

CONSEQUENCES OF BREXIT FOUR YEARS AFTER THE UNITED KINGDOM'S WITHDRAWAL FROM THE EU

Maria SOLACOLU

PhD Candidate, Faculty of Law, „Nicolae Titulescu” University of Bucharest (e-mail: maria.solacolu@gmail.com).

Abstract

Following the 2016 referendum that saw the United Kingdom vote in favour of leaving the European Union, the actual process of withdrawal was a slow and arduous one, only reaching its formal conclusion in 2020, when the withdrawal agreement entered into force on 31 January. However, the agreement also instated a transition period that lasted until the end of that year, with Brexit truly starting to make its effects felt only from 1 January 2021 onwards. Since then, the United Kingdom and the EU have worked on adapting to the new legal, economic, and social reality, but progress has been slow, and has been affected by other geopolitical factors, as well as by the Covid pandemic. This article will analyse the current situation, with a view to comparing the positive and negative effects that the United Kingdom's withdrawal from the EU has had on the two parties.

Keywords: *Brexit, tariff regime, EU Settlement Scheme, customs union, dispute resolution.*

1. Introduction

The roots of Brexit can be traced back to historical scepticism about the UK's integration with Europe, fluctuating public and political opinion on European membership, and the rise of Euro-sceptic politics. Over the years, issues such as sovereignty, immigration, and economic contributions to the EU were hotly debated, fuelling the call for a referendum regarding the UK's membership of the EU. On 23.06.2016, such a referendum was finally held, as a culmination of growing Euroscepticism and pressure from various political factions and public sentiment pushing for a national vote. The referendum was announced by then-Prime Minister David Cameron following negotiations with the EU that led to some concessions aimed at appeasing the Eurosceptic wing of his party. The result was a narrow but clear decision:

52% voted to leave the EU, whilst 48% voted to remain, with a turnout of 72% of eligible voters.

Following the referendum, the UK entered a tumultuous period marked by political instability and complex negotiations with the EU. The process was fraught with challenges, including several changes in British leadership and attempts to negotiate a withdrawal agreement that faced multiple setbacks in getting the deal approved by the UK Parliament. A revised deal with the EU, which included changes to the Irish border arrangements and the political declaration on future relations, finally led to the UK officially leaving the EU on January 31, 2020. The transition period concluded on December 31, 2020, at which point the UK ceased to follow EU rules and fully exited the organisation. This period of Brexit marked significant political and social upheaval within the UK, reflecting deep divisions in public opinion and the complex nature of disentangling decades of political and economic integration¹ with Europe.

A four-year period provides a substantial timeframe to assess not only the immediate repercussions of Brexit on the legal landscape but also to begin observing emerging trends and the long-term implications for both the UK and the EU. Of particular interest are the evaluation of regulatory and legal framework adjustments post-Brexit and the assessment of economic and social effects, with a view to facilitate and inform policy making. Since Brexit, both the UK and EU have had to realign their legal and regulatory frameworks, and this period allows for a review of how effectively these new systems are functioning independently of each other, identifying areas of success and aspects that may require further negotiation or adjustment. The legal changes post-Brexit have deep economic and social impacts, influencing everything from trade and commerce to individual rights and labour laws. A thorough analysis helps in understanding how these changes are playing out in real scenarios, guiding future policy and legal decisions. The insights gained from a detailed examination of Brexit's consequences can inform ongoing policy and legal decisions. It is especially important as the UK and EU continue to define their future relationship. New or unexpected legal challenges that have arisen can be

¹ The European Union sets itself apart from other international organisations through its functioning model, which involves the Member States going through a process of integration, rather than cooperation. A key difference is that, within an integrated international organisation, the legislative acts of the organisation's institutions or organs are immediately applicable within the Member States' juridical order, without a process of ratification being necessary in order to render those acts legally binding for the States. For more on this, see A. Fuerea, *Manualul Uniunii Europene*, 6th ed., Universul Juridic Publishing House, Bucharest, 2016, p. 250-253 and R.-M. Popescu, A. Dumitraşcu, *Dreptul Uniunii Europene - Sinteze și aplicații*, Universul Juridic Publishing House, Bucharest, 2011.

addressed more effectively with a comprehensive understanding of the post-Brexit landscape.

A unique case of a Member State withdrawing from the European Union, Brexit's lessons can offer insights into the processes and consequences of significant geopolitical changes, serving as a case study for other states considering similar paths or for the EU on how to manage potential future exits. The analysis of Brexit's legal consequences four years on is pivotal in shaping ongoing and future strategies, ensuring that both the UK and the EU can navigate the post-Brexit world with greater awareness and preparedness.

