the budget of the countries that have acceded to the Community in the last two rounds of accession, it seems that their overall contribution is significantly lower than the annual contribution of the United Kingdom. When it comes to the contributions of members from the former Eastern Bloc (Bulgaria, Czech Republic, Hungary, Poland, Romania, Slovenia and Slovakia), the total amount of shared contributions in 2010 was 7,722.3 million euros, while the contribution of the United Kingdom was 12,145.8 million euros. According to the data, the largest consumers of the budget in 2010, in addition to Poland, which is a country of the former Eastern Bloc, are Germany

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<sup>8</sup> Although member country of the Eastern Bloc was the Soviet Union, in order to conduct research in this paper, we have been taken into account only countries in which after the Second World War was established a socialist or pro-Soviet bloc, which are now EU members: Poland, Czechoslovakia, Hungary, Romania and Bulgaria. Since the 1998 split of Czechoslovakia into two countries the Czech Republic and Slovakia, while research has been taken into account the contribution to the budget of the European Union is calculated from both of those countries. Bearing in mind the fact that the Federal People's Republic of Yugoslavia was part of the Eastern bloc until 1948, when research is taken into account, the contributions to the budget of the European Union made by Slovenia and Croatia is calculated. They are the only former Yugoslav Republic members of EU.

and France, the most developed countries, which recorded the highest gross national income in the same year (European Commission, EU expenditure and revenue 2014-2020).

These data show that the consumption of the EU budget is not governed by the policy to spend most on the poorest member countries, on the contrary, according to the data, among the leading consumers of the EU budget are the richest EU member states.

### **The United Kingdom's participation in income and expenditure of EU budget in 2011**

In 2011, from the European Union member states, Poland was the biggest spender of public funds, while the United Kingdom, with spent 6,570.0 million euros, took seventh place, behind Spain, France, Germany, Italy and Belgium. Looking at contributing to Community budget, in 2011 the largest contribution was given by Germany and France, followed by Italy, and the United Kingdom on the fourth place. We should bear in mind that the United Kingdom contribution to the Union budget was in the amount of 11,273.4 million euros. This happens at the time when the United Kingdom, was in the third place in terms of achieved gross national income. The higher gross national income had only Germany and France. When it comes to contribution to the EU budget of the countries belonging to the Eastern Bloc, in 2011, total combined recorded revenue amounted to 7,935.5 million euros, while the contribution of the United Kingdom, as we already mentioned, was 11,273.4 euros. The amount of joint contributions to the budget of the European Union by Bulgaria, the Czech Republic, Hungary, Poland, Romania, Slovenia and Slovakia is substantially lower than the amount of the annual contribution of the United Kingdom to the budget of the European Union (European Commission, EU expenditure and revenue 2014-2020).

### **The United Kingdom's participation in income and expenditure of EU budget in 2012**

According to official data, in 2012, the most funds from the European Union budget is spent by Poland, followed by Spain, France, Germany, Italy, Belgium and the United Kingdom. When it comes to contributing to the Community budget, the United Kingdom, according to the given amount is in the fourth place, while in front of it was Germany, France and Italy. In the same year, according to available data, the highest gross national income had Germany and France, while the United Kingdom was in the third place. When it comes to the total amount of contributions to the budget of the European Union by the countries of the former Eastern Bloc, in the course of 2012, it amounted to 8,429.1 million euros, while

the total contribution to the Community budget by the United Kingdom amounted to 13,461.1 million euros. This again suggests that the total contribution of the members of the Eastern Bloc to the budget of the European Union was significantly lower compared to the amount of the annual contribution of the United Kingdom. Of course, among the biggest consumers are precisely the most economically developed countries, including Poland as the economically most developed country among the former members of the Eastern Bloc (European Commission, EU expenditure and revenue 2014-2020).

### **The United Kingdom's participation in income and expenditure of EU budget in 2013**

In 2013, the biggest consumers of the budget of the European Communities are Poland, France, Spain, Germany and Italy, while the United Kingdom is only in the sixth place. When it comes to the Member States contribution to the Community budget, in 2013, the highest contribution gave Germany, followed by France and Italy, while in the fourth place is the UK with 14,509.5 million euros. In the course of 2013, the highest gross domestic income was earned in Germany, followed by France, while the UK is in the third place. The total contribution of Bulgaria, the Czech Republic, Croatia, Hungary, Poland, Romania, Slovenia and Slovakia to the budget of the European Union in 2013 amounted to 9,295.9 million euros. It is noticeable that there was a slight increase in the amount of contributions to the EU budget by the countries from the Eastern Bloc, which is a result of the accession of Croatia to the European Union. However, it continues to be a much smaller amount in relation to the annual contribution of the United Kingdom to the Community budget (European Commission, EU expenditure and revenue 2014-2020).

### **The United Kingdom's participation in income and expenditure of EU budget in 2014**

During 2014, the most funds from the EU budget were spent by Poland, followed by France, Spain, Germany, Greece and Belgium. The United Kingdom is placed in the sixth place, according to the consumption of those resources. In terms of contributions to the Community budget in 2014, Germany gave the most funds, followed by France, Italy and the United Kingdom. That same year, the UK gave to the European Union budget 11,341.6 million euros, while it spent 6,984.7 million euros, which is a considerably smaller amount compared to the annual budget funding. While in the same year, according to available data, the European Union in terms of realized gross national income was ranked third, behind Germany and France. In 2014, the rebate (UK corrective mechanism) amounted

to almost 6.1 billion euros, reducing the UK's national contribution by 35% – to 11.34 billion euro – leaving it the fourth largest national contribution.<sup>8</sup>

The Ex-Eastern Bloc (Bulgaria, Czech Republic, Croatia, Hungary, Poland, Romania, Slovenia and Slovakia) contributed to the increase in the budget of the European Union in 2014 for an amount of 8821.5 million, which is significantly less than the contribution of the United Kingdom, which in the same year amounted to 11,341.6 million euros.

### **The United Kingdom's participation in income and expenditure of EU budget in 2015**

According to the European Union data in 2015, the largest part of the funds from its budget was spent by France, followed by Spain, Poland, Italy and Germany. Only after mentioned countries follows the United Kingdom. Regarding the countries of the former Eastern Bloc, in 2015 the largest amount of funds spent Poland, which is located at the top of the countries that spent the largest amount of funds from the EU budget. Other Eastern European countries are spending much less European Union budget funds. Among those, after Poland, expenditure from the EU budget is led by the Czech Republic, and followed by Romania, Hungary, and Bulgaria. Countries that were once part of the Socialist Federal Republic of Yugoslavia, and which are now members of the European Union - Republic of Croatia and Slovenia are modestly spending funds from the community budget. They can even be classified among the countries that are the least spending the budgetary funds of the European Union (European Commission, EU expenditure and revenue 2014-2020). However, when it comes to the contribution of the United Kingdom to the budget of the European Union, on the basis of available data, it appears to be significantly changed compared to the previous years. When it comes to contribution to the Community budget by the following Member States, Germany gave the most, followed by France, while in third place is the United Kingdom. During 2015, looking at the aspect of gross national income, the United Kingdom is in the second place compared to other member states, while the first place took Germany (European Commission, EU expenditure and revenue 2014-2020). It seems that the contribution of the United Kingdom to the European Union budget is significantly higher compared to the spent funds by that member. The contribution of the United Kingdom to the European Union in 2015 amounted to 18,209.4 million euros, while the UK spent from the budget a total of 7,457.6 million euros. One can, therefore, conclude that the United Kingdom,

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<sup>9</sup> European Parliament Think Tank. (18. 02. 2016). The UK 'rebate' on the EU budget: An explanation of the abatement and other correction mechanisms. Accessed October 17, 2016, from [http://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS\\_BRI\(2016\)577973](http://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI(2016)577973)

to a greater extent, contributed more to the budget of the European Union than it spent from it (European Commission, EU expenditure and revenue 2014-2020).

In recent years, the European Union has acceded by the member countries of the former Eastern Bloc, and the accession of other South Eastern European Countries is expected to continue. During 2015, the contribution of the new member states to the Community budget was less than half compared to the contribution of the United Kingdom. Thus, in the course of that year, the total contribution to the Community budget by the Slovak Republic, Slovenia, Romania, Poland, Bulgaria, the Czech Republic, Croatia, and Hungary totaled 9,027.2 million euros, while the contribution of the United Kingdom amounted to 18,209.4 million euros. Just this fact testifies to what extent Brexit will reduce the budgetary resources of the Community. Funds from the EU budget are not spent only on programs that are carried out in the new member countries, but also by the institutions of the old member countries. The territory of some Member States is large, and the consumption needs are high, and therefore we can conclude that the consequences of the United Kingdom withdrawal from the EU will be felt not only in less developed EU countries but also in those that are considered to be among the most developed in the world, like Germany and France.

## CONCLUSION

Although the United Kingdom became a member of the European Union in 1973, it always had a reserved attitude towards the European membership. This attitude is present from the start, given the fact that only two years after the EU accession, the United Kingdom held a membership referendum. EU-skepticism was also present in other decisions made by political leaders of the United Kingdom. Also, the United Kingdom, unlike most of the Member States has not adopted the Euro as the official national currency. Apart from that, a special corrective mechanism was applied in relation to the United Kingdom to lower the UK's contribution to the EU budget (in effect since 1985), although that state is one of the EU countries with the highest gross national income.

Despite the implementation of these measures, the UK was still located among the leading countries in terms of contributions to the budget of the European Community. The amount of funds from the budget of the European Union, which was used by the United Kingdom, according to available data, is much smaller in comparison to the amount that is paid into the Community budget. The budget funds were used for the implementation of common policies on the territory of the Member States. The biggest users of the EU budget are the most developed countries, i.e. states with the largest gross national income. Those countries are also the largest beneficiaries to the Community budget, taking into account the available data.

However, in recent years, the European Union expands to the countries that once belonged to the so-called Eastern Bloc. From those countries the highest gross national income and thus the largest EU budget contributor, in the last six years, was Poland. However, although Poland in the previous period, compared with Germany and France, has given a significantly smaller amount of funds in the EU budget, Poland, Germany and France are at the top in terms of consumption from the European Union budget, all three ahead of the United Kingdom.

In regard to the EU enlargement policy towards candidate countries, this paper analyzes the content of official records in terms of expenditure and revenue of the EU budget in the last six years, i.e. 2010, 2011, 2012, 2013, 2014 and 2015. In order to comprehend the loss that the EU budget will suffer after the withdrawal of the United Kingdom, we had taken into account the total amount of annual contributions of the member states, which once belonged to the Eastern Bloc. This analysis is gaining in importance, especially bearing in mind that in the coming period, we expect further enlargement of the EU, including countries from the former Socialist Federal Republic of Yugoslavia, the Republic of Serbia and Montenegro. After analyzing the above data, it can be concluded that, although after 2013 with Croatian admission to the EU, which increased the amount of contributions to the EU budget from the former members of the Eastern Bloc, this amount is considerably smaller than annually budget contributions from the United Kingdom. If you just single out the last year, 2015, during that year the amount of funds that the EU member states from Eastern Bloc (Bulgaria, the Czech Republic, Croatia, Hungary, Poland, Romania, Slovenia and Slovakia) gave to the EU budget was more than two times lower compared to the contribution of the United Kingdom.

Taking all facts into account, what appears in the analyzed period is that the United Kingdom contributed to the EU budget to a greater extent than it used funds from it. Given the above, it is likely that this fact heavily influenced the decision of the United Kingdom to withdraw from the membership in the European Union.

When it comes to the use of funds from the Community budget, the consequences of the UK withdrawing will be felt to a greater extent in other countries than in the UK itself. Despite the high amounts of contributions to the European budget the biggest users of these funds, such as Germany and France, will surely to a large extent feel the effects of the UK withdrawal from the EU membership. Also, to a large extent, this will be felt in Poland, given that it, in the period of 2010-2015, increasingly consumed the funds of the EU budget more than it contributed to the budget. In addition, one should not forget the fact that even the admission of new countries from the former Eastern Bloc states, will not be able to compensate for the loss of the Community budget, which will be the inevitable consequence of the withdrawal from the membership of the United

Kingdom. This will significantly affect the implementation of the common policies of the Union and most likely produce an increasing discipline on the use of the EU budget. All this will result in an increase in the frequency of controls performed by the competent authorities of the European Union. However, the UK will not, compared to other countries, greatly feel the consequences concerning the use of the EU budget, although the UK herself will feel some effects of certain economic-financial nature. However, although it started the process of withdrawal, holding a European Union membership referendum, the UK is still a member of the EU, bearing in mind the provisions of the Lisbon Treaty. One can, therefore, say that the severe consequences of its withdrawal from the membership will be felt only in years to come.

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Sanja Jelisavac TROŠIĆ  
Jelena ŠUPUT

### **ISTUPANJE VELIKE BRITANIJE IZ EVROPSKE UNIJE I POSLEDICE PO BUDŽET ZAJEDNICE**

*Apstrakt:* Velika Britanija će nakon referenduma održanog 2016. godine započeti postupak istupanja iz članstva u Evropskoj uniji. Iako je njen doprinos budžetu Zajednice bio izuzetno veliki, ona nije u tolikoj meri koristila njegova sredstva. Međutim, Velikoj Britaniji je učinjen i ustupak u pogledu primene korektivnog mehanizma kako bi se umanjila nesrazmernost između sredstava koja je navedena zemlja davala budžetu i budžetskih sredstava koja je koristila.

Kako se na referendumu iz 2016. godine većina stanovnika Velike Britanije odlučila za istupanje iz navedene Zajednice, postavlja se pitanje kakve će posledice takav čin imati po budžet Evropske unije. Predmet analize u ovom radu jeste doprinos zemalja članica budžetu Evropske unije u periodu od 2010-2015. godine sa

posebnim osvrtom na doprinos Ujedinjenog kraljevstva, kao i analiza trošenja budžetskih sredstava od strane zemalja članica. Na taj način pokušaćemo da damo odgovore koje zemlje će u najvećoj meri osetiti posledice istupanja Velike Britanije iz članstva u Evropskoj uniji, a u vezi sa mogućnošću trošenja sredstava iz njenog budžeta, kao i realizacijom zajedničkih politika navedene zajednice. Ipak, ne bi trebalo donositi preuranjene zaključke, s obzirom da je postupak istupanja iz članstva tek na početku.

*Ključne reči:* istupanje iz članstva, budžet EU, Velika Britanija, referendum, posledice.

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## **BREXIT: IMPLICATIONS FOR AGRICULTURE IN THE WORLD, IN EUROPE AND SERBIA**

Dušan DABOVIĆ<sup>1</sup>

*Abstract:* The aim of this work is to determine the implications of Brexit for agriculture, on a global level, in Europe, that is, in the European Union, and in Serbia. The methods used are the method of text analysis, formal-legal method, comparative method, and statistical methods. The sources used in this work are prominent theoretical works in the given area, national and international regulations, reports from the relevant institutions, electronic databases, and newspaper articles. The work consists of an introduction, a section about the genesis of Brexit, a section about the implications for agriculture and a conclusion. In the section about the genesis of Brexit, a theoretical explanation by A. J. Toynbee is presented, which explains the rise, collapse and disintegration of a civilization, as well as the facts regarding the Constitution for Europe, Brexit, and the Migrant crisis. Also, in this section, the immediate causes of Brexit are analyzed, as well as possible directions of further development of the EU. In the section referring to the implications of Brexit for agriculture, we analyzed the consequences on a global level, in the EU and Serbia. On a global level, we analyzed the consequences that Brexit will cause within the World Trade Organization, as well as the very important issue of the future approach of the United Kingdom to genetically modified organisms. The consequences of Brexit in Europe, that is, the EU, are presented primarily in two models (the Norwegian and Swiss model) by which the United Kingdom will most likely continue to cooperate with the EU, as well as in other aspects of the disassociation. In the part that relates to the consequences of Brexit in Serbia, we analyzed the immediate consequence, which refers to the Serbian foreign trade with the United Kingdom, as well as the indirect effects relating to the pace of accession, or rather the access of Serbia to the agricultural funds of the EU.

*Key words:* Brexit, the United Kingdom, the European Union, the Republic of Serbia, agriculture.

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## INTRODUCTION

Theorist A. J. Toynbee (2002) determined that every dynamic society (civilization) goes through different stages, which can be categorized as the formation, rise, breakdown, and disintegration. Analogously, Brexit could be the point, after which either comes the further development of the European Union (hereinafter: the EU) in an altered form, or a collapse, due to over-regulation and militarism, with a tendency for disintegration.

In its development, the EU went through the different phases, which was not only caused by international relations in Europe, but also in the world, as well as by the technological development and the development of economy and law. In this sense, Brexit could denote the end of the current phase of development of the EU, rather than the beginning of a new one. Namely, the message that the citizens of the EU (from the United Kingdom – hereinafter: the UK) sent to the administration in Brussels could have been predicted because it is only one in the series of warnings which were not taken seriously (the European Constitution, the Grexit, and the Migrant crisis). After Brexit, two opposing political concepts regarding the further development of the EU have imposed: the conservative and evolutionary concept. The conservative approach represents the maintaining of the existing system, with the strengthening of the central government, while on the other hand, the evolutionary approach strives for the redefinition of the existing system by reducing the competences of the central government and strengthening the sovereignty of the member states. The implications for agriculture can be observed on a global level, in the EU and Serbia. On a global level, the effects can be seen within the World Trade Organization (hereinafter: the WTO), due to the double membership of the UK in this organization, as well as in its future relation to genetically modified organisms (hereinafter: the GMOs). In Europe, the most important consequences of Brexit in the field of agriculture reflect on the Common Agricultural Policy of the EU, that is, on the relation between the UK and the EU in this field. The consequences of Brexit in the Republic of Serbia can be classified as immediate and indirect. The immediate consequences relate to the foreign trade with the UK, or rather the possibility to use the Stabilization and Association Agreement concluded with the EU, while the indirect consequences relate to the Serbian pace of accession to the EU, that is, to the agricultural funds.

## Methods and resources

In this article, we have used the method of text analysis, for analysis of the respectable theoretical works, and texts of the relevant reports and the prominent newspapers on implications of Brexit for agriculture, on the global level, as well

as in Europe, that is, in the EU, and in Serbia. On the same subject, we have used the formal-legal method, for analysis of the relevant national and international legislation, the comparative method, for comparative analysis of the legal acts of the different countries, and on the international level, as well as the statistical methods for analysis of the adequate statistical data.

The sources, that is, materials used in this work are prominent theoretical works in the given area, national and international legislations, reports from the relevant institutions, as well as electronic databases and newspaper articles.

### **THE GENESIS OF BREXIT**

Given that it originated on the idea of unity between the European countries, the Union was established to make the cooperation between the member states easier, especially within the economic sphere, and later on in the other spheres of life of citizens of the European countries. To this end, as a multinational formation, the EU has over time obtained a complex organization as well as more competences, including almost all social activities. Considering all of the important benefits, which the Union has enabled for the member states, that is, their citizens, the number of member states had increased more and more with the tendency to include the most of the countries of Europe (except the member states of the EFTA and some other exceptions). At the same time, with the increased benefits, which the Union offered to its member states, the number of obligations of these countries to the Union also rose, primarily concerning the financial obligations for the participation in the common budget, but also on obligatory implementation of some of the EU regulations, with the decrease of national sovereignty in the fields of interest for the functioning of the Union. Over time these obligations and restrictions became so difficult, that some of the member states refused further development of the Union in the direction of decrease of national sovereignty (France and the Netherlands rejected the Constitution for Europe by the referendums in 2005). Also, in 2015 the citizens of Greece rejected the Union's decisions which were not of any interest to them.

