Short Legal Study on "British Exit"

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Abstract: After waiting nearly 13 years to become member of the European Union (EU), the United Kingdom, by the referendum in June 2016, it wants to be the first country leaving the European construction structures. However, the manner by which it was decided to exit the EU, namely the "referendum" raises many legal constitutional debates within the United Kingdom, even to the admission of the possibility to invoke the nullity of the vote of the British people. However, the London Government reaffirmed their desire to abandon the European ship. Thus, engaging the technical procedures for negotiating the conclusion of exiting from the EU cannot be sustained for too long. However, the future relationship between the European Union and Britain gives rise to many uncertainties. It puts in question the type of framework agreement which will regulate the cooperation between the EU and the UK. Maybe it will take as a model the existing agreement, such as that between the Union and the Switzerland or Russia, or it will be preferred the agreement "sur mesure" (customized) according to their interests? Also, another question is that of knowing the effects of exiting, in terms of international relations. The European Union is party to various international treaties, the United Kingdom, through its membership, has enjoyed the benefits of these international agreements. Since the Union is no longer serving as interface, should Britain renegotiate bilaterally these treaties? To all these questions we will give an objective answer in this article.

Keywords: European Union; United Kingdom; international treaties; the London Government; Brexit

"What is an **indignant man**? A man who says **no**. "And what is "no"? "This "no" asserts the existence of a border". With these questions it began the essay "*L'homme révolté"* Albert Camus, Nobel Prize in literature of 1957. (Camus, 1985, p. 27)

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On June 23, 2016, following a consultative referendum, 51.9% of UK nationals told "no" to the European Union (EU), deciding to withdraw from the 28 member states and thus creating ***a border***.

Consequently, we can say that almost 52% of Britons are **indignant** and believe (for various reasons: political, legal, institutional) as their kingdom should be independent.

1. Introductory Considerations

The decision of the British people can be considered a paradox since, seeing itself as marginalized by the two major world powers after the Second World War (USA and USSR), it wants to unite in the early 1960s with new construction Europe. Facing a veto of General de Gaulle, the British people had to wait for his disappearance and organize a referendum in France by President Pompidou in April 1972 for the United Kingdom to join the EU on January 1, 1973.

From the outset, Britain wanted a privileged status among the Member States. Thus, in 1979 the prime minister at the time, Margaret Thatcher, requested and obtained a decrease in the British contribution to the European budget.[1] Governments in London, consistently preferred to maintain and develop relations with Washington and NATO (NATO) in Brussels and the construction of a European defense. Also, as for the *free movement*, the British people have not ratified the Schengen agreement, and in matters of monetary policy it refuses the single European currency, the *Euro*. On the occasion of the European summit on 9th December 2011, the United Kingdom of Great Britain, by its Prime Minister David Cameron opposes signing the pact budget on the grounds of protecting the "attractiveness" of the country. Finally, as a last act before the referendum, in February 2016 the UK get a new status within the Union, strengthening the quality of *primus inter pares.*[2]

However, there are legal consequences of this output, what steps should be followed and, especially, what are the effects of the "British exit" (Brexit) on the rights of European citizens and on the British.

To these questions we will try to answer in the following text.

[1] Currently the contribution is the 4th after France, Germany and Italy, and it represents 0.23% of the British GDP, see (Marty, 2016, p. 554).
[2] http://www.consilium.europa.eu/fr/press/press-releases/2016/02/19-euco-conclusions/.

2. The Constitutionality of British Referendum

Article 50, paragraph 1 of the Treaty on European Union (Lisbon Treaty or TEU), which entered into force on 1 December 2009, it provides that "any Member State may, in accordance with its constitutional rules, to withdraw from the Union."

Ratified by the Parliament of Great Britain on 18 June 2008 (Romania ratifying it 4 February 2008)[1], in the doctrine the question remains whether the Lisbon Treaty provisions on the right of the British to withdraw may apply. (Constantinesco, 2016, p. 530)

Specifically there are two issues. Firstly, according to the constitutional rules, Britain may withdraw from the EU, and secondly, which legislative power has the will of the people expressed through the referendum in the light of parliamentary sovereignty ("Parliamentary sovereignty").

