



**BRIEFING PAPER**

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# A short guide to the EU referendum

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## Introduction

On Thursday June 23 a referendum will be held on the UK's membership of the European Union.

Although some will have decided long ago how they intend to vote, others are searching for authoritative, impartial information to help them make up their minds. This is especially important when the subject is so emotive, as it is in this case.

This is where we come in. The House of Commons Library research service provides MPs with impartial, factual, quality information and analysis, on all subjects, to help them do their jobs well. We rigorously scrutinise the information we include in our briefing notes to make sure that it is true and useful.

The kind of detailed analysis we specialise in is difficult to distil into bite size pieces, particularly where the issues are as wide ranging and complex as they are here.

However, this briefing summarises some of the issues that voters may want to consider when deciding where they will put their cross. In particular:

- How is the EU likely to change if we vote to remain?
- What would be the impact of withdrawal?
- What is the process for withdrawal?

The content is taken from a selection of the House of Commons Library briefings published on issues related to the EU.

We have published many detailed briefings over the past months relating to the referendum, and will keep updating and publishing new papers as the polling day draws closer.

You can access everything we've published on the debate on our [dedicated EU referendum page](#) on the UK Parliament website.

As well as our papers, you will also find reading lists we've pulled together and the latest polling information.

There are lots of other good places to go for information related to the EU referendum. We think you'll find the following pages useful:

- [The 2016 EU Referendum Voting Guide](#), The Electoral Commission
- [BBC EU referendum webpage](#)
- [Full Fact EU referendum webpage](#)

If you have any comments on this or any of our briefings please email [papers@parliament.uk](mailto:papers@parliament.uk).

# 1. Why is the EU referendum being held?

This section summarises information contained in the House of Commons Library briefing [EU referendum: UK proposals, legal impact of an exit and alternatives to membership](#)

This briefing, along with others related to the EU referendum, is available on the [dedicated hub page on the Parliament website](#)

David Cameron pledged during the previous Parliament that if the Conservatives were returned to government in the 2015 general elections, he would legislate to hold an in out referendum on the UK's continued membership of the European Union. This would follow the negotiation and agreement of a number of reforms he had set out in speeches and policy papers.

One of the first pieces of legislation to be passed following the election allowed for a referendum to be held on the UK's membership of the EU before the end of 2017.

Mr Cameron insisted that reforms to the EU were necessary and indicated the Government would recommend staying in the EU if adequate reforms were agreed to.

On 10 November 2015 the Prime Minister published his proposed reforms in a letter to European Council President Donald Tusk.

In December 2015 the European Council members agreed to work together, but did not make much progress.

On 2 February 2016 six draft documents were published intended to address UK concerns.

These were considered at the European Council meeting on 17-19 February, with an agreed text drafted on 19 February.

Regulations were laid before Parliament on 22 February which set the referendum date as 23 June 2016.

After the Settlement was concluded, the Government published three reports:

- The best of both worlds: the United Kingdom's special status in a reformed European Union
- Alternatives to membership: possible models for the United Kingdom outside the European Union
- The process for withdrawing from the European Union

The Prime Minister announced that the Government would be campaigning for the UK to remain as part of the reformed EU.

## 2. The EU referendum campaign

This section summarises the House of Commons Library briefing [The EU referendum campaign](#), published in April 2016.

It provides information about the timetable for the EU referendum campaign. It also includes information on the rules that apply to campaign activity.

The House of Commons Library briefing [EU referendum: how the result will be declared](#), published in May 2016, is summarised for section 2.4.

This briefing, along with others related to the EU referendum, is available on the [dedicated hub page on the Parliament website](#)

### 2.1 What is the question?

The referendum on the UK's membership of the EU will be held on Thursday 23 June 2016.

Eligible voters will be asked:

Should the United Kingdom remain a member of the European Union or leave the European Union?

They will be asked to put a cross next to one of the following options:

Remain a member of the European Union

Leave the European Union

### 2.2 Who can vote?

People eligible to vote must be over 18 years old, and at least one of the following:

Included in the Parliamentary franchise – those eligible to vote in a General Election:

- A British or Irish citizen resident in the UK
- A qualifying Commonwealth citizen
- A British citizen who is a service voter or overseas voter (British citizens may register as overseas voters for up to 15 years after leaving the UK)

Or additionally:

- A Member of the House of Lords
- An Irish or Commonwealth citizen who would be entitled to vote in European elections in Gibraltar

This choice of franchise excludes citizens of other EU countries resident in the UK (but EU citizens from Cyprus and Malta resident in the UK who qualify as Commonwealth citizens, and Irish citizens resident in the UK are also included in the franchise).