Furthermore, with the outbreak of the migrant crisis, the dissatisfaction of some of the member states increased in regard to the decision on the redistribution plan of the asylum seekers, which was forced upon by the EU in 2015-2016. Apart from that, there was a great influx of internal migrants (from the member countries) moving towards countries with the higher standards, primarily towards the UK. This brought on the increased dissatisfaction of the citizens of those countries, which resulted in Brexit in 2016 and the announcement from other state members (Hungary) to call a referendum on further membership in the EU. Hence, the further development of the EU can be observed from two opposite standpoints: the conservative and evolutionary

standpoint. The conservative approach offers to keep the current relationship between the EU and its member states with, on one hand, further strengthening of the sovereignty of the Union, or rather the current administration, whereby, on the other hand, weakening of the member states' sovereignty, while militarism emerges. As oppose to that, the evolutionary approach proposes a complete redefinition of the Union's concept, in accordance with the wishes and needs of its member states (their citizens), which is reflected in the decrease of the Union's competences and expenses, as well as the strengthening sovereignty of the member states.

### **Theoretical explanation of Brexit**

The theoretical explanation for discontinuity and the turning point in the development of dominant social organizations can be found in the influential work *A study of history*, by A. J. Toynbee (2002), in which the author brings forth a thesis that a dynamic society (civilization) is formed by the leadership of a creative minority. Then, during the development of the society, the leading minority loses creativity and by overregulation and militarism becomes the leading minority. This creates antagonism with the masses, that is, with the proletariat, on the national and international basis, when it comes to the breakdown of a civilization and its disintegration begins: The existing evidence actually implies that an increased ruling over an environment is rather an element which leads up to the disintegration than enlargement. Militarism as a common characteristic of breakdown and disintegration ...' (Toynbee, 2002. p. 312).

Also, D. C. Somervell (1970), the compiler of Toynbee's ideas, vividly interpreted this idea: The leaders can take on the mechanics of their followers and that would result in the halt of a civilization or they could substitute the magic flute for the whip of coercion. In this case, the creative minority would become the ruling minority, and the "pupils" would become the unwilling and alienated "proletariat"... When this happens a society steps onto the path of destruction (Somervell, 1970, p. 531). We now move into an active form of distortion summarily expressed in the Greek formula... (glut, violent behaviour, and obliteration). Militarism is an obvious example (Somervell, 1970, p. 533).

### **The Constitution for Europe**

The Treaty on Constitution for Europe was signed by the then 25 member states of the EU in October 2004, however, during the ratification process, only 18 member states confirmed the treaty, given that France and the Netherlands rejected the agreement by their referendums (in May and June 2005), and the ratification processes in the other member countries ceased. Instead of the

Constitution, in 2007 the Treaty of Lisbon was signed, which brought only some of the changes suggested by the original text. The Constitution for Europe predicted the formation of a political union, and the other radical changes in the organization of the Union in the direction of a higher level of unification and centralization, i.e. voluntary transfer of part of the sovereignty of the national countries to the Union. Given that the concept of the Constitution for Europe not only included the transfer of part of the national sovereignty to the EU, but also included a system of making a decision on the basis of the majority instead of consensus, the citizens of France and the Netherlands protested against these changes. Thereby, the other planned referendums relating to the ratification of the Constitution were uncertain, especially in the UK and Ireland, and it had a high probability of being negative. Namely, the citizens of Europe were not ready to give up their national sovereignty, or rather decision-making about parliamentary questions, as well as their legal traditions, which are maintained in their national constitutions, which would, in this case, have to be partially suspended. It is obvious that the EU administration had not sufficiently examined the public opinion for these kinds of radical changes neither had it taken into consideration the traditional perceptions of the communities in the provinces in all of the member states (The European Union Constitution, 2003-).

### **Grexit**

Since 2001, when Greece joined the Eurozone, its foreign trade debt, as well as internal debt, has become higher and higher due to the objective and subjective causes. The matters were made worse when the financial crisis of 2008 occurred. In order to get out of this crisis, creditor nations, with Germany at the forefront, advocated that rigorous austerity measures should be taken in Greece that would inevitably make severely affects, one of which would probably be the increase of unemployment. At the early elections in Greece in January 2015, a majority of the voters chose the left-wing coalition, which recommended that debts should be written off, as well as the austerity measures. In order to confirm the will of the people, a referendum was called in July 2015, where the voters could either accept or reject the recommended belt-tightening measures. Before the referendum, Germany, as the largest single creditor, supported by the European Commission, as well as the relevant international institutions, considered excluding Greece from the Eurozone, and also from the EU (this plan was named Grexit). It could have been predicted that this kind of development of the crisis would be very painful not only for Greece but also for the EU and even for the whole world. However, even though in the international public a lot of pressure was put on them to accept the suggested set of restricted measures, the voters in Greece had overwhelmingly (61%) rejected those measures. After the

referendum, a compromise was made between the Greek government and the international creditors concerning the implementation of some austerity measures, along with a new credit of around 68 billion Euros (Kirby, 2015).

### **The Migrant crisis**

According to the data of the UNHCR, the global refugee crisis at the end of 2014 reached a number of 60 million forcibly displaced souls, which is the most since World War II, with an increase of 40% since 2011 (UNHCR Statistic, 2015). The European refugee crisis began in 2015, when refugees from west and south Asia, Africa and west Balkan started to arrive in large numbers at the Greek and the Italian coasts by vessels, as well as by the land between Turkey and Greece, in order to get to the final destination, usually Germany and Sweden. Thereby, nearly all member states of the EU have an increased rate of asylum seekers, whereas some are particularly vulnerable, as Hungary, which is part of the migration route and has more than 20 requests for asylum per 10,000 residents. In April 2015, the European Commission suggested border service measures in order to prevent the unauthorized crossing of external borders in Italy and Greece. Also, Germany suggested using the quota system to distribute the asylum seekers between the EU member states, or rather to establish a special agency for the Union, which would do those duties. However, some of the member states, primarily Hungary, voted against the plan, but Germany suggested that the Union would not decide upon the question based on the principle of consensus but by the principle of the qualified majority. Meanwhile, the Czech Republic, Slovakia, and Hungary regarded this system as unfair towards the asylum seekers, proposing that they should be allowed to decide for themselves where they would apply an asylum application. Still, in September 2015, based on the principle of majority, the decision to realize the plan for distribution of the asylum seekers was made, but the UK, Ireland, and Denmark abstained from voting and excluded themselves from the decision, against the idea were Slovakia, the Czech Republic, Hungary, and Romania, while Finland abstained. Given the terrorist attacks in Paris in November 2015, the realization of the plan was brought into question and Poland officially requested security guarantees in order to carry out the plan. Apart from that, Slovakia initiated proceedings against the decision before the European Court of Justice (Sputnik, 2016).

### **Immediate causes of Brexit**

During the preparations for the referendum for Brexit, which was held on June 23, 2016, the campaign for leaving the EU was mostly based on issues on sovereignty and immigration. However, during the research conducted right



before the voting among the voters, 48% of the examinees stated that the biggest problem which Britain faced was in fact migration, and then, the EU (32%), while economy came in third place (27%). During the research conducted on the day of the referendum, nearly half of the examinees (49%), who voted to leave the EU answered that the biggest reason for leaving the EU is the principle of bringing decisions concerning the UK are brought in the UK, while nearly a third (32%) of these examinees stated that the biggest problem which the UK faced was the EU. Also, within the same group of examinees, a third (33%) stated that the fundamental reason for leaving the EU is the best way for the UK to regain control over immigration and its borders. This kind of division of the public opinion was caused by a mass immigration during the years before the referendum from member states of the EU into the UK, based on the principle of the freedom of movement for workers. Namely, during the period 1990-2003, the average influx of the internal migrants (from the EU member states) into the UK amounted to around 61,000 per year, in 2013 it amounted to 201,000 and in 2014 to around 268,000 internal migrants (Lord Ashcroft, 2016).

Therefore, the Brexit referendum was organized during the time when the discussion about the distribution of migrants was taking place by the majority decision of the EU, even though the UK excluded itself from taking part in this discussion. The influx of internal migrants boosted, with a tendency to increase even more, especially with the implication of the further enlargement of the Union, which would not only refer to the west Balkan countries but also to Turkey. Having mentioned this, the concern among the voters of the UK for their workplaces rose sharply. Namely, it became obvious that the EU brings decisions which are obligatory for all the member states, even though some of them disagree with those decisions. This kind of relation toward national sovereignty was obviously unacceptable for most of the voters in this referendum, especially having in mind the traditionally high level of national consciousness among the British citizens.

### **Two concepts for resolving the EU crisis**

Given the fact that the majority of voters in the UK voted to leave the EU, which is the first ever recorded case in the history of the EU, two different perceptions for the further development of the EU arose: on one hand there are the 'western member states', or rather the founders (Germany, France, the Netherlands, Italy...), which represent the conservative approach, by which the further development or the Union should focus on strengthening the central authority, which is mirrored in forming a common army, which would symbolize the wish of the member states to defend their common interests, i.e. the safety of their external borders. On the other hand, the evolutionary approach is represented

by the ‘eastern member states’ or the members of the ex-eastern bloc (Poland, the Czech Republic, Slovakia, Hungary...) whose beliefs Beata Szydło, the Prime Minister of Poland, formulated the best. She states that the EU must be changed, or rather, that there is a need for the strong union of sovereign countries. Even though it is obvious that the phase in which the EU currently is, requires new organisational concepts and ways of thinking which would give new energy, it is estimated that the eastern countries will have a hard time trying to put on their concept, if there is no will from the other side, concerning the economic strength of the western countries and bigger influence on the EU authorities (Foster, 2016).

The most vital part of the Union is its legislation, that is, *acquis communautaire*, which the European countries, which are not the member states or the candidates, and even some countries outside of Europe, are trying to harmonize with because of its quality. Therefore, if the obligatory implementation of the legislation would be abolished, many misunderstandings and dissatisfaction of the member states, which for some reason do not want to implement some of the legislation, would be avoided. Regarding this, the legal acts could be in the form of recommendations, without obligatory implementation and without a deadline to harmonize with, that is, in the sphere of ‘soft law’. This kind of legislation would suit the system of decision making based on the majority, given that the decisions wouldn’t be obligatory, but only advisory. Therefore, some of the institutions of the EU would lose their competences, and some could be cancelled. This would enable the reduction of the administration, that is, costs, which would lead to lesser givings of the member states to the budget of the Union.

## IMPLICATIONS FOR AGRICULTURE

In the event that Brexit leads to the withdrawal of the UK from the EU, it might produce various consequences on Britain’s relation to the EU and on a global level relation within the WTO. These effects would be felt in all areas, especially in agriculture, given that agriculture, because of its significance, is specifically regulated by the EU and the WTO. Also, one of the most important issues in the field of agriculture is a relation of a country towards GMO products. These consequences in the agricultural sector would be directly transferred to the Republic of Serbia, having in mind that our country, as a candidate for membership, has a special trade relation to the EU, whereby it is also in the process of joining the WTO.

### Implications for agriculture in the world

The UK is currently a member of the WTO both independently and within the EU, given that the EU is a collective member of the WTO. However, all trade

relations between the UK and the other members of the WTO (customs, quotas, etc.) are agreed on the EU level. Therefore, the UK would have to make individual trade arrangements with every member of the WTO, as well as with the non-member countries. This refers specifically to agricultural products which are in international trade considered as 'sensitive' products. Therefore, it brings a need for a series of bilateral agreements between the UK and every country individually, as well as a redefinition of trade relations of the third countries with the EU (Institute for Government, 2016).

One of the most important questions within the agriculture on a global level, which is asked after Brexit, is the future relation of the UK towards GMO. Namely, given its membership in the EU, the UK is obliged to apply deliberate legislation of the Union, which regulate the production, trade, and labelling of GMO products. On the other hand, global manufacturers of GMO products (USA, Canada, Argentina, Australia...) do not make a difference between GMO products and products which do not contain GMO, that is, they have liberal legislation in this field. It is still unsure whether the UK will bring the national legislation on GMO from the deliberate or the liberal point of view. This decision would not affect only the manufacturers of food in the UK but also the consumers. In this way, if the UK would change its policy about GMO products, a large market would open for the manufacturing and consummation of GMO products. On the other hand, if the UK would opt for the production of GMO, it would not be able to count on the EU market anymore, given that the EU countries, with which the UK carried out the most of its trade of agricultural products, are closing their markets to GMO products, with their own national legislations, but also with the legislations of the local governments. In that case, GMO manufacturers from the UK could look for other markets, such as China, where the use of these products is still possible (Warmflash and Entine, 2016; Shelton, 2016).

### **Implications for agriculture in Europe**

According to the Article 50 of the Treaty on the EU, if the UK decides to leave the EU, it should notify the European Council, which will then give a time limit of two years for the negotiations for withdrawal. After the withdrawal, the UK faces the question about the further relation to the EU. Namely, the UK can decide to keep the status of a 'third country', without any special relation to the EU, which is not very likely, because the EU is the largest economic bloc in the world, whereby the UK exports 73% of its total export of agricultural products in the EU (Lever and Prassl, 2015). Apart from that, the UK can accept any of the existing models of economic relations between the EU and 'the third countries', such as the Norwegian or Swiss model. If it does not accept any of

the models, the UK can join other trade integrations, either European (EFTA) or North-American (NAFTA), or it can regulate its own economic relations with other countries based on the WTO rules.

The Norwegian model of economic relations between the non-member countries and the EU refers to the European Economic Area, or rather the space that not only includes all the EU member states, but also Iceland, Liechtenstein, and Norway. This economic area enables equal participation in the Single Market for countries which are not a member country, in terms of the free movement of goods, services, workers and the capital. Given that they equally participate in the Single Market, in trade in industrial as well as agricultural products, these countries must implement the EU regulations regarding employment, consumer protection, competition and environmental protection. However, these countries cannot participate in the process of bringing the regulations, that is, the politics regarding the Single Market (Dhingra and Sampson, 2016, p. 4-5; Swinbank, 2016, p. 8).

The Swiss model is based on the bilateral agreements regarding different issues on the functioning of the Single Market. Namely, Switzerland is a signatory of the EFTA which enables it the freedom of trade with the EU in the industrial area, while agreements are made about specific issues regarding the agricultural products, including the rates of customs and quotas for the trade of specific agricultural goods (cheese, chocolate, biscuits etc.) This model allows more freedom for the non-member countries in terms of the implementation of the EU regulations, but also includes smaller benefits of the equal participation in the Single Market. Also, as in the Norwegian model, the non-member country has no right to participate in the legislative procedure (Dhingra and Sampson, 2016, p. 5-6; Swinbank, 2016, p. 7).

The UK is an important payer of the EU budget, but also it is a user of the budget, mainly for the purpose of the agriculture (Buckwell, 2016, p. 8). Therefore, it is necessary that the EU carries out a rebalance of the current budget for the agricultural policy, which was adopted for the period 2014-2020. Apart from that, the constant requirements of the large givers of the agricultural budget will have to be taken into consideration under the new circumstances. Namely, the countries which are the budget's large givers required that the agricultural subsidies would be given on a national level and that the economically weaker member countries would receive help from the economically stronger member states on a voluntary basis, or rather as a donation.

### **Implications for agriculture in Serbia**

The impact of Brexit on Serbia in the field of agriculture can be twofold, immediate and indirect. The immediate impact is reflected primarily on the foreign trade in agricultural products with the UK, that is, the possibility to export

these products on a non-tariff basis. On the other hand, the indirect impact of Brexit on Serbia can be observed in relation to the EU, or rather the pace of accession to its agricultural funds. Namely, if the UK leaves the EU, Serbia could suffer a damage from lost profits, given that the foreign trade, that is the agricultural products exported into the UK, would especially be in danger, because now the foreign trade is based on the principle of free trade with the EU member states, i.e. the non-tariff trade regime based on the Stabilization and Association Agreement.

Thus, it can be expected that the amount of Serbian export to the UK will be significantly reduced or it will completely be excluded. This is particularly important because the Serbian foreign trade balance with the UK is positive. In the period 2010–2015, Serbia had exports of agricultural products in the UK worth 118 million Euros, and imports worth 41 million Euros. At the same time, exports reached a maximum amount (approximately 28.5 million Euros) in 2015, while, compared to the previous year, increased by 81%. In the structure of exports raspberries and other berries were dominant, with the exception of 2010, when wheat and maize was mostly exported. In 2015, a worth of 14 million Euros of these products was exported, while a worth of 6 million Euros of other fruits was exported. On the other hand, imports during the observed period mildly increased, from about 5.5 million to about 9.5 million. Thereby, in 2015, whiskey was the most imported product (around 2.5 million Euros) followed by fish, coffee, cocoa and others (Statistical Office of the Republic of Serbia, 2016).

*Figure.* Import-export between Serbia and the UK, 2010–2015 (in 000 Euros)



Resource: The Statistical Office of the Republic of Serbia

The indirect effects of Brexit on the Serbian agriculture relate to the delay of accession to the EU, which may lead to changes in the EU policy towards its enlargement. In that way, 's agriculture would be deprived of subsidies for agriculture from the EU funds. The subsidies to farmers of the member states mainly consist of 'direct payments', which are regulated by the Regulation

1307/2013, and payments for the rural development, which are stipulated by the Regulation 1305/2013. Apart from that, in a smaller part, the giving to the EU farmers is also regulated by the Regulation 1308/2013 on market interventions and the Regulation 1306/2013 on the purpose of supporting the financing, management, and monitoring. Direct payments are entirely funded by the EU, where the recipient is required to fulfill the requirements in terms of environmental protection, animal and plant health, while payments for the purpose of rural development are paid out in cooperation with the relevant member state.

According to the Regulation 1307/2013, the maximum amount of total benefits from direct payments to farmers in 2016 were determined, giving Hungary around 1.3 billion Euros, the Czech Republic about 870 million Euros, Slovakia about 390 million Euros and Croatia around 150 million Euros. In addition, although the Serbian agriculture, by the number farmers and the size of the estates and general development, is between Hungary and Croatia, Serbian farmers, according to the budget of the Republic of Serbia in 2016, were given subsidies totalling to about 28 billion dinars (Law on the budget of the Republic of Serbia for 2016). Therefore, the interest of Serbian agriculture is to join the EU as soon as possible, in order to increase the financing of farmers, therefore delaying the accession affected by Brexit could indirectly cause a substantial loss to Serbian agriculture.

## **CONCLUSION**

Within the genesis of Brexit, we determined that the facts upon which Brexit could have been foreseen were: the rejection of the Constitution for Europe by France and the Netherlands, Greece's denial to implement the restrictive economic measures, as well as the refusals of several member states of the EU to follow through with the decision on the distribution of migrants among the member states. In addition, two concepts for the further development of the EU were presented, the conservative and evolutionary concept. The conservative approach, represented by the western member states, refers to the retaining of the current government system in the EU, further strengthening of the central government and the weakening of the sovereignty of the member states. The evolutionary approach, presented by the eastern member states, suggests the redefining of the EU competences, that is, strengthening the sovereignty of the member states and the reduction of EU competences to a level that is necessary for the member states. It was found that the implications of Brexit for agriculture on a global level related mainly to the WTO because the UK will have to establish new foreign relations with other member states of the WTO, as well as with the EU member states. Besides, a question which is important on a global level is

whether the UK would in the future, after leaving the EU, adopt the liberal approach towards GMO or would it, as it has to do as a member of the EU, maintain the deliberate approach. On the European level, i.e. the EU, it was found that the UK would establish new relations with the EU based on the Norwegian or Swiss model, that is, the UK would be obliged to apply the EU regulations on agriculture, or it would implement the regulations on a voluntary basis. Also, it has been concluded that the effects of Brexit on the agriculture of Serbia can be divided into immediate and indirect effects. The indirect effects are mainly related to the foreign trade with the UK, given that, because of the UK's exit from the EU, the non-tariff trade regime will no longer be applied. Therefore, the reduction in trade with the is inevitable, although the export and import of agricultural products especially in recent years have risen. In addition, one of the most important indirect consequences of Brexit could be the slowing down of Serbia's accession to the EU, that is, the use of agricultural funds because the subsidies from these funds should strengthen our agriculture, as it is the case with the surrounding member states.