The Constitution of the United Kingdom is a set of *unencrypted* constitutional rules (i.e. not reunited within a single *legislative corpus*), which have two main sources: *the* Legislation (or the "enacted Law") and jurisprudence ("*Judicial precedent*" or "*case Law*"). (Bredley & Ewing, 2011, p. 12)

Among the texts with constitutional value we can include: Magna Carta Libertatum 1215[2]; Petition of Right of 1628[3]; Bill of Right and Claim of Right in 1689[4]; Acts of Settlement of 1701 that organizes the throne; Parliament Act of 1911, as amended in 1949, the regulation of the two houses (House of Lords and House of Commons); Fixed-term Parliaments Act 2011 that sets the conditions for dissolving the House of Commons.

Of course, the text of paragraph 1 of Article 50 of the Treaty uses the expression "in accordance with its own constitutional norms" and, even in the absence of a written constitution it can be permissible the value of the constitutional rules of law mentioned above.

[1] https://www.mae.ro/node/1532?page=2.
[2] This king (John without land) gives up to certain prerogatives in favor of barons and communes.
[3] The Legal Petition represented the protest against the king in terms of imposing taxes without the consent of Parliament, arbitrary criminal conviction, the use of martial committee in peacetime and allocation of housing in detriment of private soldiers.
[4] The Great Revolution of 1688 led not only to the fall of kings James II of England and James VII of Scotland, and the establishment of English constitutional monarchy in agreement with the fundamental rights of citizens and residents.

However, taking into account *the principle of parliamentary sovereignty*, (Loveland, 2009, p. 22 and the next) there is no constitutional control in the UK, and the Parliament reserves the right to change through a simple law the kingdom's institutions and citizens' fundamental rights.

In a similar vein, article 2, paragraph 1 of the Constitution provides that the "***national sovereignty belongs to the Romanian people,*** who exercise through its representative bodies (...) and by referendum". We can see that Romanian citizens exercising sovereignty either indirectly, by delegation, or directly through referendum.

As shown above, the sources of British unwritten constitutional norm is the law and jurisprudence. And according to the constitutional tradition in Britain, *sovereignty* does not belong to the British citizens, as it is for the Romanian or French citizens for instance[1], but to *the Queen in Parliament* or *The Crown in Parliament*.

The term "*queen in parliament*" is a technical one, belonging to the constitutional law of the *Commonwealth.*[2] It is characterized by the fusion of powers into the hands of the monarch, thus being in contradiction with the Montesquieu's developed system on the separation of powers (legislative, executive and judicial power). Specifically, the *Act of Parliament* that passes the two chambers is sent for approval by the "Royal Assent", which, once ratified, the "*Act of Parliament*" becomes *law*. It is similar to Article 77 of the Constitution which provides that laws are sent for promulgation to the President[3]. But we should mention that the President, in Romania, is elected directly by the citizens for a term of 5 years.[4]

[1] Art. 3, para. 1 of the French Constitution: „*La souveraineté nationale appartient au peuple qui l'éxerce par se représentants et par la voie du référendum (...)/The national sovereignty belongs to the people who exercise it by their representatives and by means of the referendum".*

[2] *Commonwealth of Nations* represents the community of 16 countries that have Queen Elizabeth II as head of state, they are lead according to the monarchy constitution and they share the same line of succession to the throne.

[3] Art. 77 of the Romanian Constitution: "(1) The law is sent for promulgation to the President of Romania. The promulgation of the law shall be no later than 20 days after receipt. (2) Before promulgation, the President may ask the Parliament once the reconsideration of the law. (3) If the President urged the reconsideration of the law or if he asked the verification of the constitutionality, its promulgation is made within 10 days of receiving the law passed after reexamination or receipt of the decision of the Constitutional Court, by which it was confirmed its constitutionality".