An amended version of the Parliamentary franchise will be used.

## 2.3 The EU Referendum campaign

### How long will it last?

The official referendum period for reporting of campaign spending and donations lasts for ten weeks and started on 15 April.

### What are the rules?

The campaign is regulated by the *Political Parties, Elections and Referendums Act 2000* and the *European Union Referendum Act 2015*.

There are controls on spending by and donations and loans to registered campaigners.

Registered campaigners have to report certain information about their spending and income. Some of this has to be reported before the poll.

Restrictions on the information that public bodies can publish in the final 28 days before the referendum begins on 27 May. This is known as the 'purdah' period.

### Who represents each side?

A number of registered campaign groups have been established on each side of the campaign.

The Electoral Commission has designated [Vote Leave](#) and [Britain Stronger in Europe](#) as the lead campaign organisations.

These designated organisations are entitled to:

- receive public money (up to £600,000)
- free mailshots
- referendum broadcasts (prohibited for all other campaigners)
- the use of public buildings for meetings
- higher spending limits than other registered campaigners

## 2.4 When will we know the result?

The polls close at 10pm on 23 June and the counting process will begin then and take place overnight

It is hard to estimate what time the result will be declared as there is no real precedent for a referendum in these circumstances. The previous two UK-wide referendums differed in several ways.

Individual counting areas will start declaring totals in the early hours of Friday morning but it is unlikely that the official UK total will be officially declared until several hours later.

The official result will only be declared by the Chief Counting Officer once all regional totals have been approved and declared. Each regional result will only be declared once all the local results in the region have been declared and collated.

The Electoral Commission provides detailed guidance for campaigners about the rules they must comply with.

BBC and Sky have confirmed that they will not publish a referendum exit poll but other organisations may.

### 3. A vote to remain: What reforms will be implemented?

This section summarises the House of Commons Library briefing [Analysis of the UK's new EU Settlement](#), published in March 2016.

It looks at the new Settlement for the United Kingdom within the European Union agreed at the European Council on 17-19 February 2016.

This briefing, along with others related to the EU referendum, is available on the [dedicated hub page on the Parliament website](#)

Should the referendum result in the UK remaining a member of the EU the reforms secured as part of the UK 'deal' secured in February 2016 would be implemented.

#### 3.1 Is the Settlement 'legally binding and irreversible'?

It is not a binding EU treaty or EU law in itself. Most legal opinions consider the first part of it, the Decision of Heads of State or Government, to be a binding treaty under international law, largely because the parties to it have declared that they intend it to be legally binding.

But even if the Decision binds the parties under international law, it does not bind the EU institutions, and is not necessarily legally enforceable under either EU or domestic law. It could be very problematic if either the Court of Justice of the EU or a domestic court found an inconsistency between the Decision and the EU Treaties.

The Decision probably cannot be reversed without the consent of the UK. But it cannot guarantee all of the outcomes envisaged in it. This is because some depend on factors outside the control of the parties to the Decision, such as national referendums on Treaty change.

In addition to the above, parts of sections A and C of the Settlement (economic governance and sovereignty) will need to be incorporated into the EU Treaties at the next opportunity for Treaty revision. The European Parliament will also have to agree to changes to EU legislation.

#### 3.2 Economic Governance

Section A of the Decision is about Economic Governance. Its principles are that there should be no discrimination against non-eurozone countries (such as the UK) because they are outside the eurozone.

Non-eurozone countries will not impede further integration in eurozone matters and will not face financial losses due to eurozone 'bail-outs'.

Discussion of matters that affect all EU Member States, such as Eurogroup matters, must involve all EU Member States, including non-eurozone members.

The Bank of England will remain responsible for supervising the financial stability of the UK.

### 3.3 Competitiveness

Section B concerns Competitiveness. The Decision confirms the aims of the single market and free movement of people, goods, services and capital.

The EU and member States “must enhance competitiveness” and take steps to lower the regulatory burden on businesses. The Commission will review the EU *acquis* for compliance with subsidiarity and proportionality and will consult national parliaments.