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Dušan DABOVIĆ

### **BREGZIT: POSLEDICE NA POLJOPRIVREDU, U SVETU, EVROPI I SRBIJI**

*Apstrakt:* Cilj ovog rada je da utvrdi posledice Bregzita na oblast poljoprivrede, kako na globalnom nivou, tako i u Evropi, odnosno Evropskoj uniji i Srbiji. Korišćeni metodi su metod analize teksta, formalno-pravni metod, komparativni metod i statističke metode. Izvori koji su korišćeni u radu su istaknuti teorijski radovi u datoj oblasti, domaći i međunarodni propisi, izveštaji relevantnih institucija, elektronske baze podataka i novinski članci. Rad se sastoji od uvoda, odeljka o genezi Bregzita, odeljka o posledicama na poljoprivredu i zaključka. U odeljku Geneza Bregzita, predstavljeno je teorijsko objašnjenje A. DŽ. Tojnbi o usponu, slomu i raspadu civilizacija, a zatim činjenice u vezi Ustava Evrope, Gregzita i Migrantske krize. Takođe, u ovom odeljku su analizirani

neposredni uzroci Bregzita, kao i mogući pravci daljeg razvoja EU. U odeljku koji se odnosi na implikacije Bregzita na oblast poljoprivrede, analizirane su posledice na globalnom nivou, u Evropi (EU) i Srbiji. Na globalnom nivou analizirane su posledice koje će Bregzit imati u okviru Svetske trgovinske organizacije, kao i u odnosu na veoma važno pitanje proizvodnje, prometa i obeležavanja genetički modifikovanih organizama (GMO). Posledice Bregzita na Evropu, odnosno Evropsku uniju, predstavljene su u dva modela (Norveški i Švajcarski) po kojima će Velika Britanija najverovatnije nastaviti saradnju sa Evropskom unijom, kao i drugi aspekti razdruživanja. U delu koji se odnosi na posledice Bregzita na Srbiju analizirane su neposredne posledice, koje se odnose na spoljnu trgovinu Srbije sa Velikom Britanijom, kao i posredne posledice koje se odnose na tempo pridruživanja, odnosno pristupa Srbije poljoprivrednim fondovima Evropske unije.

*Ključne reči:* Bregzit, Velika Britanija, Evropska unija, Srbija, poljoprivreda.

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## THE EFFECT OF FOREIGN DIRECT INVESTMENT ON ECONOMIC GROWTH IN THE EUROPEAN UNION

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*Abstract:* Foreign direct investment (FDI) is seen as a major mechanism for development, and with international trade, a fundamental part of an open and successful international economic system. This paper examines the effect that FDI has on economic growth in the case of the European Union (EU). The initial assumption of the paper is that FDI has a positive impact on economic growth. Correlation and regression analysis were used to examine the interdependence between FDI and gross domestic product (GDP), as a measure of economic growth. The results of the research show a negative interdependence between FDI and GDP and that there is no positive impact of FDI on the value of GDP in the EU in the observed eleven-year period (from 2005 to 2015).

*Key words:* foreign direct investment, economic growth, European Union, multinational corporations, host country, spillover effects.

### INTRODUCTION

The international movement of capital is one of the most important factors for the development of the world economy, especially in the case of developing and less developed countries. The importance of FDI, as a form of international capital movement, is in the existence of positive externalities created by multinational corporations (MNCs). FDI has a positive effect on economic growth in the host country through the inflow of capital, job creation, technology and knowledge spillovers and increased competition. FDI may facilitate growth by promoting technical innovation also (Bevan and Estrin, 2004, p. 776). Over the past decade, foreign direct investments have been playing an increasingly relevant role in the process

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of functional integration of the world economy (Crescenzi and Petrakos, p. 2016). FDI has become a key component of the economic strategies put forward by most developed and developing countries (Villaverde and Maza, 2015, p. 209).

However, a great debate about the impact that FDI has on economic growth can be found in the literature. Thus, depending on the model of economic growth, there are several channels through which FDI can affect economic growth. In Robert Solow's neoclassical growth model, FDI is seen as the perfect substitute for domestic capital and as such, have a direct impact on economic growth through its contribution to the total net equity. This is because technology and technological progress are seen as exogenous variables. Hence, FDI can affect economic growth if it enhances technological progress (Iamsiraroj and Ulubaşoğlu, 2015, p. 201). Since the basic assumption of the neoclassical growth model is diminishing returns on capital, the effect of FDI on economic growth will be present and significant only in the short term.

Unlike the neoclassical model, the endogenous growth model differs foreign from the domestic capital and can be affected by crowding-in or crowding-out domestic investment. If foreign capital causes the crowd-in effect of domestic capital, then the effect of FDI on growth will be even greater. In the endogenous growth model, FDI may affect growth in the long term through technology and knowledge spillover effects. The basic assumption of this model is that technological progress is an endogenous variable. Also, the model recognizes the role played by country-, industry-, and firm-specific factors in determining the extent of which total gross investment and the rate of technology generation and diffusion enhance growth (Mehic et al., 2013). To conclude, the endogenous growth theory emphasizes the key role of foreign companies in raising capital, knowledge and positive externalities in the host economy caused by technology spillover, that have a greater impact on growth than domestic investment.

The aim of the paper is to investigate the existence of a relationship between FDI and GDP in the case of the EU countries in the period from 2005 to 2015. The basic assumption of this paper is that FDI has a positive effect on economic growth. Correlation and regression analysis were used to investigate this relationship. The FDI inflows and value GDP were used as variables in the analysis.

The paper consists of the following parts: the introduction followed by the concept and basic form of FDI, while the fourth part is about the effects of FDI on the host country. The fifth part reviews the empirical research on the effect of FDI on economic growth, and in the sixth part, the results are presented. The seventh part concludes.

## **THE CONCEPT OF FOREIGN DIRECT INVESTMENT**

Foreign direct investments are one of the forms of international movement of capital. Another form of international movement of capital is foreign portfolio

investments (FPI). The main difference between these two types of investment capital is in the control and management functions. FPI involve capital investment in the property, while the management and, to a large extent, control functions have been transferred to managers. In the case of FDI, ownership, management and control functions are integrated, and stand in the hands of investors. Itay and Razin (2005) pointed out that portfolio investment projects are managed less efficiently than direct investment projects, due to the problem of intermediation between managers and owners. Direct investors, who act effectively as managers of their own projects, are more informed than portfolio investors regarding changes in the prospects of their projects. This information enables them to manage their projects more efficiently. This effect generates an advantage, with an added value in the capital markets, to direct investments relative to portfolio investments.

The share of FDI in total international investment capital flows is higher than FPI. Also, there is the greater the stability of FDI, especially in developing countries. FDI is presumed to be more stable and less prone to reversals than other forms of capital flows (Harms and Méon, 2013). FDI growth rates, especially in the case of MNCs, were significantly higher than the growth in international trade over the last two decades (Antevski, 2008, p. 134).

We can find different ways of defining FDI in literature. Foreign direct investments are real investments in the production factors: in capital goods, land or reserves, where the investor is included both in investment and in management, retaining control over the usage of invested capital (Salvatore, 2009, p. 430). According to Kindleberger, foreign direct investment is a direct investment in a company abroad in order to gain permanent control over production, trade and finance of companies in which they invest (Jovanović Gavrilović, 2004, p. 100). However, the most widely accepted definition is the one given in the OECD Benchmark Definition of Foreign Direct Investment: FDI reflects the objective of establishing a lasting interest by a resident enterprise in one economy (direct investor) in an enterprise (direct investment enterprise) that is resident in an economy other than that of the direct investor. The lasting interest implies the existence of a long-term relationship between the direct investor and the direct investment enterprise and a significant degree of influence on the management of the enterprise. The direct or indirect ownership of 10% or more of the voting power of an enterprise resident in one economy by an investor resident in another economy is evidence of such a relationship (OECD, 2008, p. 48).

In the modern development stage FDI assumes the role of a key development factor, and with trade, become the main mechanism of the globalization of the world economy, or business enterprises (Nestorović, 2015).

## **THE BASIC FORMS OF FOREIGN DIRECT INVESTMENT**

FDI can be viewed and interpreted based on different criteria. So, in everyday practice and professional literature, we can find numerous of their divisions. In the widest sense, FDI can be classified into three types: horizontal, vertical and mixed FDI (Kovačević, 2004).

Horizontal FDI (also known as market-seeking FDI) are investments in overseas production. They arise when companies locate production of the same products, or groups of related products, in several plants in different countries. New plants can be formed in one of the following ways: greenfield investments, mergers and acquisitions. The main objective of the horizontal investment is the production for the local market, in which case the classical exports from the home country is being substituted with production in the host country. In this way, savings in costs (transport and customs), and prompt response to local preferences are achieved. This type of FDI makes up the largest part of FDI flows at the global level, as well as between developed countries, which characteristics are high income and demand, and high production costs.

Vertical FDI arise when multinational companies locate individual operations in the chain of production and marketing at plants in different countries. They are also called resource-seeking FDI because they are determined by low labor costs, geographic proximity and regional integration. The main goal of this type of FDI is the export of products to the home country's market or to the world market, but not to the local market as is the case with horizontal FDI. These are investments originating from developed countries to developing countries, which are also led by the cost principle, while a relative abundance of human capital can play an important role.

Mixed FDI includes investments that are not purely neither horizontal nor vertical. They include the internationalization of activities that reduce risk, but that does not generate visible positive synergies on the cost and yield side. The company's management is strongly motivated to reduce a specific risk of a company, in which case a mixed FDI is a smart choice. However, decisions on investments abroad are often determined by a combination of factors, so one location may have competitive advantages because of cost or because of the large domestic market.

FDI can also be classified as greenfield investments, brownfield investments and mergers and acquisitions.

Greenfield investments are a form of investment funds in the construction of new, or expansion of existing facilities, where the investor agrees to build new buildings, halls, factory plants on the leased land. These investments are very attractive for countries in transition because they allow the transfer of technology and know-how, new jobs and production capacity. However, the effects on the host country may be negative because the MNCs, that are able to produce considerably

cheaper products, could displace domestic industry that is unable to withstand the high competitive pressure.

Unlike greenfield investments that are a completely new investment, brownfield investments represent taking over existing companies or their parts. In this case, the investor buys all the land and all facilities that were used for production.

Merger refers to the joining of two or more companies, while one company remained unchanged until the second or other cease to exist. Companies that cease to exist transfer its rights and obligations to the new company. The result of mergers is expanding production capacity and more competitive newly created company. There are following types of mergers, depending on the relationship of the companies before the merger:

- horizontal merger - formed by the integration of the company that produced or sold the same or similar products and were in a competitive relationship,
- vertical merger - formed by the integration of the companies that participated in and the different stages of production or sales of the same product,
- conglomerated merger - formed by the integration of companies that previously did not operate in the same or similar activities.

The acquisition represents the purchase of one company by another, whereby the buyer assumes all assets and liabilities of the purchased company. We can distinguish a friendly acquisition, in which both parties participate in the negotiations and purchases is realized by mutual benefit, and a hostile acquisition, whereby the buyer does not inform the company of another purchase intent. When we talk about which form of FDI has a greater effect on economic growth, Neto et al. (2008) proved that whereas greenfield investments exert a significant and positive influence on economic growth in both developed and developing countries, mergers and acquisitions tend to have a negative effect on economic growth in developing countries, and no effect in developed countries.

Which form of direct investment the foreign company chooses will depend on several factors: their own desires, interests and objectives, the available options, specific political and economic situation in the country, development of the economy that is attempting to invest in, etc.

## **THE EFFECTS OF FOREIGN DIRECT INVESTMENT ON THE HOST COUNTRY**

The effects of FDI are generally positive and mutual, for the host country and the investor. FDI brings a whole range of direct but also indirect effects in the host country. However, all these positive effects will not be achieved if someone does not know how or when to do it. In addition to the positive spillovers of knowledge and technology, as a key factor stands receptive capacity of the domestic human

capital (Antevski, 2009). In the literature, we find the following direct and indirect positive and negative effects of FDI inflows.

Kurtishi-Kastrati (2013) points out following direct effects:

1. Transfer of capital, technology and management.
  - MNCs contribute to economic growth via FDI in the host country, not only by providing capital but also by crowding-in additional domestic investment, as it increases the total growth effect on FDI. For example, Feldstein (2000) emphasizes a number of advantages that are related to unrestricted capital flows, such as: international flows of capital reduce the risk faced by owners of capital by allowing them to diversify their investments; the global integration of capital markets can contribute to the spread of best practices of corporate governance, accounting rules, and legal traditions; the global mobility of capital limits the ability of governments to pursue bad policies.
  - MNCs, with FDI, also bring technology that is more advanced and environmentally cleaner. And since the effect of technological progress on economic growth is more widely accepted with the formation of the endogenous growth theory, we can say that inflow of this technology promotes economic development and industrialization.
  - In addition to capital and technology, FDI can bring in the host country management and knowledge that will be transferred through training of the workforce. Lall and Streeten (1977) emphasize three kinds of managerial benefits: managerial efficiency in operations arising from better training and higher standards; entrepreneurial capability in seeking out investment opportunities; externalities arising from training received by employees.
2. The effects on employment. The impact of FDI on employment can be direct and indirect. Direct effects occur when MNCs employ workers in newly opened factories. Indirect effects occur when new jobs are created in local factories that are suppliers of a new factory, or when new jobs are created as a result of increased local demand for employees in the new factory. The effect on employment, either direct or indirect, is considered one of the most prominent effects of FDI on the host country. However, studies have shown that this effect is greater in developed than in developing countries.
3. The balance of payment effects. There are several ways in which FDI can affect the balance of payments of the host country. First, the one-time effect in the form of capital inflows. Then, it comes to improvement of the balance of payments position if FDI is a substitute for imports of goods and services. Finally, profit generated by FDI increases revenue from corporate income tax in the host country.
4. Effects on international trade. FDI can increase the volume of exports from the host country if the use of FDI is oriented on manufacturing products for



export. For example, Blomström and Kokko (1996) analyzed empirical evidence of FDI on host country effects and came to the conclusion that global companies played an important role in export growth in their host countries. However, the authors found that the precise nature of the impact of FDI varies between industries and countries.

5. The effects on competition. FDI and the presence of MNCs can accelerate economic development through encouraging domestic competition, thus leading to greater productivity, lower cost and more efficient allocation of resources.

Besides the above-mentioned direct effects of FDI on the host country, studies have shown that FDI produced a series of indirect effects. This phenomenon is called the spillover effect. This effect occurs when a company that was formed with the help of FDI produces certain benefits for other stakeholders, without being able to appropriate them or collect the full market price for them. These benefits are called positive externalities. As well as direct effects, the spillover effects largely depend on the absorption power of the host country.

When it comes to FDI and the spillovers, it is usually emphasized the positive spillovers of technology and knowledge, as both are a public good and cannot be completely contained as property MNCs. Blomstöm (1991) mentions the spillover effects by the company to its competitors (intra-industry spillovers) and to its suppliers and customers (inter-industry spillovers). There are several ways intra-industry spillovers can be developed. One of them is the increased competition pressure on domestic firms which, entering more competitive foreign firms, will be motivated to adopt more efficient methods of doing business. Another way of intra-industry spillover relates to workforce training and management in MNCs that may become available for the entire economy. Another way of this kind of the spillover is technology transfer. However, the level of technology spillover depends on the host country characteristics. Borensztein et al. (1995) suggest technology spillover is only possible if there is a minimum of human capital in the host country. To a large extent, the host country's technological capability, in terms of a well-educated workforce, determines what sort technology is possible to transfer. For example, the cost of transferring specific technologies decreases with increasing capabilities in the host economies. The other mentioned channel is the inter-industrial spillover and it refers to the benefits that local suppliers and customers of MNCs can have. The inflow of new technologies can stimulate local suppliers to improve the quality of its product and reduce costs. However, as Blomstöm (1991) suggested, before drawing strong conclusions about inter-industry spillovers, more research is needed.

The negative effects on the host country are following (Kurtishi-Kastrati, 2013):

1. The negative effects on employment in the form of rising unemployment as a result of downsizing.
  2. The negative effects on competition. Foreign MNCs may have greater economic power than local competitors. In this case, MNCs may be able to draw on funds generated elsewhere to subsidize its costs in the host market, which could drive local companies out of business and allow the firm to monopolize a market.
  3. Negative effects on the balance of payments can occur in two ways. First, in the case of FDI inflow of capital which will be later, in the form of profits, outflow from the host country of the parent company. Another negative effect on the balance of payments occurs when MNCs purchased inputs from abroad.
- Aničić et al. (2011) also mentioned some negative effects on the host country:
1. reduction, rather than increasing, domestic savings and investments, including the impact on GNP through the repatriation of profits,
  2. crowding out local companies from capital markets,
  3. rising unemployment as a result of downsizing,
  4. increased demand for foreign currency and the appreciation of the exchange rate,
  5. support to local monopolies and the creation of new,
  6. disturbance of regulation,
  7. creation of instability through increased financial risks in the market,
  8. efforts to protect annuity of technology instead of technology transfer.

In addition to these negative economic effects, there are also non-economic effects that have a negative impact on the host country, namely: environmental pollution, degradation of natural resources, inhumane working conditions and so on. Underdeveloped countries that are scarce in capital often accept these negative effects as a compensation for a number of positive effects that are expected from FDI.

## **REVIEW OF EMPIRICAL RESEARCH**

Previous empirical research on the relationship between FDI and economic growth are numerous. However, the results and conclusions obtained in studies of the effects that FDI has on economic growth are far from uniform. Although not the only, GDP is usually taken as an indicator of economic growth of the country. Using a different methodology and data, a large number of researchers have shown that there is a positive impact of FDI on economic growth. One of the earlier studies are conducted by Borensztein et al. (1995) and the authors came to the conclusion that FDI is an important channel of technology transfer and contribute to economic growth to a greater extent than domestic investment. Also, the contribution of FDI to economic growth is higher if it is interacting with the human

capital in the host country. Their results indicate that FDI is more efficient than domestic capital only if there is a minimum threshold stock of human capital in the host country. They also investigated the effect of FDI on domestic investment, namely, whether the inflow of foreign capital crowds-in or crowds-out domestic investment. In theory, the effect could have either sign: MNCs may displace domestic firms by competing in product and financial markets. On the other hand, FDI can contribute the expansion of domestic firms by complementarity in production or by increasing their productivity through advanced technology spillover effects. The results of their research show a crowding-in effect: a one-dollar increase in total net FDI inflow leads to the increase in total investment in the host country of more than one dollar. Therefore, the authors come to the conclusion that FDI, in addition to its effect on technological progress, contributes to economic growth by increasing total capital accumulation in the host country.

A number of authors have investigated a link between FDI and economic growth of transition countries. For example, Stanišić (2008) in his research came to the result that there is no positive correlation between FDI and economic growth in Southeastern European transition countries, using data from 1997 to 2006. A possible explanation for this negative correlation could be in the process of transition. Because of the structural reforms in these countries, there is a decrease in productivity and employment in inefficient domestic firms. This drop can neutralize or even overcome the positive effect of FDI on economic growth. For these reasons, a positive relationship between FDI and economic growth was not found. Nestorović (2015) examined the contribution of FDI to the economic development of sixteen transition countries with the regression analysis. The results obtained show a positive impact of FDI on economic growth, but given that correlation is not statistically significant, the impact is not large. Ivić and Mitić (2015) also investigated the way in which FDI can affect the transition countries. They used correlation analysis between FDI and GDP for eleven transition countries in the period from 1993 to 2013. The authors come to the conclusion that there is a significant level of connection between FDI and GDP, namely: FDI inflows are more favorable channel of foreign accumulation compared to conventional loans in the international financial market, and that countries that have used the FDI achieved faster economic growth, as well as many other positive effects such as new jobs, improvement of trade and balance of payments, faster integration of domestic economy in the international market etc.