2. Changes to legal frameworks

After Brexit, the UK established new legal regimes to adapt to its departure from the European Union, replacing EU laws and frameworks with domestic regulations. Some of the key changes included the UK Internal Market Act 2020², the establishment of an independent tariff policy, the opening up of the previously existing framework for data protection to potential changes, modifications regarding immigration laws, diverging regulations in the area of financial services, and new national agricultural and fisheries policies

Concerning the UK Internal Market Act 2020, this piece of legislation was introduced to ensure that trade within the UK remains barrier-free and that standards set in one part of the UK are recognized across all its nations. The Act aims to prevent new barriers to trade and ensure a seamless market across England, Scotland, Wales, and Northern Ireland, which is crucial given the devolved powers of each nation.

No longer being part of the EU's customs union, the UK has been able to implement its own tariff regime, the UK Global Tariff (UKGT), which simplifies and lowers tariffs compared to the EU's Common External Tariff, thus encouraging imports. The UKGT applies to all goods being imported into the UK, with the exception of goods imported from a country that has a trade agreement with the UK, certain exceptions, such as a tariff suspension, have been legally introduced, or if the goods are being imported from developing countries covered by the Developing Countries Trading Scheme (DCTS)³. This

² UK Internal Market Act 2020, <https://www.legislation.gov.uk/ukpga/2020/27/contents>.

³ For more on the UKGT, see <https://www.gov.uk/guidance/tariffs-on-goods-imported-into-the-uk>.

change aims to make it cheaper to import goods from outside the UK and is tailored to benefit UK consumers and businesses.

When it comes to data protection, although the UK has largely retained the General Data Protection Regulation (GDPR) framework through the UK GDPR⁴, there are now provisions for potential divergence in future data protection rules. The UK aims to maintain high standards of data protection whilst having the flexibility to diverge from EU regulations where it sees strategic advantages, but this also opens up the UK to pressure from certain companies to relax the protection standards, something that has so-far been avoided within the EU.

Immigration-wise, the UK has introduced a points-based system that replaces the free movement of EU citizens into the UK. This new system prioritises skills and talents over nationality, with the aim of controlling and reducing immigration levels whilst filling gaps in the labour market.

In the area of financial services, the UK has begun to diverge from the EU in financial regulatory frameworks. It is focusing on tailoring regulations to better suit the domestic market and enhance the UK's attractiveness as a global financial centre. This includes reviewing and potentially amending rules inherited from the EU on financial trading, reporting, and conduct.

An important talking point during the Brexit campaign was the fact that, within the EU, Member States transfer competences regarding farming and fisheries towards the EU's institutions. As a consequence of Brexit, the UK has been able to elaborate its own agricultural and fisheries policies. The UK is phasing out the EU's Common Agricultural Policy in favour of a system that pays farmers public money for „public goods” such as environmental improvements. In fisheries, the UK now independently negotiates fishing rights and quotas, aiming to manage its marine resources sustainably.

All of these changes reflect the UK's broader strategy to regain legislative and regulatory autonomy post-Brexit, focusing on areas deemed strategic for national interests. However, these transitions also pose challenges, including new administrative burdens and the need for new international agreements - whilst a Member State, the UK benefited from the very advantageous trade deals negotiated by the EU; on its own, it

⁴ The Data Protection Act 2018 represents the UK's implementation of the General Data Protection Regulation (GDPR), and has so far been maintained. The Act is available at <https://www.legislation.gov.uk/ukpga/2018/12/contents/enacted>.

must now negotiate its own international agreements, and has failed thus far in negotiating better deals than the ones it had access to in the EU. The UK continues to navigate these complexities, adjusting its legal frameworks to better fit its post-Brexit status.

Some of the most significant post-Brexit pieces of legislation include the EU Withdrawal Act 2018⁵, the Immigration and Social Security Coordination (EU Withdrawal) Act 2020⁶, the UK Internal Market Act 2020, the Agriculture Act 2020⁷ and Fisheries Act 2020⁸, the Finance Act 2020 and subsequent updates⁹, and the Data Protection, Privacy, and the Electronic Communications (Amendments etc) (EU Exit) Regulations 2019¹⁰.