[4] Art. 83, paragraph 1 of the Constitution: "The mandate of the President of Romania is of five years, being exercised from the date of the oath"; Art. 81, par. 4 of the Constitution: "No person may be President of Romania for more than two mandates. They can also be consecutive."

In conclusion, in the United Kingdom, citizens have no sovereign power on the Parliament and, in consequence, and in the ratio of parliamentary law and the referendum law, the balance is always inclined towards the parliamentary law. Thus, the referendum has only a consultative value, being seen at least as a moral biding of government.[1]

Therefore, invoking Article 50 of the Treaty of Lisbon returns to the British Parliament, namely the *House of Commons*, which may or may not take into account the outcome of the referendum of 23 June 2016. Moreover, according to the British tradition, such a consultation shall be based on the rules set by the "*Political parties, Elections and Referendums Act*" of 2000[2]. The referendum in June 2016 was organized according to "*European Union Referendum Act*" in December 2015, but it does not specify the effects that a referendum produces.

However, the British Prime Minister, Theresa May, announced on November 18, 2016 in a press conference in Berlin[3], and despite the pressure of British MPs[4], it will ask the European Council to apply the Article 50 of the Treaty in late March 2017.

Unwilling to limit ourselves strictly to a constitutional analysis, without presenting the other legal consequences of Britain leaving the EU, we cannot move forward without noticing the problem raised by the doctrine in respect of the authority with which the British Prime Minister, May, made this announcement. (Gerkrath, 2016, p. 541)

The British "constitutional" Rules say, as we have seen, that the Parliament is able to make notice of withdrawal in accordance with the principle "the Queen in Parliament" and hence of sovereignty thereof ("Parliamentary sovereignty") followed then to adopt an "Act of Parliament". But through the premier voice,

[1] *However, referendum, as conceived in the United Kingdom, does not affect Parliament's legal sovereignty. While the opinion of the people may be regarded as morally biding on government, Parliament's sovereignty is preserved through regarding the result of referendum as not legally binding the government or Parliament*". (Barnett, 2000, p. 260)

[2] The recourse to the procedure of the referendum is rare in the United Kingdom, only three referendums took place so far: the first concerned the maintenance of the European Economic Community (EEC) in 1975, the second one in 2011, aiming the voting system in parliamentary elections and, the third one in 2016 on the desirability of remaining in the EU.

[3] http://www.dailymail.co.uk/news/article-3949016/Theresa-turns-cheek-PM-meets-Angela-Merkel-EU-leaders-Berlin-Brexit-negotiations-threaten-turn-nasty.html.

[4] http://www.hotnews.ro/stiri-international-21424592-brexit-mai-multi-conservatori-cer-theresei-may-renunte-recursul-fata-curtii-supreme.htm.

London's government claims the authority citing this as "Royal Prerogatives"[1]) in the case of foreign affairs.

All these constitutional issues are to ask ourselves whether after the agreement to withdraw from the EU, Britain can invoke before the Court of Justice of the European Union (CJEU) in Luxembourg the nullity based on article 46 of the Vienna Convention on the Law Treaties in May 1969[2], that is the non-compliance of the national law on its willingness to engage. (Gerkrath, 2016)

We will develop next the concept of "withdrawal agreement" from the Union, the implications of its implementation and what legal mechanisms will be undertaken in the near future in the UK-EU relation.

3. Agreement to Withdraw from the Union

"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 into account 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." (art. 50, para. 2 of the Treaty of Lisbon).

According to the international law[3], for one of the Member States can withdraw from a treaty a fundamental change of circumstances should occur. As we can see,

[1] "Royal Prerogatives" is a means by which certain powers of the executive power shall be exercised by the Government. Established by *Magna Carta*, this means was originally practiced only by the monarch, without consulting the Parliament. After accession to the throne of the House of Hanover (predecessor of Stuart dynasty), "the royal prerogative" was practiced with the advice of the Prime Minister or the Cabinet, themselves being accountable to the Parliament.