It is worth noting that the results of some studies indicate the existence of a negative correlation between FDI and economic growth. In a study by Carkovic and Levine (2002), it was concluded that FDI does not have a robust independent influence on growth. They used the Generalized Method of Moments (GMM) panel estimator to extract consistent and efficient estimates of the impact of FDI flows on economic growth. Unlike past work, the GMM panel estimator exploits

the time-series variation in the data, accounts for unobserved country-specific effects, allows for the inclusion of lagged dependent variables as regressors, and controls for the endogeneity of all the explanatory variables, including international capital flows (Carkovic and Levine, 2002). By accounting for simultaneity, country-specific effects, and lagged dependent variables as regressors, the authors found that there is not reliable cross-country empirical evidence supporting the claim that FDI per se accelerates economic growth. Herzer (2012) also proved the lack of positive correlation between FDI and economic growth in the case of 44 developing countries over the period from 1970 to 2005. However, there are large differences in the effect of FDI on economic growth across countries. More specifically, an increase in the FDI-GDP ratio is associated with a long-run decrease in GDP in about 60% of the countries, while in about 40% of the cases, an increase in the FDI share is associated with a long-run increase in GDP. In general, regardless of the sign, the effect is small.

When it comes to examining the relationship between FDI and economic growth in the EU countries, there is no great amount of papers, as in the case of developing countries. Moudatsou (2003) examined the effects of FDI on economic growth in the EU and came to the conclusion that there is a positive effect of FDI on economic growth, both directly and indirectly (through trade reinforcement). The results showed that these effects, unlike in developing countries, are unconditional and does not depend on the level of human capital. Tang (2015), opposite to Moudatsou, found no evidence that FDI contributes to economic growth in the EU.

### **FOREIGN DIRECT INVESTMENTS AND GROWTH IN THE EUROPEAN UNION - CORRELATION AND REGRESSION ANALYSIS**

There are three main statistical and analytical indicators related to FDI: flows, stocks and income (Antevski, 2008, p. 135).

- FDI flows represent new investment over the period (usually a year). Total flows are divided by instruments that were used for investment: equity (ownership in subsidiaries), and shares in subsidiaries and associated companies; reinvested earnings as part of earnings that is not distributed to investors; other FDI capital (borrowing and lending of funds, debt instruments and commercial loans between investor and direct investment company).
- FDI stocks represent the value of existing investments at end of period (usually a year) and are classified into two categories: equity and reinvested earnings, which includes the value of the company's own equity, including the value of its own reserves accumulated from earlier reinvested earnings; other FDI capital

which is a debt stock between the direct investor and the direct investment company.

- FDI income is attributable to direct investors during the given period, i.e. income increase. It is divided into three categories: dividends payable in the given period and affiliates profits remitted to the direct investor, without deduction of income tax; reinvested earnings; and interest on loans, which account for the interest accrued during the given period to the loans given to the affiliates, without deduction of income tax.

The intensity of FDI, measured as a percentage of GDP, is also a very important indicator. It represents a ratio of the average inward and outward FDI flows and GDP. However, in theory of international trade, the most used indicator is FDI flows. Therefore, as a macroeconomic indicator, the subject of our interest is the FDI inflows and their effect on GDP.

Flows (inflows and outflows) of FDI are given in table 1. As we can see from the table 1, in the initial years of the observed period inflows and outflows of FDI increased continuously. This trend will continue until 2007, while in 2008, a slight drop in FDI was recorded. This decline is due to the global economic crisis that occurred in early 2008 and which extended from the US to the rest of the world. It affected all segments of the economy, including FDI. Negative trend of FDI continues in 2009 when FDI decreased dramatically by more than 50%. In 2010, a slight increase of FDI was recorded. This increase continues in 2011. However, due to the second wave of the crisis and the specific financial and fiscal crises that have affected certain Member States, in particular, Greece, a fall in FDI was recorded.

Table 1: Flows of FDI in the EU in US\$

<b>YEAR</b>	<b>FDI (INFLOW)</b>	<b>FDI (OUTFLOW)</b>
2005	924.875.214.746	1.023.675.620.199,1
2006	1.072.987.793.742	1.306.686.744.900,8
2007	1.627.218.911.944	1.975.551.467.698,6
2008	1.077.163.479.058	1.526.594.563.398,3
2009	445.477.851.651	456.998.260.065,9
2010	601.531.671.139	685.723.535.167,3
2011	841.462.619.729	939.888.911.166,3
2012	699.863.771.796	627.073.522.000,8
2013	602.625.694.505	596.152.199.722,9
2014	376.238.986.036	348.508.532.921,3
2015	421.321.358.835	440.302.393.466,8

Source: Worldbank (<http://databank.worldbank.org/data/reports.aspx?source=world-development-indicators> Accessed 22.09.2016.)

Source: Author's calculation

Table 2 shows the results of descriptive statistics based on data from table 1.

Table 2: Descriptive statistics (FDI inflow and FDI outflow)

	N	Min	Max	Mean	Std. Deviation	Variation Coefficient (%)
FDI INFLOW	11	376.238.986.036	1.627.218.911.944	790.069.759.380	372.678.378.993,12	47,17
FDI OUTFLOW	11	348.508.532.921,3	1.975.551.467.698	902.468.704.609,2	515.372.445.962,27	57,10
Valid N	11					

According to the results of descriptive statistics, it can be seen that in the analysed period there is a higher minimum value of FDI inflow than FDI outflow. However, greater maximum and mean values of FDI outflow than FDI outflow are recorded in the period from 2005 to 2015. The calculated value of the variation coefficient shows that there is more variability of FDI outflow in relation to FDI inflow in the EU in the analysed period.

Table 3 presents the GDP and the GDP growth rate for the EU for the period from 2005 to 2015. As in the case of FDI, the global economic crisis has had an impact on GDP, so in 2008 decrease in the GDP level was recorded. Thus, already in 2009, significant consequences of the global economic crisis affected the EU economy, so GDP declined by about 1.069 million US\$. Besides the global economic crisis, the decline of the GDP is due to the Eurozone debt crisis, and especially due to problems that occur in Greece, Spain and Italy due to implementing austerity measures in the public sector.

Table 3: GDP in US\$ and annual GDP rate in the EU

<b>YEAR</b>	<b>GDP</b>	<b>GROWTH (%GDP)</b>
2005	14.334.011.439.138,0	2,09
2006	15.295.130.473.683,3	3,39
2007	17.685.550.146.489,5	3,12
2008	19.029.134.448.898,9	0,50
2009	17.020.888.550.380,2	-4,39
2010	16.946.058.883.844,3	2,08
2011	18.321.253.083.347,7	1,76
2012	17.249.382.954.724,7	-0,48
2013	17.986.267.255.955,0	0,19

2014	18.516.744.672.413,1	1,36
2015	16.229.464.160.142,9	1,95

Source: Worldbank (<http://databank.worldbank.org/data/reports.aspx?source=world-development-indicators> Accessed 22.09.2016.)

Table 4 shows the results of descriptive statistics based on data from table 3.

Table 4: Descriptive statistics (GDP and GDP growth rate)

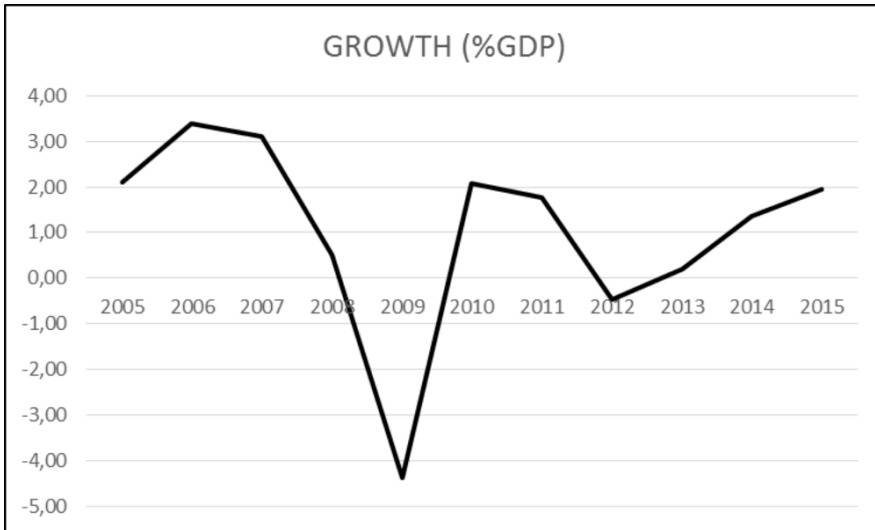
Source: Author's calculation

	N	Min	Max	Mean	Std. Deviation	Variation Coefficient (%)
GDP (% OF GROWTH)	11	-4,39	3,39	1,05	2,15	204,7
GDP	11	14.334.011.439.138	19.029.134.448.898	17.146.716.915.364	1.415.728.323.639	8,25
Valid N	11					

Results of descriptive statistics in Table 4 show that recorded negative GDP growth rate in the European Union in the observed period was up to -4,39, the maximum growth rate was 3,39, while the average rate of growth was modest and amounted to 1,05. When it comes to the absolute value of GDP, any significant difference between the minimum and maximum values has not recorded. Also, the value of GDP has significantly less variability measured by the coefficient of variation as compared to all other observed variables (GDP growth rate, but also FDI inflow and FDI outflow).

Graph 1 has been derived based on the GDP changes from table 3 and it shows the movement of the GDP growth rate in percentage.

Graph 1: GDP trend (growth in %)



Source: Worldbank (<http://databank.worldbank.org/data/reports.aspx?source=world-development-indicators> Accessed 22.09.2016.)

As we can see on the graph 1, the GDP growth rate has been growing constantly until 2007. Big drop to only 0.5% was recorded in 2008, a year after the global economic crisis emerged in the US. However, it is still positive, even though the EU economy, due to the expansion of the US crisis already operates in difficult circumstances. The negative growth rate of -4.93% recorded in 2009, tells us that the EU economy was in a serious economic crisis. The crisis has altered the perspectives of investors regarding the risk associated with developed economies (Bitzenis and Vlachos, 2016, 118). We can see from table 1 that FDI inflows had risen in 2010, which, along with other factors, reflected positively onto GDP growth rate. Thus, in 2010 a growth rate of 2.08% was recorded, which represents a major step forward compared to the previous year. The negative growth rate was again recorded in 2012 due to the aforementioned second wave of the crisis, but at significantly higher level than in 2009. Already in 2013, the EU economy has recovered, and positive growth rate was recorded, which has continued to grow ever since.

For the purposes of correlation and regression analysis in this paper, we will use the inflow of FDI and the value of GDP as a determinant of economic growth. The starting hypothesis of this paper is the assumption that FDI has a positive effect on the movement of GDP, and thus on economic growth.

Table 5 presents the analysis of the interdependence between FDI inflows and GDP in the EU. Interdependence is tested by calculating the Pearson correlation coefficient between these variables.



Table 5: Results of correlation analysis

FDI		GDP
	Pearson Correlation	-0.031
	Sig. (2-tailed)	0.927
	N	11

Source: Author’s calculation

The calculated value of the Pearson correlation coefficient indicates that there is a negative interdependence between the inflow of FDI and GDP in the EU, in the observed eleven-year period (2005 to 2015). The value of the Pearson correlation coefficient is -0.031. The obtained results are not statistically significant, and they are valid only for the analysed period in the selected group of countries.

Table 6 shows the results of the examination of the impact of FDI inflows on the value of GDP in the period from 2005 to 2015 in the EU.

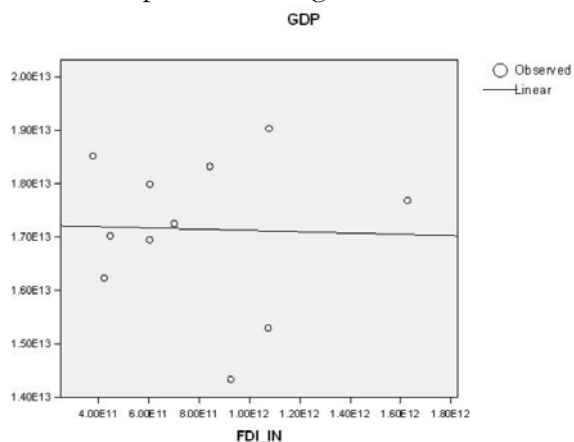
Table 6: Results of regression analysis

Model		Unstandardized Coefficients		Standardized Coefficients	t	Sig.
		B	Std. Error	Beta		
1	(Constant)	17240748400295.890	1096424634966.456		15.725	0.000
	FDI INFLOW	<b>-0.119</b>	1.266	-0.031	-0.094	0.927

Note: Dependent variable GDP; R<sup>2</sup>=0.001

Source: Author’s calculation

Graph 2: Linear regression model



Source: Author’s presentation

The results of simple regression analysis (Table 6 and Graph 2) indicate that  $B = -0.119$ , meaning that there is no positive effect of FDI on the value of GDP in the EU in the observed period. According to this result, it can be concluded that the initial hypothesis of the research is rejected.

The specificity of the observed period from 2005 to 2015 can be another limitation of the research. The global economic crisis in the mentioned period can be a potential cause of the given negative correlation and regression coefficients. By calculating the Pearson correlation coefficient between FDI inflow and GDP in the years before the crisis (from 2005 to 2008) leads to its value of 0.477. The positive value of the Pearson correlation coefficient of 0.288 is obtained also if we observe the relationship between FDI inflow and GDP in the years during and after the global economic crisis (from 2009 to 2015). Due to an even shorter period of observation, the values of the coefficients are not statistically significant, but it indicates a possible cause negative correlation between FDI inflow and GDP in the conducted research based on data on the observed variables in the period from 2005 to 2011.

## CONCLUSION

The investments represent an important incentive factor for economic growth and development of any economy. In this circumstance, it is not essential whether the investments are domestic or international, especially for open economies such as the economies of the EU. However, it is believed that FDI is a major constituent of a total investment, therefore being more desirable than domestic investment since they bring numerous other benefits to the host country as well.

The initial hypothesis of the research is that FDI has a positive effect on economic growth. This relationship between FDI and GDP, as a measure of economic growth, was investigated by correlation and regression analysis. Interdependence between these two variables is tested by calculating the Pearson correlation coefficient. The negative value of the Pearson correlation coefficient (-0.031) tells us that there is no positive relationship between these variables. Also, the negative value of the regression coefficient ( $B = -0.119$ ) shows that there is no positive impact of FDI on economic growth in the EU, thus the initial hypothesis is rejected. Obtained results are not significant and should be taken with caution because of the short period of observation (only eleven years). The global economic crisis in the reporting period can be one of the causes of the given negative coefficients.

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### **UTICAJ STRANIH DIREKTNIH INVESTICIJA NA EKONOMSKI RAST EVROPSKE UNIJE**

*Apstrakt:* Strane direktne investicije se posmatraju kao glavni mehanizam za razvoj i koje, zajedno sa međunarodnom trgovinom, predstavljaju temelj otvorenog i uspešnog međunarodnog ekonomskog sistema. Ovaj rad istražuje uticaj koji strane direktne investicije imaju na ekonomski rast u slučaju Evropske unije (EU). Polazna pretpostavka ovog rada je da strane direktne investicije imaju pozitivan uticaj na ekonomski rast. Korelaciona i regresiona analiza su korišćene da se ispita međuzavisnost stranih direktnih investicija i bruto domaćeg proizvoda, kao mere ekonomskog rasta. Rezultati istraživanja pokazuju negativnu međuzavisnost stranih direktnih investicija i bruto domaćeg proizvoda, kao i da ne postoji pozitivan uticaj stranih direktnih investicija na vrednosti bruto domaćeg proizvoda u EU u posmatranom jedanaestogodišnjem periodu (od 2005. do 2015. godine).

*Ključne reči:* strane direktne investicije, ekonomski rast, Evropska unija, multinacionalne korporacije, zemlja domaćin, efekti preliivanja.

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## **BREXIT PHENOMENA AND THE EU CANDIDATES FROM THE WESTERN BALKANS: OPPORTUNITY FOR ACCELERATED INTEGRATION, TYPICAL STATUS QUO OR LONG TERM EXPECTATIONS**

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*Abstract:* Great Britain's influence in the process of European integration of the Western Balkans is very notable, but it is not crucial. Although the Foreign Office of Great Britain is working toward further horizontal integration of the European Union, this country does not have any vital interest in the eventual accelerated integration of Western Balkan candidates. The main point of this article is the role of Great Britain in the process of accession of Western Balkan candidates (Albania, Bosnia and Herzegovina, Macedonia, Montenegro, Kosovo\*<sup>2</sup> and Serbia)<sup>3</sup>. The aim of this article is an attempt to analyze the influence of referendum in Great Britain and its potential exit from the EU on the process of Western Balkans integration. Through consideration of the regional and internal challenges among Western Balkans candidates, the goal is to answer whether actual stagnation of mentioned candidates is due to local disputes or because of the causes within the EU. In addition, in this article, the author will put emphasis on the role of other member states of the EU, which are also focused on the process of Western Balkans integration. The results of the referendum in the United Kingdom have been highly rated in the local media and within the circles of political elites from the Balkans, but from the realistic point of view, such results will not have any dominant influence in the process of accelerating or slowing the integration of the Western Balkans within the EU. The essential aim of the article is to prove that structural problems within the EU and referendum in Great Britain

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<sup>2</sup> The status of Kosovo is regulated under the Resolution 1244, adopted by the Organization of United Nations - Security Council.

<sup>3</sup> Republic of Macedonia, Republic of Serbia, Republic of Albania and Republic of Montenegro are in the status of candidates of EU. Kosovo\* and Bosnia and Herzegovina are in the status of potential candidates of EU.

should not be an additional barrier on the European path of the Western Balkans. The future of European integration of Western Balkan candidates still depends on the dynamic of reforms and concrete measures on the internal and regional level in accordance with the policy of the EU.

*Key words:* Western Balkans, European Union, Great Britain, Integration, Migration, Referendum, European institutions.

## INTRODUCTION

The process of Europeanization and European integration of the Western Balkans *de facto* exists from the period of disintegration of the former Yugoslav federation. Each former republic, which was part of the Yugoslav federation, after the declaration of its independence, has adopted declarations that represented an affirmation of European and Atlantic integration. Such initiatives and measures were strictly supported, especially within the political elites in Slovenia and Macedonia. Serbia, Croatia, Bosnia and Hercegovina, Kosovo\* and Montenegro were also interested in membership in the European Union, but due to civil war conditions their path toward mentioned organization was questionable and conditioned by the processes of establishing peace and stability in the regional context. From the other side, European officials and political elites from the member states of the European Union were also interested in the integration of the Western Balkan region, but they still have not had clear perspective and strategy how to create a framework for the integration of the Western Balkans.

From today's point of view, for European officials of crucial importance was establishing peace in the region and then a discussion about eventual European perspectives. Also, nowadays we can read a numerous articles which are evaluating the role of the European Union in the Western Balkans, during the nineties, as an inadequate and inefficient, but if we examine the mentioned period from the realistic point of view, we can notice that the role of the EU during the mentioned period was in accordance with its objective possibilities and mechanisms. European diplomatic mechanism as a soft power in cooperation with the diplomatic service of the United States of America has played the key role in the process of pacification of the Western Balkans. They were aware that European integration of the Western Balkans was an unreal process if comprehensive peace and stability at the regional level were not adopted. Later, adoption of the Copenhagen criteria was one more clear message from Brussels that the process of European integration is conditioned by the process of regional integration, and the last one should be a logical sequence after establishing sustainable peace and stability. The basic requirement necessary to obtain membership in the EU is to fulfill the conditions defined by Article 49 of the Treaty of European Union (TEU), supplemented later with the Copenhagen criteria (Sadowski & Mus, 2008, p.15).