The EU Withdrawal Act 2018 has foundational value, as it repealed the European Communities Act 1972¹¹, which resulted in the UK joining the EU. It also incorporated existing EU law into UK law as „retained EU law”, ensuring continuity and stability in the legal framework immediately post-Brexit. This allows the UK to retain, amend, or repeal these laws, as necessary.

The Immigration and Social Security Coordination (EU Withdrawal) Act 2020 ended the free movement of EU citizens into the UK and established the new points-based immigration system. It marks a significant shift in the UK's approach to immigration, focusing on skills and qualifications rather than EU nationality.

The aforementioned UK Internal Market Act 2020 was designed to ensure trade continuity and prevent new barriers to internal trade within the UK after its withdrawal from the EU. The act establishes principles for mutual recognition and non-discrimination for goods and services across England, Scotland, Wales, and Northern Ireland.

The Agriculture Act 2020 and Fisheries Act 2020 establish new policies for agriculture and fisheries management, replacing the EU's Common Agricultural Policy

⁵ EU Withdrawal Act 2018, <https://www.legislation.gov.uk/ukpga/2018/16/contents/enacted>.

⁶ Immigration and Social Security Coordination (EU Withdrawal) Act 2020, <https://www.legislation.gov.uk/ukpga/2020/20/contents/enacted>.

⁷ Agriculture Act 2020, <https://www.legislation.gov.uk/ukpga/2020/21/contents>.

⁸ Fisheries Act 2020, <https://www.legislation.gov.uk/ukpga/2020/22/contents/enacted>.

⁹ Finance Act 2020 and subsequent updates, <https://www.legislation.gov.uk/ukpga/2020/14/contents>.

¹⁰ Data Protection, Privacy, and the Electronic Communications (Amendments etc) (EU Exit) Regulations 2019, <https://www.legislation.gov.uk/ukdsi/2019/9780111178300/contents>. This instrument uses powers under the EU (Withdrawal) Act 2018 (EUWA) to amend the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 in order to „correct deficiencies in EU-derived data protection legislation as a result of the withdrawal of the UK from the EU”.

¹¹ European Communities Act 1972, available in its original form at <https://www.legislation.gov.uk/ukpga/1972/68/enacted>. The Act has now been repealed.

and Common Fisheries Policy. The Agriculture Act introduces a system for providing subsidies based on environmental and public benefits rather than direct payment per land area farmed. The Fisheries Act provides the legal framework for the UK to operate as an independent coastal state, managing its own waters and fish stocks.

The Finance Act 2020 and its subsequent updates encompass various tax measures, including adjustments that reflect the UK's new relationship with the EU. It addresses issues related to customs and excise duties, and Value Added Tax (VAT) in the context of goods and services moving between the UK and EU Member States.

The Data Protection, Privacy, and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 is a set of regulations that amended the UK's data protection laws to ensure they function effectively after withdrawal from the EU. Whilst the UK has retained the General Data Protection Regulation (GDPR) in UK law as the UK GDPR¹², these changes ensure the continuity of data protection standards and cross-border data flow between the UK and the EU.

All of these legislative changes represent the UK's efforts to adapt its legal system to the post-Brexit reality, implementing changes where it deems it necessary, whilst aiming to maintain stability and continuity where beneficial. The ongoing challenge for the UK will be to refine these laws to better suit its independent status outside the EU, balancing domestic priorities with international obligations and relationships.

3. Trade and economic impacts

3.1. Legal changes in trade relations between the UK and the EU

The legal adjustments in trade relations between the UK and the EU post-Brexit have been extensive and multifaceted, involving changes to tariffs, customs procedures, and regulatory alignments. The Trade and Cooperation Agreement (TCA)¹³, effective from January 1, 2021, governs the new trade relationship between the UK and the EU. It provides for zero tariffs and zero quotas on goods that comply with the appropriate rules of origin. Despite this agreement, businesses have faced additional costs and complexities

¹² Available at <https://www.legislation.gov.uk/eur/2016/679/contents>.

¹³ Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A22021A0430%2801%29>.

due to non-tariff barriers, such as customs declarations and checks, which did not exist whilst the UK was an EU member.

Another significant change has been the introduction of customs checks and controls. Goods moving between the UK and the EU now require customs declarations, and in some cases, businesses need to prove the origin of their goods to benefit from the zero-tariff agreements. This has increased the administrative burden on companies and caused delays at borders, impacting supply chains and the timely delivery of goods¹⁴.

