



Working Paper Series

## The EU beyond Brexit: towards a New Democratic Foundation (Update<sup>\*</sup>)

**Abstract:** Brexit shocked the EU. As the new reality of a Britain-less Europe gradually settles in, Brussels and the rest of the 27 capitals need to consider carefully their next steps. The UK's decision to leave the Union can either be a breaking point or a wake-up call for the rest of the bloc. The aim of this paper is first, to provide a review of publications dealing with the impact of Brexit on the EU, second, to examine the state of play in EU politics after Brexit and finally to offer a set of political recommendations for European Democrats. The paper will argue that despite clear signals of stress from a wide body of economic studies, both EU and UK sides seem set for a hard Brexit that will preclude a special relationship between them. This means that the four fundamental freedoms according to the EU law will not apply to the UK and at the same time British businesses and industries will not enjoy privileged access to the European single market. In order to eschew the aftershock of such a separation procedure and, most importantly, to show that the Union can continue life without the UK with some intent and purpose, the paper will claim that the EU will need a 'democratic refoundation' to re-engage with the citizens and regain the trust of the European capitals.

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<sup>\*</sup> An earlier version of this paper appeared on the IED website in September 2016. Six months on from the date of the UK referendum on EU membership, there is little progress on the negotiations: the British government has not yet officially submitted the notice of withdrawal stipulated in Article 50 TEU and the EU side is sticking to its initial decision not to discuss the terms of Brexit until the UK pushes the Article 50 button. Nevertheless, this update will take into account more recent research concerning the immediate impact of Brexit and will consider recent changes or trends of EU integration in view of the Brexit negotiations. Most importantly, this update will take notice of the growing signals from both sides that consolidate the earlier opinion of the author that the separation process will take the form of a hard Brexit.

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## Introduction

Brexit shocked the EU. As the new reality of a Britain-less Europe gradually settles in, Brussels and the rest of the 27 capitals need to consider carefully their next steps, because the UK's decision to leave the Union can either be a breaking point or a wake-up call for the rest of the bloc. First and foremost, the EU-UK divorce is in urgent need of a sensible and realistic approach. Europe cannot afford to become discontent or resentful over Brexit, as this would only pour oil to the fire of centrifugal forces that are testing the limits of European integration. Then, the EU will inevitably have to learn to operate without London. Political decision-making and the legislative procedure itself inside the EU institutions will soon need a new *modus operandi*. For instance, in terms of economic and financial regulation, the UK has been the most liberal member-state, leading a small but significant bloc of countries that shared the British instinct for *laissez-faire* – such as the Netherlands and Nordic countries<sup>1</sup>. But, most importantly, and in order to avoid a domino of 'exit' referenda, the EU will have to address several controversial issues that are fuelling Eurosceptic sentiments around the continent. Despite the setback, the only way forward for the EU is to take the unfortunate result of the UK referendum as a last chance for a democratic refoundation that will rejuvenate the European project.

The aim of this paper is first, to provide a review of publications dealing with the impact of Brexit on the EU. By definition, this review cannot be exhaustive. Therefore, some emphasis will be given on the possible repercussions of Brexit on EU politics, economics and security issues. This is an important step in trying to understand the potential implications of Brexit on the EU. This impact will also depend on the future shape of the UK-EU relationship to be negotiated in the next years following formal notice of the UK's intention withdraw. In this respect, the paper will also outline and briefly evaluate the pros and cons of the main scenarios or models for Europe's relationship with the UK, from the Swiss-style bilateral accords to an FTA-based approach. Other proposed models include the customs union (based on current EU-Turkey relationship) and the Norwegian style European Economic Area agreement.

Second, the paper will examine the state of play in EU politics after the 23<sup>rd</sup> of June. The aim is to outline the emerging attitude of major political actors towards the separation procedure. This outline will include an analysis of public statements and declarations as well as a more theoretical analysis of EU interests and aims in the negotiations with the UK. Already, one can discern a disagreement between those who are advocating for an amicable separation based on common economic interest and those who are in favor of a strict, unforgiving approach in order to avoid political contagion in the EU in the form of successive 'exit' referenda. This political cleavage is set to play a key role in negotiating the new UK-EU relationship in the following years.

Last but not least, the paper will end with a set of political recommendations for European Democrat parties advocating for a 'democratic refoundation' of Europe, as expressed by François Bayrou and Marielle de Sarnez. Overall, this is the underlining position of the paper: that the EU is obligated to use Brexit's aftershock as an opportunity to move towards

more efficient, legitimate and – most of all – more democratic European integration. Here, the modest ambition is to develop this argument and to foster discussion among European democrats.

## Brexit Impacts

The right to withdraw was introduced with the Lisbon Treaty in 2004. (This is the by now well-known Article 50 TEU.) Early on, legal experts had examined the possible constitutional effects of a hypothetical member-state withdrawal<sup>2</sup>. And even before the referendum took place, it was obvious that a possible Brexit would present immediate legal and constitutional challenges in the United Kingdom and would complicate conventional legal rights for EU citizens in Britain and British citizens in the UK<sup>3</sup>.

To some extent, from a legal point of view, one would expect little controversy as to the process and the institutional consequences of a member-state's withdrawal from the Union<sup>4</sup>. This was not the case however when the UK High Court ruled that the Parliament needs to give its consent before the Government could communicate the notice to exit the European Union – according to Article 50 TEU – and start the formal negotiations. Although this controversy has sparked some hopeful thinking in the pro-European camp that Brexit could be blocked in the Parliament, it is more probable that this ruling would only cause a slight delay in the separation process. Notwithstanding the British government's appeal to the Supreme Court to overturn the High Court's decision, the UK constitutional order is not considering *if* Brexit will happen but *how* it will happen, what is the lawful way to implement the decision of the referendum. In the words of the post-referendum British Prime Minister, 'Brexit means Brexit' and Theresa May has already announced plans to trigger formal withdrawal procedures by March 2017.