[2] Art. 46 of the Vienna Convention: "(1) A State may invoke the fact that its consent to be bound by a treaty has been expressed in violation of a provision of its internal law regarding the competence to conclude treaties as invalidating its consent unless that violation was manifest and concerned a rule of its internal law of fundamental importance. (2) A violation is manifest if it would be objectively evident to any State conducting itself in the matter in accordance with normal practice and in good faith"

[3] Article 62, line 1 of the 1969 Vienna Convention regarding the treaties: "*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*

the European law by reference to Article 50 of the Treaty of Lisbon does not impose any condition, forcing the state to only a formal requirement, namely to "*notify the European Council of its intention*."

So, based on article 50, paragraphs 1 and 2 of the Treaty of Lisbon, any of the 28 EU Member States may decide to withdraw under the condition of respecting the national constitution and the notification of the European Commission.

On the Brexit's occasion, it was raised the question of knowing when the Commission should be announced on this decision, because there is a legal gap in the Treaty on this aspect.

Part of the doctrine (Gerkrath, 2016) proposed an answer in the light of Article 4, paragraph 3 of the Treaty of Lisbon[1]. Thus, according to the principle of loyalty between the EU states, all the Member States and individual countries must "adopt any general or particular measure in order to ensure the fulfillment of the obligations arising from treaties", including the duty to notify the European Commission on the decision to leave the European Union. However, in the absence of the term determined by the law, applying the "reasonable term" is it in consonance with the British legal tradition and European norm? In addition, can the reasonable term for instance exceed six months?

In fact, the Britain's prime minister announced that he would notify the Commission at the end of March 2017. So what is the next step for United Kingdom for leaving the European Union?

The provisions of paragraphs 2 and 3 of Article 50 of the Treaty of Lisbon provide that after notice, "*the Union shall negotiate and conclude*" with the state from which it wants to come out, *an agreement* setting out the conditions for withdrawal "*in view of its future relations with the Union*". It should be noted that the withdrawal agreement shall be negotiated and concluded by the Council of Europe, in the name and on behalf of the Union, "*deciding with the qualified majority after the approval of the European Parliament*."

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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."

[1] Article 4, line 3, of Lisbon Treaty "*Pursuant to the principle of sincere cooperation, the Union and the Member States shall, in full mutual respect, assist each other in carrying out tasks which flow from the Treaties. The Member States shall take any appropriate measure, general or particular, to ensure fulfillment of the obligations arising out of the Treaties or resulting from the acts of the institutions of the Union. The Member States shall facilitate the achievement of the Union's tasks and refrain from any measure which could jeopardize the attainment of the Union's objectives."*

Another aspect was provided in the Article 50 and which must be specified is that the Lisbon Treaty does not apply to the notified state starting from "*date of entry into force of the withdrawal agreement or, in the absence of such agreement, after two years of notification* (...) "(art. 50, par. 3, TEU).

In *a contrario* interpretation, the negotiation and the non-signing of agreement within two years make obsolete all the points discussed up to that point. Of course, delaying negotiations lead to an infringement of the Treaty relating to the principle of loyal cooperation and the obligation of Member States to facilitate the achievement of the Union's tasks and to abstain from any measure which could jeopardize the attainment of its objectives (Article 4, para. 3 TEU). The State wishing to leave is EU member until signing the treaty or passing the 2 year period.

However, the Lisbon Treaty and given the opportunity of the Member State and the European Council to extend the term of two years by mutual agreement. The Treaty does not say how many times it can be made or how long, but we can assume that, in the absence of reliable data, it is applied the rule of tacit reconditioning, i.e. a period of two more years.

Article 50 of the Treaty of Lisbon on the withdrawal of a Member State of the Union has in its content that the withdrawal agreement "*was negotiated in accordance with Article 218 (3) of the Treaty on the Functioning of the European Union*".