Additionally, whilst the TCA set out a framework to avoid unnecessary barriers to trade, there is potential for regulatory divergence over time. The UK has the autonomy to set its own standards and regulations, which may lead to differences from the EU. This divergence could create barriers to trade if UK and EU regulations are not mutually recognised. The impact is particularly notable in sectors such as chemicals, pharmaceuticals, and financial services, where stringent regulatory compliance is essential.

The services sector, which is a significant part of the UK economy, particularly financial services, does not have the same level of market access under the TCA as it did before the UK withdrew from the EU. The lack of a comprehensive agreement on services means that UK firms may face restrictions on providing services within the EU market, and may need to comply with varying regulations across member states.

The TCA includes mechanisms for resolving disputes between the UK and the EU, which are crucial for addressing any disagreements that arise under the terms of the agreement; this includes arbitration panels and other dispute resolution procedures. However, the lack of direct jurisdiction of the European Court of Justice in the UK represents a significant shift in how legal disputes are resolved, potentially leading to different interpretations of the agreement.

Perhaps one of the most contentious aspects of the post-Brexit adjustments has been the Northern Ireland Protocol¹⁵, which was designed to avoid a hard border on the island

¹⁴ The UK has repeatedly delayed the introduction of several types of customs checks, such as meat, dairy and plant product customs EU import checks that were scheduled to come into effect on 30.04.2024 (after several previous delays), and that were delayed a sixth time by the UK government.

¹⁵ The Northern Ireland Protocol, which came into force on 01.01.2021, is separate from the TCA, and is instead part of the EU-UK Withdrawal Agreement. The UK requested the modification of certain aspects of the Protocol following concerns, particularly from segments of Northern Ireland's Unionist community, regarding the Protocol's operation in Northern Ireland and the checks and controls it imposes on goods moving between Great Britain and Northern Ireland. On 27.02.2023, after two years of negotiations, the EU and the UK announced a new agreement to amend the operation of the Northern Ireland Protocol, an agreement known as the Windsor Framework. Despite the changes introduced by the Windsor Framework, the Democratic Unionist Party (DUP), the largest Unionist party in Northern Ireland, refused to participate in a power-sharing Executive and obstructed the functioning of the Northern Ireland Assembly, demanding further

of Ireland. This protocol effectively keeps Northern Ireland in the EU's single market for goods, leading to checks on goods moving between Northern Ireland and the rest of the UK. This has raised political tensions and practical issues about the internal market's functioning within the UK.

Whilst the legal adjustments in trade relations between the UK and the EU aim to maintain as smooth a trade relationship as possible post-Brexit, the transition has introduced several challenges. Businesses have had to navigate a new landscape of tariffs, customs procedures, and regulatory requirements, impacting operations and strategic planning. The evolution of this relationship will likely continue to require adjustments and negotiations as both the UK and the EU adapt to their new trading relationship.

3.2. The effect of these changes on tariffs, customs, and regulatory practices

The post-Brexit changes affecting tariffs, customs, and regulatory practices between the UK and the EU have had considerable impacts on trade, business operations, and the broader economic landscape¹⁶.

Under the TCA, the UK and the EU agreed to zero tariffs and zero quotas on goods that comply with the appropriate rules of origin; this arrangement was designed to maintain cost-effective trade relations. However, despite this provision, not all trade is tariff-free due to the complexity of rules of origin requirements. Businesses must now prove that their goods meet these criteria to avoid tariffs, adding a layer of complexity and potential cost, particularly for smaller businesses that may struggle with the administrative burden.

The imposition of customs checks and declarations has been one of the most significant post-Brexit changes. Whilst the UK was part of the EU, goods moved freely without customs checks between member states. Now, traders must complete customs declarations for goods shipped to and from the EU, leading to increased bureaucracy and delays at borders. These delays can disrupt supply chains, especially for industries reliant on just-in-time delivery systems, such as automotive and manufacturing sectors.

modifications to the Protocol's operation. On 30.01.2024, the DUP endorsed a deal to restore the Assembly and Executive, and on 31.01.2024, the Government published details on how the deal would impact the functioning of the Protocol/Framework. For more information on the Protocol, see <https://commonslibrary.parliament.uk/research-briefings/cbp-9548/>.

¹⁶ A 2023 analysis indicates that the UK's real GDP is approximately 2-3% lower than it would have been had it remained in the EU. This equates to a reduction of about £850 per capita as of 2023. The analysis projects that the negative impact on the UK's economy will continue to grow, with an expected decrease in GDP of 5-6% by 2035, or roughly £2,300 per person. The ongoing economic decline is attributed primarily to a decrease in real income driven by reduced trade terms with the EU and a decline in productivity, with these effects intensifying over time. Ahmet Kaya, Iana Liadze, Hailey Low, Patricia Sanchez Juanino, Stephen Millard, "Revisiting the effect of Brexit", *NiGEM Topical Feature*, Autumn 2023, p. 11.