It would be more prudent for all the parties involved to keep the focus on the economic and the political impact of the UK's withdrawal from the EU. A member's withdrawal from the EU was an extremely hypothetical scenario until David Cameron called the UK referendum on EU membership and already on the road to the polls, analysts and experts were busy thinking about the possible effects of Brexit; the result of the referendum forced everyone to think harder.

By and large, the impact of Brexit depends on the future relationship with the EU. This new relationship will be a product of painstaking negotiations that will begin with the activation of Article 50. A large "after-Brexit" literature identifies five scenarios for the future of EU-UK relations<sup>5</sup>; Jean-Claude Piris of the Centre for European Reform raises this number to seven<sup>6</sup> (see figure 1 for an overview).

None of these options comes for free; neither for the EU, nor for the UK. For the latter, every gain in political independence is met with economic loss. To put it simply, if the UK wants unobstructed, tariff-free access to the EU single market, then it will have to make some concessions in immigration policy. As said in an analysis of Brexit by the British firm Global Counsel, "what is most beneficial politically, in terms of policy independence, is also the most damaging economically"<sup>7</sup>.

FTA	The UK could conclude its own FTA with the EU as a third country. This would give the UK access to the single market but at a considerable loss of independence in terms of market and common standards regulation.
Customs Union	The Customs Union ensures that there are no tariff barriers in EU-UK trade. The UK needs to adopt EU market regulations. Also, the UK has to conform with the Free Trade Agreements the EU is making without being able to influence these agreements.
European Economic Area	The UK has access to the single market but absolutely no control over EU legislation, which, nonetheless, must be incorporated in UK law. The UK still needs to contribute to the EU budget.
Bilateral Accords	The UK and the EU sign a set of bilateral accords that give the UK access to the common market in selected sectors. This is not a comprehensive agreement, but tailor-made to the circumstances.
WTO	The UK and the EU do not sign any agreement and decide to deal according to current WTO rules. The UK does not have to make political concessions in exchange for access in the single market, but will face EU external tariff barriers.

Figure 1 - Possible Scenarios for EU-UK relations after Brexit

The Economist believes that a Norwegian-style, agreement in EFTA, would do the least damage to the UK economy<sup>8</sup>. This is also the most preferable option, for Richard Whitman of Chatham House: a relationship based on the European Economic Area (EEA) "would allow both sides to find their footing after the disruption of exit"<sup>9</sup>. Others, like the London based think tank Open Europe, would opt instead for a Free Trade Agreement. An FTA, Open Europe said, provides a high degree of flexibility<sup>10</sup> (that EEA does not). In its "Brexit Guide", Open Europe said that despite being time consuming, "the best option would be for the UK to pursue a comprehensive bilateral free trade agreement, aimed at maintaining as much of the current market access as possible while also adopting a broader liberalisation agenda"<sup>11</sup>.

## Economy

There is little doubt that economic and political concerns will be together in driving negotiations forward. But, it is difficult to speculate about the real impact of Brexit until one of these models – or a different one, which will be designed especially for the UK – qualifies as the basis for negotiations. Considering that the beginning of the negotiations is nowhere at sight for the moment, this uncertainty feeds fear into the markets, which have already begun to feel the heat after the 23<sup>rd</sup> of June.

As was expected, twenty-four hours after the result was in, Brexit had wiped two trillion US dollars off global markets<sup>12</sup>. The British FTSE 100 saw 120 billion pounds worth of value in

stocks wiped off the board<sup>13</sup>. Despite the fact that the markets are slowly recovering from that initial shock, the economists were right in predicting, at least that for the short- to medium-term, that Brexit will have negative consequences for the UK and European economies<sup>14</sup>. The next day of the referendum opened a period of extreme political and economic uncertainty, especially for Britain<sup>15</sup>.

In the longer run, according to analyses from Open Europe, PwC and Oxford Economics there will be a small negative Brexit impact on the UK economy, ranging from -0.5% to -1.5% of GDP in case the EU signs a free trade agreement with the UK<sup>16</sup>. A study from Capital Economics claimed that the Brexit will have a neutral effect on the UK economy; the latter has good prospects either inside or outside the EU<sup>17</sup>. A few older studies estimated that the UK economy might even flourish outside the EU. For instance, Minford et al, projected that excessive EU regulations are holding back the UK economy by 3.2–3.7% of GDP each year; Brexit could allow for greater flexibility of the UK economy, which will lead to an increase of foreign direct investments<sup>18</sup>.

With the exception of a few very optimistic or very pessimistic outliers, the forecasts of the economists suggest that in the long run there will be a small negative impact on the growth rate of the UK economy. Conceivably, without access to the single market the UK economy will grow, but at a slower pace. Nevertheless, it is important to note that these forecasts have not come to pass: for example, according to the latest figures the UK economy grew by 0,5% in the months following the vote in the referendum (exceeding expectations for growth of about 0,3%). Also, despite the spectacular decline of the British Pound after the vote, the sterling is slowly gaining the lost ground, trading at the end of 2016 for around 1,20 Euros and 1,23 United States Dollars. In turn, a cheaper sterling has benefited UK exporters and tourist sectors of the British Isles.

For Europe, the economic projections do not look much better, but they will probably be less intense. In the European Union the most important fallout will be political<sup>19</sup>. Nevertheless, the EU will still lose one-sixth of its current GDP and will probably lose its second place in the world economic rankings<sup>20</sup>. A Britain-less EU will still be an important trading bloc but a diminished one. This loss will not be felt the same by every member-state. In a section of an IMF report on the United Kingdom entitled 'Macroeconomic implications of the United Kingdom leaving the European Union', the IMF claimed that the EU countries with the tightest economic links with the UK (such as Ireland, the Netherlands and Cyprus) would sustain the most damage<sup>21</sup>. Similar reports identified the same countries with having the highest exposure risk to Brexit aftershocks<sup>22</sup>. The CPB Netherlands Bureau for Economic Policy Analysis concurred this estimation for the Dutch economy<sup>23</sup>.