The process of European integration in the region of the Western Balkans has officially started with the establishment of the mechanism for stabilization and association (SAA). Mentioned process was established as an instrument, which will accelerate the process of integration of the Western Balkan states (minus Slovenia, plus Albania). The Republic of Slovenia was already in the deeper stage of integration in comparison to the other states, which were included in the stabilization and association process. At the beginning of the XXI century, in the region of Western Balkans exists strong belief that the process of European integration will be difficult and with many barriers, but also that its end is visible in the next ten years. Postwar political elites were convinced that they are able to close all open internal and regional issues, thus it will allow them to lead their countries to European membership in the visible future. During the first years of XXI century, the process of European integration of the Western Balkans was accelerated from both sides. Political leaders from the Western Balkans were intensively working on accomplishing policies in accordance with European recommendations and from the other side, European leaders were preparing concrete agenda of the process of integration of the region. The concrete example about it represents the Thessaloniki agenda, which was adopted during the Summit of European Union in Greece from 2003. Mentioned agenda clearly states that European member-states are dedicated to the further integration of the Western Balkans within the Union, but also emphasizes that European integration does not mean only fulfilling the political criteria, but also accomplishing standards and levels that are in accordance with the Copenhagen criteria and with member-states. The Thessaloniki agenda represents a typical credit for the Western Balkan states. This agenda shows the interest by the officials in Brussels for integration of mentioned region, but that does not mean guaranteed membership.

The policy of conditionality continues to be a major mechanism for new candidates on their road to the door of Europe. Continuity of such trend was not for a long term. Regional issues within the Western Balkans, lack of cooperation on the regional level, mistrust between local political elites and adoption of European measures only on the legislative level without implementation in practice became internal barriers on the European path. Extremely bad economic performances of the Western Balkan states and lack of a comprehensive strategy that will allow alternatives for recovery were also a point of contention in the process of European integration. Such circumstances on the regional level also create new discourses within European countries. According to public opinion within the European Union, the number of citizens who are interested in further horizontal integration is lower than those who are against it.<sup>4</sup> After the referendum

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<sup>4</sup> The EU maintains that the enlargement door remains open to any European country that fulfills the EU's political and economic criteria for membership. Nevertheless, some European



in France, European citizens have become more and more unfavorable to the process of accession of new members. Even if the accession track remains open to the remaining countries in the Balkans, the process is often derailed not just by outstanding challenges pertaining to the region, but also by hurdles which develop within the Union – more specifically within the member states (Balfour & Stratulat, 2015, p. 1) The question which still stays open is will the European Union succeed in reforming one of the most complex regions in Europe, or will it fail and lose the credibility it needs to become a great power (Perco, 2011, p. 1)?

### **THE ROLE OF GREAT BRITAIN IN THE PROCESS OF WESTERN BALKAN INTEGRATION**

Great Britain in the case of Western Balkans integration has a huge influence, but their foreign strategic interests are not strictly directed toward mentioned region. British Foreign Office continuously points out the importance of further integration of the European Union, but in the case of the Western Balkans, they lead a strict policy. From the beginning of the nineties, Great Britain was interested in conflict prevention and possible alternatives for stabilization. London's leaders were aware that the region of Western Balkans does not represent backyard of Britain's security sphere, but they also have had in mind the fact that further destabilization of the region could lead to instability on the borders of the European Union. In such circumstances, the official policy of Great Britain was interested in finding rapid solutions for conflict prevention. From the election of Toni Blair as a Prime Minister, in 1997, the United Kingdom adopted a more clearly interventionist approach toward the Balkans (Balfour & Stratulat, 2015, p. 55). Great Britain was interested in the further integration of the European Union but only as an opposite side of the policies of Germany and France, which were interested in the process of deeper (vertical) integration. According to Britain's policy within the European Union, horizontal widening of the Union represents a natural process, while the process of deeper integration is the only logical sequence and under the influence of given opportunities. During the nineties, the influence of Great Britain in the Western Balkans region, we can concretely notice in the processes of solving the question of Bosnia and Hercegovina and the armed conflict in Kosovo\*. Contemporary example of the Britain's role in Bosnia and Hecegovina was from November 2014, when Britain and Germany joined forces to unveil a 'New

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leaders and many EU citizens are cautious about additional EU expansion, especially to Turkey or countries farther east, such as Georgia or Ukraine, in the longer term. Worries about continued EU enlargement range from fears of unwanted migrant labor to the implications of an everexpanding Union on the EU's institutions, finances, and overall identity. (Archick, 2016, p. 7)

Strategic Approach’ to reinvigorate the Bosnia’s EU accession process (Balfour & Stratulat, 2015, p. 56) In the case of Kosovo\*, the role of Great Britain was even more noticeable. The United Kingdom led the call for NATO air strikes against Serbia (Balfour & Stratulat, 2015, p. 56) during the war in 1999. Thereafter, in 2006, as the UN talks to decide Kosovo’s\* future status began, Britain was the first major state involved in the process as a part of the six- nation Contact Group – comprising Britain, France, Germany, Italy, Russia, and the United States – to openly assert that it believed that there was no alternative to independence (Balfour & Stratulat, 2015, p. 56). Except for the Britain’s direct influence in the cases of Kosovo\* and Bosnia and Herzegovina, official London did not take over any concrete action toward other EU candidates from the Western Balkans (Albania, Macedonia, Montenegro) in their processes of European integration. As an example, in the case of the Republic of Macedonia, while the UK led the way in calling for it to be given candidate status during its presidency in 2005, it has not emerged as a particular advocate for its EU membership since then. In particular, it has not done anything to try and break the deadlock between Skopje and Athens over the name issue (Balfour & Stratulat, 2015, p. 57). Although Great Britain was firmly dedicated to further European integration with new member states, after the admission of new member states from 2004, the citizens of Great Britain, but also citizens of other member countries of the EU have become skeptical about the next steps in the process of integration.

The real problem between European society and within the governments of member-states have become the policy of migration. The principle of free movement and transparent trade competitiveness was made under question after the accession of Romania and Bulgaria. Unstable economic performances in Romania and Bulgaria and extremely high rate of unemployment have led to dangerous processes of immigration. The people from mentioned countries have started to move toward developed European member-states. In that period, Great Britain was also on the map for the people who were seeking for better life conditions. In a speech before British business leaders, in November 2012, Ed Miliband, the former leader of the Labour Party, nevertheless stated that (Balfour & Stratulat, 2015, p. 59), “while enlarging the EU was good for Britain’s strategic interest, frankly, the way that we handled immigration without transitional controls increased scepticism here in Britain” (Balfour & Stratulat, 2015, p. 59). In the case of the Western Balkans, the situation is also questionable if we take into account political and economic performances. But the administration in London should be less concerned about eventual migration consequences from eventual European membership of Western Balkan candidates. Britain actually tends to be relatively low in the list of preferred destinations for the Balkan countries (Balfour & Stratulat, 2015, p. 59). While the rest of the European Union has introduced visa

liberalisation for almost all of the Balkans (Kosovo\* is the exception), the United Kingdom has kept strict limits in place (Balfour & Stratulat, 2015, p. 59).

### **REFERENDUM IN GREAT BRITAIN AND THE ACCESSION OF THE WESTERN BALKANS**

According to the chief of the team for accession negotiations of the Republic of Serbia in the EU, Tanja Miscevic, there are opinions that new energy for new member-states will be released as a consequence of Britain's leaving the Union. (Miscevic, 2016, Pressing/Video). Local media were very interested about the referendum in Great Britain. They have noted that after the huge economic crisis within European countries, eventual leaving the Union by the United Kingdom will influence negatively on the process of the Western Balkans integration. Experts and those well-versed in the matter warn that Great Britain's decision to leave the EU will have a negative impact on the accession of Serbia and other Western Balkan countries: they agree it will slow the accession down, but not stop it completely (EurActiv.rs, 2016, p. 1) From the other side, as we specified in the previous section, Great Britain has not had comprehensive and clear approach in the case of the Western Balkans integration. London has interest about Kosovo\* question and the future of Bosnia and Herzegovina, but its administration did not show any special commitment toward another candidate-states. To be more clear, leaving the European Union by the Great Britain will not influence directly the Western Balkans integration. From the institutional point of view, such process will contribute to essential internal turbulences within the European Union and it could change the focus of European institutions, in the case of the Western Balkans it will mean less dedication from Brussels toward acceleration of the integration process.

After the decision of the British electorate which has voted for the Britain's leaving the European Union, political leaders from the Western Balkans have commented such decision from two perspectives. First, they have agreed that Western Balkans candidates are going to lose strong supporter for European integration of the mentioned region. Second, they are almost convinced that Britain's results of the referendum will be an opportunity for Western Balkans candidates from the point that the EU institutions in the future will direct its focus toward accelerated integration of new member-states. "Despite the Brexit, Western Balkans candidates are closer to the EU" is the title of an article in the newspaper *Frankfurter Allgemeine Zeitung*. Britain's leaving the European Union could accelerate rather than slow down the Serbia's entry into the EU. This was an unexpected result of the conference on the Western Balkans recently held in Paris (Economy.rs, 2016, p. 1). The biggest fear is that Brexit will lead to a growth of Eurosceptic, populist, right-wing or extremist party politics and sentiment across the region, in line with what has happened in Central Europe (Butler, 2016, p. 1).

University professor and former minister of foreign affairs of the Republic of Macedonia, Denko Maleski, says that Brexit represents a sad day for Europe and it will disturb the balance of power between the big member-states of the Union. Maleski considers that the leaving of the Great Britain means nothing good for the Balkans because, according to him, the British government was a leader in the process of accession of new member states, unlike the Germans and French which were insisting on internal integration (Kuka, 2016, p. 1).

From the other side, Brexit will not worsen the chances of the Western Balkans on their way to becoming full members of the European Union. "Their perspectives are not changed," confirmed at the conference in Paris, German Chancellor Angela Merkel. All the promises given to those countries before the recent referendum should be met despite the British "no" (Matić, 2016, p. 1). Also, French president Fransoa Oland confirmed that the European Union will keep its promises given to Western Balkan candidates. "We are continuing to work on stability and security in the Balkans and we are saying to the countries of the region that the process of accession continues", said French president at the Summit on Western Balkans, held in Paris (Sandić-Hadžihasanović & Martinović, 2016, p. 1). "The EU remains committed to the process of accession new member-states and there is no doubt. We will continue the work that we have started, taking into account the fact that mentioned work is not close to completion," said Johannes Han, Commissioner for European Neighbourhood Policy & Enlargement Negotiations (Mondo/Agencije, 2016, p. 1). From today's point of view Brexit will not have any direct influence on the processes of European accession of the Western Balkan candidates, respectively Serbia, Bosnia and Herzegovina, Macedonia, Montenegro, Albania and Kosovo\*. As we have noted, it will contribute to the process of slowing down the Western Balkans accession within the EU, but it will happen only because the European construction will have one of the most challenging tasks in its existence, how to secure stable and economically sustainable exit of Great Britain, without consequences that can lead to domino effect.

## **WESTERN BALKAN CANDIDATES AND THEIR INTERNAL CHALLENGES**

In this article when we are talking about Western Balkan candidates, we are focusing on the states which are in the process of European integration from that region. Albania, Kosovo\* Bosnia and Herzegovina, Macedonia, Montenegro and Serbia are countries which are still far enough from the full EU membership, but it does not mean that their perspectives are bleak. Those countries are facing similar problems and issues on the internal and regional level. Similar questions and challenges which exist in mentioned countries are influencing the European institutions to create similar and comprehensive strategies and measures toward the

Western Balkans, which will help in the process of overcoming them. From a regional point of view, the major problem affecting relations between the countries remains the public discourse on wars, which is still segregated according to partisan perspectives (Alujević, Vesnić, 2012, p. 17)

Political, economic and institutional problems are key barriers on the road of Western Balkans toward the European membership. Within mentioned countries exist a continuous political instability, low economic performances and high levels of unprofessionalism and corruption within public administration and institutions. The struggle against these troubles started at the beginning of XXI century, but today, after sixteen years, the states of the Western Balkans, which have the EU candidate status, are dealing with the same problems without concrete plans for the final solution. Even in the annual reports prepared by the European Commission, which evaluates harmonization of candidate policies with the European policy, there are noted numerous remarks in the fields of democracy, human rights, good governance, rule of law, market competition, regional cooperation and reconciliation.

According to the progress report from 2015 prepared by the European Commission, the Republic of Macedonia has serious internal political and security problems which have an influence on the Macedonian path to the EU. Concerns about politicisation have been reinforced by the content of the wiretaps, and merit-based recruitment continues to be undermined (European Commission, 2015, p. 5). From the other side, the inter-ethnic situation remains fragile. Following a major police operation in an ethnic Albanian neighbourhood of Kumanovo that claimed 18 lives, all political leaders in the country called for the restoration of calm and underlined that this incident should not be seen as inter-ethnic. Events at Kumanovo still need to be fully investigated (European Commission, 2015, p. 4).

The Republic of Serbia, although it has started the accession negotiations with the EU, is facing institutional problems on the internal level. Taking into account the last election process in Serbia, the European Commission has noted that this country has not yet addressed all of the recommendations of the OSCE's Office for Democratic Institutions and Human Rights (OSCE/ODIHR), in particular, those on ensuring that campaign financing and the electoral process are transparent (European Commission, 2015, p. 6). In the area of the judicial system, the European Commission considers that further steps are needed to tackle political influence (European Commission, 2015, p. 4). Threats and violence against journalists remain of concern. Some criminal charges have been filed, but final convictions are still rare (European Commission, 2015, p. 18). According to the last progress report prepared by the European Commission, regional cooperation and good neighbourly relations form an essential part of Serbia's process of moving towards the EU (European Commission, 2015, p. 20).

The Republic of Montenegro is facing also serious internal political problems, according to the annual report prepared by the European Commission for 2015. Some opposition parties embarked on a boycott of parliament in September. A series of protests were also organised outside parliament. This eventually led to the confrontation between the police and protesters, resulting in injuries and damage to property. It is expected that all incidents of violence and allegations of excessive use of force during these events will be duly investigated (European Commission, 2015, p. 4). Also, there is not enough progress in ensuring merit-based recruitment and tackling politicisation (European Commission, 2015, p. 4). The problem of comprehensive politicisation remains part of the institutional system of Montenegro.

The political situation in Albania does not look very different in comparison to the other EU membership candidates from the Western Balkans. Taking into account local elections from 2015, concerns about the impartiality and professionalism of the electoral authorities and the overall politicisation of the electoral process have yet to be addressed (European Commission, 2015, p. 4). Also, efforts are needed to achieve the objective of a professional and depoliticised public administration (European Commission, 2015, p. 4).

Implementation and respect of the Dayton agreement represent one of the crucial conditions on the European path of Bosnia and Herzegovina. Continuous abusing of the Dayton agreement by the local political elite creates unstable political and security perspectives in this country. According to the EU Commission, the country's Constitution established a complex institutional architecture that remains inefficient and is subject to different interpretations (European Commission, 2015, p. 4). High level of politicisation and poor service delivery are also noted as the main problems in the report for 2015. Bosnia and Herzegovina faces many challenges regarding human rights and the protection of minorities (European Commission, 2015, p. 5). Political and economic problems within Bosnia and Herzegovina represent a real challenge for local political elites on the European path of this country due to lack of trust and intolerance, which are still at a high level as a consequence of the civil war from the nineties.

Kosovo's\* accession to the European union, from today's point of view, will be a complex and challenging process for European institutions. Relations between Belgrade and Pristina are continuing to be a focal point for both sides on their path towards the European Union membership. European officials are sending a clear message to political elites in Belgrade and Pristina, that normalization of relations between Kosovo\* and Serbia represents condition fulfillment of which will additionally facilitate and accelerate their European perspectives. Regarding internal circumstances increased polarisation between government and opposition is discernable. Many independent institutions and regulatory authorities are currently not operational or are negatively affected by delayed appointments of board members (European Commission, 2015, p. 4). Also, the judiciary remains prone

to political interference (European Commission, 2015, p. 5). The future status of Kosovo\* and its internal stabilization represent a real test for European institutions and their role in the Western Balkans region as a soft power.

### **MEMBER STATES OF EU AND THEIR POLICY TOWARD THE WESTERN BALKANS**

There is a consensus among the European Union member states regarding the EU's enlargement policy understood as the most important factor stabilizing the situation in the Western Balkans (Sadowski and Mus, 2008, p. 17). Interest for further enlargement of the EU is still present within the society of member states, but the actual problems, which the EU is facing, affect mentioned interest to decrease significantly. Even if the accession track remains open to the remaining countries in the Balkans, the process is often derailed not just by outstanding challenges pertaining to the region, but also by hurdles which develop within the Union – more specifically within the member states (Balfour and Stratulat, 2015, p. 1).

Nowadays, Germany, as the leading country among European member states, shows the biggest interest towards integration of the Western Balkans. The successful accession of a Balkan state conducted 'under auspices' of Germany would certainly bring prestige to one of these countries and hence directly influence the situation inside the European Union (Sadowski and Mus, 2008, p. 18).

Austria has even deeper interest for the European integration of the Western Balkans. Austria regards the Western Balkans as a key region for its foreign policy due to: first, historical links and geographic proximity; second, regional stability and security concerns; third, economic interdependence; and at the end, deepening/widening debate on European integration, which is ongoing in Austrian politics (Balfour and Stratulat, 2015, p. 6).

Integration of the Western Balkans for France has a huge importance because of the position of this region. Taking into account the fact that this region is surrounded by the EU member states, its integration will contribute to further stabilization of the European continent and geographically, it will create a unified space of the EU. France tends to align itself on enlargement with the positions of Germany – its key European partner – but adopts a less vocal and more passive stance than Berlin (Balfour and Stratulat, 2015, p. 5).

The accession of the Western Balkans into the European Union is of vital interest for the Italian Republic. Italian politicians recognize this region as an opportunity for further economic integration and strengthening the national economy through spreading economic ties with potential member states. Italian Republic considers Serbia and Albania as the most important countries for its national agenda, particularly for economic, commercial and energy reasons, and

is strongly concerned about the situation of Bosnia and Herzegovina (Balfour and Stratulat, 2015, p. 5).

Similar position toward integration of the Western Balkans have other member states of the EU, which are in the immediate neighborhood with candidates from mentioned region. Slovenia, Hungary, Romania, Bulgaria and Greece due to their geographical location and economic bonds with neighboring countries, aim at the rapid integration of the said region into the European Union (Sadowski and Mus, 2008, p. 15).

The Visegrad group continuously gives strong support to the European integration of the Western Balkans. Poland, Hungary, Slovakia and the Czech Republic are trying to provide assistance to Western Balkan candidates on their path to European Union membership. Those countries emphasize their sub-regional experience of integration as a step which has facilitated their path to the European family. According to the Visegrad group, Western Balkan candidates should use the experience of the Visegrad group and their informal sub-regional integration as a positive example on the European path. The V4 countries decided to use their collective leverage, as successful new members of the EU, to help the Western Balkans become a true region in political, economic and security terms (Bushati and Zaoralek, 2016, p. 1). Away from “empty regionalism”, the Visegrad Group can successfully act as a role model for democratic state-building and economic rule of law in the Western Balkans (Bushati and Zaoralek, 2016, p. 1).

