



MALTA EU2017
PARLIAMENTARY DIMENSION

Background Note

Session III

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Outcome of the UK referendum – State of Play

The outcome of the UK referendum held on 23 June 2016 caught regional and international actors by surprise. The exit of the United Kingdom from the European Union, caused numerous shockwaves not only within the United Kingdom but also across the European Union. European citizens in the UK, UK citizens who voted to remain, Scotland and Ireland, amongst others, raised numerous concerns on their future relationship with the European Union and also on the future economic development of the United Kingdom. Following agreement between the House of Commons and the House of Lords, and Royal Assent on the text of the *European Union (Notification of Withdrawal) Bill*, the UK Government was able to officially start the split from the EU27. In fact on 29 March 2017 the UK Government, triggered Article 50. Exchanges between the UK side and the EU side are well underway and have varied between turbulent and sometimes confrontational tones at times, and a more open and collaborative approach at others.

As established by the Lisbon Treaty, Member States may decide to withdraw from the Union in accordance with their own constitutional requirements. Article 50 sets out the process for a member state to leave the EU and thus allowing for two years of negotiations. If the negotiations are successful, the withdrawal agreement would need to be ratified by the withdrawing Member, approved by the European Parliament, as well as by at least 20 out of 27 Member States represented in the Council.

The role of the European Commission, the European Council and the European Parliament will be instrumental to secure a just and favourable deal for the EU27. Furthermore, cooperation between the three institutions needs to ensure that the principles of transparency and parliamentary scrutiny are fully implemented throughout the transition period, therefore during the pre-notification, negotiation and post-negotiation phases.

The President of the European Council Donald Tusk in his remarks delivered on 31 March 2017 on the next steps following the UK notification, stated that citizens' rights will be placed at the forefront of the discussions and that the legal status of citizens living and working in the UK will be urgently addressed and dealt with in a reciprocal, enforceable and non-discriminatory manner. Secondly, the negotiations will need to ensure that EU companies do not suffer from a legal vacuum and thus suffer unnecessary financial losses and disruption of business ventures. Thirdly, the UK will be obliged to

honour all financial commitments and liabilities it has undertaken as a Member State. Fourthly, the negotiating process will need to guarantee flexibility and develop creative solutions, especially to avoid a possible hard border between North Ireland and Ireland.

The Commission's Chief Negotiator for the Preparation and Conduct of Negotiations with the UK, Mr Michel Barnier, has been tasked to implement the political mandate decided by the Council. Speaking before the European Parliament Mr Barnier enumerated that¹:

- i. the four freedoms must be indivisible;
- ii. any transitional agreement must unambiguously be limited in time;
- iii. EU membership must always remain the most advantageous status;
- iv. any new relationship must be based on a level playing field and on respect for the rules of competition;
- v. the balance of rights and obligations agreed with other third states must be taken into account; and
- vi. close cooperation is desirable in the field of defence and security.

The Conference of Presidents of the European Parliament appointed Mr Guy Verhofstadt, Chair of the Alliance of Liberals and Democrats for Europe (ALDE Group), as the European Parliament's coordinator for the negotiation on the UK withdrawal from the EU. The European Parliament has made it clear that full involvement of the European Parliament is a necessary precondition for subsequent agreement to a settlement with the UK. The European Parliament reiterates that the negotiations need to focus on:

- i. the legal status of citizens;
- ii. the settlement of financial obligations between the EU and UK;
- iii. the EU external border and clarification of the status of the UK's international commitments taken as a Member State of the European Union;
- iv. legal certainty for legal entities, including companies; and
- v. the designation of the Court of Justice of the EU as the competent authority for the interpretation and enforcement of the withdrawal agreement.

Holistically, the three institutions are committed to ensure a well-structured transitional process having as its core purpose that of

¹ Brexit and the European Union: General Institutional and Legal Considerations: European Parliament study for AFCO Committee, January 2017

protecting citizens and ensure that the British exit process is as smooth and less damaging as possible to both sides.

At this juncture the role of national parliaments in the negotiating process needs to be discussed. The second Chapter of the Bi-Annual Report questioned parliaments to reflect and comment on the anticipated level and ways of engagement for national Parliaments. 35 out of 37 replies agreed that national Parliaments should be kept informed directly from their respective Governments on the progress and developments of the negotiations. Furthermore, 28 out of 38 replies agreed to the opportunity to ask questions and obtain further clarifications directly from the EU negotiating team.

During Session III Members will be invited to comment on best practices, tools and measures that would ensure great involvement of national Parliaments in the UK exit process and guarantee that European citizens are fully represented.