

# STUDY GUIDE

## BREXIT TALKS

Re-Revised For EUROsimA Website





# Brexit Talks Study Guide

European Union Simulation in Ankara (EUROsimA) 2017

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# Letter from the Secretary-General

Esteemed Participants,

It is an indescribable honor and pleasure to welcome you all to this year's EUROsimA which will be the 13<sup>th</sup> session of our tradition. EUROsimA has always been keen on observing political events carefully and the events of 2016 were so remarkable that it seemed impossible for us to realize a conference without including the topic of Brexit.

However, Brexit deserves, as far as we are concerned, a place more than a topic in an EU institution. Therefore, we have decided to create a whole new committee for it. Brexit Talks Committee will not only be a simulation in which participants will fight for their side and their rights, but it will also provide them the opportunity to closely examine this interesting and unprecedented process. It is indeed remarkable for one of the greatest economies of Europe to leave the EU however everyone is aware of the fact that Brexit marks something much more than just an economic development.

The whole culture, tradition and integrity of Europe is now at the crossroads and it is up to you, the delegates of both sides to make everyone happy while the Union is losing a member. It will not be an objective which is easy to achieve but I am more than confident that every delegate will learn something from the committee and teach something to it; which these mutual processes will lead us to the answers for one of the greatest enigma and challenges of European history.

This guide now you are holding in your hands has been prepared for every case and scenario that you may face during the sessions. It includes a list of the topics that will be brought to the table, and also it includes a brief yet satisfyingly explanatory history of the UK's modern governance and its relations with EU chronologically. All these results of a fruitful research were made and were put to paper by Mr. Berk Furkan Kocatepe and it is impossible at this point to express my gratitude. Without his efforts this study guide would never have existed and this committee would not have shaped so professionally, as it is now.

I welcome you once again to the committee and wish you the best in means of debate, discussion and negotiation and I hope you will have an amazing experience here in EUROsimA.

***Ali Berk idil***

Secretary-General of EUROsimA 2017

# Letter from the Under-Secretary General

Most esteemed participants,

I am deeply pleased and honored to welcome you all to Brexit Talks Committee of EUROsimA 2017. My name is Berk Furkan Kocatepe, a junior studying International Relations at Middle East Technical University. I, as the responsible Under-Secretary General for this committee, have the great pleasure, opportunity and responsibility to participate as a member of EUROsimA 2017 Academic Team this year.

The theme of EUROsimA 2017 is “Integrity with Harmony”, which will be very inspiring while constructing the debates alongside the agenda items in all committees, and leading you, the honorable participants, to improve yourself.

The Brexit Talks Committee consists of two negotiating teams: the EU negotiating team and the UK negotiating team. The teams contain the specialist in the fields like economy, law, foreign affairs, trade, diplomacy, employment and development will square accounts with each other. The sides will debate upon quantitatively low; but qualitatively complicated, complex, connected, detailed and of course vital terms.

Before I end my letter, I would like to thank our extremely intellectual and visionary Secretary-General Mr. Ali Berk Idil for his advisory and contributions during the preparation process. Besides, I would like to appreciate our Academic Assistants hot prospect for the future Ms. Yargı Akdan, Mr. Ali Demir and Mr. Umut Berkay Tetik for their efforts and works in preparing necessary documents for the participants in the committee.

Kind Regards

**Berk Furkan Kocatepe**

Under-Secretary General

# Magna Carta

Magna Carta, which is the Latin for “the Great Charter”, is one of the world’s most known documents created in 1215. It was written down by the King’s clerk after the negotiations between the King and the Barons. At the beginning, King John, who was declared as one of the worst kings in the history in pursuant of many people, levied a heavy tax on his barons who held his lands by the feudal tenure of “barony” and who were entitled to attend the Great Council (Magnum Concilium), which had developed into the Parliament of England by the 13th century.<sup>1</sup> The goal behind those heavy taxes was to afford the cost of the wars that he waged abroad. In response to these taxes, the barons demanded the King to stay in line with the laws; however by the time the King refused to do so, the Barons occupied London which compelled the King to negotiate. The negotiations were held in Runnymede in 1215 and since then, Magna Carta has been the most important and strongest symbol of liberty all around the world.<sup>2</sup> The most famous clause of the document which is as, “No man shall be arrested or imprisoned except by the judgment of their equals and by the law of the land” was reissued several times in order to maintain the peace during the 13<sup>th</sup> century, and after the death of King John and replacement of him by 9 years old Henry III, became a part of English law.<sup>3</sup> Magna Carta is still an important symbol of liberty today, often referred by politicians and campaigners, and is a well-respected document by the British legal communities. In addition, legal American communities also highly respect Magna Carta since the document served to inspire and justify action in defense of liberty during the American Revolution. Moreover, the constitution of the United States recalled the essence in which Magna Carta had designated to be regarded as fundamental law. For instance, the Fifth Amendment to the Constitution, “no person shall be deprived of life, liberty, or property, without due process of law” is a direct guarantee of proceedings according to the law of the land which is a descendant of Magna Carta.<sup>4</sup>

## English Reformation

English reformation is a chain of events started by the separation of the Church of England from the warrant of the Pope and Roman Catholic Church. Despite the fact that those series of events were relevant with the Protestant Reformation, which is both religious and political movement that spread many region within the Europe, various stages of the English reformation that comprehended Wales and Ireland were continued by alterations in the government policy that were in accordance with the

<sup>1</sup> Sanders, I. J. 1956. Feudal Military Service In England, A Study Of The Constitutional And Military Powers Of The Barones In Medieval England, By I. J. Sanders. London: Oxford University press.

<sup>2</sup> “What Is Magna Carta?”. 2016. The British Library. <https://www.bl.uk/magna-carta/videos/what-is-magna-carta>.

<sup>3</sup> ibid

<sup>4</sup> “The Magna Carta”. 2016. National Archives. <https://www.archives.gov/exhibits/featured-documents/magna-carta>.

public opinion. In other words, the centerpiece and realizing principle of the English Reformation was not a theological doctrine but a state act.<sup>5</sup> That act was the endowment of supreme head of the Church of England to the King, Henry the VIII in 1534.<sup>6</sup> Henry the VIII's move to break with Rome was supported by English barons who were disappointed with growing corruption in Roman Catholic Church. That endowment was crucial since there were two governments, one royal and one ecclesiastical that had overlapping claims in jurisdiction and sovereignty. As a natural result of this dualism, both of the governments had their own courts, tax systems, rudimentary bureaucracies that caused complications within the country. Nevertheless, the separation from Roman Catholic Church and the King's being supreme head of the Church of England brought about the royal supremacy. Despite the fact that the start of English Revolution was a political act rather than a theological act, the dissolution of Papal authority caused conflicts and disputes among the public since the protestant thoughts began to sprawl across the country which threatened the basis of Catholicism. After the death of King Henry in 1547, a powerful evangelical, strictly bound to Protestant values and cultivated during the rule of Henry, established their supremacy in the regency government.<sup>7</sup> In the 6 years of Edward VI's administration -6 years due to his death in 1553- a determined attempt for the introduction of a full Protestant church polity into England, driven on by a strong alliance of Archbishop Cranmer and the Lord Protector was experienced.<sup>8</sup> However, this fast progress reversed when the Catholic half-sister of Edward, Mary came to power. Her devotion to the papacy brought about the regression in English Protestantism. When Elizabeth took over the throne from Mary, a new but insecure regime began.<sup>9</sup> Elizabeth and his advisors put effort to solve complicated problems of domestic and foreign policy arising from a new restoration of Protestantism; however, her insistence on not marrying and consequently not having a child was the factor that made the regime insecure as her nearest heir was he Catholic Mary Queen of Scots.<sup>10</sup> Such a possibility, Mary of Scot's taking over the throne might have resulted in the same religious civil war convulsing neighboring lands on the Continent.<sup>11</sup> Moreover, she balked at the introduction of the full Calvinist Church order urged upon her by foreign theologians and by some of the English exiles returned to assist the new regime.<sup>12</sup> However, at the end of the day, any consensus could not be reached by the Parliament and bishops. That was why the Church of England remained halfly reformed.<sup>13</sup> This picture altered in the last quarter

<sup>5</sup> Shagan, Ethan H. 2003. *Popular Politics And The English Reformation*. 1st ed. Cambridge: Cambridge University Press.

<sup>6</sup> *ibid*

<sup>7</sup> Bbc.co.uk. (2017). BBC - History - The English Reformation. [online] Available at: [http://www.bbc.co.uk/history/british/tudors/english\\_reformation\\_01.shtml](http://www.bbc.co.uk/history/british/tudors/english_reformation_01.shtml) [Accessed 20 Mar. 2017].