So, according to the text of the Treaty on the Functioning of the EU, the agreements, including the withdrawal of the Union and third countries shall be negotiated and concluded in accordance with the procedure laid down in Article 218 of the Treaty[1]. Specifically, in the light of the *expressis verbis* provisions of

[1] Art. 218, par. 1-6 of the Treaty on the Functioning of the EU (Article 300 TEC): (1) *Without prejudice to the specific provisions laid down in Article 207, agreements between the Union and third countries or international organizations shall be negotiated and concluded in accordance with the following procedure. (2) The Council shall authorize the opening of negotiations, adopt negotiating directives, authorize the signing of agreements and conclude them. (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 authorizing 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. (4) The Council may address directives to the negotiator and designate a special committee in consultation with which the negotiations must be conducted. (5) The Council, on a proposal by the negotiator, shall adopt a decision authorizing the signing of the agreement and, if necessary, its provisional application before entry into force. (6) The Council, on a proposal by the negotiator, shall adopt a decision for concluding the agreement.*

paragraph 3 of Article 218 in conjunction with paragraph 2, sentence II and III of Article 50, the European Commission, on behalf of the Union, shall make recommendations to the EU Council (Council ministers or the Council), after which it "*adopts a decision authorizing the opening of negotiations and it designates, depending on the agreement envisaged, the negotiator or the head of the Union's negotiating team."*

However, during the negotiations of the Council may address directives to the negotiator and the right to constitute a special committee, the negotiations being conducted in consultation with it.

Finally, on a proposal from the designated negotiator or head of negotiating team, the Council adopts a decision authorizing the signing of the agreement to withdraw from the EU.

It should be noted that the European Parliament is informed of its developments throughout the process of concluding the agreement.

The doctrine has wondered what kind of "British exit" will it be, a "soft" or a "hard" one (Guillard, 2016, p. 537). Also, we wonder which will be the fate of the agreement between Britain and the European Union on 18 to 19 February 2016.[1]

Before giving the answer to the first question, we wish to make a brief presentation of the agreement of February 2016 because it "was seen as a waiver of the constitutive and historic values and principles of the Union from 27 states in favor of David Cameron (the British Prime Minister at the time)." (Monjai & Jean-Monnet, 2016, p. 545)

Thus, by concluding the agreement with the European Union, the United Kingdom is authorized not to adopt the euro single currency and to keep its British pound (Protocol no 15). Also, it is allowed not to join the Schengen area (Protocol no 15) and exert control at the internal borders and external European space (Protocol no 20). Great Britain is entitled to the free will to implement the measures in the area of freedom, security and justice (Protocol no 21). Finally, it is entitled to no longer apply a large number of rules and provisions of the Union in the field of police and judicial cooperation in criminal matters adopted before the entry into force of the Lisbon Treaty (Article 10, paragraphs 4 and 5 Protocol no 36).

[1] www.consilium.europa.eu/fr/meetings/european-council/2016/02/EUCO-Conclusions_pdf/.

Being considered as a *sum* of compromises from all 27 Member States towards the United Kingdom in order to avoid its exit from the Union, in the end, after the outcome of the referendum of 23 June 2016, the agreement from 18 to 19 February 2016 will probably never find its application.

However, what will be the path which will be followed after the Britain's exit of the European Union.

4. The Future of Great Britain and of European Union

In the absence of a position of the London government the doctrine has considered two possible scenarios: "hard Brexit" and "soft Brexit". (Guillard, 2016, p. 537)

In the event of a "hard Brexit", the rules of EU law do not apply to Great Britain, launching a legislative gap in the British National law that needs to be filled. Also, obstructing the access to the common market and the end of free movement of persons and services are among the consequences of "brutal" separation. However, restoring the customs duties and related fees in trade relations with EU member states for the British products will have a major impact on the English economy. The common tariffs of the member states of the Union will apply in terms of its quality as third country. In the same vein, the reintroduction of foreign exchange in trade activities and the relocation of multinationals is another side effect of the *hard Brexit*.

In the case of opting for a soft Brexit, the UK can retain its place in the European common market, benefiting further from its economic advantages (especially that over 50% of foreign investment in the United Kingdom are made by the EU Member States) and thus maintaining the legal homogeneity together with its other partners. We can assume that Britain will keep the provisions on free movement and competition practices. However, in the event of a "mild" exit from the EU, the negotiations will focus on the participation degree, in the sense that the relations between the EU-UK will be based either on a free total trade (i.e. people, goods, services and capital) or on only one of the economic resources.