## EU Politics

It is hard to make accurate economic predictions for what comes after such an unprecedented event of historical proportions. The Brexit implications for the whole EU will be far-reaching and overwhelmingly difficult to foresee. At some point, stock markets around the world will begin to recover; however, the political losses from the Brexit may prove deeper and more enduring<sup>24</sup>. Therefore, any attempt for long-term calculations,

economic or otherwise, should be taken with a pinch of salt. On the contrary, there are a few institutional features of a Britain-less EU that could already be considered. For instance, it is safe to assume that the 2019 elections for the European Parliament (EP) will not take place in the UK and hence the next EU legislature will not contain British Members of Parliament (MEPs).

Expect that the absence of 73 MEPs from the UK is going to upset the dynamics in the European Parliament across the political spectrum<sup>25</sup>. The groups of the European Peoples' Party (EPP) and the Socialists & Democrats (S&D), along with the Alliance of Liberals and Democrats (ALDE) will be required to reach a new compromise between them that will outline the mainstream, pro-European bloc in the EP. Nevertheless, the likely breakdown of the European Conservatives and Reformists (ECR) and Europe of Freedom and Direct Democracy (EFDD) – led by British Conservatives and UKIP respectively – will affect even more profoundly the equilibrium in the far right end of the EP.

Evidently, compared to the ECR and the EFDD, led by British Conservatives and UKIP respectively, Marine Le Pen's ENF represents a far more radical Euro-skepticism. In the past, the unwillingness of UKIP to cooperate with FN has made it very difficult for Le Pen to reach the threshold of 25 MEPs from 7 Member-States and form a political group in the European Parliament<sup>26</sup>. The absence of British MEPs in the next EU legislature will probably mean that the ENF will have an easier time reaching this threshold. And, for now, it is doubtful whether either the Polish Conservatives or Beppe Grillo's Cinque Stelle (junior partners in ECR and EFDD respectively) will be able to stand on their own or to find common ground and challenge Le Pen's momentum. It seems more likely that Le Pen will assume the leadership of a broader far right bloc in the European Parliament after Brexit.

Similarly, Brexit will affect the distribution of power in the Council of the European Union. Depending on the issue under discussion, the Council of the EU takes its decisions by simple majority, qualified majority or a unanimous vote. In the case of the qualified majority in particular, which is the most common voting system, a passing vote needs 55% of the member states, representing at least 65% of the EU population. After the UK leaves the Union, the winning configurations in the Council as well as the balance of relative voting power will be affected. The five remaining 'big' member states – namely Germany, France, Italy, Spain and Poland – stand to gain more from Brexit in the Council of the EU, whereas smaller states will gain less and some of the smallest states will even lose some relative power during voting in the Council<sup>27</sup>. Regardless of the change in voting power, in relative and absolute terms, the Council of the European Union will need to find a new working balance.

Finally, Brexit is likely to become a breakpoint event that will create new political cleavages and dissension, beyond London and Brussels and across an increasingly divided European continent. In the European capitals, Eurosceptic sentiments may become stronger and support for further EU integration may decline. But, apart from Euroscepticism, Brexit is already a flagship for European anti-immigration, anti-globalization and anti-establishment movements – and although a domino effect of EU 'exits' is not yet in, the British withdrawal

has already shaken the political logic that has shaped the European continent for the past seven decades<sup>28</sup>.

## European Security

On the level of foreign policy, security and defence, it is safe to assume that the loss of UK's soft and hard power will result in diminished international influence for the EU. For example, it is not impossible to imagine that the EU will have an even more difficult time justifying a policy of confrontation with Russia in the Eastern Neighborhood. Studies of foreign policy attitudes exhibited by populist parties from across the board have indicated that left and right populists are not only Eurosceptic, but in most of the cases they tend to be also openly pro-Russian<sup>29</sup>. It is equally true despite the alarm sound by several European politicians populism has not changed political life in Europe as dramatically as it did, for example, in Latin America<sup>30</sup>. Nevertheless, populists seem to be upping the ante after the Brexit 'watershed moment', which should be enough by itself to demonstrate the amount of damage populism can inflict on mainstream politics and on the European project.

As Keir Gilles of Chatham House pointed out "London may still take a firm stand on Russia after an EU exit. But Moscow can exploit divisions exposed by the vote"<sup>31</sup>. John Herbst of the Atlantic Council went as far as to proclaim Brexit as a "big win for Russia's foreign policy"<sup>32</sup>. In the absence of the UK from the European Union and in combination with the result of the 2016 presidential elections in the United States, and assuming that the populist trend can continue, it is not at all exaggerated to anticipate that the European security system will go through drastic changes.

In turn, NATO will also feel the security implications of Brexit. London's position was more often than not aligned with those of Washington's and therefore, historically, the UK has been a valuable link between NATO and the EU. As the London based Centre for European Reform points out, "Once outside the EU, [the UK] will not be able to play that role"<sup>33</sup>. Perhaps, the UK will move to closer military coordination with non-European, Commonwealth countries such as Canada and Australia<sup>34</sup>. But still, without Britain, there would be much less capability available for EU military and peacekeeping operations<sup>35</sup>. Rightly then, in a comment released before the latest NATO summit in Wales, the Danish Institute for International Studies claimed, "after Brexit the fragile nature of Western multilateral culture and commitment is more obvious than ever"<sup>36</sup>.

The EU, the cornerstone of the multilateral approach, lost its leading military power a few days before Federica Mogherini, the High Representative of the European Union for Foreign Affairs and Security Policy sent the new EU Global Strategy to the member-states, ahead of its unveiling in the European Council last June<sup>37</sup>. The first EU global strategy in more than a decade is looking to deepen defence and security integration in Europe after Brexit<sup>38</sup>, but considering that the EU is as strong as its member-states<sup>39</sup>, it is difficult to fathom a global role for the EU without the integral participation of the UK<sup>40</sup>. On the path to a EU without the UK, pro-European forces in Brussels and in other capitals need to develop a response that strikes a careful balance between optimism and realism.