<sup>8</sup> *ibid*

<sup>9</sup> *ibid*

<sup>10</sup> *ibid*

<sup>11</sup> *ibid*

<sup>12</sup> *ibid*

<sup>13</sup> *ibid*

of the century. Thanks to the ambitious foreign policy of Elizabeth which led swiftly to confrontation with the leading Catholic powers, England became an actor playing a pivotal role in the survival of Calvinist powers on the Continent.<sup>14</sup> At the end of Elizabeth's reign in 1603, the Protestant identity of England was secured and the people esteemed their church.<sup>15</sup> English people had come to identify their Church and Protestantism as a cornerstone of their identity.<sup>16</sup>

## English Civil Wars

English Civil Wars were the series of fights that occurred in the British Isles between the supporters of the monarchy of Charles I, his successor Charles II and the opposition groups consisted of the Parliamentarians in England, Covenanters in Scotland, Confederates in Ireland.<sup>17</sup> In general, the war is considered as it started in England in August 1642 since Charles I was mustering an army against the wishes of Parliament. However, it was the 1630's when the seeds of the war were planted first. Despite the fact that the British Isles had relative peace and economic prosperity owing to what Charles I has done between 1629-1640; during the period of so-called Personal Rule, oppositions emerged against Charles I due to many negative administrative policies such as but not limited to: dissolving the Parliament, ruling by decree, appealing to shady fiscal policies, the emergence of new taxes without parliamentary authorization. Furthermore, voices of opposition were raised when what he has done so far combined with the ecclesiastical reforms undertaken by Charles's close adviser William Laud, the archbishop of Canterbury, and with the remarkable role assumed by Henrietta Maria, Charles's Catholic queen, and her courtiers in these reforms.<sup>18</sup> On the other hand, the actions of Thomas Wentworth, the lord deputy of Ireland since 1633, like to extend royal control throughout Ireland by founding British plantations brought about the alienation both the Protestant and the Catholic ruling elites in Ireland.<sup>19</sup> Moreover, the irritation of Charles to Scottish land titles annoyed the landowners within the Scottish sphere.<sup>20</sup> Thereupon, in 1637 introduction of the modified version of the English Book of Common Prayer, the short title of a number of related prayer books used in the Anglican Communion incited wave of riots in Scotland, beginning at the Church of St. Giles in Edinburgh.<sup>21</sup> A National Covenant calling for immediate withdrawal of the prayer book was immediately grinded out on February 28, 1638.<sup>22</sup> In spite of its moderate tune and conservative format, there is no doubt to say the National

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<sup>14</sup> ibid

<sup>15</sup> ibid

<sup>16</sup> ibid

<sup>17</sup> "English Civil Wars | English History". 2016. Encyclopedia Britannica. <https://global.britannica.com/event/English-Civil-Wars>.

<sup>18</sup> ibid

<sup>19</sup> ibid

<sup>20</sup> ibid

<sup>21</sup> ibid

<sup>22</sup> ibid

Covenant prepared was a radical manifesto against the so-called Personal Rule of Charles I, which is a justification for the revolt against the interfering sovereign.<sup>23</sup> The opposition against Charles I in Scotland further turned into rebellion led by the rebels known as the Covenanters.<sup>24</sup> Since English army was not well-trained, it was overwhelmed by the Covenanters and Charles I's determination to suppress the rebellion was consequently failed.<sup>25</sup> This event is known as the first Bishops' War and it was won by the Covenanters. However, Charles I did not waived to bring the rebellious to heel and called the English Parliament in order to raise money.<sup>26</sup> He considered to call the parliament is the only way to do as rapid as possible. Despite the fact that the parliament assembled in April 1640 was in favor of the financial proposal, the financial proposals would not be applied to sustain his war against the Covenanters, the parliament expressed, unless the parliament's complaints undergoing for nearly two decades had been fixed.<sup>27</sup> Therefore, the king dissolved the parliament just three weeks after its convention and became known as the Short Parliament. Regardless, Charles I drove an untrained and ill-armed force to Scotland in order to give a fight against the Scot rebels, which is known as the second Bishops' War and it resulted in horribly for England. The king had no other choice but to negotiate and to recall the parliament and a new parliament known as the Long Parliament was established at Westminster on November 3, 1640.<sup>28</sup> Immediately afterwards, Thomas Wentworth, a leading advisor to the King, attempting to strengthen the royal position against Parliament was condemned to death as a result of impeachment imposed through a lengthy trial at Westminster orchestrated by Protestants and Catholics from Ireland, by Scottish Covenanters, and by the king's English opponents, especially the leader of Commons.<sup>29</sup> Therefore, the execution of Wentworth and the inevitable removal of Strafford's draconian hand resulted in the outbreak of the uprisings in Ireland in October 1641.<sup>30</sup> The most important background item of the uprisings was to desire to have the Roman Catholic Church renovated to its pre-Reformation position.<sup>31</sup> It should come as no surprise that the uprisings further turned into a fight between Catholics and Protestants throughout the island that ended up with thousands of deaths.<sup>32</sup> It did not take so much time to trigger a political crisis in England. The King and the Parliament had controversy on the issue of that which of them should direct the army to quell the insurgents in Ireland.<sup>33</sup> The way chosen by Charles I was to mobilize for war on his own caused the first English Civil War that occurred between the forces loyal to Charles I and the forces

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<sup>23</sup> ibid  
<sup>24</sup> ibid  
<sup>25</sup> ibid  
<sup>26</sup> ibid  
<sup>27</sup> ibid  
<sup>28</sup> ibid  
<sup>29</sup> ibid  
<sup>30</sup> ibid  
<sup>31</sup> ibid  
<sup>32</sup> ibid  
<sup>33</sup> ibid

served the Parliament.<sup>34</sup> It can be briefly said that English Civil War was shaped as the war between the Royalists and Parliamentarians. The first English War started with the Battle of Edgehill in October 1642.<sup>35</sup> Royalist side of the war, Charles I and his supporters enjoyed support in north and the west of England, in Wales and after 1643, in Ireland with his headquarters in Oxford whereas the Parliament had control of the much wealthier regions in the south and east of England together with most of the key ports and the financial capital of the Kingdom, London, must vitally.<sup>36</sup> What Charles I needed was to capture London in order to win the war, which he failed to do so. Despite the fact that Charles prevented the Parliamentarians from smashing his main field army and this brought about an effective military stalemate, the victory of Parliamentarians at the Battle of Marston Moor on July 2, 1644 changed the direction of the arrows. The triumph of the Parliamentarians disenfranchised the king of two field armies and was the milestone for the reform of the Parliamentary Armies with the formation of the New Model Army.<sup>37</sup> The process was completed in April 1645 and the Parliament had a centralized standing army with central funding and central direction. The New Model Army immediately moved against the Royalist forces and their victory at the Battle of Naseby on June 14, 1645 definitely was a turning point for the Parliamentarians since it was the battle that led the king to be forced to surrender. The first English Civil War ended up with the conquest by the Parliamentarians. Of course, contribution of the Scots to the Parliamentary powers should not be underestimated, such as signing a political, military, and religious alliance, which was determinative. However, during the second and third English Civil Wars (1648-1651), the Scots changed side and took place by the King side. The King and the Scottish Covenanters signed an agreement, which is widely known as the Engagement. The terms of the engagement were to establishment of Presbyterianism -a part of the Reformed tradition within Protestantism- in England for a period of three years in return of Scots' promise to join forces with the English Royalists in order to restore the King to his throne.<sup>38</sup> Scottish forces invaded England in July 1648; however, the parliamentary army routed them at the Battle of Preston.<sup>39</sup> The royalists lost any chance of winning the war. All Charles I could do was to return to negotiations.<sup>40</sup> The parliament decided to continue the negotiations with the King; however the army and Oliver Cromwell, who was an English military and political leader opposed any further talks with someone they viewed as a bloody tyrant and were already taking action to consolidate their power.<sup>41</sup> The members of the parliament those who were not aside with the military were arrested or excluded by the

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<sup>34</sup> ibid

<sup>35</sup> ibid

<sup>36</sup> ibid

<sup>37</sup> ibid

<sup>38</sup> ibid

<sup>39</sup> ibid

<sup>40</sup> Carlton, Charles. 1995. *Charles I, The Personal Monarch*. 1st ed. London: Routledge.

<sup>41</sup> Hibbert, Christopher. 1968. *Charles I*. 1st ed. New York: Harper & Row.

colonel Thomas Pride.<sup>42</sup> There were also others stayed away voluntarily, and the remaining members of the parliament established the Rump Parliament. This Rump Parliament accused Charles I of treason against England by using his power to pursue his personal interest rather than the good of the country.<sup>43</sup> Charles claimed the illegality of the trial by arguing that his own authority to rule had been given to him by God and by the traditional laws of England.<sup>44</sup> On the contrary, the court proposed that “the King of England was not a person, but an office whose every occupant was entrusted with a limited power to govern ‘by and according to the laws of the land and not otherwise.’”<sup>45</sup> At the end of the trial, Charles I was declared guilty and sentenced to death. He was beheaded in January 1649. His execution canalized the support of Scottish and Irish to Charles II, the son of Charles I; however, the Parliamentary powers managed to beat back them, and Cromwell’s resounding victory at Worcester on September 3, 1651 and Charles II’s subsequent flight to France not only gave Cromwell control over England; but the victory of the Parliament in the period of English Civil Wars was an important milestone on the road to the parliamentary sovereignty.<sup>46</sup>

## Glorious Revolution

Charles II, the son of Charles I took over the throne as the lawful successor in 1660 and the lords were summoned to the Parliament again. During his reign, the monarchy was restored. However, the trust in Charles II was badly shaken since he allied with the catholic and absolutist Louis XIV, the French monarch.<sup>47</sup> Particularly in 1670s, the Parliament also expressed their huge concerns about the growth of Popery because of the Charles I’s attempts to grant Catholics a modest toleration.<sup>48</sup> After the death of Charles II in 1685, his brother James II came to the power since Charles II had no son to inherit the throne. James II was proclaimed king on 6 February 1685. His accession to throne could be evaluated as a surprise since he was a Catholic and he had been tried to be excluded by several attempts by the Parliament; nevertheless, the exclusion bills were rejected by the Lords.<sup>49</sup> As expected, James II had a stab at promoting Catholicism, removing the ban for catholic worship, education and publishing.<sup>50</sup> His strategy depended on his convincing a parliament to repeal the panel laws; however, most of the members of parliament were against allowing Catholics

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<sup>42</sup> ibid

<sup>43</sup> Gardiner, Samuel Rawson. 1906. *The Constitutional Documents Of The Puritan Revolution, 1625-1660*. 1st ed. Oxford: Clarendon Press.