The Northern Ireland Protocol has introduced a unique customs situation, creating a de facto customs border in the Irish Sea. This has led to political and logistical challenges, particularly for goods moving from Great Britain to Northern Ireland, complicating trade within the UK itself.

Regulatory divergence is a growing concern. Whilst the TCA provides mechanisms to manage and potentially limit divergence through a level playing field agreement, there is still significant potential for the UK to set its own standards. This autonomy allows the UK to tailor regulations more closely to domestic needs but also poses risks of diverging from EU standards. Such divergence could increase barriers to trade, as UK products might not automatically be deemed compliant with EU standards.

For sectors heavily regulated at the EU level, such as chemicals (under REACH), pharmaceuticals, and financial services, adapting to new UK-specific regulations requires strategic planning and adaptation. Financial services, in particular, have lost their passporting rights, which permitted them to sell services across the EU from a UK base without additional licenses. Now, firms often need to establish entities within the EU to continue operating seamlessly across the market, leading to increased operational costs and restructuring.

These changes reflect the complexity of redefining a trade and regulatory relationship as significant as that between the UK and the EU. The adjustments in tariffs, customs, and regulatory practices continue to evolve as both sides navigate the post-Brexit landscape, aiming to minimise disruption whilst protecting their respective regulatory and economic interests. As businesses and governments adapt to these new conditions, ongoing negotiations and amendments to practices may be necessary to address emerging challenges and opportunities.

3.3. Examples illustrating specific sectoral impacts.

Post-Brexit changes have had specific impacts across various sectors. The automotive sector, which relies heavily on just-in-time manufacturing processes, has been significantly affected by customs delays and increased bureaucracy. For example, additional customs documentation and potential tariffs on parts coming from suppliers in the EU have created challenges for UK-based manufacturers. Companies like Nissan and BMW had to assess their operational and supply chain strategies to mitigate potential disruptions caused by these new trade barriers.

The pharmaceutical industry faces challenges due to regulatory divergence and the need for separate approvals for new drugs from UK and EU regulatory bodies. Previously, a single approval through the European Medicines Agency (EMA) was sufficient. Post-Brexit, companies such as AstraZeneca have had to navigate dual regulatory approvals to continue selling their products across Europe and the UK, potentially delaying the availability of new treatments.

London's role as a financial hub¹⁷ has been impacted by the loss of passporting rights¹⁸. Financial firms previously relied on these rights to serve the entire EU market from the UK. Companies like J.P. Morgan and Goldman Sachs have had to move staff and operations to cities like Frankfurt and Paris to maintain access to EU markets, leading to increased operational costs and restructured European operations.

The fishing industry, a focal point in Brexit negotiations, has experienced both regulatory and market changes. UK fishermen now have increased quotas for some fish stocks; however, they face decreased access to EU markets and increased customs paperwork, affecting the profitability of their catch. This has particularly affected shellfish exporters, who have struggled with delays and market access issues due to the perishable nature of their products.

UK farmers have had to adapt to changes in subsidy frameworks as the EU's Common Agricultural Policy (CAP) subsidies were phased out. New UK agricultural policies aim to reward environmental stewardship rather than just land ownership, significantly affecting how farmers operate. Additionally, the export of agricultural products to the EU now requires compliance with new phytosanitary regulations, creating further compliance costs and logistical challenges.

¹⁷ In 2021, the UK's financial services sector made a contribution of £173.6 billion, representing 8.3% of the country's total economic output. The financial services sector also achieved a trade surplus of £44.7 billion, with exports valued at £61.3 billion and imports at £16.6 billion. However, there has been a noticeable decline in financial services exports to the EU since 2018, dropping by 19% in cash terms, while exports to non-EU countries increased by 4%. For an in-depth presentation of the decline of this sector following Brexit, see J.M.T. Ryan, *How Brexit Damaged the United Kingdom and the City of London*, in *The Economists' Voice*, vol. 20, no. 2, 2023, pp. 179-195.

¹⁸ These are regulations that previously allowed financial institutions authorised in any European Economic Area (EEA) state to conduct business across the other EEA states with minimal additional authorization. These rights were designed to facilitate the free flow of financial services across borders, making it easier for banks, insurance companies, and other financial services providers to operate throughout the EU and EEA.