## EU Reactions

Brexit represents a historic event for the EU. Europe is different after the 23<sup>rd</sup> of June and it will be even more different after the divorce with the UK is a done deal. This is the first time that a member-state is leaving the Union and the consequences of this decision will be far-reaching on the economy, politics and security situation of both the UK and the EU. It is a matter of time to know how the economy will react in the long term, what kind of relationship will be negotiated, how the daily life of the EU institutions will be affected. The UK has not yet evoked the Article 50 and until then no official negotiations can take place. This uncertainty is a major part of the political reaction to the UK referendum results. The terms of the divorce are clear, but London, Brussels and the rest of the European capitals are keeping their cards close to their chests. So far, there is a consensus building up in the EU that access to the single market comes hand in hand with the four fundamental freedoms stipulated in EU law. But, there are still some dissenting voices and this is not a simple decision to take. In the background, Eurosceptic populists are making a lot of noise: Brexit has wet their appetites, either for the breakup of the European project altogether or for an overhaul of the EU according to their own alternative vision, which is very different from the liberal democratic vision that has been underlining EU integration since the formation of the European Communities.

### The Terms of the Divorce: Hard/Soft Brexit

Across the EU, Brexit was received as a negative event. European leaders received the results of the referendum with deep regret. Yet, they do not seem to be in unanimous agreement over the EU's stance after the referendum or what the next steps should be and what form the UK-EU relationship should take.

The British demand to have access to the EU single market and keep a high degree of independence on sensitive political issues, namely immigration and freedom of movement. This, in turn, is incompatible with EU law as stipulated in the Treaties and with the EU conduct so far in its negotiations with non-EU countries in Europe such as Switzerland and Norway<sup>41</sup>. Here, the dilemma that the EU faces is clear. On the one hand, if the EU appears to be strict and unyielding to British demands, the economy of the whole continent is probably going to suffer. If the EU gives in, then it may open up a Pandora's box of similar demands from many countries in Europe, both members and non-members of the bloc. For this reason, Brexit is labeled a game-changer<sup>42</sup>. In the end, something has got to give. If not, then the result will be a stalemate<sup>43</sup> that will prolong the period of political and economic uncertainty, with detrimental effects both for the UK and the EU.

From the beginning, these options were clear. A choice has to be taken regarding the terms of the EU-UK divorce and what the EU should do while this divorce was negotiated. This dilemma has formed into the debate of hard and soft Brexit.

At the core of this debate there is the binary issue of the access to the EU single market and the free movement of persons in the EU (one of the four fundamental freedoms of movement according to EU law, the others being capital, goods and services). The soft

position says that the UK is too important and therefore some sort of a compromise should be reached, whereby UK access to the single market will be maintained but at the same time London will have the independence to impose restrictions on the free movement of persons on the island. The hard position, on the contrary, maintains that access to the single market is inextricably related to the acceptance of the four fundamental freedoms – and that these freedoms are indivisible. Considering also that detachment from the freedom of movement of persons (and thus independence to decide its own immigration policy) was one of the main demands of the Brexit vote, a deal between the UK and the EU does not seem very probable at the moment.

Indeed, a careful consideration of statements and events since last June, shows that there is an emerging consensus, coming up slowly but steadily across the EU for a hard Brexit and that the same position seems to be the preference of the UK as well.

### Heading towards a Hard Brexit

The feeling in Brussels after the UK referendum was already in favor of a hard Brexit. The informal meeting of the 27 (already excluding the British Prime Minister) concluded with a common statement that the EU was hoping to have the UK as a close partner in the future, but rejected the possibility of a special relationship. The UK was to be considered in the Brexit negotiations as a third country and its access to the EU single market would require that London accepted all four fundamental freedoms<sup>44</sup>. In the coming days, individual leaders were even more straightforward in their statements.

From the side of the EU institutions, both presidents of the Commission and the European Parliament were in favor of a clean and quick divorce. Although Jean-Claude Juncker said the EU would pursue a "reasonable approach" in negotiating the separation, he continued that this would not be an "amicable divorce"<sup>45</sup>.

Germany's Chancellor, Angela Merkel, seemed to prefer the divorce to take some time. She called the result 'a watershed moment for Europe' and, while she did not hide her regret at the outcome, she did caution against quick-tempered responses that could make matters worse. In another occasion, she said that the "negotiations must take place in a businesslike, good climate. Britain will remain a close partner, with which we are linked economically"<sup>46</sup>. However, she made it abundantly clear that Britain will only have access to the single market if they accept free movement of labor: in a Bundestag meeting a few days after Brexit, Merkel said "Whoever wants to leave this family cannot expect to have no more obligations but to keep privileges"<sup>47</sup>.

French President Francois Hollande had his own domestic reasons to ask for a swift and clean Brexit. French presidential elections are coming up in the first semester of 2017 and the nationalist Front National headed by Marine Le Pen will be looking to capitalize on the UK referendum result. She is already set to win the first round. This is probably why, in June 25, after an urgent meeting of the foreign ministers of the six founding EU members in Berlin, the French foreign minister also called for immediate Brexit negotiations. "We have to give a new sense to Europe", he said, "Otherwise populism will fill the gap". That meeting

in Berlin also exposed a disagreement inside the German government with regards the timing of the Brexit negotiations: the German foreign minister, Frank-Walter Steinmeier, coming from the Social Democratic party, said that "[Brexit] should get under way as soon as possible so that we are not left in limbo but rather can concentrate on the future of Europe"<sup>48</sup>.

Italian Prime Minister, Matteo Renzi, said recently that it will be "impossible" for Brexit talks to result in a deal that gives Britons more rights than others outside the EU<sup>49</sup>. This was a clear signal that a hard Brexit is more preferable than a special relationship that would infringe on the free movement of persons inside the EU. Renzi is under pressure from his own upcoming referendum, which might refer to internal constitutional reforms, but may still be influenced by Brexit talks.