<sup>44</sup> Edwards, Graham. 1999. *The Last Days Of Charles I*. 1st ed. Stroud, Gloucestershire: Sutton.

<sup>45</sup> Robertson, Geoffrey. 2005. *The Tyrannicide Brief*. 1st ed. London: Chatto & Windus.

<sup>46</sup> “English Civil Wars | English History”. 2016. *Encyclopedia Britannica*. <https://global.britannica.com/event/English-Civil-Wars>.

<sup>47</sup> Miller, John. 1997. *The Glorious Revolution*. 1st ed. London: Longman.

<sup>48</sup> ibid

<sup>49</sup> ibid

<sup>50</sup> ibid

freedom of worship.<sup>51</sup> Besides, there was the fear that James II could abuse his power and become an absolutist just like Louis XIV.<sup>52</sup> This argument was based on the opinion that Catholicism and absolutism were hand in hand.<sup>53</sup> The fact that the argument was not wrong would be understood by looking at the actions that James II took. In May 1686, he dismissed judges who disagreed with him about dispensing the Acts of Parliament in 1673, which forbade the Catholic worship, education and publishing. He issued Declaration of Indulgence, which was for establishing freedom of religion in the British Isles; however, the goal of James II was to promote his own minority religion, Catholicism. Furthermore, he ordered colleges to elect Catholic presidents. Further to that, he employed a large standing army and employed Catholics in positions of power within it. In addition, James's second wife, Mary of Modena giving birth to a son, who would take precedence in the succession over James's Protestant daughters by his first marriage, brought about the prospect of a never-ending succession of Catholic kings.<sup>54</sup> That reality led a group of seven politicians to invite the Dutch stadtholder William of Orange, husband of James's eldest daughter and fourth in line to the throne in his own right, to come and rescue English political and religious liberties.<sup>55</sup> William arrived to England on 5 November 1688 and invaded the country with a sizeable and well-trained professional army.<sup>56</sup> With the arrival of William, members of the ruling elite and even sections of the army began to desert James.<sup>57</sup> James II fled the country on 23 December whereas William already occupied the capital, London.<sup>58</sup> Since James II fled the country, there was no obstacle for William and Mary to be proclaimed king and queen, and they were done so in London and Westminster on 13 February and shortly thereafter in the rest of the country; they were crowned on 11 April 1689.<sup>59</sup> This series of events resulted in the instance called Glorious Revolution. What the Glorious Revolution brought in was expressed in the document called the Bill of Rights 1689. The document vindicated and asserted the nation's ancient rights and liberties by declaring:

- ★ *the pretended power of suspending the laws and dispensing with laws by regal authority without consent of Parliament is illegal;*
- ★ *the commission for ecclesiastical causes is illegal;*
- ★ *levying taxes without grant of Parliament is illegal;*
- ★ *it is the right of the subjects to petition the king, and prosecutions for such petitioning are illegal;*

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<sup>51</sup> ibid

<sup>52</sup> ibid

<sup>53</sup> ibid

<sup>54</sup> "Glorious Revolution Facts, Information, Pictures | Encyclopedia.Com Articles About Glorious Revolution". 2016. Encyclopedia.Com. <http://www.encyclopedia.com/history/modern-europe/british-and-irish-history/glorious-revolution>.

<sup>55</sup> ibid

<sup>56</sup> ibid

<sup>57</sup> ibid

<sup>58</sup> ibid

<sup>59</sup> ibid

- ★ *keeping a standing army in time of peace, unless it be with consent of Parliament, is against law;*
- ★ *Protestants may have arms for their defense suitable to their conditions and as allowed by law;*
- ★ *election of members of Parliament ought to be free;*
- ★ *the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament;*
- ★ *excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted;*
- ★ *jurors in trials for high treason ought to be freeholders;*
- ★ *promises of fines and forfeitures before conviction are illegal and void;*
- ★ *for redress of all grievances, and for the amending, strengthening and preserving of the laws, Parliaments ought to be held frequently.*<sup>60</sup>

## The Parliament of the United Kingdom

The parliament which is the supreme legislative body in the United Kingdom has a bicameral structure consists of House of Lords and House of Commons. Actually, modern parliament traces its history to the 13<sup>th</sup> century, when the sheriffs of English counties sent knights to the king to provide advice on financial matters.<sup>61</sup> However, the Parliament began to gain its current function in 17<sup>th</sup> century, becoming a revolutionary body and central opposition to the king during the English Civil Wars.<sup>62</sup> After the civil wars factions that were the ancestors of today's political parties developed namely Whig and Tory.<sup>63</sup> The Glorious Revolution took place in 1688, led the way for the development of the "Principle of Parliamentary Sovereignty", the modern and central tenet of the United Kingdom's parliamentary system. The fact that the new King, Dutch stadtholder William of Orange's minister appointment among the members of political parties that are in the Parliament has been a building stone. This new development was further followed by the appointment of cabinet officials from the party commanding a majority in the House of Commons and adjustment of the composition of the Privy Council according to that of Parliament.<sup>64</sup> As it is mentioned above, the Parliament of United Kingdom has a bicameral structure which includes House of Lords and House of Commons, which have crucial functions in the administration of the state. However, the functions of houses are altered through increased or decreased functions. The function of House of Lords has been on the decline since the 17<sup>th</sup> century whereas House of Commons has been strengthening its position within

<sup>60</sup> Williams, E. N. 1960. *The Eighteenth-Century Constitution, 1688-1815*. 1st ed. Cambridge U.P.

<sup>61</sup> "Parliament | United Kingdom Government". 2016. Encyclopedia Britannica. <https://global.britannica.com/topic/Parliament>.

<sup>62</sup> *ibid*

<sup>63</sup> *ibid*

<sup>64</sup> *ibid*

the state administration. That is why it is essential to examine them privately.

## A. House of Lords

House of Lords is the upper chamber of the bicameral parliament of United Kingdom. The house originated in 11<sup>th</sup> century turned into a distinct element of the Parliament in the 13<sup>th</sup> and 14<sup>th</sup> centuries.<sup>65</sup> From 11<sup>th</sup> century to 13<sup>th</sup> century it was a council composed of religious leaders and the monarch's ministers.<sup>66</sup> As the power of the monarchy declined in 17<sup>th</sup> century, the relationship between the Lords and the Commons shifted in favor of the Commons.<sup>67</sup> The powers of the modern House of Lords are extremely limited. House of Lords had an unlimited veto power until 1911. 1911 Parliament Act deprived the House of Lords of its absolute power of veto on legislation.<sup>68</sup> Furthermore, the replaced power of delaying the government legislations up to 2 years was restricted to 1 year in 1949.<sup>69</sup> Despite the fact that House of Lords is defined as the upper chamber of the parliament of United Kingdom, House of Commons is the "de facto" upper chamber today in the United Kingdom.

## B. House of Commons

House of Commons is the popularly elected legislative body of the bicameral parliament of the United Kingdom. As it is mentioned above, technically it is the lower house; however, it is predominant over the House of Lords especially since the 20<sup>th</sup> and 21<sup>st</sup> centuries in accordance with the restriction of the powers of House of Lords. The roots of House of Commons are found in the second half of 13<sup>th</sup> century.<sup>70</sup> House of Commons radicated with landholders and other property owners in the counties and towns started to send representatives to Parliament to present grievances and petitions to the king and to accept commitments to the payment of taxes.<sup>71</sup> In 14<sup>th</sup> century, the process of formation continued with the election of the burgesses and knights as the representatives of the commons sitting in a separate chamber from where the nobles and high clergy were seated.<sup>72</sup> In the 17<sup>th</sup> century, as the powers of House of Lords started to decline, House of Commons have been promoted in state administration hereinbefore. Since 2010, House of Commons comprises 650 members, 533 from England, 59 from Scotland, 40 from Wales, and 18 from Northern Ireland.<sup>73</sup> House of Commons is the main functional body of legislation in the United Kingdom.

<sup>65</sup> "House Of Lords | British Government". 2016. Encyclopedia Britannica. <https://global.britannica.com/topic/House-of-Lords>.

<sup>66</sup> *ibid*

<sup>67</sup> "Parliament | United Kingdom Government". 2016. Encyclopedia Britannica. <https://global.britannica.com/topic/Parliament>.

<sup>68</sup> "Parliament Act Of 1911 | British History". 2016. Encyclopedia Britannica. <https://global.britannica.com/event/Parliament-Act-of-1911>.

<sup>69</sup> *ibid*

<sup>70</sup> "House Of Commons | British Government". 2016. Encyclopedia Britannica. <https://global.britannica.com/topic/House-of-Commons-British-government>.

<sup>71</sup> *ibid*

<sup>72</sup> *ibid*

<sup>73</sup> *ibid*

It has the authority to impose taxes and to vote financial bills or withhold money from various public departments and services.<sup>74</sup> Besides, the acts of the Commons are not subject to judicial review.<sup>75</sup> In House of Commons, where two party system traditionally dominates, almost all processes of legislation is led by the majority party in the Commons, which forms the government and the cabinet.<sup>76</sup> In two party system, after a general election, the party with the most Members of Parliament normally forms the Government whereas the next largest party becomes the official Opposition.<sup>77</sup> The government's main work in the Commons is to implement the legislative program which is proposed in the general election.<sup>78</sup> The United Kingdom does not have a single formal written document regarded as a constitution that defines the political system and state, the rights and duties of the citizens since House of Commons, the legislative organ and where the executive is formed, functions in accordance with the principle of parliamentary sovereignty.