The Commission will introduce by the end of 2016 a new burden review mechanism (building on the European Commission's Regulatory Fitness Programme), will monitor progress against the targets set and report to the European Council every year. The EU remains committed to an “ambitious trade policy”.

The *acquis* is the body of common rights and obligations that is binding on all the EU member states

### 3.4 Sovereignty

Section C is about sovereignty. The UK will not be committed to further political integration in the EU and the concept of “ever closer union” will not apply to the UK.

National parliaments will have 12 weeks in which to object to a legislative proposal on subsidiarity grounds.

There will be a ‘red card’ procedure: 55% of national parliaments will be able to prevent further discussion in the Council of EU legislative proposals, where they believe power should lie with national legislatures

The UK will retain its opt-out and opt-in arrangements in measures on policing, immigration and asylum policy and national security will remain the sole responsibility of the UK Government.

Subsidiarity is the principle which assumes that action is carried out at national level unless there are good reasons for it to be done at EU level.

### 3.5 Social benefits and free movement

Section D relates to social benefits and free movement. It refers to some clarifications of the interpretation of current EU rules, including that Member States may take action to prevent abuse of rights or fraud, such as marriages of convenience, and that in assessing the potential threat of an individual's behaviour, Member States may take into account the individual's past conduct and act on preventative grounds.

The Commission and Member States will improve efforts to prevent abuse and fraud. The Decision acknowledges the UK's position on restricting free movement rights with future EU enlargements.

The free movement rights of non-EU family members of EU citizens will be restricted by amendments to the free movement directive.

Another EU law amendment will provide an 'emergency brake' to limit full access to in-work benefits by newly arrived EU workers if a Member State is experiencing an "exceptional situation" (the UK already meets the criteria for this).

A third amendment will give all Member States an option to index exported child benefits to the conditions of the Member State where the child resides.

## 4. A vote to leave: potential impact in key UK policy areas

This section summarises the House of Commons Library briefing [Impact of an EU exit in key UK policy areas](#), published in February 2016.

It looks at the current situation in a range of policy areas and considers how it might change if the UK left the EU: would UK citizens benefit? This would depend on how the Government filled any policy gaps left by withdrawal.

This briefing, along with others related to the EU referendum, is available on the [dedicated hub page on the Parliament website](#)

In some areas, the environment, for example, where the UK is bound by other international agreements, much of the content of EU law would probably remain. In others, the Government might decide to retain the substance of EU law, or to remove EU obligations from UK statutes.

Much would also depend on whether the UK sought to remain in the European Economic Area and therefore continue to have access to the single market, or preferred to go it alone and negotiate bilateral agreements with the EU.

### 4.1 Business and trade

#### Trade

The EU is the UK's most important trading partner. In 2015 it accounted for 44% of UK goods and services exports (£223 billion) and 53% of UK imports (£291 billion).

The EU is the UK's most important trading partner

The share of UK exports going to the EU has declined in recent years. In 2002 the EU accounted for 55% of UK exports. As the Review of the Balance of Competences put it, the central argument is whether the benefits of membership of a large trading bloc exceed the costs.

Some argue that membership of the EU allows the UK to benefit from better trade deals than it would be able to negotiate on its own.

On the other hand, EU membership entails some compromises and limits the UK's ability to prioritise its own interests. Leaving the EU would allow the UK to set its own trade and investments policies but there could be costs in doing so on its own rather than as part of a group of countries.

#### Overall economic impact

The impact of withdrawal would be most felt in areas such as foreign direct investment (FDI), the UK's contribution to the EU Budget and the effect of immigration on the labour market. There is disagreement as to the severity of the impact on FDI of a UK withdrawal.

On the whole, it can be concluded that membership of the single market is one of a number of important determinants of FDI; but outside the EU, the UK may be able to establish a regulatory regime more favourable to overseas investors, which could offset the effect of its departure.

The Government contributed an estimated £8.5 billion to the EU in 2015, around 1% of total public expenditure and equivalent to 0.5% of GDP.

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Although the UK is a net contributor to the EU, certain regions where living standards fall short of the EU average receive significant levels of support from the budget through the European Regional Development Fund and the European Social Fund, boosted by matched funding from government or the private sector.

Withdrawal would leave a policy vacuum which the Government would have to fill to avoid certain regions and sectors losing out.