Austria, Belgium, Cyprus and the majority of member-states have all called, one way or the other, on the EU not to accept UK cherry-picking the benefits and obligations of EU membership. The Czech State Secretary for EU Affairs Tomas Prouza was against any compromise of the free movement of labor and said "There is no way whatsoever for the U.K. to have the cake and eat it". For the Czech Republic "it's the four freedoms or no freedoms"<sup>50</sup>. Bulgaria, Romania and Poland will be looking to protect their citizens living and working the UK. Unless their interest in upholding the freedom of movement of persons in the EU is secured, they will be reluctant to allow Britain access to the single market. In this regard, Romanian President, Klaus Iohannis said that his country would have a very active role in the Brexit negotiations<sup>51</sup>. Polish deputy foreign minister Konrad Szymanski is willing to hold Brexit negotiations under pressure of a veto, in order to secure a balanced deal that respects all four freedoms of movement<sup>52</sup>.

Even Ireland, which stands much to lose by a hard Brexit, seems to be leaning towards a strict EU position on the negotiations with UK. In an interview on Bloomberg, Irish finance minister, Michael Noonan said, "the best possible position for Ireland is that the position after the settlement will be very close to what the situation was before", but the UK cannot "have the advantages of the EU without the obligations"<sup>53</sup>.

Softer positions were few and far in between coming mostly from the Netherlands, Denmark and Finland. Mark Rutte, the Dutch Prime Minister clearly had his country's best interest in mind (i.e. Dutch economic interdependence with the UK), when addressing the European Parliament in Strasbourg he said that the EU would have to find a way to cooperate with the UK despite the regretful outcome of the referendum<sup>54</sup>. Finish foreign minister Timo Soini, even though he is coming from the Eurosceptic True Finns party, he provided the most composed expression for the terms of a soft divorce. "The nation has had its say", he said, "Any retaliation ... is out of the question"<sup>55</sup>. However, none of them articulated any concrete alternative to hard Brexit.

In fact, the EU seems remarkably united on Brexit. Six months on from the date of the UK referendum and time and time again the same positions have been repeated with every opportunity. First, that there can be no negotiations without UK's official notification of withdrawal and then that the four fundamental freedoms are strictly indivisible: the UK

cannot have its cake and eat it. So far, the EU side is not only unwilling to negotiate, but it seems like Europe does not really believe that there is something to negotiate at all. Unless the UK accepts the four freedoms as a package it will have no access to the single market.

However, the clearest indication of a hard Brexit came from the other side of the channel: in her first address to her party as a Prime Minister, Theresa May made it clear that the UK too does not consider soft Brexit as an option. There is no such thing, she said, “as a choice between ‘soft Brexit’ and ‘hard Brexit’”. The British Prime Minister who started her premiership with the motto ‘Brexit means Brexit’ reiterated this past October that the UK is ‘not leaving the European Union only to give up control of immigration again (...) not leaving only to return to the jurisdiction of the European Court of Justice’. The UK, she said, ‘is going to be a fully independent, sovereign country (...) a country that is no longer part of a political union with supranational institutions that can override national parliaments and courts’<sup>56</sup>. These quotes preclude any future deal on the basis of the European Economic Area that would allow Britain to remain in the single market in return for free movement of persons and regular contributions to the EU budget. The marked reference to the European Court of Justice also disqualifies a Customs Union solution that would ensure tariff-free trade between the EU and the UK, although the latter would then need to conform with the Free Trade Agreements the EU is making without being able to influence these agreements. That solution would then infringe with Liam Fox’s vision – the UK Trade Secretary – of Britain as a ‘global free trade nation’<sup>57</sup> that is able to conclude its own FTAs with partners around the world.

With the Customs Union and the EEA out of the question, the options remaining are an FTA between the EU and the UK or a special relationship based on bilateral accords. Considering that an FTA would several years to conclude, far more than the two year window for negotiations stipulated in the Treaties, and given that neither side of the negotiating table seems willing to compromise at the moment, it is more probable than ever that at the end of the negotiations there will be no special relationship between the EU and the UK.

After all, if there were room for a meaningful compromise then that would have happened already, during the negotiations for David Cameron’s new deal for the UK in Europe. As a matter of fact, the EU’s rigid stance on the indivisibility of the four freedoms was evident from the very beginning; and to some extent this rigidity is prescribed by the pressure that the spectacular rise of Eurosceptic populism mounts on European politics.

### The Populist Agenda

Many EU leaders have sounded the alarm on populism. One of them was Jean-Claude Juncker the European Commission’s President, who in his 2016 State of the Union address he cautioned the European Parliament that the ‘galloping populism’ in Europe is a danger for the EU; Italy’s prolific Prime Minister Matteo Renzi raised the alarm level even more warning that populism is ‘the greatest danger for the EU and its ideals’.

Apart from populist parties in France, Netherlands and Italy, none of the mainstream political parties in the EU has called for a referendum on EU membership in their respective

countries. Nevertheless, with the rise of populism as a clear electoral trend in Europe, the domino effect of Brexit on other EU countries should not be underestimated<sup>58</sup>. Brexit is the most astute expression of discontent with EU integration, a momentous event in the history of Europe that has the potential to usher a new era of disintegration for the EU.

Marine Le Pen, leader of the Front National (FN) in France was the first to salute the outcome of the UK referendum. She had already promised a referendum on EU membership to the French voters, so when Brexit carried the day she hailed the result as a 'victory for freedom' and she tweeted that it was time for France and all EU countries to have a referendum. Unsurprisingly, Le Pen was aligned with Russian politician and pundits such as Alexey Pushkov, Head of the Duma's Foreign Affairs Committee and Yulia Latynina, commentator for the Russian Novaya Gazeta, who described Brexit as a 'revolt against the ruling system and traditional politicians' and 'an uprising against Brussels'<sup>59</sup>. The next day of the referendum, in an op-ed published in the New York Times (in both English and French), Marine Le Pen summoned the image of the EU as a 'prison' and a 'cage', citing this time Brexit as an act of revolt and the beginning of the 'inevitable peoples' spring'; more and more, Le Pen wrote, 'the destiny of the European Union resembles the destiny of the Soviet Union, which died from its own contradictions'<sup>60</sup>. Elsewhere, in an interview with the Time Magazine, Le Pen compared the result of the UK referendum with the fall of the Berlin Wall, invoking again the image of the collapsing Soviet Union<sup>61</sup>. In the aftermath of Brexit, Le Pen's comparison between the EU and the Soviet Union is an opportune and novel tactic. Its function is to update the threadbare argument that western liberalism is morally corrupt and to instill a sense of the EU's imminent collapse<sup>62</sup>.