For the Republic of Croatia, European integration of Western Balkan candidates, or more precisely integration of their neighbours within European structures, is also one of the priorities in its foreign policy agenda. Despite the open questions on the regional level, political representatives from Zagreb are providing full support for the comprehensive integration of the region. Croatia shares with many other member states concerns about the growing influence of Russia in the region (Balfour and Stratulat, 2015, p. 6). From the other point, actual political turbulences show that Croatia could use instruments which cannot contribute to the accelerated integration of the region. Although Croatia has repeatedly rejected the possibility that it may resort to obstructions against Western Balkan candidates, the recent conservative/nationalistic tendencies in Croatian society and the political arena pose a risk of less cooperative policies moving to the fore in the future (Balfour and Stratulat, 2015, p. 7)

## **CONCLUSION**

Western Balkan candidates (Macedonia, Serbia, Bosnia and Herzegovina, Montenegro, Kosovo\* and Albania) are facing similar, even the same, challenges on the European path to the full membership. Although the strategic documents



and declarations of the mentioned countries state their full dedication to the process of European integration, internal and regional problems show that nothing substantial is done to overcome the above-mentioned questions and disputes. In the last twenty-five years, these countries have been dealing with the same questions. On the regional level, we can notice the lack of cooperation and the existence of distrust on the high political level. Local political elites are using vulnerable questions as instruments in their political conflicts. Minority questions and questions regarding history and national heritage are still on the top of the priority list during the election cycle in the Western Balkans region. Economic problems and structural questions within societies are continuously being marginalized as a consequence of the lack of solutions among local political elites. From this point of view, we cannot observe the British referendum as a potential barrier on the European path of the Western Balkans. As we noted at the beginning of this article, Britain's exit from the European Union can complicate the integration of Western Balkan candidates, but it should not influence crucially on their potential membership. In the next years, European institutions will be occupied with internal challenges and its re-integration, but that does not mean that they will completely change their guidelines toward the Western Balkans. The referendum in Great Britain represents an additional example of how local political elites use other justifications because of their failures in the process of accelerating European integration. Annual reports of progress clearly emphasize that the process of European integration of the Western Balkan region depends on resolving internal and regional issues in the region. All other questions within the European Union are also important, but they cannot be crossroads which are able to change strategic directions of the European Union toward the Western Balkans.

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Mitko ARNAUDOV

**FENOMEN BREXIT-A I ZEMLJE KANDIDATI  
SA ZAPADNOG BALKANA: PRILIKA ZA UBRZANU INTEGRACIJU,  
TIPIČNI STATUS QUO ILI DUGOROČNO ODLAGANJE**

*Apstrakt:* Uticaj Velike Britanije na proces evrointegracije zapadnog Balkana je veoma značajan, no ne i krucijalan. Iako Ministarstvo spoljnih poslova Velike Britanije deluje u smeru horizontalne integracije Evropske unije, ova država nema vitalan interes za potencijalnu ubrzanu integraciju država sa kandidatskim statusom iz regiona zapadnog Balkana. Glavni cilj u ovom radu je da se opiše uloga Velike Britanije u procesima pristupanja zapadno-balkanskih država sa kandidatskim statusom (Makedonija, Srbija, Albanija i Crna Gora), kao i država sa potencijalnim kandidatskim statusom (Kosovo\* i Bosna i Hercegovina). U ovom radu će biti analiziran referendum u Velikoj Britaniji i njegov uticaj na integraciju zapadnog Balkana u Evropskoj uniji. Kroz razmatranje regionalnih i unutrašnjih izazova između zapadno-balkanskih država-kandidata (Makedonija, Srbija, Albanija i Crna Gora) i potencijalnih kandidata (Kosovo\* i Bosna i Hercegovina), cilj u ovom radu je da se odgovori na pitanje da li je aktuelna stagnacija na putu ka Evropskoj uniji posledica lokalnih pitanja, ili se radi o problemima unutar Unije. Takođe, autor u ovom radu će staviti naglasak na ulogu drugih zemalja-članica Evropske unije koje su takođe zainteresovane za proces integracije zapadnog Balkana. Rezultati referenduma u Velikoj Britaniji bili su visoko pozicionirani u lokalnim medijima i u okvirima političkih elita sa prostora zapadnog Balkana, ali sa realističke tačke gledišta, takvi rezultati ne bi trebalo da imaju nikakav dominantan uticaj na proces ubrzanja ili usporavanja integracije zapadnog Balkana u Evropskoj uniji. Osnovni cilj u ovom članku je da se ukaže na to da strukturni problemi unutar Evropske unije i referendum u Velikoj Britaniji ne bi trebalo da predstavljaju dodatnu barijeru na evropskom putu zapadnog Balkana. Budućnost evropskih integracija zapadnog Balkana i dalje zavisi od dinamike procesa reforme i konkretnih mera na unutrašnjem i regionalnom nivou u skladu sa politikom Evropske unije.

*Ključne reči:* Zapadni Balkan, Evropska unija, Velika Britanija, integracija, migracija, referendum, Evropske institucije.

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## BOOK REVIEW

### QUO VADIS EU

Gordana Gasmi, *QUO VADIS EU – Relevant legal and institutional factors*. Belgrade: Institute of Comparative Law, 2016. pp. 319.

The monograph “Quo Vadis EU - Relevant legal and institutional factors” focuses on answers to the question of where does the European Union go, seen from the legal and institutional aspects. It also contains the author’s concluding observations in which she argued in favor of a further evolution of the European Union as a permanent negotiation system and the process, which brings institutional solutions adapted to the contemporary moment of crisis. The mentioned monograph consists of three main parts: Legal evolution and Legal system of the European Union, Institutional system of the European union and Where does the European Union go?

In the first part of the monograph, Prof. Dr. Gordana Gasmi exposes in the systemic and systematic manner a comparative chronological analysis of the European Union through its history and in the contemporary conditions. In a separate chapter, she analyzes the legal evolution of the European Community, main characteristics of its legal system and examines the institutional achievements of the current constitutive act of the EU, the Lisbon Treaty on reform of the EU, which entered into force on 1 December 2009.

The second part of monograph consists of the analysis of the relevant institutional factors, which includes the jurisdiction, roles and organizational structures of the key institutions of the Union. Consequently, the author concludes that the answer to the question of the future EU path represents a story without end, which means that the institutional system of European Union will not disappear despite its economic crisis. There is also a rich EU’s legal system composed of primary and secondary sources, so called *Acquis communautaire*, together with the jurisprudence of the European Court of Justice and a numerous „soft law“ documents, such as declarations, recommendations, and foreign policy guidelines.

By applying the theoretical approach of neo-institutionalism and historical method of explaining the evolutionary transformation of the European Communities into the European Union, the author puts in the primary analytical focus presentation of the power levers in the EU, i.e. explicit decision-making powers, through the analysis of the competencies of the key EU institutions.

Emphasis is set on the relevant provisions of the constitutional treaties and their amendments. History of the European integration is not a quick process, nor an easy one. However, during the synchronization of the various economic and political interests of the Member States and while establishing of the common rules, the functionalist conception or sectoral unification prevailed, but preserving the full sovereignty of the Member States. It is quite in the spirit of the ideas of Jean Monnet, who had foreseen that the unification of Europe will be carried out step by step, creating *de facto* solidarity among its Member States.

The author successfully provides a valuable scientific contribution to the theory of European integration. Starting from the latest developments of European integration, the author emphasizes the key position of the European Parliament, showing the evolution in the primary legislation of the European Union, ie. its founding treaties. Such a development confirms some contemporary theories that the author quotes in the book, suggesting the notion of the EU as a distinctive “parliamentary model.” Exactly this parliamentary model is a remedy for the resulting democratic deficit in the European Union, ie. for too big distance between ordinary citizens and decision-makers at the EU level. The democratic deficit is the reason why the development of the legal and institutional system of the European Union has been slow, since each institutional change requires an explicit unanimity of all Member States in ratifying the EU constitutional treaty and its amendments. However, the development of institutions and of the legal system of the European Union is still dynamic, because it is a process that is not fully legally shaped nor the institutions got empirically final features. We are witnesses of the crisis of the EU, „Fatigue de l’Europe“. It is, *inter alia*, the consequence of the successive enlargements of the EU, which Prof. Dr. Gordana Gasmi is analyzing from the legal point of view, including bilateral Stabilization and Association Agreement, accession criteria and the procedure.

The momentum of the publication of this book is very important, bearing in mind that the author evaluates recent BREXIT phenomenon, primarily its possible legal scenarios. The author defends the attitude that there is no failure of the Union, which is a wishful thinking of majority Eurosceptics, because the EU had existed even before the Great Britain accession (1973) and it will continue to function even after Brexit, although in a reformed manner.

In the third part of the monograph, Prof. Dr. Gasmi also gave detailed insight on the contemporary migrant crisis, as well as on the institutional limits of the EU common foreign policy. Concluding remarks on the future EU development accentuate that there is a strong need for legal and institutional reforms of the Union, more than ever, for the sake of its survival and prosperity.

„Quo vadis EU – relevant legal and institutional factors” is essential reading not only for experts but also for the wider readership. It is published with the

support of the Ministry of science and education of the Republic of Serbia. The monograph is based on the consultation of numerous foreign and domestic relevant literature. Prof. Dr. Gordana Gasmi is also the author of many published books, essays and studies on the EU in Serbian and English. In the era of the high politicization of these issues of European integration processes, it is necessary to read a book which, in a clear and transparent way, exposes the conditions of functioning of the EU and provides the answers to the questions of its further development. It is certainly of special importance for Serbia and its professional community, which is preparing for future membership in the European Union.

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## EVENTS

### **SEMINAR “PUBLIC POLICY CHALLENGES – EUROPEAN AND REGIONAL DIMENSIONS”**

*May 30-June 3, 2016. Albena, Bulgaria*

Economic Policy Institute (EPI) from Sofia, Bulgaria, had organized the XVII Summer Seminar for Young Public Policy Professionals from Southeastern Europe and the Black Sea Region named “Public Policy Challenges – European and Regional Dimensions”. The seminar took place within the period May 30-June 3, 2016, in Albena, the Bulgarian Black Sea coast, with the support of the Hans Seidel Foundation, Austrian Embassy in Sofia and the Representation of the European Commission in Bulgaria. It gathered a diverse group of 34 young public policy professionals from public administration structures and research centers from ten countries from South East Europe and the Black Sea region: Albania, Bulgaria, Croatia, Georgia, Macedonia, Moldova, Montenegro, Romania, Serbia and Turkey.

The seminar was opened by Yassen Georgiev, Executive Director of the EPI, Wiebke Beiche, Project Assistant of Hanns Seidel Foundation in Bulgaria and Todor Churov, Director of Political Affairs General Directorate in the Ministry of Foreign Affairs of the Republic of Bulgaria.

“Public Policy Challenges – European and Regional Dimensions” seminar was organized in seven panels and three interactive workshops.

The first panel was entitled “Political, Economic and Security Challenges on the EU Agenda”. During this panel, Ambassador of the Netherlands to the Republic of Bulgaria H. E. Tom van Oorschot pointed on the most important challenges of the European Union during the Dutch Presidency, and H. E. Marián Jakubócy Ambassador Extraordinary and Plenipotentiary of the Slovak Republic to the Republic of Bulgaria gave a lecture on the preparations and priorities of the upcoming Slovak Presidency. One of the most challenging topics of the first panel was Scenarios after the UK referendum of Brexit by Professor Plamen Ralchev. It showed advantages and disadvantages for the UK after Brexit, as well as the potential consequences for the EU in the case of Brexit.

“Public Policy Challenges in the SEE and Black Sea Countries: Fighting Corruption and Smart Regulation” was the title of the second panel. Having in mind that corruption is one of the crucial problems and one of the major

obstacles to the sustainable development in the regions of SEE and Black Sea countries, lecturers presented data on the level of corruption in these regions, malfunctioning of the judicial systems, as well as the wide range of anti-corruption measures proposed across the region during the past decade. Better legal regulation is a key factor in fighting corruption and future economic growth of these regions.

The third and fourth panels were dedicated to the major challenges of the South East Europe region. It dealt with the strategic issues on the Agenda of Europe and South East Europe and promotion of growth and entrepreneurship. The lecturers discussed on energy challenges in South East Europe, Europe in the Catch-Up Index: Implications of the Convergence and Divergence Processes, and Technological Commercialization. A special attention was dedicated to the TTIP and its role in fostering growth. The lecturer Michael Koplovsky, Minister Counselor for Economic Affairs, the U.S. Mission to the European Union, presented the advantages, disadvantages and some of the controversies of TTIP, having in mind that reports on the ongoing negotiations and the contents of the negotiated TTIP proposals are classified from the public, and can be accessed only by the authorized persons.

“Key Challenges on the Agenda of the SEE and Black Sea Countries: EU Integration and Regional Cooperation” was the title of the fifth panel. H. E. Dušan Štrauch, Ambassador Extraordinary and Plenipotentiary of the Czech Republic to the Republic of Bulgaria, explained the Visegrad Group as a role model for Cooperation. Experiences from this model of cooperation between the Republic, Hungary, Poland and Slovakia, created for the purposes of furthering their European integration and advancing military, economic and energy cooperation can be used as a role model for strengthening the cooperation in South East Europe and the Black Sea region. In addition, all the lessons learned from the EU enlargement process have to be role models for possible new members, especially for the Western Balkans countries.

The sixth and seventh panels were dedicated to The EU Neighborhood Policy – Current Trends and Future Challenges and Visions for the Future of EU and the SEE and the Black Sea Region. The lecturers discussed the theoretical perspectives and practical implications for the future of the Eastern Partnership. If the EU is not unified in maintaining a strongly supported common foreign policy towards the region and it is unable to offer EU membership perspectives, the risk of disappointment of the pro-western population and the political elite will likely be on the rise, which could lead to the definitive elimination of the remnants of the EU’s soft power. The Greek debt crisis, migration and refugee crisis, Brexit and heightened terrorism threat are the most challenging issues for the EU. The range of political and economic pressures, slow growth and high unemployment in many EU countries, the rise of populist political parties, “euro

skeptic” complicates the EU’s ability to deal with a multitude of internal and external challenges. The lecturers discussed possible scenarios for the future of the EU such as establishing two speeds, More Intergovernmental Configuration and More Integrated Configuration.

XVII Summer Seminar for Young Public Policy Professionals from Southeastern Europe and the Black Sea Region was a very useful experience for all the participants. Through lectures, interactive workshops, transfer of experiences, best practices and ideas young public policy professionals enlarged their knowledge about the European Union, the process of EU integration and the regional cooperation. The participants and lecturers highly evaluated the organization of the seminar. Summer Seminars, as a project of the Economic Policy Institute with a long, 17 years old tradition, helps in better mutual understanding, creates opportunities for cooperation for young public professionals and striving to create better perspectives for the regions of South East Europe and Black Sea.

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## DOCUMENTS

### Article 50 of the Treaty on European Union

1. Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.

2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article 218(3) of the Treaty on the Functioning of the European Union. It shall be concluded on behalf of the Union by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.

3. The Treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period.

4. For the purposes of paragraphs 2 and 3, the member of the European Council or of the Council representing the withdrawing Member State shall not participate in the discussions of the European Council or Council or in decisions concerning it. A qualified majority shall be defined in accordance with Article 238(3)(b) of the Treaty on the Functioning of the European Union.

5. If a State which has withdrawn from the Union asks to rejoin, its request shall be subject to the procedure referred to in Article 49.

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Source: Official Journal of the European Union, C 202, 7 June 2016, pp. 43-44.

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C:2016:202:FULL&from=EN> (16.10.2016).

## European Union Referendum Act 2015

### 2015 CHAPTER 36

An Act to make provision for the holding of a referendum in the United Kingdom and Gibraltar on whether the United Kingdom should remain a member of the European Union.

[17th December 2015]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

#### The referendum

##### 1 The referendum

- (1) A referendum is to be held on whether the United Kingdom should remain a member of the European Union.
- (2) The Secretary of State must, by regulations, appoint the day on which the referendum is to be held.
- (3) The day appointed under subsection (2)—
  - (a) must be no later than 31 December 2017,
  - (b) must not be 5 May 2016, and
  - (c) must not be 4 May 2017.
- (4) The question that is to appear on the ballot papers is—

*“Should the United Kingdom remain a member of the European Union or leave the European Union?”*
- (5) The alternative answers to that question that are to appear on the ballot papers are—

*“Remain a member of the European Union*  
*Leave the European Union”.*
- (6) In Wales, there must also appear on the ballot papers—
  - (a) the following Welsh version of the question—

*“A ddylai'r Deyrnas Unedig aros yn aelod o'r Undeb Ewropeaidd neu adael yr Undeb Ewropeaidd?”,* and

(b) the following Welsh versions of the alternative answers—

*“Aros yn aelod o’r Undeb Ewropeaidd*

*Gadael yr Undeb Ewropeaidd”.*

## 2 Entitlement to vote in the referendum

(1) Those entitled to vote in the referendum are—

(a) the persons who, on the date of the referendum, would be entitled to vote as electors at a parliamentary election in any constituency,

(b) the persons who, on that date, are disqualified by reason of being peers from voting as electors at parliamentary elections but—

(i) would be entitled to vote as electors at a local government election in any electoral area in Great Britain,

(ii) would be entitled to vote as electors at a local election in any district electoral area in Northern Ireland, or

(iii) would be entitled to vote as electors at a European Parliamentary election in any electoral region by virtue of section 3 of the Representation of the People Act 1985 (peers resident outside the United Kingdom), and

(c) the persons who, on the date of the referendum—

(i) would be entitled to vote in Gibraltar as electors at a European Parliamentary election in the combined electoral region in which Gibraltar is comprised, and

(ii) fall within subsection (2).

(2) A person falls within this subsection if the person is either—

(a) a Commonwealth citizen, or

(b) a citizen of the Republic of Ireland.

(3) In subsection (1)(b)(i) “local government election” includes a municipal election in the City of London (that is, an election to the office of mayor, alderman, common councilman or sheriff and also the election of any officer elected by the mayor, aldermen and liverymen in common hall).

## 3 Further provision about the referendum

Part 7 of the 2000 Act (general provision about referendums) applies to the referendum but see also—

(a) Schedules 1 and 2 (which make, in relation to the referendum, further provision about campaigning and financial controls, including provision modifying Part 7 of the 2000 Act), and

(b) Schedule 3 (which makes further provision about the referendum, including provision modifying Part 7 of the 2000 Act).



#### 4 Conduct regulations, etc

- (1) The Minister may by regulations—
  - (a) make provision about voting in the referendum and otherwise about the conduct of the referendum, which may include provision corresponding to any provision of Schedules 2 and 3 to the 2011 Act (with or without modifications);
  - (b) apply for the purposes of the referendum, with or without modifications—
    - (i) any provision of the 1983 Act, or
    - (ii) any other enactment relating to elections or referendums, including provisions creating offences;
  - (c) further modify the 2000 Act for the purposes of the referendum;
  - (d) modify or exclude any provision of any other enactment (other than this Act) that applies to the referendum.
- (2) The Minister may by regulations make provision for and in connection with the combination of the poll for the referendum with any one or more of the following—
  - (a) the poll for any election specified in the regulations;
  - (b) the poll for any other referendum specified in the regulations.Regulations under this subsection may amend or modify any enactment (but may not alter the date of the poll for any such election or other referendum).
- (3) The reference in subsection (2) to any enactment includes—
  - (a) the definition of “counting officer” in section 11(1),
  - (b) section 11(2), and
  - (c) Schedule 3,but does not include any other provision of this Act.
- (4) The Minister may by regulations make such amendments or modifications of this Act or any other enactment as appear to the Minister to be necessary because the referendum is to be held in Gibraltar as well as the United Kingdom.
- (5) Regulations under this section may, in particular—
  - (a) make provision for disregarding alterations in a register of electors;
  - (b) make provision extending or applying to (or extending or applying only to) Gibraltar or any part of the United Kingdom;
  - (c) make different provision for different purposes.
- (6) Before making any regulations under this section, the Minister must consult the Electoral Commission.

- (7) Consultation carried out before the commencement of this section is as effective for the purposes of subsection (6) as consultation carried out after that commencement.

## 5 Gibraltar

- (1) Regulations under section 4 which extend to Gibraltar may extend and apply to Gibraltar, with or without modifications, any enactment relating to referendums or elections that applies in any part of the United Kingdom.

...

## 6 Duty to publish information on outcome of negotiations between member States

- (1) The Secretary of State must publish a report which contains (alone or with other material)—
  - (a) a statement setting out what has been agreed by member States following negotiations relating to the United Kingdom’s request for reforms to address concerns over its membership of the European Union, and
  - (b) the opinion of the Government of the United Kingdom on what has been agreed.
- (2) The report must be published before the beginning of the final 10 week period.
- (3) In this section “the final 10 week period” means the period of 10 weeks ending with the date of the referendum.
- (4) A copy of the report published under this section must be laid before Parliament by the Secretary of State.