## Immigration and labour market

If the UK wished to remain in the single market but outside the European Economic Area (EEA), like Switzerland, it would probably have to accept certain EU rules by arrangement. Whether these would include the free movement of people would depend on the outcome of UK-EU negotiations.

Most studies on the impact of migration on the UK economy have found weak or ambiguous effects on economic output, employment and wages on average. However, impacts vary according to the characteristics of migrants and wider economic performance at that time, and across different groups of workers.

Research on the impact of immigration on the public finances generally suggests the overall effect is small. Studies indicate differing impacts for migrants from inside and outside the EU, and for recent migrants compared to those who have been in the UK for longer.

## Business and financial services

The argument centres on whether the benefits of having a more tailored and flexible national regulatory regime outweigh the loss of access to the single market that may come with pursuing an independent agenda.

A huge amount of existing financial services regulation is derived from the EU. The UK has frequently led reform in this area. It is likely therefore that a significant amount of this legislation would remain post-withdrawal, though not necessarily in the same form or to the same extent.

The fact that London is such a large financial centre in a European context might mean that it can exert significant leverage in the inevitable negotiations consequent on a leave vote.

The majority opinion of City firms is that the UK should remain within the EU.

## Employment

An EU exit could foreshadow significant change to UK employment law, much of which flows from Europe. The Government would face pressure from employers' associations to repeal or amend some of the more controversial EU-derived employment laws, such as the *Working Time Regulations 1998* and *Agency Worker Regulations 2010*.

But trade unions would probably strongly oppose any perceived rowing back on rights originating from the 'Social Chapter'.

Withdrawal from the EU would allow for change to the following areas of employment law, which stem largely from Europe: annual leave, agency worker rights, part-time worker rights, fixed-term worker rights, collective redundancy, paternity, maternity and parental leave, protection of employment upon the transfer of a business and anti-discrimination legislation.

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## 4.2 Legal services

### Human rights

If the UK withdrew from the EU, it would no longer have to comply with the human rights obligations of the EU Treaties, including the EU Charter of Fundamental Rights.

Although the Charter was not intended to create any new rights, a breach can result in the UK courts disapplying UK Acts of Parliament – something they cannot do under other human rights instruments. The impact of the Charter is now being considered as part of the Government's consultation paper on a new British Bill of Rights.

### Immigration

Depending on the nature of any future EU-UK relationship, leaving the EU could have significant implications for the rights of UK citizens to travel to and live in EU/EEA Member States, and for EU/EEA nationals wishing to come to the UK.

On the other hand, if the UK were to negotiate a relationship with the EU similar to the EEA states or Switzerland, it might find that it did not have any greater scope to control EU immigration to the UK than it did as an EU Member State.

The UK already maintains its own border controls. It is not part of the internal border-free Schengen Area, and Border Force officers conduct checks on EU/EEA travellers crossing UK ports of entry, as well as British citizens and non-EU/EEA nationals.

It has not opted in to EU measures facilitating legal migration of third-country migrants. But the UK recognises that there are benefits to practical co-operation and information-sharing with other Member States, for example to strengthen responses to organised immigration crime and current and future migratory pressures.

## Police and justice co-operation

Between 1995 and 2009, the Member States of the EU agreed approximately 135 measures relating to police and judicial cooperation in criminal justice matters, which were subsequently incorporated into the main body of EU law under the Lisbon Treaty. The UK is able to opt in to individual Home Affairs and Justice measures, and has chosen to opt in to 35 of these measures.

These measures include:

- the European Arrest Warrant, which governs the extradition of individuals between member states to stand trial or serve a sentence;
- the Schengen Information System II, a large-scale database that supports external border control and law enforcement cooperation by enabling police and border guards to enter and consult real-time alerts on certain categories of wanted or missing persons and objects;
- Europol, the EU's law enforcement agency, which assists Member States to conduct investigations in relation to terrorism and organised crime, by providing intelligence exchange, support and analysis.

If the UK were to leave the EU it is possible that these arrangements could be replaced with bilateral or multilateral agreements. However it has been argued by those in favour of remaining in the EU that this may take a considerable length of time, and that the outcome of negotiations on such matters would be uncertain.

## 4.3 Society

### Social security

Entitlement to welfare benefits for people moving between EU Member States is closely linked to free movement rights. UK withdrawal from the EU could have significant implications both for EU/EEA nationals living in or wishing to move to the UK, and for UK expatriates elsewhere in the EU/EEA and those considering moving abroad.