In the Netherlands, Geert Wilders, leader of the populist anti-immigration Freedom Party (VVD), and an ally of Marine Le Pen in the European Parliament, rejoiced on twitter with the result and said that it was "time for a Dutch referendum". Opinion polls in the Netherlands suggest that a majority of the population is in favor of a referendum on EU membership<sup>63</sup>. Another ally of Marine Le Pen and Geert Wilders in Italy, the leader of Italy's right-wing Lega Nord (LN) hailed the "courage of UK citizens" and declared the result "a defeat of the EU blackmail". According to Matteo Salvini, it was Italy's turn to vote on EU membership – and there too, the public seems convinced that such a referendum is the right thing to do<sup>64</sup>.

Other soft Eurosceptic leaders such Hungary's Victor Orbán and Poland's Jaroslaw Kaczynski, believe that Brexit is a fine opportunity for them to pressure for a regime change in the EU: in the occasion of a common appearance they pledged together to wage a "cultural counter-revolution" to reform the EU<sup>65</sup>. Lest we forget, Brussels has criticized strongly Orbán for taking control of public broadcasters, eroding judicial independence and advocating the return of key industries (such as banks) under state control. He does not accept the populist label of course, but what he did admit in public was that "the new state [Fidesz is] constructing in Hungary is an illiberal state, a non-liberal state"<sup>66</sup>. In his speech for a summer university student camp in 2014, Orbán said that his administration does not "make [liberalism] the central element of state organization, but instead includes a different, special, national approach". What is astonishing, shocking even, is that Orbán claimed that membership to the European Union is compatible with this different, special

and national regime. Kaczynski looks up to Orban as a role model and Kaczynski too, is implementing constitutional and media reforms that increase government control of the judiciary and the public media. Brussels has launched an investigation to determine whether Warsaw's reforms are breaching EU regulations related to the "rule of law".

Consequently, Brexit does not necessarily mean that the EU will collapse. Although the possibility that another country is going to leave the EU is slim, it is much more probable that from now on centrist politicians and pro-European forces will be on the defensive against populist, Eurosceptic and illiberal forces<sup>67</sup>. This is the most dangerous impact of Brexit: it opens up lots of opportunity for dissent and opposition and thus it is a big win for populists everywhere in Europe, which could boost their popularity ahead of several national election in the EU in the next years.

Populist electoral successes featured prominently first in the politics of the crisis-ridden Southern European democracies. This was received as a predictable reaction to austerity programs. Indeed, financial crises can have severe political aftershocks by which government majorities shrink and polarization rises<sup>68</sup>. It is customary to explain left populism in Europe in this way, as a reaction to severe austerity measures. Similarly, if one combines the Euro crisis with the massive immigration trend, not seen since the Second World War, then the voter adherence to populist right wing rhetoric that blames minorities and foreigners looks like a foregone conclusion. Hence, the anti-elitist sensation is rapidly making way across Eastern and Western Europe, strangely cutting across the left and right wings of the political board.

Take for instance the Freedom Party of Austria (FPÖ). This is the party founded by Anton Reinthaller, a former Nazi minister and SS officer and this is the party of Jörg Haider, the late FPÖ chairman who praised the Third Reich's 'employment policy' and who defended the honor of the Waffen SS as part of the Wehrmacht<sup>69</sup>. This FPÖ's presidential candidate, Norbert Hofer received almost fifty percent of the vote running against an opponent who was backed by every other mainstream political party in the country. In France, the center left and the center right stopped the Front National (FN) from claiming a triumphant victory in the last regional elections. But the party of the 'Nouvelle Droite' continues to gain ground. Marine Le Pen, the daughter and successor of Europe's most infamous anti-Semite and outspoken holocaust denier, looks set to win the first round of next year's Presidential Elections; the only mystery is who is going to be her running opponent in the second round and whether the center will be able to pull off another alliance and keep Le Pen out of the Élysée Palace. The Alternative for Germany (AfD) remained steadfast in its anti-EU, anti-immigration rhetoric and claimed a noteworthy electoral success in the Mecklenburg-Vorpommern State Elections – the home constituency of Angela Merkel – winning second place and overpassing the Chancellor's conservative party in the standing. The UK Independence Party has been taken off-course after Nigel Farage resigned, but not before dealing a major blow to the EU with an unexpectedly successful pro-Brexit campaign. To the south, the Lega di Nord (LN), a quasi separatist and entirely Eurosceptic movement, is governing both Veneto and Lombardia, two major Italian regions with almost fifteen million inhabitants. In parallel, the Greek Golden Dawn, a barefaced neo-Nazi party has long

consolidated as the third largest political force in the country gaining around 7% of the popular vote.

Across the board, in the same country, Alexis Tsipras and his radical left Syriza party has been the name in everyone's lips last year. Coming from a marginal 4,6% percent in 2009, before the Greek crisis, Tsipras has risen to the premiership with 36,3% in 2015 – an astounding nine fold increase in six (critical) years. In the year that followed Syriza's landslide victory, the Eurozone lived through an existential political crisis worthy of ancient Greek dramas. Tsipras' hand was ultimately forced. In the end, Tsipras had to agree to a new bailout agreement between Eurozone members and Greece and to conform to the same mix of austerity and structural reforms implemented by the previous government. Nevertheless, he did sway 61% of the public to defy what was touted as a final EU proposal to avoid default so that Greece could remain in the Eurozone. In Spain, Podemos presented the same blend of anti-capitalist and Eurosceptic rhetoric. And although Podemos had lukewarm electoral success (they claimed third position in 2015) their rise has rendered the country all but ungovernable: Spain is heading for an unprecedented third consecutive election in two years due to the inability of the first party to form a majority government. In Italy, the Five Star Movement (M5S) represents the epitome of catchall populism: left in the financial crisis, right in the refugee crisis, flexible everywhere else. The Eurosceptic M5S has grown this way to claim one vote out of every four ballots cast in national elections.