## Principle of Parliamentary Sovereignty

Despite the fact that people often refer to the UK having an unwritten constitution, it is not true. The constitution does not exist in a single text like in the USA or Turkey; however, large parts of it are written down, much of it in the laws passed in Parliament - known as statute law.<sup>79</sup> That is why the Constitution of the United Kingdom is defined as partly written and wholly uncodified, which means the UK does not have a single, written constitution.<sup>80</sup> Parliamentary sovereignty is the most important principle of the United Kingdom Constitution that makes the Parliament the supreme legal authority in the United Kingdom.<sup>81</sup> This legal authority has the power to create or abolish any law, and there is no Parliament which can pass laws that future Parliaments cannot change.<sup>82</sup> There is no supreme or constitutional court that can question the constitutionality or the legitimacy of the legislation passed by the Parliament. The only action that the courts may take is to review the acts of the political and administrative authorities to see whether they have exceeded the powers allowed to them by parliamentary statutes. Since the UK Constitution is wholly uncodified, constitutional frameworks have an important role in legislation. Firstly, constitutional frameworks might be certain essential legislative statutes and documents that have ensured the establishment of the political institutions. Technically, these statutes like Magna Carta, The Bill of Rights might be altered by an act of the Parliament since they have no

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<sup>74</sup> *ibid*

<sup>75</sup> *ibid*

<sup>76</sup> *ibid*

<sup>77</sup> "The Party System". 2016. UK Parliament. <http://www.parliament.uk/about/mps-and-lords/members/partysystem/>.

<sup>78</sup> "House Of Commons | British Government". 2016. Encyclopedia Britannica. <https://global.britannica.com/topic/House-of-Commons-British-government>.

<sup>79</sup> *ibid*

<sup>80</sup> *ibid*

<sup>81</sup> "Parliamentary Sovereignty". 2016. UK Parliament. <https://www.parliament.uk/about/how/role/sovereignty/>.

<sup>82</sup> *ibid*

difference from other statues within the Principle of Parliamentary Sovereignty. Secondly, the frameworks could be some certain principles founded by the Common Law which contain the decisions of courts and judges in individual cases. For instance, “No punishment unless a breach of law is established in a court of law.” is a certain principle. Thirdly, seminal works on constitutional issues are considered authoritative and some of their views on constitutional issues are widely accepted. Lastly, there are conventions to be taken as constitutional frameworks. Some of those conventions are:

- ★ *The real heads of government are the prime minister and the cabinet.*
- ★ *The government is formed from the party that can control a majority in the House of Commons.*
- ★ *Cabinet members will normally be chosen from both houses of the Parliament and the Prime Minister will come from the House of Commons.*
- ★ *The Cabinet will act on the basis of collective responsibility to ensure unity.*
- ★ *The government will resign or ask for dissolution of parliament if defeated in House of Commons on a motion of no confidence..*
- ★ Principle of Parliamentary Sovereignty has been harmed by the legislation passed by House of Commons over the years.<sup>83</sup> The legislations that limit the application of the principle reflect the political developments both within and outside the United Kingdom.<sup>84</sup> Generally, there are three factors that undermine Parliamentary Sovereignty.

## A. Domination of the Parliament by Majority Party & Government

In theory, the principle of Parliamentary Sovereignty relies on the free will of the Members of Parliament. Even for that, the United Kingdom does not have constitution exists in a single text since a fully written constitution is binding to the upcoming Parliaments whose willpower are constrained by a previous Parliament. Yet, the factor identified by Andrew Gamble, a British academic and author and professor of Politics at the University of Cambridge and Fellow of Queens’ College, implements strong disciplining measures in parties like cohesion. For example, the tendency of the elected MPs of the political party is to vote as a bloc in the legislative process due to the cohesion, an instrument used in strong party system: defined as centralized organization of the political parties.<sup>85</sup> However, if the Members of Parliament (MPs) who do not act in the same line with the party, would face with expulsion from parliamentary groups.<sup>86</sup> As mentioned above, two party system traditionally dominates the Parliament. Ironically, this tradition is one of the reasons for the undermining of the

<sup>83</sup> “Parliamentary Sovereignty”. 2016. UK Parliament. <https://www.parliament.uk/about/how/role/sovereignty/>.

<sup>84</sup> *ibid*

<sup>85</sup> Birch, Anthony Harold. 1998. *The British System Of Government*. 1st ed. London: Routledge

<sup>86</sup> *ibid*

principle of Parliamentary Sovereignty since the functions of parliament to control executive and to make laws, the legislation authority is served to the majority party in the House. In case of a majority, the Parliament acts only as a seal of honor. In theory, the principle of Parliamentary Sovereignty relies on the free will of the Members of Parliament.

## B. Devolution Acts

Devolution is a decentralization process which delivers power to the citizen so that the local factors can be better recognized in decision-making.<sup>87</sup> The devolutions in Scotland, Wales and Northern Ireland have been a factor that restricts the Parliamentary Sovereignty. It started as a promise of Labor Party in 1997. In May 1997, the Labor government of Tony Blair was elected with a promise of creating devolved institutions in Scotland. In September, referendums for devolution were held in Scotland and Wales, which the majority of the voters voted in favor.<sup>88</sup> Following the results of the referendums, Scottish Parliament and a National Assembly for Wales were founded.<sup>89</sup> In 1998, Northern Ireland joined the devolution movement, and in May, a referendum was held which ended up with the decision of devolution.<sup>90</sup> As a result of this public endorsement, House of Commons passed three devolution acts: the Scotland Act 1998; the Northern Ireland Act 1998; and the Government of Wales Act 1998.<sup>91</sup> The nature of the devolutions differs in each country. For instance, in the Scotland Act, health, education and local government are some of the matters that are devolved to Scottish Government whereas economic development, agriculture and social security are some of the devolved matters in the Northern Ireland Act.<sup>92</sup> In the Wales Act, environment and tourism can be given as example in the scope of devolution.<sup>93</sup> Since the devolutions brought about the new authorities other than House of Commons, the principle of Parliamentary Sovereignty is harmed by the local assemblies.

## C. European Union Membership

The United Kingdom became a member of the European Union (EU) in 1993. In fact, to be a member of the EU brought about huge practical benefits to the UK in fields of trade, jobs, travel and work, lower prices and greater choice for consumers.<sup>94</sup> On the other hand, the membership also created internal troubles. Financial sector has

<sup>87</sup> "Devolution Of Powers To Scotland, Wales And Northern Ireland - GOV.UK". 2016. Gov.Uk. <https://www.gov.uk/guidance/devolution-of-powers-to-scotland-wales-and-northern-ireland>.

<sup>88</sup> *ibid*

<sup>89</sup> *ibid*

<sup>90</sup> *ibid*

<sup>91</sup> *ibid*

<sup>92</sup> "Devolution Settlement: Northern Ireland - GOV.UK". 2016. Gov.Uk. <https://www.gov.uk/guidance/devolution-settlement-northern-ireland>.

<sup>93</sup> "Devolution Settlement: Wales - GOV.UK". 2016. Gov.Uk. <https://www.gov.uk/guidance/devolution-settlement-wales>.

<sup>94</sup> The British Approach To The European Union Intergovernmental Conference, July 2007. 2007. 1st ed. London: Stationery Office Books.

been an opposition against membership to the European Union and further to the new currency: Euro(€). The sector wanted to maintain its privilege referring to the Parliamentary Sovereignty. What they argued was that European Union underestimates the principle of Parliamentary Sovereignty because of a doctrine in European Law that gave primacy to EU law over member states' law, which was developed by the European Court of Justice.<sup>95</sup> According to their claim, to be bonded to a predominant, supranational, and intergovernmental organization; is controversial to Parliamentary Sovereignty. Besides, they were concerned with the potential influence by the German economy, which is one of the most superior economies in the European Union. Furthermore, British have always thought of themselves distinct from the continental Europe. The UK is an island country that is apart from the continental Europe and considers itself as a global power. Actually, it might be said that the United Kingdom did not have a sense of belonging the Union in the strict sense at any time. It even did not convert its currency from Sterling to Euro or become a part of Schengen Agreement. This controversy which is mainly caused by political traditions, primarily the principle of Parliamentary Sovereignty, brings us to Brexit process.

## European Union

The Second World War came to a conclusion in 1945 and the six years period full of blood and violence ended. Millions of people lost their lives. People mean labor force and loss of millions of labor force also led the devastation of the financial structures of the countries in Europe. In the aftermath of the WW2, the ancestor of the European Union, the European Coal and Steel Community was established in 1950 with the aim of seeking cooperation among the European States, uniting them economically and politically for securing lasting peace.<sup>96</sup> The community has six founding countries; namely Belgium, France, Germany, Italy, Luxembourg and the Netherlands. In 1957, the Treaty of Rome creates the European Economic Community (EEC), or Common Market.<sup>97</sup> Common Market is the geographical area to promote duty free trade and free movement of labor and capital among its members.<sup>98</sup> Having said that, 1960s was a period of economic growth with the assistance of the fact that EEC countries stopped charging custom duties when they trade with each other and also agreed joint control over food production, which further brought about the surplus in agricultural production.<sup>99</sup> 1970s was the time of first enlargement. Denmark, Ireland and the United

<sup>95</sup> "Doctrine Of Supremacy Of European Union | Law Teacher". 2016. Lawteacher.Net. <http://www.lawteacher.net/free-law-essays/administrative-law/doctrine-of-supremacy-of-european-union-administrative-law-essay.php>.