Under passporting, a financial institution could obtain a license in one EEA member state and use it to provide services across all other EEA countries without needing further licenses in each country. However, after Brexit, UK-based financial institutions lost these passporting rights, meaning they now have to comply with each EU member state's regulatory requirements if they wish to operate there, or establish subsidiaries within the EU to continue providing services across the region. This change necessitates adjustments in how UK financial firms operate within the EU market and has significant implications for their European business strategies. Some Member States, such as Ireland and Denmark, established temporary permissions for UK firms that were passporting into particular parts of financial markets for specific periods of time from 01.01.2021.

These cases highlight how different sectors are adapting to the new realities imposed by Brexit, navigating both opportunities and challenges as they adapt to the post-Brexit regulatory and economic landscape.

4. EU and UK citizens' rights and social implications

Once the UK withdrew from the European Union, significant changes occurred in residency, work, and freedom of movement rights for UK and EU citizens, impacting how they live, work, and travel between the UK and EU member states.

One of the most fundamental changes is the end of freedom of movement between the UK and EU. Previously, UK and EU citizens enjoyed the right to live, work, and travel freely across each other's territories. After Brexit, these rights ceased, requiring new systems for immigration and visas. EU citizens who were already living in the UK before December 31, 2020, could apply to the newly-created EU Settlement Scheme¹⁹ to continue their residence. Those qualifying for settled status can stay indefinitely, whilst those getting pre-settled status can stay for five years, needing to apply for settled status later. For UK citizens residing in an EU country, the approach varies by country, but generally, they had to apply for residency status to secure their rights under the Withdrawal Agreement.

As far as new immigration is concerned, the introduction of a points-based immigration system²⁰ in the UK marks a significant shift in treatment. It treats EU and non-EU citizens similarly, focusing on skills and qualifications rather than nationality. EU citizens moving to the UK for work must now meet specific criteria and obtain appropriate visas, no longer enjoying freedom of movement, whilst UK citizens wishing to work in the EU now face different regulations depending on the member state, often requiring work permits and meeting local employment laws²¹.

¹⁹ More information available at <https://www.gov.uk/settled-status-eu-citizens-families>.

²⁰ For more information, see <https://www.gov.uk/government/publications/uk-points-based-immigration-system-employer-information/the-uks-points-based-immigration-system-an-introduction-for-employers>.

²¹ The updated immigration system marks a substantial tightening of EU migration controls. Under this new system, migrants seeking lower-skilled and lower-paid jobs generally will not be allowed entry. Those who qualify must have their employers apply on their behalf, incur considerable fees, and will have fewer rights, such as limited access to public benefits, similar to the restrictions currently faced by non-EU migrants. Conversely, the new policies considerably liberalise the conditions for non-EU migrants, reducing the requirements for minimum salary and skills levels, and removing the cap on the number of migrants. This represents a significant shift towards easing entry conditions for non-EU nationals compared to the stricter regime for EU migrants. J. Portes, *The economics of the UK's post-Brexit immigration system*, in J. Portes, (eds), *The Economics of Brexit: What Have We Learned?*, CEPR Press, Paris & London, 2022, <https://cepr.org/publications/books-and-reports/economics-brexit-what-have-we-learned>, p. 74.

For short visits, UK citizens can travel to Schengen Area countries visa-free for up to 90 days within any 180-day period, but they cannot work or study during these visits. For longer stays, visas or residence permits are required. Similarly, EU citizens can visit the UK for up to six months visa-free but would need a visa for work or longer stays.

These changes necessitate adjustments from both UK and EU citizens used to the previous freedom of movement, affecting personal and professional life plans and requiring compliance with new legal frameworks for living and working abroad.

The „settled status” scheme, formally known as the EU Settlement Scheme, was established by the UK government to allow EU citizens and their family members who were living in the UK before December 31, 2020, to continue residing in the UK after Brexit. The scheme presented its beneficiaries with both advantages and certain challenges. Successful applicants to the scheme have been able to continue enjoying their preexisting rights, receiving either settled or pre-settled status, which secures their rights to live, work, and access public services such as healthcare and education in the UK, in conditions similar to those applicable to British citizens; additionally, EU citizens who have received settled status may remain in the UK indefinitely and have the option to apply for British citizenship once meeting certain requirements.

