Assessment of the implementation of Article 50 TEU

2020/2136(INI) - 16/02/2022 - Text adopted by Parliament, single reading

The European Parliament adopted by 516 votes to 85, with 91 abstentions, a resolution on the assessment of the implementation of Article 50 of the EU Treaty.

Article 50 TEU, by providing explicitly for withdrawal under EU law, establishes the only procedure under which a Member State may lawfully withdraw from the EU. Members stated that the provisions of Article 50 TEU and the way in which they have been interpreted and implemented reflect and uphold the common values and goals that are at the foundation of the Union, in particular freedom, democracy and the rule of law.

Noting the United Kingdom's withdrawal from the European Union, while regretting it, Parliament declared that **Article 50 of the EU Treaty has met its objectives** of preserving the sovereign right of a Member State to withdraw from the European Union, thus explicitly confirming the voluntary nature of EU membership, and of ensuring the orderly withdrawal of the United Kingdom from the Union, while allowing for the subsequent building of an enhanced relationship between the EU and the UK as a third country.

EU priorities

Parliament considers that the aims of Article 50 TEU and the withdrawal negotiations with the UK of ensuring disentanglement from the Union, providing legal stability and minimising disruption, and providing a clear vision of the future for citizens and legal entities by ensuring an orderly withdrawal, while protecting the integrity and interests of the European Union, its citizens and its Member States, were generally achieved.

The protection of the rights of the millions of EU citizens in the UK and UK nationals in the EU affected by the withdrawal, the special circumstances confronting the island of Ireland and a single financial settlement were key in structuring the process and stabilising its impact in the Union. Members considered, however, that there should have been more clarity during the negotiations regarding the resolution of any disputes that might arise from the application of the withdrawal agreement, particularly in regard to the role of the Court of Justice.

Parliament appreciated that the negotiations with the United Kingdom prioritised the issue of the rights of citizens. Moreover, the Union clearly identified from the outset of the process that the specific circumstances of the **island of Ireland** and the need to safeguard the Good Friday Agreement and mitigate the effects of the United Kingdom’s withdrawal on Ireland were issues that concerned the EU as a whole.

Members recalled that the framework for the **future relationship** between the EU and the UK is laid down in the Political Declaration accompanying the Withdrawal Agreement, which includes clear provisions established by both parties on cooperation in the areas of foreign policy, security and defence.

Flexibility under Article 50 of the EU Treaty

Although the withdrawal is not conditional upon an agreement between the withdrawing Member State and the Union, the process of the withdrawal of the UK shows the **importance of concluding an agreement on the withdrawal arrangements**, particularly with a view to protecting the rights and legitimate expectations of the citizens affected.

Members consider that Article 50 TEU strikes a good balance between ensuring a legally sound withdrawal process and safeguarding the political flexibility necessary for adaptation to the specific circumstances. They note, however, the **lack of detail** in the provisions of Article 50 TEU on the following aspects:

- the formal requirements for the notification of the intention to leave and the explicit possibility of its revocation;

- the appropriate framework for the extension of the two-year period set out under Article 50(3) TEU, allowing for flexibility in the negotiations while respecting the principle of sincere cooperation;

- the implications of the obligation to take into account the framework for the future relationship;

- the application of the provisions of Article 218 TFEU, in particular on the role of the European Parliament and of the Court of Justice of the European Union;

- possible transitional arrangements.

Given the unpredictability of the withdrawal process, the withdrawal provisions of the TEU should ensure legal certainty for the vast number of EU citizens and citizens of the departing Member State affected by the withdrawal, by safeguarding their rights obtained on the basis of EU law. Members consider that the EU institutions could have done more to inform citizens during the different phases of the withdrawal process.

The role of the institutions in the withdrawal process

Members believe that the EU institutions and the Member States have collectively been responsive and have followed a coherent and unified approach by providing for a timely, clear and well-structured definition of the aspects of the withdrawal process.

Parliament has played a pivotal role in the entire withdrawal process and has actively contributed to the identification of strategies and to the protection of the interests and priorities of the EU and its citizens with duly substantiated resolutions. The European Council played an aggregating and stabilising role in the process. The Commission and Member States, at all levels of public administration, have acted to inform and prepare citizens and the private sector through the adoption of unilateral and temporary emergency measures to deal with the possibility of no agreement and a disorderly withdrawal.

Members stressed the relevance of the **core principles** proposed by the European Parliament and introduced by the European Council in its successive negotiation guidelines, which were subsequently implemented in the negotiations and consist of:

- protecting citizens' rights derived from their status as EU citizens;

- acting in the interest of the Union and preserving its constitutional integrity and the autonomy of its decision-making;

- safeguarding the role of the Court of Justice of the European Union;

- preserving the financial stability of the Union;

- defending the withdrawing state's enjoyment of all the rights and fulfilment of all the obligations derived from the Treaties, including the principle of sincere cooperation;

- defending the clear difference in status between Member States and non-member states, as a state having exited the Union cannot have the same rights and obligations as a Member State.

The resolution insisted that the **parliamentary powers** regarding the scrutiny phase should be guaranteed and exercised with sufficient time as regards the conclusion of any international agreements, including in the case of provisional applications, in particular, if concluded in the context of a withdrawal from the European Union. In this respect, it noted the importance of ensuring that Parliament be informed at all stages of the procedure of negotiations between the Union and third countries and that it must be kept informed on an equal footing with the Council.

Issues for reflection

Members considered that Article 50 TEU allows for the solving of the procedural aspect of a Member State's withdrawal, but does not solve the significant political, social and economic consequences and disruptive effects of the withdrawal of a Member State from the EU, within and across the Member States and internationally.

Parliament reiterated its call for an **in-depth reflection** on the withdrawal of the UK from the European Union, and on its impact on the future of the EU. It believes that it is the responsibility and role of the Union and its Member States to do more to preserve the European integration process, protect European values and principles, including the principle of sincere cooperation, and prevent the repetition of a withdrawal from the EU. It emphasised that safeguards should be established to ensure that the public debate preceding the triggering of Article 50 TEU by a Member State allows for citizens concerned to make an informed decision.