

To be or not to be: How the Luxembourgish government is preparing for Brexit

Authors: Volha Vysotskaya, Lilla Vukovich, Jutta Bissinger, Adolfo Sommarribas, Birte Nienaber¹

Introduction

On 29 March 2017 the United Kingdom Prime Minister (PM) Theresa May triggered Article 50 of the Treaty of Lisbon², officially giving notification of the UK's withdrawal from the European Union, which was followed by negotiations on a Withdrawal Agreement with the EU. This agreement was concluded on 14 November 2018.³ ⁴ However, the British Parliament has twice voted against the agreement: on 15 January 2019 and 12 March 2019. As a result, on 20 March Theresa May requested that Brexit be postponed until 30 June 2019⁵.

That is why, on 21 March 2019 the 27 EU member states agreed to postpone Brexit until 22 May 2019, but only if the UK parliament has approved the Withdrawal Agreement by 12 April 2019⁶. Otherwise Brexit will only be postponed until 12 April 2019 and the UK will have to decide:

- to leave without an agreement,
- to approve the agreement,
- to offer an alternative plan (e.g. remain in the single market or customs union, revoke Article 50 followed by a second referendum, or cancel Brexit).⁷ ⁸

This means that if the Withdrawal Agreement has not been approved by 29 March 2019 and no alternative has been suggested by the UK (plan B), all European Union primary and secondary law will cease to apply to the UK from 13 April 2019. Therefore, the UK will become a third country, a scenario often referred to as a “no deal” or “hard Brexit”.⁹ The situation neared reality with the

¹ University of Luxembourg, Institute of Geography and Spatial Planning; authors can be contacted at: volha.vsotskaya@uni.lu, lilla.vukovich@uni.lu, jutta.bissinger@uni.lu, adolfo.sommarribas@uni.lu, birte.nienaber@uni.lu

² European Commission. [Brexit negotiations: The Article 50 negotiation process and principles for the United Kingdom's departure from the European Union](#)

³ European Commission. [Fact Sheet: Brexit Negotiations: What is in the Withdrawal Agreement](#), 14 November 2018

⁴ European Commission. [Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, as agreed at negotiators' level on 14 November 2018](#), 14 November 2018

⁵ European Parliament. [Ratifying the EU-UK withdrawal deal State of play and possible scenarios](#), 8 April 2019

⁶ European Parliament. [Ratifying the EU-UK withdrawal deal State of play and possible scenarios](#), 8 April 2019

⁷ Government of the Netherlands. [Brexit : where do we stand ?](#)

⁸ Euractiv. [UK Parliament takes back control of Brexit from May](#), 26 March 2019

⁹ European Commission. [Press release: Brexit preparedness: EU completes preparations for possible “no-deal” scenario on 12 April](#), 25 March 2019

third rejection of the Withdrawal Agreement on 29 March 2019, which was the initial date the UK had to leave the European Union.

At the same time, the Commission has been preparing for all possible scenarios since December 2017: it has published 90 preparedness notices, 3 Commission Communications, and 19 legislative proposals. However, these proposals are both, limited in scope and temporary and have not been negotiated with the UK.¹⁰

Similarly, the Commission has visited all 27 EU member states to examine national preparedness, declaring that all member states illustrated a high degree of preparation for all scenarios. From the EU side, this underlines its united position on Brexit regarding the EU budget, PEACE programme, financial services, transport and connectivity by air, Erasmus+ programme, social-security entitlements and visa requirements for a limited period of time (between 3 months and until the end of 2019 in case of a hard Brexit).^{11 12}

If the UK and EU agree on a “softer” departure they will have to define the terms of the partnerships. However, the current situation means all 27 member states need to prepare for all possible impacts especially in regard to UK nationals residing on their territory at the withdrawal date.¹³

As the potential Brexit date draws near, the European Commission has recommended¹⁴ its member states take additional steps to amortise the impact from the UK Withdrawal Agreement. Thus, each member has developed its own approach to the Brexit scenario, depending on national interests and impact on UK nationals residing within their borders¹⁵.

On the Luxembourg level

The Grand Duchy of Luxembourg has made wide-ranging preparations for the UK’s exit, implementing measures at national level for the separation, which will have a direct impact on the country’s economy and social cohesion.

In early 2019, the Luxembourgish government launched a website (Brexit: information folder) to assist citizens during and after the UK’s withdrawal from the European Union.¹⁶ As a part of the communication campaign (available in English and French), the site offers information for both UK-withdrawal scenarios: no deal or an agreement with the EU.¹⁷

The UK is an important pillar in global trade and economic exchange for Luxembourg. In 2017, it was Luxembourg’s fifth biggest partner for exports and seventh for imports. Even though the UK’s value in terms of trade with

¹⁰ European Commission. [Read more on Brexit preparedness notices](#)

¹¹ European Commission. [Read more on Brexit preparedness notices](#)

¹² European Commission. [Factsheets and Questions and Answers](#)

¹³ European Commission. [Residence rights of UK nationals in the EU Member States](#)

¹⁴ European Commission. [Residence rights of UK nationals in the EU Member States](#)