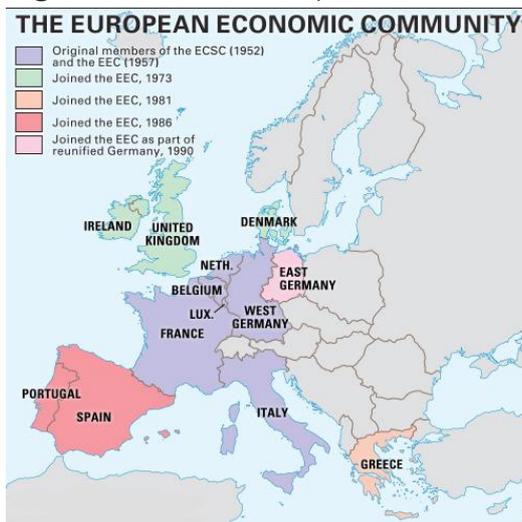
<sup>96</sup> "The History Of The European Union - European Union Website, The Official EU Website - European Commission". 2016. European Union Website, The Official EU Website - European Commission. [https://europa.eu/european-union/about-eu/history\\_en](https://europa.eu/european-union/about-eu/history_en).

<sup>97</sup> ibid

<sup>98</sup> "What Is Common Market? Definition and Meaning". 2016. Businessdictionary.Com. <http://www.businessdictionary.com/definition/common-market.html>.

<sup>99</sup> "The History of The European Union - European Union Website, The Official EU Website - European Commission". 2016. European Union Website, The Official EU Website - European Commission. [https://europa.eu/european-union/about-eu/history\\_en](https://europa.eu/european-union/about-eu/history_en).

Kingdom became a member of ECC on January 1, 1973. 1970s was also the time that last right-wing dictatorships in Europe, Portugal and Spain were destroyed. Moreover, the European Economic Community implemented the transfers of huge sums of money to create jobs and infrastructure in poorer areas as regional policy.<sup>100</sup> In 1980s, the “Single Market” were created as an implementation of the Single European Act signed in 1986 and entered into force in 1987, which is a treaty that provides the basis for a vast six-year programme aimed at sorting out the problems with the free flow of trade across EEC borders.<sup>101</sup> Some calls beginning of the 1990s as “End of History”. Francis Fukuyama called this term in order to argue that the dissolution of the Union of Soviet Socialist Republics was the clear announcement of that communism lost its struggle against capitalism. This defeat resulted in Europeans to become closer neighbors. In 1993 the Single Market is completed with the ‘four freedoms’ of: movement of goods, services, people and money.<sup>102</sup> The community turned into “European Union” with its pillar system, including foreign and home affairs alongside the European Community with the Maastricht Treaty came into force on November 1, 1993.<sup>103</sup> In following, the Treaty of Amsterdam entered into force on May 1, 1999 as an substantial amendment to Maastricht Treaty and its contents that member states agreed to devolve certain powers from national governments to the European Parliament across diverse areas, including legislating on immigration, adopting civil and criminal laws, and enacting foreign and security policy (CFSP), as well as implementing institutional changes for expansion as new member nations join the EU.<sup>104</sup> The Union kept enlarging in 1990s; with the joint of Austria, Finland and Sweden. Moreover, the well-known



Schengen agreements, which took its name from a small village in Luxembourg, gradually allow people to travel without having their passports checked at the borders.<sup>105</sup> In 2000s, the common currency, namely Euro was adopted by most of the European countries.<sup>106</sup> During the decade, more and more countries adopted the Euro. The most important development of the 2000s can be pointed as the Lisbon Treaty, ratified by the EU members, and came into force in 2009. Lisbon Treaty is an international agree-

<sup>100</sup> ibid

<sup>101</sup> ibid

<sup>102</sup> ibid

<sup>103</sup> “Characteristics Of The Treaty On European Union”. 2016. Cvce.Eu. [http://www.cvce.eu/obj/characteristics\\_of\\_the\\_treaty\\_on\\_european\\_union-en-beec7a53-4023-412d-a1ab-2c31b6a3c39d.html](http://www.cvce.eu/obj/characteristics_of_the_treaty_on_european_union-en-beec7a53-4023-412d-a1ab-2c31b6a3c39d.html).

<sup>104</sup> Treaty Of Amsterdam Amending The Treaty On European Union, The Treaties Establishing The European Communities And Certain Related Acts. 1997. 1st ed. Luxembourg: Office for Official Publications of the European Communities.

<sup>105</sup> The History of The European Union - European Union Website, The Official EU Website - European Commission”. 2016. European Union Website, The Official EU Website - European Commission. [https://europa.eu/european-union/about-eu/history\\_en](https://europa.eu/european-union/about-eu/history_en).

<sup>106</sup> ibid

ment that amended the Maastricht Treaty, Treaties of Rome, and other documents to simplify and streamline the institutions that govern the European Union (EU).<sup>107</sup> It ensures the EU with modern institutions and heftier working methods. From 2010 to today, The European Union has been struggling with several troubles such as the impact of global economic crisis of 2008, unrests in Eastern Europe; Ukraine and refugee influx. The global economic crisis stroked hard and EU established the Banking Union in order to ensure safer and more reliable banks for helping countries those who suffer from the crisis and confronting their difficulties.<sup>108</sup> The European Union also kept enlarging. Croatia became a member in 2013 and number of the members increased to 28. There have been also new improvements in the field of security due to the developments in Ukraine, in particular Crimea. A new security policy is established in the wake of the annexation of Crimea by Russia.<sup>109</sup> Refugee crisis as a result of Religious extremism in the Middle East and various countries and regions around the world came about.<sup>110</sup> Nowadays, the EU is not only faced with the dilemma of how to take care of them, but also finds itself the target of several terrorist attacks.<sup>111</sup> In addition, the European Union is about to face to a withdrawal for the third time in its history. The previous ones were the departure of Algeria(French Algeria), and Greenland.

## Relations between the United Kingdom and the European Union

### A. Euroscepticism

The United Kingdom has never been a perfect, smooth member of the European Union. The relationship that started in 1960s has been always problematic in every decade. One of the sources of the problems between the UK and the EU is Euroscepticism of people of the UK. This is mostly caused by historical, geographical, economic, cultural and social issues however most particularly, the media was a crucial actor in Euroscepticism. Firstly, people of the UK have lived on an island on the edge of the continent and the UK was highly inspired by the oceans.<sup>112</sup> That is why the historical background of the UK developed more differently from the other continental powers. The colonial focus of the UK was on North and South America, Africa and Asia whereas the continental powers in Europe sought to build empires or wield influence mainly in their neighborhoods.<sup>113</sup> Despite the fact that the UK had many wars with European

<sup>107</sup> "Lisbon Treaty | European Union". 2016. Encyclopedia Britannica. <https://global.britannica.com/event/Lisbon-Treaty>.

<sup>108</sup> The History of The European Union - European Union Website, The Official EU Website - European Commission". 2016. European Union Website, The Official EU Website - European Commission. [https://europa.eu/european-union/about-eu/history\\_en](https://europa.eu/european-union/about-eu/history_en).

<sup>109</sup> ibid

<sup>110</sup> ibid

<sup>111</sup> ibid

<sup>112</sup> [https://www.cer.org.uk/sites/default/files/publications/attachments/pdf/2011/essay\\_eurosceptic\\_19dec08-1345.pdf](https://www.cer.org.uk/sites/default/files/publications/attachments/pdf/2011/essay_eurosceptic_19dec08-1345.pdf).

<sup>113</sup> ibid

powers in the history, its historical background was orientated to other continents than that of any continental power.<sup>114</sup> Furthermore, the fact that the UK's having a relatively glorious role in the Second World War and being sided with the winners is formative in Euroscepticism.<sup>115</sup> Many other European countries were considered as humiliated and devastated in WWII and the UK evaluated the integration of European countries under the roof of an organization, which was the European Coal and Steel Community, founded in 1951, as an alliance of the defeated.<sup>116</sup> Moreover, the Labor party, who won the election in 1945, was suspicious about dominant Christian-Democrat government of the six founder states, namely; Belgium, France, West Germany, Italy, the Netherlands and Luxembourg.<sup>117</sup> Economically, since 1990s, the economy of the UK has been functioning better and more efficiently than the leading economies of Western Europe by most measures like relatively high growth and low unemployment.<sup>118</sup> Thanks to the Margaret Thatcher's actions such as the liberalization of the labor market and opening the market to foreign investments, the UK's economy became a solid financial structure unlike it was in 1970s, the sick man of Europe some called.<sup>119</sup> Since the UK economy has out-performed the leading economies of Western Europe, the inverse ratio among the economic fortunes between Britain and the Eurozone in 2000s became the biggest reason why the UK never intended to join Euro.<sup>120</sup> Although the UK's economy is not bright as it was in 1990s and 2000s, economics is one of the sources of Euroscepticism. Having said that, the uniquely powerful and Eurosceptic press of the UK could be seen as the most interesting and effective element in the Euroscepticism of people of the UK. The factor that cannot be easily understood outside the UK simply makes people dislike the EU. Approximately 30 million people read a daily newspaper in UK and three quarters read papers that impose the critics of EU.<sup>121</sup> In the Eurosceptic newspaper groups, journalists are expected to write stories that knock the Union. Articles which attempt to present a balanced account of an EU issue are unlikely to be published.<sup>122</sup> For instance, the Times and the Daily Telegraph, two widely-read and serious newspapers, almost never print a piece of opinion that is in favor of the EU.<sup>123</sup> Despite the fact that internet is widely accessible nowadays and the all kind of information, opinions, facts are reachable easily and immediately, most of the older people are not the user of internet, and they are still informed by the newspapers. Therefore, it is not surprising that most of the "yes" voters for Brexit are elder

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<sup>114</sup> ibid

<sup>115</sup> ibid

<sup>116</sup> ibid

<sup>117</sup> Fabre, Chloé. 2016. "The UK And The EU: More Than 40 Years Of Relationships Unfolded". The New Federalist, Webzine Of The Young European Federalist. <http://www.thenewfederalist.eu/The-UK-and-the-EU-more-than-40-years-of-relationships-unfolded,05776>.