In particular, the European Union has concluded various agreements with the third countries, and the question arises as to whether it will follow one of these models or it will opt for an agreement "*sur mesure*" with Britain. (Guillard, 2016, p. 537)

Among the models that can be followed, we can mention: the Association Agreement; Neighborhood Agreement; sectorial agreements or partnership; agreement with the Member States of the European Economic Area and the Schengen area.

The Association Agreement is that agreement between the European Union and a third country that creates a framework for cooperation between them (neighborhood agreement is generally similar to this). This Agreement is based on Article 217 of the Treaty on the Functioning of the European Union (TFEU)[1]. Among the association agreements we can quote Euromed Partnership[2], the Ankara Agreement[3], the Agreement on Partnership and Cooperation between Russia and the European Union[4].

However, an agreement of association or neighborhood[5] does not seem adapted in the case of *soft* Brexit as it is limited to certain areas of application and the UK would, following the wishes expressed by the British politicians, to retain full access to the common market, similar to the one before the referendum.

Then another agreement model that can end is *the sectorial* one. Such an agreement is between the European Union and Switzerland. Among the main disadvantages we should mention the complexity and lack of coherence in the application. Therefore, the Union avoids to conclude sectorial agreements, as the one with Switzerland being concluded due to its specificity of this European country.

The model of the *agreement on the European Economic Area*[6] seems to be closer to the common interests between Britain and the European Union. This agreement is an *economic union* created in 1992 and consists of 31 European countries, all the

[1] Art. 217 of TFEU *"The Union may conclude with one or more third countries or international organizations agreements establishing an association involving reciprocal rights and obligations, common action and special procedure."*

[2] The Euromed partnership concluded in 1995 at Barcelona between the EU and ten Mediterranean coastal states on diplomatic cooperation and financial aid for development.

[3] Ankara Agreement of 12 September 1963, as amended on November 23, 1970 and extended by the Ankara Protocol of 29 July 2005, is an association agreement between Turkey and the European Economic Community, http://eur-lex.europa.eu/legal-content/FR/TXT/?uri=CELEX:21964A1229(01).

[4] Partnership and Cooperation Agreement between Russia and the EU was signed in June 1994 in Corfu for a period of 10 years extension, which entered into force on 1 December 1997, http://eur-lex.europa.eu/ legal-content / FR / TXT /? uri = CELEX: 31997D0800.

[5] In the European Neighborhood Policy, the EU aims at improving its relations with neighbors not only in terms of future adhesions, but also in improving security and stability policies and economic relations with its neighbors, https://eeas.europa.eu/headquarters/headquarters-homepage_fr.

[6] http://eur-lex.europa.eu/legal-content/FR/TXT/?uri=URISERV:em0024.

28 EU member states plus Iceland, Norway and Liechtenstein (all three of them are members of the European Association of Free Trade[1]).

The agreement's main objective is the free movement of goods, services, capital and persons (the four freedoms of the EU). The agreement also includes rules governing the competition policy, consumer protection and education. We should mention that the agreement does not include in its text the rules to the common agricultural and fisheries policy, even if in its contents there are references in the exchange of agricultural and fishery products.

In addition to the Community policy on agriculture and fisheries, in this agreement there are no longer the EU policy domains: customs union; trade policy; justice and home affairs; Common Security and Defense Policy; direct and indirect taxation; monetary union.

Despite some advantages, it is possible for Britain not to join the European Economic Area without putting any condition. (Guillard, 2016) For example, if the UK wants to join should accept the free movement of persons, one of the reasons that determined the exit from the EU.

All these political difficulties have led some to assert the doctrine as a possible solution for the negotiation of an exit from the EU around the common interests such as economic ones, without comprising, for example, the free movement of workers. (Rapoport, 2011, p. 155 and the next) Of course the European common market integrity would be put into question and many voices would oppose.