The UK could seek to secure bilateral social security agreements on reciprocal rights with individual EU/EEA states, but negotiations could be difficult and protracted. Alternatively, the UK could seek a single agreement with the EU/EEA as a whole.

If a UK withdrawal meant the end of free movement rights, the UK would be able to impose restrictions on access to many social security benefits via immigration law. Entitlement to contributory social security benefits could be limited by limiting access to employment.

It would also be possible to restrict the ability of EU nationals to apply for social housing. Withdrawal might also have implications for UK nationals living in other EU/EEA countries, since Member States would be free to impose corresponding restrictions on entitlement to their benefits.

## Health

EU citizens benefit from reciprocal access to healthcare through the European Health Insurance Card (EHIC). If the UK remained in the EEA it might be able to continue to participate in the EHIC scheme, or, subject to negotiation with EU Member States, participate on a similar basis to Switzerland.

## Higher education

If the UK left the EU, the Government would not have to provide student loans or maintenance funding for EU students. However, the UK would probably lose access to EU research funding and student mobility schemes.

Overall, universities and students would probably lose out, and universities are very concerned about their research funding. But the Government would save money on student finance.

If EU students were classed in the same way as overseas students and charged higher fees, this could have an impact on numbers coming to the UK to study and on fee income for universities.

Overall, universities and students would probably lose out if the UK left the EU

## Consumer policy

A huge amount of UK consumer protection regulation is derived from the EU. For example, directives implemented in the UK protect consumers from unsafe products, unfair practices, misleading marketing practices, distance selling etc.

If the UK sought to remain in the EEA, it would join the EEA/EFTA states (Iceland, Liechtenstein and Norway), which have participated in EU consumer programmes since the EEA Agreement came into force in 1994.

## Transport

The UK would remain a member of the UN and its attendant agencies, and it is thus unlikely that the broad framework of UK law on aviation and shipping would change; similarly we would also likely apply those vehicle rules set down by the United Nations Economic Commission for Europe (UNECE).

One could also envisage the UK and the EU agreeing to maintain common rules on driver and vehicle licensing to ensure continued free movement across the continent. The UK might negotiate an agreement with the EU on air routes, safety and security etc.

There would likely be some areas where the UK would liberalise the arrangements agreed to across the EU.

## 4.4 International affairs

### Foreign and defence policy

Acting through the EU means a larger aid budget, the promise of access to the largest consumer market in the world and a louder political voice.

All of these can be significant 'soft power' tools in the pursuit of European interests.

If the UK no longer co-ordinated its policy with Member States, it would lose access to these shared tools. However, many UK actions are taken in conjunction with the US rather than the EU.

Without the UK's defence capacity and foreign policy experience, the EU's voice in the Middle East, for example, would be less influential. But it can also be argued that an EU exit would not make much difference to the UK's capacities in this region, that the US remains the most significant power there and that the UK could co-ordinate its Middle East policies more closely with those of the US.

In terms of military power and projection, a UK withdrawal would more likely place the EU at a disadvantage, with fewer assets and capabilities at its disposal, particularly certain strategic assets such as tactical airlift and intelligence, surveillance and reconnaissance assets.

The UK's ability to project military power would be largely unaffected, and any military shortfalls could be compensated for through bilateral arrangements. Ensuring the success of Common Security and Defence Policy (CSDP) operations remains in the UK's interest, but outside the EU the UK could probably choose to continue its participation in CSDP operations as a third party state.

## **International development**

The UK channels funds for development cooperation and humanitarian aid through two budget lines, both of them managed by the European Commission: the development part of the EU budget, and the European Development Fund.

In 2014, about 10% of the UK's aid budget would have required reallocation if the UK had not been an EU Member State.

## **4.5 The devolved legislatures**

If the UK left the EU, there could be further policy and legislative divergence in areas of devolved competence, as the UK Government and Devolved Administrations would no longer be required to implement the common requirements of EU Directives.

This would probably be particularly noticeable in policy areas such as the environment or agriculture and fisheries, which are currently strongly governed by EU policy and legislation.

### **Scotland**

Scotland is more pro-EU than England and has benefited from both pre-allocated and competitive European funds over the last four decades.