## 7 Duty to publish information about membership of the European Union etc

- (1) The Secretary of State must publish a report which contains (alone or with other material)—
  - (a) information about rights, and obligations, that arise under European Union law as a result of the United Kingdom’s membership of the European Union, and
  - (b) examples of countries that do not have membership of the European Union but do have other arrangements with the European Union (describing, in the case of each country given as an example, those arrangements).
- (2) The report must be published before the beginning of the final 10 week period.
- (3) In this section “the final 10 week period” means the period of 10 weeks ending with the date of the referendum.

- (4) A copy of the report published under this section must be laid before Parliament by the Secretary of State.

#### 8 Power to modify section 125 of the 2000 Act

- (1) In this section—
- (a) “section 125” means section 125 of the 2000 Act (restriction on publication etc of promotional material by central and local government etc), as modified by paragraph 38 of Schedule 1, and
  - (b) “section 125(2)” means subsection (2) of section 125 (which prevents material to which section 125 applies from being published by or on behalf of certain persons and bodies during the 28 days ending with the date of the poll).
- (2) The Minister may by regulations make provision modifying section 125, for the purposes of the referendum, so as to exclude from section 125(2) cases where—
- (a) material is published—
    - (i) in a prescribed way, or
    - (ii) by a communication of a prescribed kind, and
  - (b) such other conditions as may be prescribed are met.
- (3) The communications that may be prescribed under subsection (2)(a)(ii) include, in particular, oral communications and communications with the media.
- (4) Before making any regulations under this section, the Minister must consult the Electoral Commission.
- (5) Consultation carried out before the commencement of this section is as effective for the purposes of subsection (4) as consultation carried out after that commencement.
- (6) Any regulations under subsection (2) must be made not less than 4 months before the date of the referendum.
- (7) In this section—
- “prescribed” means prescribed by the regulations;
  - “publish” has the same meaning as in section 125.
- (8) This section does not affect the generality of section 4(1)(c).

### Supplemental

#### 9 Regulations

- (1) Any power under this Act to make regulations, apart from the power of the Electoral Commission under paragraph 16(10) of Schedule 3, is exercisable by statutory instrument.

- (2) Subject to subsection (3), a statutory instrument containing regulations under this Act may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (3) Subsection (2) does not apply to a statutory instrument containing only regulations within subsection (4).
- (4) Regulations within this subsection are any of the following—
  - (a) regulations under section 13;
  - (b) regulations made by the Minister under paragraph 16 of Schedule 3.
- (5) Regulations under this Act, other than regulations under section 13 or paragraph 16 of Schedule 3, may contain supplemental, consequential, incidental, transitional or saving provision.
- (6) Section 26 of the Welsh Language Act 1993 (power to prescribe Welsh forms) applies in relation to regulations under this Act as it applies in relation to Acts of Parliament.

#### 10 Financial provisions

- (1) The following are to be paid out of money provided by Parliament—
  - (a) expenditure incurred under this Act by the Minister;
  - (b) any increase attributable to this Act in the sums payable under any other Act out of money so provided.
- (2) There is to be paid into the Consolidated Fund any increase attributable to this Act in the sums payable into that Fund under any other Act.

#### 11 Definitions

- (1) In this Act—
  - “the 1983 Act” means the Representation of the People Act 1983;
  - “the 2000 Act” means the Political Parties, Elections and Referendums Act 2000;
  - “the 2011 Act” means the Parliamentary Voting System and Constituencies Act 2011;
  - “body”, without more, means a body corporate or any combination of persons or other unincorporated association;
  - “Chief Counting Officer” means the Chief Counting Officer for the referendum (see section 128(2) of the 2000 Act);
  - “conduct regulations” means regulations under section 4(1)(a);
  - “counting officer” has the meaning given by paragraph 3 of Schedule 3;
  - “designated organisation” means a person or body designated under section 108 of the 2000 Act (designation of organisations to whom assistance is available) in respect of the referendum;

- “document” means a document in whatever form;
  - “enactment” includes—
    - (a) any provision of an Act,
    - (b) any provision of, or of any instrument made under, an Act of the Scottish Parliament,
    - (c) any provision of, or of any instrument made under, Northern Ireland legislation, and
    - (d) any provision of subordinate legislation (within the meaning of the Interpretation Act 1978);
  - “Gibraltar conduct law” has the meaning given by section 5(2);
  - “the Gibraltar standard scale” means the standard scale set out in Part A of Schedule 9 to the Criminal Procedure and Evidence Act;
  - “the Minister” means the Secretary of State or the Chancellor of the Duchy of Lancaster;
  - “permitted participant” means a person who, in relation to the referendum, is a permitted participant within the meaning given by section 105(1) of the 2000 Act (as modified by paragraph 2 of Schedule 1);
  - “the referendum” means the referendum under section 1;
  - “referendum expenses” has the meaning given by section 111 of the 2000 Act (see also paragraph 19 of Schedule 1);
  - “the referendum period” has the meaning given by paragraph 1 of Schedule 1;
  - “Regional Counting Officer” means an officer appointed under paragraph 5(1) of Schedule 3;
  - “registered party” and “minor party” have the same meaning as in the 2000 Act (see section 160(1) of that Act);
  - “registration officer” has the meaning given by section 8 of the 1983 Act;
  - “responsible person”, in relation to a permitted participant, means the responsible person within the meaning given by section 105(2) of the 2000 Act (as modified by paragraph 5 of Schedule 1);
  - “voting area” has the meaning given by subsection (2).
- (2) Each of the following, as it exists on the day of the referendum, is a “voting area” for the purposes of this Act—
- (a) a district in England for which there is a district council;
  - (b) a county in England in which there are no districts with councils;
  - (c) a London borough;
  - (d) the City of London (including the Inner and Middle Temples);
  - (e) the Isles of Scilly;
  - (f) a county or county borough in Wales;

- (g) a local government area in Scotland;
  - (h) Northern Ireland;
  - (i) Gibraltar.
- (3) References in this Act to a named Act (with no date) are to the Gibraltar Act of that name.

### **Final provisions**

#### 12 Extent

- (1) This Act extends to the whole of the United Kingdom and to Gibraltar.
- (2) For the purposes of the referendum, Part 7 of the 2000 Act (whose extent is set out in section 163 of that Act) extends also to Gibraltar.

#### 13 Commencement

- (1) The following provisions come into force on the day on which this Act is passed—
  - sections 9 to 12;
  - this section;
  - section 14.
- (2) The remaining provisions of this Act come into force on such day as the Minister may by regulations appoint.
- (3) Different days may be appointed for different purposes.

#### 14 Short title

This Act may be cited as the European Union Referendum Act 2015.

## Official result of the EU Referendum is declared by Electoral Commission in Manchester

Published: 24 June 2016

The Chief Counting Officer for the EU referendum, Jenny Watson who is also the Chair of the Electoral Commission has declared the official result of the referendum on the UK's membership of the European Union.

The total number of ballot papers counted was 33,577,342

The declaration has confirmed that 48.1% of votes (16,141,241) were cast in favour of REMAIN and 51.9% of votes (17,410,742) were cast in favour of LEAVE.

This means that the UK has voted to LEAVE the European Union.

The national turnout figure, announced earlier in the night, was 72.2%

The number of ballot papers rejected totalled 25,359.

Jenny Watson, Chief Counting Officer and Chair of the Electoral Commission, said:

“I would like to thank everyone involved in the planning, preparation and running of this referendum. I'd like to thank all of the 382 Counting Officers, the Regional Counting Officers, Electoral Registration Officers and all of the thousands of election staff across the UK and Gibraltar who have worked tirelessly over the last few months to deliver a referendum that voters can be confident in.”

**Ends** For further information contact Electoral Commission press office on 020 7271 0704 or [press@electoralcommission.org.uk](mailto:press@electoralcommission.org.uk) Out of office hours 07789 920 414

### Notes to editors

1. The Electoral Commission is an independent body set up by the UK Parliament. Our aim is integrity and public confidence in the UK's democratic process. We regulate party and election finance and set standards for well-run elections and are responsible for the conduct and regulation of referendum held under the Political Parties, Elections and Referendums Act (2000).

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Source: <http://www.electoralcommission.org.uk/i-am-a/journalist/electoral-commission-media-centre/news-releases-referendums/official-result-of-the-eu-referendum-is-declared-by-electoral-commission-in-manchester> (10.11.2016).

2. The national result, regional totals and totals for each of the 382 voting areas will shortly be available.....
3. Of the 25,359 rejected ballot papers:
  - 232 were rejected for no official mark.
  - 9,084 were rejected as both answers were voted for
  - 836 were rejected because of a writing or mark by which the voter could be identified
  - 15,207 were rejected because they were unmarked or void for uncertainty



## **EU referendum outcome: Prime Minister David Cameron statement**

*24 June 2016*

Prime Minister David Cameron made a statement in Downing Street on the outcome of the referendum on the UK's membership of the European Union.

The country has just taken part in a giant democratic exercise – perhaps the biggest in our history. Over 33 million people – from England, Scotland, Wales, Northern Ireland and Gibraltar – have all had their say.

We should be proud of the fact that in these islands we trust the people with these big decisions.

We not only have a parliamentary democracy, but on questions about the arrangements for how we are governed, there are times when it is right to ask the people themselves, and that is what we have done.

The British people have voted to leave the European Union and their will must be respected.

I want to thank everyone who took part in the campaign on my side of the argument, including all those who put aside party differences to speak in what they believed was the national interest.

And let me congratulate all those who took part in the Leave campaign – for the spirited and passionate case that they made.

The will of the British people is an instruction that must be delivered. It was not a decision that was taken lightly, not least because so many things were said by so many different organisations about the significance of this decision.

So there can be no doubt about the result.

Across the world people have been watching the choice that Britain has made. I would reassure those markets and investors that Britain's economy is fundamentally strong.

And I would also reassure Brits living in European countries, and European citizens living here, that there will be no immediate changes in your circumstances. There will be no initial change in the way our people can travel, in the way our goods can move or the way our services can be sold.

We must now prepare for a negotiation with the European Union. This will need to involve the full engagement of the Scottish, Welsh and Northern Ireland governments to ensure that the interests of all parts of our United Kingdom are protected and advanced.

But above all this will require strong, determined and committed leadership.

I am very proud and very honoured to have been Prime Minister of this country for 6 years.

I believe we have made great steps, with more people in work than ever before in our history, with reforms to welfare and education, increasing people's life chances, building a bigger and stronger society, keeping our promises to the poorest people in the world, and enabling those who love each other to get married whatever their sexuality.

But above all restoring Britain's economic strength, and I am grateful to everyone who has helped to make that happen.

I have also always believed that we have to confront big decisions – not duck them.

That's why we delivered the first coalition government in 70 years to bring our economy back from the brink. It's why we delivered a fair, legal and decisive referendum in Scotland. And why I made the pledge to renegotiate Britain's position in the European Union and hold a referendum on our membership, and have carried those things out.

I fought this campaign in the only way I know how – which is to say directly and passionately what I think and feel – head, heart and soul.

I held nothing back.

I was absolutely clear about my belief that Britain is stronger, safer and better off inside the European Union, and I made clear the referendum was about this and this alone – not the future of any single politician, including myself.

But the British people have made a very clear decision to take a different path, and as such I think the country requires fresh leadership to take it in this direction.

I will do everything I can as Prime Minister to steady the ship over the coming weeks and months, but I do not think it would be right for me to try to be the captain that steers our country to its next destination.

This is not a decision I have taken lightly, but I do believe it is in the national interest to have a period of stability and then the new leadership required.

There is no need for a precise timetable today, but in my view we should aim to have a new Prime Minister in place by the start of the Conservative party conference in October.

Delivering stability will be important and I will continue in post as Prime Minister with my Cabinet for the next 3 months. The Cabinet will meet on Monday.

The Governor of the Bank of England is making a statement about the steps that the Bank and the Treasury are taking to reassure financial markets. We will also continue taking forward the important legislation that we set before Parliament in the Queen's Speech. And I have spoken to Her Majesty the Queen this morning to advise her of the steps that I am taking.

A negotiation with the European Union will need to begin under a new Prime Minister, and I think it is right that this new Prime Minister takes the decision about when to trigger Article 50 and start the formal and legal process of leaving the EU.

I will attend the European Council next week to explain the decision the British people have taken and my own decision.

The British people have made a choice. That not only needs to be respected – but those on the losing side of the argument, myself included, should help to make it work.

Britain is a special country.

We have so many great advantages.

A parliamentary democracy where we resolve great issues about our future through peaceful debate.

A great trading nation, with our science and arts, our engineering and our creativity respected the world over.

And while we are not perfect, I do believe we can be a model of a multi-racial, multi-faith democracy, where people can come and make a contribution and rise to the very highest that their talent allows.

Although leaving Europe was not the path I recommended, I am the first to praise our incredible strengths. I have said before that Britain can survive outside the European Union, and indeed that we could find a way.

Now the decision has been made to leave, we need to find the best way, and I will do everything I can to help.

I love this country – and I feel honoured to have served it.

And I will do everything I can in future to help this great country succeed.

## Statement by the EU leaders and the Netherlands Presidency on the outcome of the UK referendum

President Tusk, President Schulz and Prime Minister Rutte met this morning in Brussels upon the invitation of European Commission President Juncker. They discussed the outcome of the United Kingdom referendum and made the following joint statement:

“In a free and democratic process, the British people have expressed their wish to leave the European Union. We regret this decision but respect it.

This is an unprecedented situation but we are united in our response. We will stand strong and uphold the EU’s core values of promoting peace and the well-being of its peoples. The Union of 27 Member States will continue. The Union is the framework of our common political future. We are bound together by history, geography and common interests and will develop our cooperation on this basis. Together we will address our common challenges to generate growth, increase prosperity and ensure a safe and secure environment for our citizens. The institutions will play their full role in this endeavour.

We now expect the United Kingdom government to give effect to this decision of the British people as soon as possible, however painful that process may be. Any delay would unnecessarily prolong uncertainty. We have rules to deal with this in an orderly way. Article 50 of the Treaty on European Union sets out the procedure to be followed if a Member State decides to leave the European Union. We stand ready to launch negotiations swiftly with the United Kingdom regarding the terms and conditions of its withdrawal from the European Union. Until this process of negotiations is over, the United Kingdom remains a member of the European Union, with all the rights and obligations that derive from this. According to the Treaties which the United Kingdom has ratified, EU law continues to apply to the full to and in the United Kingdom until it is no longer a Member.

As agreed, the “New Settlement for the United Kingdom within the European Union”, reached at the European Council on 18-19 February 2016, will now not take effect and ceases to exist. There will be no renegotiation.

As regards the United Kingdom, we hope to have it as a close partner of the European Union in the future. We expect the United Kingdom to formulate its proposals in this respect. Any agreement, which will be concluded with the United Kingdom as a third country, will have to reflect the interests of both sides and be balanced in terms of rights and obligations.”

24/6/2016

## High Court ruling on Article 50: statement

R (Miller) -v- Secretary of State for Exiting the European Union – Accessible  
3 November 2016

Neutral Citation Number: [2016] EWHC 2768 (Admin)

Case No: CO/3809/2016 and CO/3281/2016

IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION  
DIVISIONAL COURT

Royal Courts of Justice  
Strand, London, WC2A 2LL  
3 November 2016

Before :

LORD CHIEF JUSTICE OF ENGLAND AND WALES  
THE MASTER OF THE ROLLS  
LORD JUSTICE SALES

Between :

The Queen on the application of (1) Gina Miller &  
(2) Deir Tozetti Dos Santos Claimants  
– and –

The Secretary of State for Exiting the European Union Defendant

(1) Grahame Pigney & Others

(2) AB, KK, PR and Children Interested Parties

Mr George Birnie & Others Interveners

Lord Pannick QC, Rhodri Thompson QC, Anneli Howard and Tom Hickman for  
the 1st Claimant

Dominic Chambers QC, Jessica Simor QC and Benjamin John for the 2nd  
Claimant

H.M. Attorney-General, James Eadie QC, Jason Coppel QC, Tom Cross and  
Christopher Knight for the Defendant Secretary of State

Helen Mountfield QC, Gerry Facenna QC, Tim Johnston, Jack Williams and John  
Halford for the 1st Interested Parties

Manjit Gill QC, Ramby De Mello and Tony Muman for the 2nd Interested Parties

Patrick Green QC, Henry Warwick, Paul Skinner and Matthieu Gregoire for the  
Interveners

Hearing dates: 13th, 17th and 18th October 2016

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Approved Judgment

**Lord Thomas of Cwmgiedd CJ, Sir Terence Etherton MR and Sales LJ :****Introduction***(a) The question for the court*

1. On 1 January 1973 the United Kingdom joined the European Communities. This occurred as a result of a process of Treaty negotiation by the government, the enactment of the European Communities Act 1972 (“the ECA 1972”) to give effect to Community law in the national legal systems of the United Kingdom and then ratification by the United Kingdom and other Member States of the amended Community Treaties. Thus, as a result of the ECA 1972, Parliament by primary legislation gave effect in each jurisdiction of the United Kingdom to binding obligations and rights arising under those Treaties. In due course the European Communities became the European Union.
2. On 23 June 2016 a referendum took place under the European Union Referendum Act 2015 (“the 2015 Referendum Act”). The question asked in the referendum was “Should the United Kingdom remain a member of the European Union or leave the European Union?” The answer given in the referendum was that the United Kingdom should leave the European Union.
3. Withdrawal from the European Union under the Treaty provisions of European Union is governed by Article 50 of the Treaty on European Union (“TEU”). That Article came into force in 2009 after amendment of the TEU by the Lisbon Treaty of 2007.
4. The sole question in this case is whether, as a matter of the constitutional law of the United Kingdom, the Crown – acting through the executive government of the day – is entitled to use its prerogative powers to give notice under Article 50 for the United Kingdom to cease to be a member of the European Union. It is common ground that withdrawal from the European Union will have profound consequences in terms of changing domestic law in each of the jurisdictions of the United Kingdom.

*(b) The common ground that the question is justiciable*

5. It is agreed on all sides that this is a justiciable question which it is for the courts to decide. It deserves emphasis at the outset that the court in these proceedings is only dealing with a pure question of law. Nothing we say has any bearing on the question of the merits or demerits of a withdrawal by the United Kingdom from the European Union; nor does it have any bearing on government policy, because government policy is not law. The policy to be applied by the executive government and the merits or demerits of withdrawal are matters of political judgement to be resolved through the political process. The legal question is whether the executive government can use the Crown’s prerogative powers to give notice of withdrawal. We are not in any way concerned with the use that may be made of the Crown’s prerogative power,

if such a power can as a matter of law be used in respect of Article 50, or what will follow if the Crown's prerogative powers cannot be so used.

(c) *The parties to the proceedings to resolve the legal question*

6. The Secretary of State is the appropriate representative of the Crown acting through the government. If the claimants' case is correct, it will of course cover action by any other government minister. Aspects of the submissions for the government were presented in turn by the Attorney General, Mr Eadie QC and Mr Coppel QC.
7. It is not difficult to identify people with standing to bring the challenge since virtually everyone in the United Kingdom or with British citizenship will, as we explain at paragraphs 58 and following, have their legal rights affected if notice is given under Article 50. The claimants and interested parties comprise a range of people whose interests are potentially affected in different ways. The main part of the argument for the claimants was presented by Lord Pannick QC, appearing for the first claimant. His submissions were adopted by those appearing for the other claimant and the interested parties. Certain aspects of the argument for the claimants and the interested parties were presented by other counsel. Mr Chambers QC, appearing for the second claimant, dealt with the topic of parliamentary sovereignty. Miss Mountfield QC, appearing for one group of interested parties, dealt with the topics of EU citizenship rights, the position of Scotland under the Act of Union 1707 and the impact of the devolution legislation. Mr Green QC, appearing for interveners who are British citizens (or those associated with them) exercising their free movement rights under EU law by living in other EU Member States and having access to public services there, focused on the impact which notification under Article 50 would have upon them and also dealt in particular with the effect of the European Union Act 2011. Mr Gill QC focused on the position of another group of interested parties for whom he appeared, who are children and their carers whose immigration status in the United Kingdom may be affected as a result of notification under Article 50. Counsel for the Lord Advocate of Scotland and for the Counsel General of Wales were present in court but played no part in the proceedings.