From another perspective, the community norms would be in a constant motion by the desire to keep up with the evolution of society and to adapt to the new demands of globalization; the withdrawing agreement should be a template. Thus, the negotiated rules set out in its contents should be some general ones, leaving room for interpretation and flexibility, while being influenced by both interests of parties to the agreement.

In such circumstances, we can ask if there is any prejudice to the legal autonomy of the European Union by the intrusion of a third State in the regulatory activity. The European legal system is one autonomous in the sense of the "the system of norms separated from other legal systems" (Simon, 2000, p. 213) for granting voting rights in the European legislative process of Great Britain, to the third country after

[1] http://www.efta.int.

leaving the Union, it would be contrary to the legal order of the EU and incompatible with the depositions of the European treaties.

A compromise variant is putting Great Britain in a privileged partner position of the EU by granting the observer state or accreditation of representatives to the European Parliament (Simon, 2000, p. 654 and the next) and the creation of a joint body to exert influence on the European Commission (Simon, 2000, p. 663 and the next). In other words, Britain will be able to refuse *in extremis* the implementation of the *acquis communautaire* in the national law, but without the right to vote in the legislative process, limiting to manifesting its interests through the mixed body upstream through the adoption of European standards.

Thus the Great Britain would be satisfied only with the ability to make decisions on "*shaping power*" after a time when it had the right of decision in "*making power*". The doctrine concluded in relation to this outcome as being a "*paradox*" (Guillard, 2016), as by Brexit, the British citizens wanted independence and freedom from the European Union, which is contrary to its future status as third country in relation to the Union.

5. Instead of Conclusions

Without expressing a political position in the effects of leaving the European Union, we wish to conclude in the same vein in which we have presented this brief legal study on "British exit", i.e. an objective view. Probably characteristically for a great former empire, the Britain's willingness "*to sail solitarily*" it will have incidences, as we have shown within the relationship with the European Union, and repercussions on external relations. (Vernier, 2016, p. 560)

Through the membership in the European Union, the Great Britain was part of a mosaic of international organizations, agreements, treaties and partnerships with major third countries. For example we can mention: Trade and Cooperation Agreement with China (1985); Cooperation agreement with Brazil (1992); Partnership and Cooperation Agreement with Russia (1997); Framework agreement for Advancing Transatlantic Economic Integration (2005); Partnerships with Japan (2001), with Latin America and the Caribbean (1999) or Africa (2000). All these diplomatic relations developed during the Union are part of the global strategy in the field of international policy and they are having a direct impact on the national economy of Member States, including the UK. It is understandable

that, by withdrawing from the EU, Britain loses membership to these implicit partnerships and agreements, and it will bilaterally negotiate if it wishes so.

Another international strategy element that is nuanced are the positions of the European Union and of Great Britain "*the Group of Twenty finance ministers and central bank governors*" (G20). Created after the financial crises of 1990, *the Group of 20* is composed of 19 countries plus the European Union and it is aimed at cooperation and economic development. *G20* represents 85% of world trade, two-thirds of the world's population and over 90% of world gross GDP. Thus, due to Brexit, the EU loses a vote, Great Britain, the third country after exiting, but still a member of the G20, being able to vote independently by the Union's option.

In conclusion, at a time when Europe is undergoing through multiple crises (economic and social development, migration, armed conflict on its borders, terrorism, populism), the exit of Britain leaves behind a feeling of disappointment and maybe concern. However, the legal, economic and institutional consequences are difficult to determine at present, thus creating speculation and uncertainty instead.

Moreover, the question asked by Paul Valéry after World War II in "La crise de l'esprit/The Crisis of the Mind", if Europe is "*in reality, a small head of the Asian continent*" lies in our minds. And yet, we should not forget, "*Europe was not made, we had the war*."[1]

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[1] "*L'Europe n'a pas été faite, nous avons eu la guerre/Europe was not made, we had war",* R. Schuman, the Declaration of 9th May 1950 (the founding text of the European construction), made in Paris, in the *Salon de l'Horloge at the Quai d'Orsay*, with reference to World War II.

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