<sup>118</sup> [https://www.cer.org.uk/sites/default/files/publications/attachments/pdf/2011/essay\\_eurosceptic\\_19dec08-1345.pdf](https://www.cer.org.uk/sites/default/files/publications/attachments/pdf/2011/essay_eurosceptic_19dec08-1345.pdf).

<sup>119</sup> ibid

<sup>120</sup> ibid

<sup>121</sup> ibid

<sup>122</sup> ibid

<sup>123</sup> ibid

people. Another source of Euroscepticism in the United Kingdom is the ruling classes. Even though there are few political, media or business leaders could be defined as pro-European, who seek to lead and educate British people on how they benefit from the European Union, the majority of the members of the ruling classes is Eurosceptic. To know too much about Europe would be a reason that brings about the isolation from political and media fields.<sup>124</sup> For instance, a Member of Parliament from the Labor Party, which forms the government in 2008, told that he refused to be appointed a UK representative to the Convention on the Future of Europe). He expressed that although he is a pro-European, he thought that taking part in the Convention would be the death of his political career.<sup>125</sup> The same is true in the media world. Some journalists stated that one of the best ways to advance is to make Eurosceptic comments that get you noticed.<sup>126</sup> The sources abovementioned brought about Euroscepticism in the UK.

## B. Chronology of EU-UK Relationship

There are so many reasons to define the public opinion towards the EU in the UK as Eurosceptic. It is essential to investigate the relations between the EU and the UK in order to better understand the bases of anti-EU arguments.

### 1) 1950-1969

As mentioned above, after the WW2, the UK considered the integration ideas as the integration of defeated and the ruling Labor party was suspicious about dominant Christian-Democrat Governments of the six founder states; The Six. Furthermore, the government was also concerned about the undermining of the social protection of the British workers in case of a participation in European Coal and Steel Community.<sup>127</sup> In 1950, the United Kingdom was invited to join the community; however, it was refused by the Labor Party putting forward that British coal and steel industries had been nationalized and it was thus impossible to put it under international management.<sup>128</sup> The same attitude was continued by the Conservative Party came into power in 1951.<sup>129</sup> Economically, the conditions were not in favor of the UK comparing to the booming continental economies whereas political relations with the Commonwealth, a group of 53 states all of which were formerly part of the British Empire, came loose.<sup>130</sup> In 1957, European Coal and Steel Community became European Economic Community (EEC) by the Treaty of Rome while the UK was in favor of a free-trade area without custom

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<sup>124</sup> ibid

<sup>125</sup> ibid

<sup>126</sup> ibid

<sup>127</sup> Fabre, Chloé. 2017. "The UK And The EU: More Than 40 Years Of Relationships Unfolded". The New Federalist, Webzine Of The Young European Federalist. <http://www.thenewfederalist.eu/The-UK-and-the-EU-more-than-40-years-of-relationships-unfolded,05776>.

<sup>128</sup> ibid

<sup>129</sup> ibid

<sup>130</sup> ibid

union, and that is why the UK refused to join the EEC once again.<sup>131</sup> What the UK aimed to do by free trade area was to maintain relationship with the Commonwealth and to export agricultural products.<sup>132</sup> Furthermore, in order to found European Free Trade Area (EFTA), the UK signed the Treaty of Stockholm with Sweden, Norway, Denmark, Switzerland, Austria and undemocratic Portugal.<sup>133</sup>

## 2) 1960-1970

In 1960s, the political stance of the UK towards the EU started to change. In 1961, the Conservative Prime minister Macmillan initiated the idea of opening negotiation for adhesion to the EEC, which was vetoed in 1963 by De Gaulle; the French leader.<sup>134</sup> There were two reasons for why De Gaulle rejected the adhesion of the UK. Firstly, since the fact that the United States of America strongly supported the idea of the UK in the EEC, what Macmillan launched was comprehended as a threatening foreign mediator, the US.<sup>135</sup> Secondly, the questioning the fundamental rules of Common Agricultural Policy (CAP) of the EEC, which was tried by the UK in 1962 was strictly unacceptable for De Gaulle.<sup>136</sup> Despite the fact that the UK altered its strategy in the new adhesion demand announced by the Labor Prime Minister Wilson in May 1967, and stated that the UK pledged for a strong Community not only economically but also in the political and military fields, France stuck to its position whereas the Commission (European Commission) statement was in favor of an enlargement due to the economic difficulties.<sup>137</sup> The United Kingdom also was dealing with difficult monetary and economic situation at the same time. The UK's having proper negotiations with the European Economic Community became possible only after the resignation of De Gaulle in 1969.<sup>138</sup>

## 3) 1970-1979

In 1970 elections, the Conservative Party regained the government and the negotiations started. There were three principles that led the negotiations. The principles were the maintaining of the *Acquis Communautaire*, which was the accumulated legislation, legal acts, and court decisions which constitute the body of European Union law; the unquestionability of the Hague agreement that open the door for Economic and Monetary Union; and the ban of modification of existing treaties by transitory measures.<sup>139</sup> The issues firstly focused by the parties were transitory measures for the Common Agricultural Policy, British contribution to the community budget, and sugar exportation to the Commonwealth.<sup>140</sup> In 1971, an agreement was reached. At the same

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<sup>131</sup> ibid  
<sup>132</sup> ibid  
<sup>133</sup> ibid  
<sup>134</sup> ibid  
<sup>135</sup> ibid  
<sup>136</sup> ibid  
<sup>137</sup> ibid  
<sup>138</sup> ibid  
<sup>139</sup> ibid  
<sup>140</sup> ibid

time, internally, there was a strong division between the Conservatives and Labors. The Labor Party appraised being a part of the EU as entering on Tory (Conservatives) terms.<sup>141</sup> Furthermore, in 1960, even the former Labor Prime Minister Wilson launched a new admission demand in 1967 after the refused one in 1963, it was the Labors that were against joining the EEC.<sup>142</sup> The Labor leader Hugh Gaitskell argued that Britain joining the EEC would mean the end of a thousand years of history.<sup>143</sup> On January 22, 1972 the admission treaty was signed and the UK became a member of the EEC in 1973.<sup>144</sup> However, no referendum was held and some argued that it was the elites who took the UK in.<sup>145</sup> The opposition of membership to EEC did not stopped. When Harold Wilson became Prime Minister again after 1970, he announced that he would try to renegotiate a more satisfying agreement which would be submitted to referendum.<sup>146</sup> The Dublin Agreement was prepared and signed in 1975, which corrected some budgetary matters and made few changes on imports from New Zealand; however, abandoning the economic and monetary union and the European Union objective have never been an agenda item.<sup>147</sup>

#### 4) 1979-1990

In 1979, Margaret Thatcher, known as the “Iron Lady” became the Prime Minister of the United Kingdom. She was a Prime Minister that openly expressed her negative attitude towards the EEC.<sup>148</sup> What she was totally against the complete economic, political and social integration.<sup>149</sup> Her government was in the opinion that Britain contributed much more to the European budget than the other countries.<sup>150</sup> That is why the Thatcher government negotiated a rebate on the British contribution, which was a mechanism to balance the costs and benefits from the EEC because a great share of the European budget was spent on the Common Agricultural Policy (CAP) and farming did not represent a major sector in the UK economy.<sup>151</sup> At the end, Thatcher managed to retake some of the money back. The conception of “we pay for what we gain”<sup>152</sup> has since been a constant feature of European negotiations. Thatcher’s opposition to EEC was not restricted just by economic issues, but political principles. What she argued was the fact that the UK was losing its independence and sovereignty by transferring the power of decision-making to Brussels.<sup>153</sup> In 1988, she stated in her Bruges speech

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<sup>141</sup> *ibid*

<sup>142</sup> *ibid*

<sup>143</sup> *ibid*

<sup>144</sup> *ibid*

<sup>145</sup> *ibid*

<sup>146</sup> *ibid*

<sup>147</sup> *ibid*

<sup>148</sup> Culturaldiplomacy.Org. <http://www.culturaldiplomacy.org/pdf/case-studies/cs-bojana-perisic>.

<sup>149</sup> *ibid*

<sup>150</sup> *ibid*

<sup>151</sup> Fabre, Chloé. 2017. “The UK And The EU: More Than 40 Years Of Relationships Unfolded”. The New Federalist, Webzine Of The Young European Federalist. <http://www.thenewfederalist.eu/The-UK-and-the-EU-more-than-40-years-of-relationships-unfolded,05776>.