Conversely, some applicants have struggled with proving their continuous residence in the UK, especially in the case of self-employed EU citizens or those who travelled frequently during the pre-Brexit period. Another issue raised by the implementation of the scheme has been that of raising awareness of its existence among vulnerable groups, including elderly individuals, children in care, and non-English speakers, potentially leaving some eligible individuals without status once the deadline (30.06.2021) passed. The post-Brexit legal landscape has been one fraught with complexity and uncertainty, with changes in law and policy creating uncertainty about future rights and statuses, and there have also been reports of increased xenophobia and discrimination post-Brexit, affecting EU citizens' sense of security and belonging in the UK²².

Overall, whilst the „settled status” scheme has provided essential protections for many EU citizens in the UK, the implementation and broader social challenges highlight

²² For more information, see: J. Fox, *Eastern Europeans, Brexit and Racism*, <https://www.britsoc.co.uk/about/latest-news/2017/may/eastern-europeans-brexit-and-racism/>; M. Savage, *The Return of Inequality. Social Change and the Weight of the Past*, Harvard University Press, 2021; S. Das, *Post-Brexit racism in the UK: Experiences of Eastern European and Muslim communities*, written evidence available at <https://committees.parliament.uk/writtenevidence/70129/pdf/>.

the need for ongoing support and clarity to ensure all eligible individuals can secure their status and rights. This assessment suggests that the government may need to enhance efforts in outreach, support, and legal clarity to address these challenges effectively.

5. Dispute resolution and legal proceedings

The Withdrawal Agreement between the UK and the EU, concluded to manage the consequences of Brexit, includes specific provisions for dispute resolution to address any disagreements that arise under the terms of the agreement. Following Brexit, these mechanisms are crucial for maintaining a structured legal process for resolving conflicts. These mechanisms include a Joint Committee²³, an arbitration panel²⁴, and a specific role for the Court of Justice of the EU²⁵, when there is a matter regarding the interpretation of EU law applicable in disputes between the EU and the UK.

The Withdrawal Agreement established a Joint Committee responsible for overseeing the implementation and application of the agreement. This committee plays a pivotal role in managing the relationship between the UK and the EU post-Brexit and is empowered to make decisions in respect of the agreement which are binding on both parties. The Joint Committee can also refer disputes that it cannot resolve to arbitration, and it supervises the activities of six Specialised Committees, making decisions based on their recommendations. The six Specialised Committees focus on citizens' rights, the relationship between Ireland and Northern Ireland, the legal situation of Gibraltar, the Sovereign Base Areas in Cyprus, financial provision, and other separation provisions.

For disputes regarding the interpretation and application of the Withdrawal Agreement that cannot be resolved through consultation within the Joint Committee, an arbitration panel can be established. This panel is intended to provide a binding resolution to disputes. The panel consists of arbitrators chosen by both the UK and the EU, ensuring a balanced representation.

CJEU retains a specific role in disputes related to the interpretation of EU law. Where a dispute raises a question of the interpretation of EU law, the arbitration panel must

²³ Art. 164-166, 169 of the Withdrawal Agreement.

²⁴ Art. 170-181 of the Withdrawal Agreement.

²⁵ Art. 158-163 of the Withdrawal Agreement.

refer that question to the CJEU, and the Court's decision will bind the arbitration panel. This provision ensures consistency in the application of EU law.

Beyond the Withdrawal Agreement, TCA also provides mechanisms for dispute resolution, focusing largely on rebalancing measures and safeguarding provisions. TCA allows either party to take unilateral safeguard measures if significant imbalances arise due to the operation of the agreement.

These mechanisms reflect a blend of negotiation, arbitration, and judicial oversight, tailored to handle the unique legal and practical challenges posed by Brexit. They aim to provide a structured and effective framework for managing disputes, ensuring that both the UK and the EU have avenues for resolution that respect both parties' sovereignty and legal orders.

6. Conclusions

Several ongoing and future legal challenges related to Brexit continue to shape the UK's legal landscape and its relationship with the EU. These challenges encompass a variety of areas, including trade, legal rights, and regulatory frameworks.

One of the primary areas of concern is the potential for regulatory divergence between the UK and EU. As UK laws begin to deviate from EU standards, conflicts may arise, particularly in sectors such as chemicals, pharmaceuticals, and financial services. These sectors are heavily regulated, and divergence could lead to significant barriers to market access, necessitating ongoing negotiations and potential legal disputes.

