

## Annex “Brexit”

Based on chapter 2.1.4. (withdrawal from the EU), the following is a brief (but not conclusive) **overview** of the topic of Brexit (valid as of mid-March 2020).

The Treaty of **Lisbon**, which entered into force on 1<sup>st</sup> December 2009, created the possibility for each Member State to withdraw from the Union “in accordance with its own constitutional requirements” (Art 50 para. 1 TEU).

Lisbon  
treaty

In a **referendum** on 23<sup>rd</sup> June 2016, a narrow majority in the UK (51.9% vs. 48.1%) voted in favour of leaving the Union.

referendum

Art 50 para. 2 TEU provides that a Member State which decides to withdraw “shall notify the European Council of its intention”. This “**notification**” did not take place until nine months later on 29<sup>th</sup> March 2017. This is relevant insofar as two years after this date, Union law (i.e. Primary and all Secondary law) is no longer applicable to this State (Art 50 para. 3 TEU). Within these two years, the Union should negotiate with this State “setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union”. Contrary to the wishes of the United Kingdom, the Union has made it clear that the conditions for **withdrawal** must be settled first before **future relations** are negotiated.

follow-up

What many had already suspected happened, the **two-year period** had to be extended several times, which is possible under Art 50 para. 3 TEU by a unanimous decision of the European Council (in agreement with the Member State concerned). Finally, the United Kingdom (after 47 years of EU membership) withdrew from the Union on 31<sup>st</sup> January 2020, with the legal relations for a transitional period (until 31<sup>st</sup> December 2020) being legally regulated by the **withdrawal agreement** published on 31<sup>st</sup> January 2020 (OJ 2020 L 29) (see below). On the same day, a mere **political declaration** was published (OJ 2020 C 34), which outlines the ideas for future relations after this transitional period (i.e. from 1<sup>st</sup> January 2021) (also see below). **Negotiations** with the United Kingdom began in early March 2020.

withdrawal  
and future

So what does this withdrawal from the United Kingdom mean in brief?

- **Selected institutional issues:** As the United Kingdom is now a third country, the Union now has only 27 Member States, but 24 official languages, and approx. 448 million EU citizens. The European Council now comprises 27 Heads of State or Government, and the Council of Ministers the 27 ministers responsible for specific areas.

selected  
institutional  
issues

In the latter case, the order of presidencies of the Council (excluding the United Kingdom) was adjusted after the referendum (and before notification was given later) (OJ 2016 L 208/42). The number of MEPs was reduced from 751 to 705. The ECJ now has 27 judges. Brexit affects decision-making accordingly, i.e. 14 out of 27 (instead of 15 out of 28) in the Commission, or in the case of a simple majority in the Council.

- transitional period

  - **Transitional period:** During this period (from 1<sup>st</sup> February 2020 to 31<sup>st</sup> December 2020) there will be essentially no changes for Union citizens etc. in the United Kingdom and vice versa, as Union law will continue to apply to the United Kingdom until then. Thus, for example, the fundamental freedoms of the internal market will continue to apply, and the ECJ will also continue to have jurisdiction over the United Kingdom. Obviously, a lesson has been learned from the multiple postponement within the framework of Art 50 TEU, which is why the transitional period can be extended only if “the Joint Committee established by the Withdrawal Agreement adopts, before 1 July 2020, a single decision extending the transition period for up to 1 or 2 years”.
- future relationship

  - **Future relationship:** The above-mentioned political declaration strives for “an ambitious, broad, deep and flexible partnership across trade and economic cooperation with a comprehensive and balanced Free Trade Agreement at its core, law enforcement and criminal justice, foreign policy, security and defence and wider areas of cooperation” (OJ 2020 C 34/1). A possible extension to other areas is also explicitly mentioned, if this is in the mutual interest of the negotiating parties.
- rejoin

Even if it is not politically realistic at the moment, Art 50 para. 5 TEU provides that a State which has withdrawn from the Union may ask to “**rejoin**” in accordance with the normal procedure (chapter 2.1.2.).