The Scottish Government has set out its own ideas for EU reform. The first priority identified by the Scottish Government is to encourage the EU's prioritisation of key economic and social policies such as delivering the growth and competitiveness agenda, tackling youth unemployment, developing workers' rights and supporting freedom of movement.

The SNP called for a 'double majority' rule for the EU referendum, whereby all four nations of the UK would have to back withdrawal before exit is possible.

## **Wales**

Support for continued EU membership had consistently led polls over the past 15 months in Wales. The country has access to considerable funding opportunities from the EU, notably from the Common Agriculture Policy and Structural Funds (as well as many other funding streams), estimated to be worth over €5 billion to Wales for the period 2007-2013.

EU membership has also given Wales a direct representative voice in the EU Institutions and in the EU decision-making process, which would be affected by UK withdrawal.

## **Northern Ireland**

Northern Ireland benefits significantly from EU funding: a total of €1,211 million in EU Regional Policy Funding 2014-20.

The impact of a UK withdrawal on Northern Ireland would also be different from that in the rest of the UK because NI is the only region of the UK to share a land border with another EU Member State. UK withdrawal would mean that an external border of the EU would run through the island of Ireland.

## 5. A vote to leave: the withdrawal process

This section summarises the House of Commons Library briefing [The process of leaving the EU](#), published in April 2016.

It looks at some of the issues that are likely to arise for the UK during a withdrawal process and afterwards. A UK vote to leave the EU would trigger an untested procedure for withdrawal. There could be a complex and difficult negotiation lasting two years or more, or the UK could leave without settling its exit terms or its future relationship with the EU.

This briefing, along with others related to the EU referendum, is available on the [dedicated hub page on the Parliament website](#)

### 5.1 Treaty basis for EU withdrawal

The Treaty base for EU withdrawal is Article 50 of the *Treaty on European Union* (TEU). The Article 50 route is the only legal way to leave the EU under EU and international treaty law, although some have suggested there are other ways.

Article 50 TEU has never been used before, so there is no clear framework for how it would work. But both pro- and anti-EU camps have concluded that Article 50 TEU is the best and the 'legal' way to withdraw from the EU.

#### Is Article 50 TEU the only way to leave?

The Article 50 TEU route is the only legal way to leave the EU under EU and international treaty law, although some have suggested there are other ways.

### 5.2 The withdrawal process

#### Vote to leave

After a vote to leave the EU, the Prime Minister would notify the European Council of the UK's intention to withdraw.

Notification would be a political decision. Legally, the referendum is not binding, although it would probably be considered politically binding.

#### Trigger Article 50 TEU

This would trigger the opening of withdrawal negotiations between the UK and (probably) the European Commission, based on a negotiating mandate ("guidelines") drawn up by the European Council, without the UK's participation.

#### UK negotiates withdrawal agreement with EU negotiator

The UK would negotiate the withdrawal agreement with the EU negotiator (probably the Commission) and would continue to

participate in EU activities, the EU institutions and decision-making during the negotiating period. But the UK would not participate in any Council or European Council discussion of its withdrawal.

## Negotiation period 2 years or more

The negotiation period is two years from formal notification, but it could be longer if all Member States agree to an extension. The other EU Member States could reject the withdrawal agreement, but they could not stop the UK from leaving the EU.

## 5.3 Status of UK during negotiations

The UK would still be a Member State during the withdrawal negotiations and would continue with business as usual until withdrawal took effect. Existing EU law would continue to apply in the UK, and it would be bound by the principle of “sincere cooperation”.

### What about UK MEPs, Commissioner, Judges and staff?

Commentators seem to agree that the withdrawing State’s MEPs would be able to participate in EP business concerning the withdrawal.

In the absence of any indication to the contrary, it can be assumed that the withdrawing State’s Commissioner would continue with his/her portfolio, that the UK’s EU Court Judges would continue with their work and that staff working for the EU institutions would continue in post until withdrawal took effect.

### EU Presidency in 2017

The UK could still hold the EU Presidency in 2017 in spite of a vote to leave, although politically this could be very awkward.

### EEA membership

If the UK left the EU, it would no longer be a member of the EEA. The UK would have to seek to re-join EFTA and then apply to join the EEA.

It’s possible that this could be tackled in the course of withdrawal negotiations with a view to the UK acceding to EFTA and the EEA as soon as it had left the EU, but the move would not be automatic.