¹⁵ European Commission. [Residence rights of UK nationals in the EU Member States](#)

¹⁶ Luxembourg, Official website of the Government. [Brexit: information folder](#), 29 March 2019

¹⁷ Luxembourg, Official website of the Government. [Brexit: information folder](#), 29 March 2019

Luxembourg has since decreased, it remains an important partner. In 2015, service exports amounted to 14 billion Euro, half of which were financial services; imports were similar (18 billion Euro). In the financial sector 7 of the 141 banking institutions are British (Bestien 2017:3).¹⁸ Following the Brexit referendum in 2016, over 58 organisations have transferred their headquarters (i.e. asset management companies, insurances, banks, payment services) from the City of London to Luxembourg¹⁹. Luxembourg is thus said to be the second EU country “most susceptible to any trade and migratory aftershocks” in the case of UK withdrawal.^{20 21}

According to STATEC, the Luxembourgish national statistics office, 5941 UK citizens were living in Luxembourg in 2018. This figure fluctuated little over the previous ten years, with a low of 5471 in 2011 and high of 6119 in 2017.²²

The number of naturalisations of UK citizens was low (fewer than 75 per year) before the Brexit referendum. Afterwards it rose to 128 in 2016 and continued to grow significantly and reached 435 in 2018 (representing a 560% increase since 2014).

Table 1. Number of naturalisations of UK nationals in Luxembourg

Year	Number of naturalisations of UK nationals
2018	435
2017	384
2016	128
2015	75
2014	66

Source: Ministry of Justice ²³

For Luxembourg, the withdrawal would particularly affect a proportion of UK nationals working in the public and private sectors (mainly for financial institutions). It is thought their departure would possibly bring it to a halt. There are a number of UK nationals working in various EU institutions in Luxembourg. Even though there are no official statistics for the UK nationals working in European institutions in Luxembourg, some estimations indicate there are around 450 UK civil servants²⁴ working for the European Commission, the European Parliament, the European Court of Justice, Court of Auditors and the European Investment Bank. Moreover, their status in EU institutions

¹⁸ Bestien, L. (2017). [Regard N05 sur l'impact potentiel du Brexit](#), National Institute of Statistics and Economic Studies of the Grand Duchy of Luxembourg, 5 February 2017

¹⁹ Paperjam.lu. [Brexit: 58 structures de la City vers le Luxembourg](#), Press review, 29 march 2019.

²⁰ Delano.lu. Luxembourg. [Lux 2nd most “sensitive to Brexit S&P’s”](#), 2 April 2019

²¹ Gill, F. and Mrsnik, M. (2019). [Brexit Sensitivity Index 2019 Who Has The Most To Lose?](#) Standard & Poor’s

²² National Institute of Statistics and Economic Studies of the Grand Duchy of Luxembourg. Statistics: [Population and employment: Population by nationalities in detail 2011 - 2019](#)

²³ Ministry of Justice of the grand Duchy of Luxembourg. [Key figures](#)

²⁴ Note: The numbers are based on estimations used in: Delano.lu these are rough numbers based on secondary sources: [Uncertain Future for British EU Employees](#), 29 march 2019

depends on the agreement/no deal between the United Kingdom and European Union.

If we focus more on the UK nationals living in Luxembourg we see that the procedures will not be clarified until the last moment of withdrawal. In either scenario, there are two categories of UK citizen who will remain unaffected: 1) dual-nationality holders (in one of the EU countries), because they will continue to benefit from the free movement of persons law,²⁵ and 2) diplomats²⁶. For the remaining UK nationals living and working in Luxembourg any changes in status will depend on whether or not there is an agreement between the EU and UK.

There is (partial) information with regard to the economic sectors employing UK nationals in Luxembourg. One of the most prominent is English language education, where UK nationals have a significant presence, especially in EU schools (école européenne) and within the Luxembourg national education system (the Luxembourg school system not only provides English courses in its curricula but it has three public high schools that grant an international baccalaureate²⁷ – Lycée Technique du Centre, Athenée of Luxembourg and Lycée de Garçon Esch and the International School of Differdange).²⁸

Luxembourg also has two European Schools where children of parents working for EU institutions can study (free of charge). For the 2018-2019 academic year the schools have a combined student population of 5,996, 1113 of whom are in the English language sections (Office of the Secretary-General of the European Schools (2018:24)²⁹; 8 UK nationals are also on the teaching staff.³⁰

A number of UK nationals also work for private schools (International School of Luxembourg and Ecole Waldorf).³¹

Luxembourgish legislation in the view of Brexit

There had been four relevant bills introduced in Parliament aiming at alleviating the negative impacts that might occur in the public and the financial sectors of Luxembourg after the UK's withdrawal (EMN 2018: 9).³² All were voted in unanimously by the members of Parliament shortly before 29 March, the day before the first official withdrawal date of the UK from the European Union.