(d) *The scheme of the judgment*

8. We will answer the question for our decision under the following headings:
  1. Article 50 of the TEU (paragraphs 9-17)
  2. The principles of constitutional law: the sovereignty of Parliament and the prerogative powers of the Crown (paragraphs 18-36)
  3. The domestic effect of EU law under the ECA 1972 (paragraphs 37-56)
  4. Categories of rights arising under the ECA 1972 and EU law (paragraphs 57-66)
  5. UK legislation in relation to the EU subsequent to the ECA 1972 (paragraphs 67-72)

6. The parties' principal submissions (paragraphs 73-76)
7. Our decision on the question (paragraphs 77-104)
8. The Referendum Act 2015 (see paragraphs 105-108)
9. Conclusion and form of declaratory relief (paragraphs 109-111)

...

**(9) Conclusion and form of declaratory relief**

109. As we have set out at paragraph 5, it is agreed on all sides that the legal question we have examined and answered, as to whether the Crown can use its prerogative powers to give notice under Article 50, is justiciable. Since it is a justiciable issue, the court must plainly be entitled to grant appropriate declaratory relief. The Secretary of State accepts this as well. It is appropriate for the precise form of the declaratory relief to be granted to be addressed once the parties have seen this judgment.
110. This case came on before us as a “rolled up” hearing, for the questions of permission to seek judicial review and, if granted, the substantive merits of the claim to be considered at one hearing. We formally grant permission.
111. For the reasons we have set out, we hold that the Secretary of State does not have power under the Crown’s prerogative to give notice pursuant to Article 50 of the TEU for the United Kingdom to withdraw from the European Union.



## Press release

### **High Court ruling on Article 50: statement**

*First published: 3 November 2016*

Prime Minister's Office, 10 Downing Street,  
Department for Exiting the European Union and Attorney General's Office

A statement was issued following the High Court ruling today (3 November 2016).

A government spokesperson said:

“The government is disappointed by the Court's judgment.

“The country voted to leave the European Union in a referendum approved by Act of Parliament. And the government is determined to respect the result of the referendum.

“We will appeal this judgment.”

## Oral statement to Parliament

### **Exiting the European Union: Ministerial statement 5 September 2016**

Secretary of State David Davis made a statement in the House of Commons on the work of the Department for Exiting the European Union.

Mr Speaker, I thought it would be useful to the House to be brought up to date on the working of my department after the referendum of 23 June.

Our instructions from the British people are clear. Britain is leaving the European Union.

The mandate for that course is overwhelming: the referendum of June 23 delivered a bigger popular vote for Brexit than that won by any UK government in history.

It is a national mandate and this government is determined to deliver it in the national interest.

As the Prime Minister has made clear, there will be no attempt to stay in the EU by the back door. No attempt to delay, frustrate or thwart the will of the British people. No attempt to engineer a second referendum because some people didn't like the first answer.

The people have spoken in the referendum offered to them by this government and confirmed by Parliament, and all of us, on both sides of the argument, must respect the result. That is a simple matter of democratic politics.

Naturally, people want to know what Brexit will mean.

Simply, it means the UK leaving the European Union. We will decide on our borders, our laws, and taxpayers' money.

It means getting the best deal for Britain – one that is unique to Britain and not an 'off the shelf' solution. This must mean controls on the numbers of people who come to Britain from Europe – but also a positive outcome for those who wish to trade in goods and services.

This is a historic and positive moment for our nation. Brexit is not about making the best of a bad job. It is about seizing the huge and exciting opportunities that will flow from a new place for Britain in the world. There will be new freedoms, new opportunities, new horizons for this great country.

We can get the right trade policy for the UK. We can create a more dynamic economy, a beacon for free trade across the world. We want to make sure our regulatory environment helps rather than hinders businesses and workers. We can create an

immigration system that allows us to control numbers and encourage the brightest and the best to come to this country.

But I want to be clear to our European friends and allies: we do not see Brexit as ending our relationship with Europe. It is about starting a new one.

We want to maintain or even strengthen our co-operation on security and defence. It is in the interests of both the UK and the EU that we have the freest possible trading relationship. We want a strong EU, succeeding economically and politically, working with Britain in many areas of common interest.

So we should all approach the negotiations to come about our exit with a sense of mutual respect and co-operation.

I know the House will want to be updated about the work of my new Department for Exiting the European Union. It is a privilege to have been asked to lead it by the Prime Minister, and the challenge we face is exciting and considerable.

It will require significant expertise and a consistent approach. Negotiating with the EU will have to be got right. We are going to take the time needed to get it right. We are going to take the time needed to get it right. And we will strive to build a national consensus around our approach.

We start from a position of strength. As the Prime Minister said yesterday, there will be challenges ahead. But our economy is robust: thanks in no small part to the work of my Right Honourable Friend the Member for Tatton. The latest data suggest our manufacturing and service industries and consumer confidence are strong.

Businesses are putting their faith and money in this country. Over the summer Softbank, GlaxoSmithKline and Siemens all confirmed that they will make major investments in the UK. Countries including Australia have already made clear their desire to proceed quickly with a new trade deal for the UK. As other nations see the advantages to them, I am confident that they will want to prioritise trade deals with the UK. But we are not complacent. Our task, Mr Speaker, is to build on this success and strength, and to negotiate a deal for exiting the EU that is in the interests of the entire nation.

As I have already indicated, securing a deal that is in our national interest does not and must not mean turning our back on Europe. We are leaving the European Union – we are not leaving Europe. To do so would not be in our interest, nor Europe's. So we will work hard to help establish a future relationship between the EU and the UK that is dynamic, constructive and healthy. We want a steadfast and successful European Union after we depart.

And so, as we proceed, we will be guided by some clear principles. First, as I said, we wish to build a national consensus around our position. Second, while always putting the national interest first, we will always act in good faith towards our European partners. Third, wherever possible we will try to minimise any uncertainty that change can inevitably bring. And, fourth, crucially, we will – by the end of this process – have left the European Union, and put the sovereignty and supremacy of this Parliament beyond doubt.

The first formal step in the process of leaving the European Union is to invoke [Article 50](#), which will start 2 years' of negotiations. Let me briefly update the

House on how the machinery of government will support our efforts, and the next steps we will take.

First, responsibilities. The Prime Minister will lead the UK's exit negotiations and will be supported on a day-to-day basis by the Department for Exiting the European Union. We will work closely with all government departments to develop our objectives and to negotiate new relationships with the EU and the rest of the world.

Supporting me is a superb ministerial team and some of the brightest and best in Whitehall who want to engage in this national endeavour. The department now has over 180 staff in London, plus the expertise of over 120 officials in Brussels, and we are still growing rapidly with first class support from other government departments.

As to the next steps, the department's task is clear. We are undertaking 2 broad areas of work. First, given we are determined to build a national consensus around our negotiating position, we are going to listen and talk to as many organisations, companies and institutions as possible – from the large PLCs to small business, from the devolved administrations through to councils, local government associations and the major metropolitan bodies.

We are already fully engaging with the governments of Scotland, Wales and Northern Ireland to ensure a UK-wide approach to our negotiations. The Prime Minister met the First Ministers of Scotland and Wales and the First Minister and deputy First Minister of Northern Ireland in July, and last week I visited Northern Ireland for meetings with its political leaders, where I reiterated our determination that there will be no return to the hard borders of the past. I will visit Scotland and Wales soon.

My Ministerial colleagues and I have also discussed the next steps with a range of organisations: my first meeting was with the General Secretary of the Trades Union Congress, followed by key business groups, representatives of the universities and charitable sectors, and farming and fisheries organisations.

But this is just the start. In the weeks ahead, we will speak to as many other firms, organisations and bodies as possible – research institutes, regional and national groups and businesses up and down the country, to establish the priority issues and opportunities for the whole of the UK. As part of this exercise, I can announce that we will hold roundtables with stakeholders in a series of sectors, to ensure all views can be reflected in our analysis of the options for the UK's withdrawal from the European Union. The first of these will take place later this month. I will also engage with the member states and am beginning this with a visit to Dublin later this week.

I am working particularly closely with the Foreign Secretary and the Secretary of State for International Trade. They have been meeting counterparts in Washington, Brussels, Delhi and the capitals of other EU member states.

While we do this, my officials, supported by officials across government, are carrying out a programme of sectoral and regulatory analysis, which will identify the key factors for British businesses and the labour force that will affect our negotiations with the EU. They are looking in detail at over 50 sectors and cross-cutting regulatory issues.

We are building a detailed understanding of how withdrawing from the EU will affect our domestic policies, to seize the opportunities and ensure a smooth process of exit.

Mr Speaker, the referendum result was a clear sign that the majority of British people wish to see Parliament's sovereignty strengthened – and so throughout this process, Parliament will be regularly informed, updated and engaged.

Finally, we are determined to ensure that people have as much stability and certainty in the period leading up to our departure from the EU. Until we leave the European Union, we must respect the laws and obligations that membership requires of us.

We also want to ensure certainty when it comes to public funding. The Chancellor has confirmed that structural and investment fund projects signed before the Autumn Statement and research and innovation projects financed by the European Commission granted before we leave the EU will be underwritten by the Treasury after we leave.

Agriculture is a vital part of the economy, and the government will match the current level of annual payments that the sector receives through the direct payment scheme until 2020, providing certainty.

In terms of the position of EU nationals in the UK, the Prime Minister has been clear that she is determined to protect the status of EU nationals already living here, and the only circumstances in which that would not be possible is if British citizens' rights in European member states were not protected in return – something that I find hard to imagine.

I am confident that together, we will be able to deliver on what the country asked us to do through the referendum. I am greatly encouraged by the national mood: most of those who wanted to remain have accepted the result and now want to make a success of the course Britain has chosen. Indeed, organisations and individuals I have met already that backed the Remain campaign now want to be engaged in the process of exit and are identifying the positive changes that will flow from it as well as the challenges.

I want us all to come together as one nation to get the best deal for Britain.

Mr Speaker, in conclusion: we are confident of negotiating a new position that will mean this country flourishing outside the EU, while keeping its members as our friends, allies and trading partners.

We will leave the European Union, but we will not turn our back on Europe.

We will embrace the opportunities and freedoms that will open up for Britain.

We will deliver on the national mandate for Brexit, and we will deliver it in the national interest.

## Oral statement to Parliament

### **Process for invoking Article 50: Ministerial statement 7 November**

A statement from the Secretary of State for Exiting the European Union on the process for invoking Article 50.

With permission, Mr Speaker, I will now make a statement on the process for invoking Article 50.

The Government's priority at every stage following the European Union referendum has been to respect the outcome of that referendum and to ensure it is delivered on.

To leave the EU was the decision of the British people. It was taken after a six to one vote in this House to put that decision in their hands.

As the Government told the voters: "This is your decision. The Government will implement what you decide." No ifs, no buts.

So there can be no going back. The point of no return was passed on June 23.

Implementing the decision to leave the EU means following the right processes. We must leave in the way agreed in law by the UK and other member states, which means following the process set out in Article 50 of the Treaty on the European Union.

And we have been clear about the timing. There was a good reason the Government did not take the advice of some in this House and trigger Article 50 immediately.

Instead, the Prime Minister was clear that she would not invoke Article 50 before the end of this year. This is giving us the time to develop a detailed negotiating position. We have also said that the process should not drag on, and that we intend to trigger Article 50 by the end of March next year.

Let me now turn to the issues at hand this week.

Legal action was taken to challenge the Government on the proper process for triggering Article 50.

We have always been of the clear view that this is a matter of the Government: that it is constitutionally proper and lawful to begin to give effect to the referendum result by the use of prerogative powers. As I have said, the basis on which the referendum was held was that the Government would give effect to the result of that referendum. That was the basis on which people were asked to vote.

Our argument in the High Court was that decisions on the making and withdrawal from treaties are clear examples of the use of the royal prerogative, and that Parliament – while having a role in this process which I will come to – has not constrained the use of the prerogative to withdraw from the EU. Our position in the case was therefore that the Government was entitled to invoke the procedure set out in Article 50.

The court has, however, come to a different view, and held that the Government does not have the prerogative power to give notice under Article 50 without legislation authorising it to do so.

The Court said the starting point was that the Crown does not have power to vary the law of the land using its prerogative powers, unless Parliament legislated to the contrary. It held that the European Communities Act 1972 brought rights arising under EU law into the law of the United Kingdom, and that the Crown has no prerogative power to withdraw from the EU, because the effect of withdrawal would be to take away those rights.

Let me be clear about this: we believe in and value the independence of our judiciary, the foundation upon which our rule of law is built.

We also value the freedom of our press. Both these things underpin our democracy.

The Government disagrees with the Court's judgment. The country voted to leave the European Union, in a referendum approved by an Act of Parliament. Our position remains that the only means of leaving is through the procedure set out in Article 50 and that triggering Article 50 is properly a matter for the Government using its prerogative powers. As a result we will appeal the High Court's judgment at the Supreme Court.

Given our appeal, it would not be appropriate to comment further on the details of the legal arguments: I am sure that the House will understand this.

But let me say a brief word about the process of our appeal. We have taken two necessary procedural steps.

First, the Government has been granted a certificate to by-pass the Court of Appeal and "leapfrog" the case to the Supreme Court. This will ensure that, when we lodge our appeal, it will be heard directly in the Supreme Court without further delay in the courts.

Second, we will this week apply for the substantive permission to appeal to the Supreme Court.

It is likely that any hearing will be scheduled in the Supreme Court in early December. We would hope the judgment would be provided soon after. This timetable remains consistent with our aim to trigger Article 50 by the end of March next year.

We are now preparing our submissions to the Supreme Court in the usual way: as I have said it would not be proper to go into those in great detail here today. But the core of our argument will remain that we believe that it is proper and lawful for the Government to trigger Article 50 by the use of prerogative powers.

Of course, there is also litigation under way in Northern Ireland. This is considering a number of specific issues linked to Northern Ireland's constitutional arrangements.

The High Court in Belfast found in the Government's favour on these points.

A hearing in Belfast is being held tomorrow to consider whether an appeal by the claimants in this case should also leapfrog to the UK Supreme Court and whether the issues that overlapped with the English courts should remain stayed pending the outcome of the Supreme Court.

Again, it would not be appropriate for me to say more on this at this stage, except to say that in the event of any appeal in the Northern Ireland litigation, the Government will robustly defend its position.

And for the avoidance of doubt, our view is that the legal timetable in relation to this case in the event of an appeal should also be consistent with our commitment to notifying under Article 50 by the end of March next year.

I have said that because of our appeal, I will not go into detail here on the points of law that were raised in the High Court's judgement.

But let me set out some fundamental principles for how we move ahead.

First of all, our plan remains to invoke Article 50 by the end of March. We believe that the legal timetable should allow for that.

Second, the referendum result must be respected and delivered. The country voted to leave the European Union, in a referendum provided for by an Act of Parliament.

There must be no attempts to remain inside the EU, no attempts to re-join it through the back door, no second referendum. The country voted to leave the European Union, and it is the duty of the Government to make sure we do just that.

Parliament had its say in legislating for the referendum, which it did in both Houses, with overwhelming majorities in this House and cross-party support. The people have spoken, and we intend to act on their decision.

Third, irrespective of the on-going Court process, there is an important role for Parliament. Parliament will have a central role in making sure that we find the best way forward and we have been clear we will be as transparent and open as possible.

There have already been a number of debates and Parliamentary statements on Brexit and the Prime Minister has pledged that that process will continue before Article 50 is invoked.

I informed the House in October that there would be a series of debates on Brexit in Government time. The first of those is this afternoon. This is on top of a number of other debates and opportunities for scrutiny.

The new Select Committee on Exiting the EU has been established. This provides another place for parliamentary scrutiny of our withdrawal from the EU. And the Committee will be visiting my Department tomorrow, if I remember correctly.

The Government will bring forward legislation in the next session that, when enacted, will repeal the European Communities Act 1972 on the day we leave the EU. This 'Great Repeal Bill' will end the authority of EU law and return power to the UK.



And we have been clear, European Union law will be transposed into UK law at the time we leave, providing certainty for workers, businesses and consumers. This will be an Act of Parliament which we intend to have in place before the end of the Article 50 process.

It is important to remember that Article 50 is the beginning of the process; it is not the end. As the Prime Minister has made clear, there will be many opportunities for Parliament to continue to engage with Government once Article 50 has been invoked.

And when negotiations have concluded, we will observe in full all relevant legal and constitutional obligations that apply.

But there is a balance to be struck between Parliamentary scrutiny and preserving our negotiating position, which is why the House unanimously concluded last month that the process should be undertaken in such a way that respects the decision of the people of the UK when they voted to leave the EU on 23 June and does not undermine the negotiating position of the Government as negotiations are entered into.

And we will give no quarter to anyone who, while going through the motions of respecting the outcome of the referendum, in fact seeks to thwart the decision of the British people.

So, to conclude: we are disappointed by the Court's judgment in this case. We will appeal that judgment to the Supreme Court. And none of this in any way diminishes our determination to respect and deliver on the outcome of the referendum and to notify under Article 50 by the end of March next year.

We are going to get on with delivering on the mandate to leave the European Union in the best possible way for the UK's national interest - best for jobs, best for growth and best for investment.

## Doorstep by High Representative/Vice-President Federica Mogherini at the Paris Balkans Summit 2016

Bruxelles, 04/07/2016 - 00:00 - UNIQUE ID: 160704\_03

Paris, 4 July 2016

Check against delivery!

We had a very important summit with all the leaders of Western Balkans countries, hosted by President Hollande. It comes at a special time when it is very important for the European Union to reaffirm the willingness to proceed on the European integration of the Western Balkan countries, all of them.

We are working on a daily basis with each and every one, to make steps towards the European integration of the Western Balkans. This is extremely important for peace and stability, but also for the security of the European citizens. We often focus on the interest in the region to proceed towards the European integration, but it is also very important for our own security.

The migration crisis has shown us the risks of radicalisation in the region and is also telling us that we need to work closely together. It is particularly important today, after the results of the UK referendum, because inside the European Union sometimes we have problems in identifying the added value of the European project, while in the Western Balkans it is self-evident that the integration process of the European Union is bringing positive things for the citizens. We have euro-enthusiasm in the region that we need to nourish and we need to look at it as a source of inspiration inside our borders. So it was very important to have this meeting today and, obviously, we will continue to work on a daily basis to make this process a reality for each and every of the six countries involved.

### *Q. Is Brexit the end of the enlargement to the Balkan countries?*

A. No, it is not. My message today was very clear: our determination to proceed with the enlargement process is there and it is very important to reaffirm it now. It is very important for the European institutions, starting from the Council but also the European Commission, to be credible on the process and it is important for us to support the reform agenda of the countries involved. They are working very hard, they are working very well - I would say all of them - and we have an interest in this reform agenda to succeed and in the enlargement process to go on. So the message is loud and clear: we are going to continue. Thank you

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Sources: [https://eas.europa.eu/headquarters/headquarters-homepage/7187/doorstep-by-high-representativevice-president-federica-mogherini-at-the-paris-balkans-summit-2016\\_en](https://eas.europa.eu/headquarters/headquarters-homepage/7187/doorstep-by-high-representativevice-president-federica-mogherini-at-the-paris-balkans-summit-2016_en) (10.11.2016).



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