There is no precedent for a non-EU/non-EFTA state joining the EEA.

## 5.4 The withdrawal agreement

Until the point of withdrawal the withdrawing State is an EU Member State (e.g. for notification, drawing up of guidelines, negotiating and concluding the withdrawal agreement).

It is unclear from Article 50 TEU how far arrangements for the leaving State’s future relationship with the EU would be included in the withdrawal agreement.

There are different opinions as to what else a withdrawal agreement might include. The content would be up to the negotiators.

The UK would still be a Member State during the withdrawal negotiations and would continue with business as usual until withdrawal took effect.

Until the point of withdrawal the withdrawing State is an EU Member State

## Would the withdrawal agreement have to be ratified?

The Council of the EU (excluding the UK) would adopt the withdrawal agreement, having obtained the consent of the EP by a simple majority. The EP would therefore have a right of veto over the withdrawal agreement, but not over withdrawal itself.

The Council (excluding the UK) would act by an enhanced majority under Article 238(3)(b) TFEU. This requires 72% of Council Members (i.e. 20 of the remaining 27 Member States) representing at least 65% of the total population of these States.

There is no mention in Article 50 TEU of ratification of the withdrawal agreement by Member States, but this might be necessary under international legal norms.

## How could other EU Member States influence the withdrawal agreement?

Other EU Member States, if they were so minded, could ensure that the UK did not secure the withdrawal agreement (Qualified Majority Voting - QMV) or post-exit relationship it wanted (QMV or unanimity, depending on the areas covered).

## Could the UK be prevented from leaving?

Some argue that the UK could be prevented from leaving the EU, but this is not the case.

The other Member States could veto a withdrawal agreement, but the UK could not be prevented from leaving the EU two years from notification.

## 5.5 Transitional arrangements and future relationship

Transition arrangements in policy areas covered by the EU Treaties would have to be settled. The negotiators might also negotiate, alongside the withdrawal agreement, agreement(s) with the rest of the EU on the post-exit relationship (e.g. membership of EFTA or the EEA). This/these would be signed and ratified after withdrawal.

There are particular concerns about the continuation of the UK's trading relations with third states and there is a question about possible vested rights for individuals and companies.

## How would the Government manage the negotiations?

Given that EU law applies in a broad range of policy areas, a UK withdrawal would probably involve all Government Departments, as well as the UK Representation in Brussels (UKREP). Exactly how they would contribute to the negotiations is not clear.

If the UK wanted to re-join the EU in the future, it would have to re-apply under Article 49 TEU.

## Qualified Majority Voting

Under Article 50 TEU Qualified Majority Voting (QMV) is required to agree a withdrawal agreement. But voting on a post-exit agreement not included as part of the withdrawal agreement would be different and could require the unanimous agreement of EU Member States and EP consent.

## Matters to be tackled

The Government Report, The process for withdrawing from the European Union, looked at key matters that would need to be tackled in the negotiation of withdrawal and transition provisions. The list included the following:

- unspent EU funds due to UK regions and farmers
- cross-border security arrangements including access to EU databases
- co-operation on foreign policy, including sanctions
- transfer of regulatory responsibilities
- arrangements for contracts drawn up in accordance with EU law
- access to EU agencies that play a role in UK domestic law, such as the European Medicines Agency
- arrangements for the closure of EU agencies headquartered in the UK
- departure from the Single European Sky arrangement
- access for UK citizens to the European Health Insurance Card
- the rights of UK fishermen to fish in traditional non-UK waters, including those in the North Sea
- continued access to the EU's single energy and aviation markets
- the status of the UK's environmental commitments made as party to various UN environmental conventions and currently implemented through EU legislation

## 5.6 EU-derived UK laws

The UK Government would have to decide whether to retain EU-derived UK laws, amend or repeal them. The starting point would be repeal of the European Communities Act 1972, with savings provisions.

UK primary or secondary law implementing EU law and directly effective EU law could continue if the Government wanted and/or to the extent practicable.

### Devolved legislatures

The devolved legislatures would have to deal with EU legislation they have transposed into Scottish, Welsh or Northern Irish laws. It would also be necessary to amend the relevant parts of the devolution legislation, which might require a Legislative Consent Motion under the Sewel Convention.

The UK Government would have to decide whether to retain EU-derived UK laws, amend or repeal them.

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