<sup>152</sup> *ibid*

<sup>153</sup> Culturaldiplomacy.Org. <http://www.culturaldiplomacy.org/pdf/case-studies/cs-bojana-perisic>.

that: *“To try to suppress nationhood and concentrate power at the center of a European conglomerate would be highly damaging and would jeopardize the objectives we seek to achieve. (...) Working more closely together does not require power to be centralized in Brussels or decisions to be taken by an appointed bureaucracy.”*<sup>154</sup> Although Margaret Thatcher is known with her opposition to EEC and the future EU, she was the one who firmed the Single European Act that consequently created the Single Market. She was in favor of a certain kind of European integration, one that will enhance an open market for Europe.<sup>155</sup> She desired European integration in order to create a large market without borders.<sup>156</sup>

### 5) 1990s

Margaret Thatcher was replaced by John Major in 1990, and John Major was the Prime Minister who ratified the Maastricht Treaty in 1992, which led the formation of the European Union in 1993. It was a hard process for John Major since an important amount of Tories was against the ratification of the Maastricht Treaty.<sup>157</sup> They even voted together with Labors against the ratification and Major had to ask for a second vote.<sup>158</sup> In the second voting, Major managed to win the majority.<sup>159</sup> In 1997, the Labor Party led by Tony Blair came to the power with their pro-Europe manifesto.<sup>160</sup> He was the Prime Minister that who ratified the European Convention of Human Rights in the House of Commons. Blair also signed Britain up to the social chapter, delivering some of the social protections long coveted on the left.<sup>161</sup> He even set his sights on the Euro, but the UK’s economy was doing well and support for euro entry was not widespread.<sup>162</sup> It can be said that Labor Party under both Tony Blair and Gordon Brown, achieved a much more favorable image of Britain as an EU member state than it used to have.<sup>163</sup>

### 6) 2000s and 2010s

The relations among the UK and the EU drastically increased on the axis of UK-France relations. The tension between the two goes back to French ban on the British beef due to the “Mad Cow” disease outbreak in 1999.<sup>164</sup> It continued during the negotiations over the European Constitution in 2004. Tony Blair and Jacques Chirac, the

<sup>154</sup> “Speech To The College Of Europe (“The Bruges Speech”) | Margaret Thatcher Foundation”. 2017. Margaretthatcher.Org. <http://www.margaretthatcher.org/document/107332>.

<sup>155</sup> Fabre, Chloé. 2017. “The UK And The EU: More Than 40 Years Of Relationships Unfolded”. The New Federalist, Webzine Of The Young European Federalist. <http://www.thenewfederalist.eu/The-UK-and-the-EU-more-than-40-years-of-relationships-unfolded,05776>.

<sup>156</sup> *ibid*

<sup>157</sup> *ibid*

<sup>158</sup> *ibid*

<sup>159</sup> *ibid*

<sup>160</sup> Culturaldiplomacy.Org. <http://www.culturaldiplomacy.org/pdf/case-studies/cs-bojana-perisic>.

<sup>161</sup> “Britain And The EU: A Long And Rocky Relationship - BBC News”. 2017. BBC News. <http://www.bbc.com/news/uk-politics-26515129>.

<sup>162</sup> *ibid*

<sup>163</sup> *ibid*

<sup>164</sup> The Telegraph. (2017). Britain’s 40 year relationship with the EU. [online] Available at: <http://www.telegraph.co.uk/news/2016/06/16/britains-40-year-relationship-with-the-eu/> [Accessed 20 Mar. 2017].

former President of France, clashed over the constitution. In 2010s, the ropes between the UK and the EU were quite stretched due to the EU's plans for the introduction of a levy on banks and restriction of London's financial sector.<sup>165</sup> Meantime, UK Independence Party (UKIP) started to gain support due to their hard line on the EU and the Conservative Party lost one-sixth of their support from the British people in 2012.<sup>166</sup> In 2014, it was announced by the former Prime Minister, David Cameron that he was ready to pioneer the UK out of the EU over the issue of migration, one of the biggest controversial issues between the UK and the EU.<sup>167</sup> Finally, on February, 2016, it was declared that a referendum on the UK's membership of the EU will take place on June 23, 2016.<sup>168</sup>

## Brexit Process

The national will decided to leave the European Union in a referendum held on June 23, 2016. After this decision, the government of UK has two years of period to negotiate a withdrawal agreement under Article 50. The terms of Article 50 are:

*“1. Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.*

*2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article 218(3) of the Treaty on the Functioning of the European Union. It shall be concluded on behalf of the Union by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.*

*3. The Treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period.*

*4. For the purposes of paragraphs 2 and 3, the member of the*

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<sup>165</sup> *ibid*

<sup>166</sup> *ibid*

<sup>167</sup> *ibid*

<sup>168</sup> *ibid*

*European Council or of the Council representing the withdrawing Member State shall not participate in the discussions of the European Council or Council or in decisions concerning it.*

*A qualified majority shall be defined in accordance with Article 238(3)(b) of the Treaty on the Functioning of the European Union.*

*5. If a State which has withdrawn from the Union asks to rejoin, its request shall be subject to the procedure referred to in Article 49.”<sup>169</sup>*

Article 50 sets out the exit process that force member states to enter into long negotiations. What firstly should be done is to trigger Article 50, which Theresa May, the

### Advantages and drawbacks of Article 50

Advantages	Drawbacks
<ul style="list-style-type: none"> <li>• A guaranteed way to trigger negotiations with the EU – the decision to leave does not need the approval of others.</li> <li>• Striking a new agreement would not necessarily require unanimity among the other member states, unlike an EU treaty change, which does. However, a complex ‘mixed agreement’ would require ratification in every EU member state.</li> </ul>	<ul style="list-style-type: none"> <li>• One way street – once you have decided to leave, in practice, there is no turning back and you must be prepared to leave.</li> <li>• No UK vote on withdrawal agreement – the rest of the EU will have the final say.</li> <li>• Without a UK vote, the centre of gravity in the remainder EU is likely to be more protectionist, which could affect UK’s trade terms.</li> <li>• European Parliament veto over a continuity deal or future free trade deal.</li> <li>• The EU is in charge of the negotiating timetable.</li> </ul>

Source: Open Europe

Prime Minister of the UK is intend to do so in the first quarter of 2017. During the negotiations, there is no doubt to say the fact that a lot of issues such as single market and the people live in the UK from other European countries will be on the table. However, although it seems in the theory, the process will be so complex and not be smooth in practice since all 28 member states have to unanimously agree to the terms of the withdrawal deal.<sup>170</sup> Furthermore, it should not be forgotten that the United Kingdom will be still bound by the obligations of the European Union until the withdrawal deal

<sup>169</sup> “Article 50”. 2017. Lisbon-Treaty.Org. <http://www.lisbon-treaty.org/wcm/the-lisbon-treaty/treaty-on-European-union-and-comments/title-6-final-provisions/137-article-50.html>.

<sup>170</sup> Gripper, Ann, Nicola Oakley, and Scott Campbell. 2017. “What Is Article 50 And Why Is It Key To Brexit?”. Mirror. <http://www.mirror.co.uk/news/uk-news/what-article-50-brexite-means-8272464>.

is reached and the departure is realized. Article 50 may be summarized as what a senior EU official said: *“The Article 50 process is a divorce: who gets the house, who gets the kids, who gets the bank accounts.”*

In order to trigger the Article 50, Theresa May needed to take the approval the Parliament. In fact, what the government argued was that it alone has the right to invoke Article 50 under the royal prerogative, which gives it sole authority over foreign policy and over the making and unmaking of treaties.<sup>171</sup> However, the High Court rejected this argument stating that the UK’s UK membership is a matter of domestic law rather than of foreign policy.<sup>172</sup>

## Topics of Brexit

As mentioned above, the negotiations are highly likely to cost long time periods in practice due to the topics in the negotiation table. These topics are possible to be discussed simply convened under the titles of trade within; the Single Market and four freedoms: free movement of goods, freedom of movement for workers (related with border security), right of establishment and freedom to provide services, and free movement of capital and outside the EU,

### 1) The Single Market

The single market simply defines the European Union project to establish free trade with the EU to shape Europe into a single economy. It is no doubtful to say that the Single Market is one of the most wide-ranging and significant elements of European integration containing many of the policy areas which includes the European Customs Union, the single currency, the Schengen Convention where the EU is most influential.<sup>173</sup> In fact, the history of the Single Market roots the Treaty of Rome (1957) that set out four economic freedoms desired to be established in Europe.<sup>174</sup> These were free movement of goods, free movement to provide services, free movement of capital, and free movement of people.<sup>175</sup> The first principle, free movements of goods was founded with the creation of the European Customs Union in 1968.<sup>176</sup> However, the full completion of the Single Market had to wait until the Single European Act, SEA (1986) and the deadline is set to December 31, 1992. What the Single European Act involves are the removal of barriers to movement of people and capital; the harmonization of natural standards; rules on how governments buy goods and services; the liberalization of financial institution; the arrangement of more standard Value Added Tax (VAT) rates,

<sup>171</sup> “Taking Back Control”. 2017. The Economist. <http://www.economist.com/news/britain/21709589-high-court-rules-parliament-must-vote-trigger-brexit-process-taking-back-control>.

<sup>172</sup> *ibid*

<sup>173</sup> 2017. <http://www.civitas.org.uk/content/files/EC1.Single-Market.pdf>.

<sup>174</sup> *ibid*

<sup>175</sup> *ibid*

<sup>176</sup> *ibid*

and European business laws.<sup>177</sup> The designation of the European Union Single Market is for creating economies of scale, allowing the foundation of Europe-wide commerce, and enable faster growth by setting the same rules across the EU.<sup>178</sup> For instance, members of the European Union are obligated not to apply any tariffs to each other. In order to regulate the Single Market, the EU Commission has power over a range of areas of economic policy under the SEA.<sup>179</sup> The regulations of the EU Commission are mostly adopted into national law by the national governments.<sup>180</sup> Furthermore, it also has a significant role in procuring fair competition among European companies.<sup>181</sup> However, it is not quite possible argue that the EU is a true single market since it does not have a unified taxation or welfare system.<sup>182</sup> There are some countries those who do not use Euro as the single currency and those who have opt-outs from rules such as the Schengen Convention.<sup>183</sup>

According to the Office of National Statistics, 44% of Britain's exports go to the EU.<sup>184</sup> The sum corresponds £220bn out of £510bn.<sup>185</sup> Losing access to the single market would result in additional costs for exporters in selling into the EU.<sup>186</sup> The table below presents a comprehensive explanation about the difference between be a part of Single Market and to be out of it.