The Northern Ireland Protocol remains a contentious issue. Designed to prevent a hard border between Northern Ireland and the Republic of Ireland by keeping Northern Ireland aligned with certain EU regulations, the protocol has faced opposition within Northern Ireland and from some British politicians. Disagreements over the interpretation and implementation of the protocol could lead to sustained legal and political challenges.

Data protection is another critical area of ongoing legal challenge. The UK has adopted its own version of the GDPR, known as the UK GDPR, but the EU has only granted the UK a data adequacy decision temporarily. Any divergence in data protection laws could jeopardise this status, affecting the free flow of data between the UK and the EU.

On the matter of dispute resolution, the mechanisms for resolving disputes between the UK and EU set out in the Withdrawal Agreement and the Trade and Cooperation Agreement are likely to be tested. The complexity of new arrangements and the potential for disputes over their interpretation means that the effectiveness of these mechanisms will be a significant focus of legal attention.

The rights of EU citizens in the UK and UK citizens in the EU, particularly concerning residency and access to services, continue to evolve. Legal challenges may arise as individuals and advocacy groups seek to clarify, enforce, or challenge these rights under the new regimes.

As far as financial services are concerned, the UK's departure from the single market has excluded it from the passporting system, which allowed financial services firms licensed in any EU country to trade freely in any other with minimal additional authorization. The UK and EU have yet to agree on a comprehensive framework for financial services, which could lead to legal uncertainties and challenges in cross-border financial activities.

These ongoing and emerging challenges highlight the complex nature of disentangling UK law from EU frameworks and the potential for legal disputes in multiple areas as both entities continue to define their post-Brexit relationship, and serve as a warning for other EU Member States with regards to the uncertainty of such a process, and the lack of positive effects.

References

- **Fuerea, A., Manualul Uniunii Europene, 6th ed., Universul Juridic Publishing House, Bucharest, 2016;**
- **Kaya, A., Liadze, I., Low, H., Sanchez Juanino, P., Millard, S., Revisiting the effect of Brexit, NiGEM Topical Feature, Autumn 2023;**
- **Ryan, J.M.T., How Brexit Damaged the United Kingdom and the City of London, The Economists' Voice, vol. 20, no. 2, 2023;**
- **Fox, J., Eastern Europeans, Brexit and Racism, <https://www.britsoc.co.uk/about/latest-news/2017/may/eastern-europeans-brexit-and-racism/>;**
- **Savage, M., The Return of Inequality. Social Change and the Weight of the Past, Harvard University Press, 2021;**
- **Portes, J., The economics of the UK's post-Brexit immigration system, in J. Portes, (eds), The Economics of Brexit: What Have We Learned?, CEPR Press, Paris & London, 2022, <https://cepr.org/publications/books-and-reports/economics-brexit-what-have-we-learned>;**
- **Popescu, R.-M., Dumitrașcu, A., Dreptul Uniunii Europene - Sinteze si aplicatii, Universul Juridic Publishing House, Bucharest, 2011;**

- Das, S., Post-Brexit racism in the UK: Experiences of Eastern European and Muslim communities, written evidence, <https://committees.parliament.uk/writtenevidence/70129/pdf/>;
- Agriculture Act 2020, [https://www.legislation.gov.uk/ukpga/2020/21/contents](https://www.legislation.gov.uk/ukpga/2020/21/contents;);
- Data Protection Act 2018, <https://www.legislation.gov.uk/ukpga/2018/12/contents/enacted>;
- Data Protection, Privacy, and the Electronic Communications (Amendments etc) (EU Exit) Regulations 2019, <https://www.legislation.gov.uk/ukdsi/2019/9780111178300/contents>;
- EU Settlement Scheme, <https://www.gov.uk/settled-status-eu-citizens-families>;
- UK Internal Market Act 2020, <https://www.legislation.gov.uk/ukpga/2020/27/contents>;
- EU Withdrawal Act 2018, <https://www.legislation.gov.uk/ukpga/2018/16/contents/enacted>;
- Immigration and Social Security Coordination (EU Withdrawal) Act 2020, <https://www.legislation.gov.uk/ukpga/2020/20/contents/enacted>;
- Fisheries Act 2020, <https://www.legislation.gov.uk/ukpga/2020/22/contents/enacted>;
- Finance Act 2020 and subsequent updates, <https://www.legislation.gov.uk/ukpga/2020/14/contents>;
- Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A22021A0430%2801%29>;
- United Kingdom Internal Market Act 2020, <https://www.legislation.gov.uk/ukpga/2020/27/contents/enacted>.