²⁵ Article 3 b), 5 and 6 (1) of the amended law of [29 August 2008 on free movement of persons and immigration](#)

²⁶ Luxembourg, Official website of the Government. [Brexit: information folder](#), 29 March 2019

²⁷ Ministry of national education, childhood and youth of the Grand Duchy of Luxembourg, [International Schooling](#)

²⁸ Ministry of national education, childhood and youth of the Grand Duchy of Luxembourg. [International Schooling](#)

²⁹ Office of the Secretary-General of the European Schools (2018). [Facts and figures on the beginning of the 2018-2019 school year in the European Schools](#), 04-07 December 2018

³⁰ Delano.lu. European Schools: [Risk of Brexit disruption, talks continue](#), 21 February 2019

³¹ Ministry of national education, childhood and youth of the Grand Duchy of Luxembourg. [International Schooling](#)

³² European migration network (2018). [EMN Bulletin 25th edition](#)

Currently the four laws are awaiting publication. They were prepared or subsequently amended to consider the “no deal” scenario and intended to provide beneficial rules to those in need, and an unimpeded continuation of the public- and financial-sector workflow in Luxembourg, even after a possible “hard” Brexit.

1. **Bill no. 7406**

The aim of Bill no. 7406 is to prevent any negative impact that Brexit could have on public services in Luxembourg. According to the attached explanatory statements³³, currently 40 British nationals work in public service, the majority of whom in education. Based on the commentary for Article 1 of the bill, these public servants contribute to the objectives of the curriculum recently approved by the Minister of National Education. The situation of these public servants depends heavily on their ability to continue their service within the Luxembourgish civil service.

From a legal standpoint, the current Article 40 (1) of the amended Law of 16 April 1979 on the general status of civil servants provides that “[a]n automatic resignation is the result of: (a) the loss of Luxembourgish nationality or, where applicable, the nationality of one of other member states of the European Union”. Accordingly, as the aforementioned British nationals, whose contribution to international education programs of Luxembourg is essential, will be considered third-country nationals after Brexit, their service would be terminated *ex officio*. To prevent this unwanted scenario, the legislation provides for, by derogation from the general rules, the preservation of their status as civil servants.

It should be noted that the recognition of this acquired right only concerns officials who had already obtained their positions before Brexit. British nationals recruited after Brexit will no longer be able to become civil servants. Despite their status as a third-country national, British nationals may, however, still be hired as private employees by the State of Luxembourg.

2. **Bill no. 7409**³⁴

The bill concerns citizens, Luxembourgish or non-Luxembourgish, who obtained their professional title in the United Kingdom. The aim of Bill no. 7409 is to avoid such people being subjected to the complex procedure of professional recognition applicable to third-country nationals. Therefore, to avoid penalising holders of diplomas obtained in the United Kingdom, the new legislation introduces a scheme that extends automatic recognition to certain professionals,

³³ Luxembourg, Parliament. [Bill no. 7406 amending the general status of civil servants and municipal officials](#)

³⁴ Luxembourg, Parliament. [Bill no. 7409 amending the act of 28 October 2016 on the recognition of professional qualifications](#)

i.e. general practitioners, medical specialists, nurses, dentists, physicians, veterinary surgeons, midwives, pharmacist and architects.

3. **Bill no. 7421**³⁵

Legislative amendments were required in social security in case negotiations between the EU and United Kingdom result in a "no deal" Brexit. Thus, Parliament has adopted bill no. 7421 to close the inconsistency gap regarding social security for UK nationals living in Luxembourg. According to the bill, the laws of 28 July 2018 on social inclusion income and of 12 September 2003 relating to persons with disabilities are to be amended, thereby enabling UK nationals who currently benefit from social inclusion income (Revis) or income for severely disabled people to retain these rights.

4. **Bill no. 7401**³⁶

The bill 7401 was introduced to extend the European Financial Passport for UK financial-sector companies currently operating in Luxembourg. The aim of the bill was to implement measures allowing financial-sector actors to continue without interruption after a hard Brexit. For that, a transitional period of 21 months is provided. The bill covers services in the financial sector, payment services, the fund industry, hedge funds and the insurance sector. The legislation also concerns the two financial supervisory bodies in Luxembourg: the Financial Sector Supervisory Commission (CSSF) and the Insurance Commissariat (CAA). They might take temporary emergency measures to ensure the proper functioning of the financial markets, and have the power to issue, on a case-by-case basis, a European passport to UK service providers.

Conclusions

Discussions and negotiations regarding the UK's withdrawal are still on-going at both European Union and member state level as well as within the United Kingdom itself. Moreover, Luxembourg, being particularly sensitive to the effects of the UK's withdrawal from the EU, has taken a number of proactive steps to prepare itself against upcoming uncertainty. The four laws were particularly introduced into national legislation in view of a hard Brexit. Moreover, the conditions and degree of the withdrawal terms will remain unclear until the last moment. Therefore, the measures introduced by EU members, including Luxembourg, seek to protect their own national interests from the divorce of the United Kingdom and the supranational state.

³⁵ Luxembourg, Parliament. [Bill no. 7421 relating to the social inclusion income and persons with disabilities](#)

³⁶ Luxembourg, Parliament. [Bill no. 7401 on measures to be taken in relation to the financial sector in case of the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union](#)