The growing ranks of populists in Europe share a disdain for EU integration, even if the ideal European Union, the ideal nation-state, the Promised Land and the paths to reach it do not always cross each other. That is to say that are many types of discontent with EU integration. However, in any case, being Eurosceptic does not constitute a threat - being illiberal does.

Illiberal populism seems to be gaining a foothold in Europe, but this is not a novel experience. On the contrary, it has deep roots and a long history in the continent: there have existed and will always exist people that have different visions of Europe than the one embodied by the EU.

Populism is not identical everywhere in Europe. However, the family resemblances between populist parties are suggestive of a loose political movement, which is increasingly discontent with the current status quo and willing to dissent and protest against the current configuration of power in Europe. A closer look on the populist positions indicates that although on the surface they are vehemently against further EU integration, underneath, the populists seem to be driven by a political logic that is patently incompatible with the philosophical, moral and political traditions upon which the European project and indeed the whole western idea of world order has rest for decades.

In other words, disintegration is not the only danger: it is also likely that if the liberal democratic forces do not pressure for a meaningful refoundation of the EU, then the illiberal populist forces will continue to grow. If the liberal democratic forces do not reform the EU, then the illiberal populists will do it for them.

## A New Democratic Foundation

Despite the possible negative impact that the Brexit will have on the EU and UK economies as well as on the politics of the continent, it seems like a consensus is emerging that favors a hard Brexit. This will mean that the UK will probably have no special status vis-à-vis the EU and that trade will continue under WTO rules (see figure 2). For the time being, it looks like political imperatives in the EU and the UK matter more than economic concerns. London is determined to use Brexit in order to gain political independence, while Brussels is looking to shield itself from populists and other centrifugal political forces. The interests of the member-states vary, but they converge when it comes to upholding the four fundamental EU freedoms. Does that mean that business can go on as usual after Brexit is final? This is highly unlikely. The Brexit has shown that change is urgently needed. The EU will need to reform in a meaningful way. The question is when and how.

FTA	The UK could conclude its own FTA with the EU as a third country. This would give the UK access to the single market but at a considerable loss of independence in terms of market and common standards regulation.
Customs Union	The Customs Union ensures that there are no tariff barriers in EU-UK trade. The UK needs to adopt EU market regulations. Also, the UK has to conform with the Free Trade Agreements the EU is making without being able to influence these agreements.
European Economic Area	The UK has access to the single market but absolutely no control over EU legislation, which, nonetheless, must be incorporated in UK law. The UK still needs to contribute to the EU budget.
Bilateral Accords	The UK and the EU sign a set of bilateral accords that give the UK access to the common market in selected sectors. This is not a comprehensive agreement, but tailor-made to the circumstances.
WTO	The UK and the EU do not sign any agreement and decide to deal according to current WTO rules. The UK does not have to make political concessions in exchange for access in the single market, but will face EU external tariff barriers.

Figure 2 - WTO as favourite Brexit Model

Calls and proposals for EU reform were discussed even before Brexit. The need to reform now is even greater. Regardless of when and how the Brexit negotiations will conclude, the EU needs to start thinking about its own future. The EU needs to focus reform efforts on the effective governance of the Eurozone, the completion of the single market area and the establishment of a successful growth model<sup>70</sup>. This is the only way to keep the European project running.



## The Need to Reform: EU Legitimacy Crisis

The European economies came out of the global financial crisis fraught by structural deficits, accelerating public debts and banking sectors on the brink of collapse. Just ten years after the festive introduction of its common currency, the Eurozone was riven by disagreement over the best balance between fiscal austerity and solidarity. The Euro crisis unfolded in front of the already nervous gaze of the markets and it came close to unraveling the Eurozone. But, before this opening act was over, the Syrian Civil War was causing a mass exodus of people desperate to seek refuge in Europe. Hundreds of thousands migrants and refugees battled the unwelcoming waves of the Mediterranean Sea. By the end of 2015, almost two million people have crossed into the EU<sup>71</sup>. They were too many for a single or a few member-states to handle; but the EU was lacking a common asylum policy. The Syrian refugee crisis again divided Europe, struggling this time to find a balance between compassion and security. In the background, ISIS terrorists (born, raised and educated in Europe) took to murdering innocent people in Paris, in Brussels, in Nice – in a discomfiting frequency and in the name of Islam.

In response to these two crises, Brussels seemed convinced that the only practical option was to deepen European integration, somehow to come up with more Europe. Their reasoning was quite straightforward: the EU was lacking the power to deal with the common problems troubling its member-states. In a matter of a few years, the debt crisis gave rise to powerful EU institutions and surveillance mechanisms such as the European Financial Stability Facility; the European Stability Mechanism; the Six-Pack and Two-Pack; the European Semester; and the Fiscal Compact<sup>72</sup>. On the migration front, the reaction was not different: there too, after a long-drawn succession of EU Summits, the European leaders negotiated a plan for refugee relocation and the creation of a European Border and Coast Guard<sup>73</sup>. In more than one way, decision-makers under pressure from critical and unforeseen circumstances decided not only to deepen EU integration, but also to accelerate the integration process.

Brussels did not streamline this crisis-response integration through the ordinary EU legislative procedure (also known as the community method). Recall here, for instance, the bailout agreements: they were not proposed by the Commission, the European Parliament did not amend or vote on them, the EU Council did not negotiate a deal with the Parliament. Instead, the Eurogroup drafted these agreements, in closed meetings with the IMF and the European Central Bank. The Commission kept a dubious role for itself in the backdrop of these meetings. The EU Council had the final word. The job was done in a hurry; the European Parliament was relegated in a purely consultative role.

Neither the national parliaments in the EU member-states had any major say in this intergovernmental play. Picture this: in 2015, the latest addition in the Greek bailout agreements – dubbed the 'Third Memorandum' – was a technocratic behemoth, a fiscal consolidation program of around 2.700 pages. The Greek parliament voted the 'Third Memorandum' into the law of the state, a couple of days after its official submission, without a single tabled amendment, under a single vote. The finance ministers of the 28

had hammered the deal, the EU Council had bestowed its approval – there was nothing for the Greek or the European Parliament to add.

True, the intergovernmental method was always a fact of EU life. But, it was an operation supposed to provide an institutional balance, reserved mainly for use on Common Foreign and Security policy and aspects of police and judicial cooperation. The Community Method was the general rule. Plus, since the signing of the Lisbon Treaty in 2004, there has been a clear institutional push to increase the role of the national parliaments in the daily legislative action of the EU. The crisis-response integration model tilted the balance in favor of intergovernmental decision-making. Inside the national parliaments, political parties in opposition found themselves utterly powerless to perform their constitutional role, which is to check and balance the power of the government. Brussels grew apart from national politics. Naturally, this was a major source of frustration and discontent, lest we forget that all politics is local.

The intentions were good, but in the words of the outgoing US President, “a well-intentioned Brussels often became too isolated from the normal push and pull of national politics. Too often, in capitals, decision-makers have forgotten that democracy needs to be driven by civic engagement from the bottom up, not governance by experts from the top down”<sup>74</sup>. In this respect, the Brexit can be an window of opportunity for the “redefinition of the [...] the means in which competences are distributed and above all exercised between the national and European levels and the democratic scrutiny of EU decisions”<sup>75</sup>. The EU is a voluntary political project and as it is dependent on support from the people.

The crisis-response integration has broken the word and the spirit of parliamentary democracy in Europe and has created a rift between Brussels and the European publics. It is a crisis of EU legitimacy.

Both in scale and in speed, the loss of EU legitimacy in the eyes of the public appears to have no parallel in the history of the bloc. It is not only the electoral wins that populists are achieving in the member-states. The public's disenchantment with the EU is clearly suggested in opinion polls across Europe. According to the latest statistics from the European Commission, trust in the EU has plunged in the past decade from a high 57% in 2007 to 33% in 2016<sup>76</sup>. The positive image of EU has taken a similar hit losing 16 points, whereas negative image of the EU have risen by 13 points during the same period<sup>77</sup>. Negativity reached record highs in crisis-ridden countries such as Cyprus and Greece but also countries that fared much better such as Austria and the Czech Republic and of course the UK<sup>78</sup>. Especially in Greece a country coping with the seventh consecutive year of recession, Gallup found that more than one in three Greeks (35%) approved of Russia's leadership, while fewer than one in four (23%) approved of the EU's leadership<sup>79</sup>. Recently, a survey of 10 large EU states by the Washington-based Pew Research Center noticed significant opposition in key European countries to an ever-closer EU<sup>80</sup>. Public support for the EU plunged in France, where only 38 percent of respondents said they had a favorable view of the EU, down 17 points from last year. It fell by 16 points in Spain to 47 percent, by eight points in Germany to 50 percent, and by seven points in Britain to 44 percent. The

irony? Even in the member-states with the highest public support for the EU, namely Hungary and Poland, people have elected two of the most Eurosceptic governments in the whole bloc of 28. Much of this disaffection with the EU, Pew claimed, could be traced back to the bloc's handling of the refugee crisis and the economy<sup>81</sup>. Brexit was a gravely serious symptom of the legitimacy crisis that the EU is experiencing.

If something is clear in the aftermath of the Brexit event, is that there is a serious problem with the loss of EU legitimacy across Europe. The result of the referendum was a rejection not only of immigration policies, but also of the EU performance and overall direction these past years<sup>82</sup>.

The crises are still ongoing. It is possibly premature, if not outright imprudent, to write an obituary for the EU, as the Harvard historian John R. Gillingham has done<sup>83</sup>. The reality however, is not encouraging. The Euro seems safe for now, but growth remains anemic. Schengen provisions were partially suspended, walls have been erected and selective border controls have been re-enacted. The refugee relocation plan was stillborn. The creation of European Coast Guard is still hanging and a resettlement agreement with Turkey is on balance. Europe is in urgent need for a new approach.

No doubt, the EU will have to become more effective in solving problems, more democratic when taking decisions and more resolute in becoming a force for good around the globe. What is at stake is nothing less than the survival of the European project<sup>84</sup>. Indeed, this year and the next a lot are going to be decided: major EU countries will go through critical democratic elections.

Democrats all over Europe need to convince the citizens that the EU is a democratic project and that it is necessary and vital for Europe's prosperity.

## Recommendations

- Brexit is one expression of a serious EU legitimacy crisis. It can be the opportunity to redefine the way decisions are taken in the EU or a breaking point for the European project.
- A new democratic foundation means to redefine European governance in a way that is more transparent, more accountable and more effective. This is the only meaningful reaction to the decline of public support for the EU.
- If the mainstream, liberal and democratic forces do not reform the EU, then the illiberal populists will do it for them.
- After Brexit, the EU can continue functioning with some intent and purpose, but initiatives for deeper integration (e.g. in European defence and security) need to strike a balance between optimism and realism.
- We do not need more Europe, nor less Europe – we need a better Europe.

- All politics is local. The EU will need to move reach out for the citizens in their regions. The European project will have to be re-invented inside the national and regional parliaments.
- The EU is a democracy not a technocracy: EU decisions need to be inclusive and transparent. Reforms should have been already underway concerning the transparency of decision-making in the EU Council and the Eurogroup.
- Policies, especially economic policies, are effective when they solve the real problems of the citizens in the member-states – not when they conform to some abstract logic.
- It is important to maintain a moderate and balanced, but honest position on Brexit. The UK will always be a close EU partner. The referendum result is no reason for bitterness and will have to be respected.

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