On the other hand, if the UK leaves the single market, the obligation to sign the free movement of labor is abolished.<sup>187</sup> As it is known, one of the most divisive Brexit issue of the supporters of separation is immigration, and not be a part of the EU could drastically escalate the population of migrants since the Great Britain would have authority to restrict the number of migrants entering the country.<sup>188</sup> Having said that, the government will also ensure that businesses will be able to employ people with the skills they require.<sup>189</sup> Moreover, leaving the Single Market would bring about the opportunity of brokering its own trade deals with non-European Union countries.<sup>190</sup> Policies reducing the tariffs on imported goods from non-EU countries below the EU

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<sup>177</sup> ibid

<sup>178</sup> ibid

<sup>179</sup> ibid

<sup>180</sup> ibid

<sup>181</sup> ibid

<sup>182</sup> ibid

<sup>183</sup> ibid

<sup>184</sup> Chapman, B. (2017). What the single market is and why we should care if Britain leaves it. [online] The Independent. Available at: <http://www.independent.co.uk/news/business/news/brexit-latest-news-what-is-eu-single-market-customs-why-care-if-uk-leaves-it-european-union-theresa-a7531061.html> [Accessed 18 Feb. 2017].

<sup>185</sup> ibid

<sup>186</sup> The economic impact of 'Brexit' - Woodford Investment Management Ltd. (2017). [online] Woodford Investment Management Ltd. Available at: <https://woodfordfunds.com/economic-impact-brexit-report/> [Accessed 18 Feb. 2017].

<sup>187</sup> Chapman, B. (2017). What the single market is and why we should care if Britain leaves it. [online] The Independent. Available at: <http://www.independent.co.uk/news/business/news/brexit-latest-news-what-is-eu-single-market-customs-why-care-if-uk-leaves-it-european-union-theresa-a7531061.html> [Accessed 18 Feb. 2017].

<sup>188</sup> ibid

<sup>189</sup> ibid

<sup>190</sup> The economic impact of 'Brexit' - Woodford Investment Management Ltd. (2017). [online] Woodford Investment Management Ltd. Available at: <https://woodfordfunds.com/economic-impact-brexit-report/> [Accessed 18 Feb. 2017].

Trade barrier	Costs within EU	Costs beyond EU	Specific examples
<b>Goods only</b>			
<i>Tariffs and quotas</i> Taxes on imports	None	Trade deals reduce most to zero except on agriculture Without a trade deal, goods imports to the EU face an average 5.3% (WTO, ITC and UNCTAD, 2015) but the figure varies significantly between products	Chemicals, clothing and cars would face 4.6%, 11.5% and 10% tariffs
Quantity limits on imports	None	Quotas place a limit on imports in some products	The EU limits the quantities of milk and sugar it imports
<i>Border and customs</i> Checks ensuring goods are allowed to enter	None	These are estimated by Ciuriak et al. (2015) to add some 2.3-3.3% to the cost of trade in goods	Time and compliance costs of customs clearance and documentation
<i>Transport costs</i> Cost of moving goods	Yes	No change (although see border checks above)	Cost of air, train or sea transportation to the EU
<b>Services and goods</b>			
<i>Non-tariff measures</i> Licensing and right to supply	Limited	Outside of the Single Market, costs likely to grow over time	Professionals (doctors, engineers, accountants) must be licensed to practise
Regulatory differences	Single market reduces differences and legal protection against unfair practices	Between the US and the EU, these are estimated by ECORYS (2009) to average 10%	Financial services cannot be sold directly from the US to EU consumers
Standards		Legal recourse to unfair treatment much more limited	Food and labelling standards
<i>Cultural differences</i> Including language and risk appetite	Yes	No change Economic models recognise the importance of these variables	Cost of translating DVDs or providing business consulting in another language

levels would procure advantage to the UK in its trade relations with other countries as well as This possibility is crucial since export growth for the UK has come from outside the EU in recent years.<sup>192</sup>

## 2) Four Freedoms

In fact, it is quite impossible to deny the strict connection between the Single Market and four freedoms. Four freedoms are highly essential for the proper functioning of the Single Market. As abovementioned, the Single Market was established for free trade with the EU to shape Europe into a single economy; therefore, four freedoms might be described as the cornerstones of European integrity. These freedoms are: free movement of goods, free movement of workers, right of establishment and freedom to provide services; and free movement of capital.

### a) Free Movement of Goods

Free movement of goods is one of the elements that assist in building an internal market benefited by the European citizens and businesses. This freedom provide open, diverse and competitive environment that lead the enhancement of growth and job creation as well as an internal market offers consumers a wide choice of products and paves the way for the best available offer.<sup>193</sup> The principles of free movement of goods are the elimination of custom duties and quantitative restrictions, the prohibition of measures having an equivalent effect, mutual recognition, elimination of physical and technical barriers, and promotion of standardization.<sup>194</sup>

Actually, accomplishment of elimination of custom duties and quantitative restrictions among Member States was realized by July 1, 1968, 18 years before the SEA.<sup>195</sup>

Later, prohibition of measures having an effect equivalent to quantitative restrictions allowed by Articles 34 and 35 TFEU (Treaty of the Functioning of the European Union) followed it. Through the several pending action at Court of Justice (later Court of Justice of the European Union, as known as CJEU), it was decided that all trading rules enacted by Member States which are capable of hindering, directly or indirectly, actually or potentially, intra-Community trade are to be considered as measures having an effect equivalent to quantitative restrictions.<sup>196</sup> Moreover, it was further enhanced with the principle expressing that any product legally manufactured and marketed in a Member State in accordance with its fair and traditional rules, and with the manufacturing processes of that country, must be allowed onto the market of any

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<sup>192</sup> *ibid*

<sup>193</sup> Free movement of goods — Guide to the application of Treaty provisions governing the free movement of goods. (2010). European Commission.

<sup>194</sup> Europarl.europa.eu. (2017). Free movement of goods | EU fact sheets | European Parliament. [online] Available at: [http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuid=FTU\\_3.1.2.html](http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuid=FTU_3.1.2.html) [Accessed 17 Mar. 2017].

<sup>195</sup> *ibid*

<sup>196</sup> *ibid*

other Member State.<sup>197</sup> On the other hand, there are some exceptions to the prohibition. In case of public morality, public policy or public security, Member States may take measures according to Article 36 TFEU.<sup>198</sup> However, such exceptions to the general principle must be interpreted strictly, and national measures cannot constitute a means of arbitrary discrimination or disguised restriction on trade between Member States.<sup>199</sup> Member States may also take measures on the basis of mandatory requirements like the effectiveness of fiscal supervision, the protection of public health, the fairness of commercial transactions and the defense of the consumer. Yet, these national exemption measures must be notified to the Commission.<sup>200</sup>

Mutual recognition is a principle that related with the prohibition of measures having an effect equivalent to quantitative restrictions. As abovementioned, there are some exceptions to the prohibition, and the mutual recognition principle showed up due to the need for overcome of technical obstacle to the free movement of goods within the EU. This principle allows the coexistence of different national technical rules within the internal market.<sup>201</sup> What the principle means is that:

*“notwithstanding technical differences between the various national rules that apply throughout the EU, Member States of destination cannot forbid the sale on their territories of products which are not subject to EU harmonization and which are lawfully marketed in another Member State, even if they were manufactured according to technical and quality rules different from those that must be met by domestic products. The only exceptions to this principle are restrictions that are justified on the grounds described in Article 36 TFEU (protection of public morality or public security, protection of the health and life of humans, animals or plants, etc.) or on the basis of overriding requirements of general public importance recognized by the case-law of the Court of Justice, and are proportionate to the aim pursued.”<sup>202</sup>*

Within the scope of the related articles, the physical and technical barriers for trade were eliminated in order to implement the free movement of goods. There were some infringements to the articles in the past; yet, through the regulations, the integrity within the internal market became applicable. Some of the fields regulated are:

- ★ *National provisions related to the act of import (import licenses, inspections and controls)*

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<sup>197</sup> *ibid*

<sup>198</sup> *ibid*

<sup>199</sup> *ibid*

<sup>200</sup> *ibid*

<sup>201</sup> Free movement of goods — Guide to the application of Treaty provisions governing the free movement of goods. (2010). European Commission.

<sup>202</sup> *ibid*

- ★ *Obligations to appoint a representative or to provide storage facilities in the importing member state*
- ★ *National price controls and reimbursement*
- ★ *National bans on specific products/substances*
- ★ *Type-approval*
- ★ *Authorization procedure*
- ★ *Technical regulations containing requirements as to the presentation of goods (weight, composition, presentation, labelling, form, size, packaging)*
- ★ *Advertising restrictions*
- ★ *Deposit obligations*
- ★ *Indications of origin, quality marks, incitement to buy national products*
- ★ *Obligation to use the national language*
- ★ *Restrictions on distance selling (internet sales, mail order, etc.)*
- ★ *Restrictions on the importation of goods for personal use*<sup>203</sup>

It is predicted that outcomes of the negotiations would reduce trade or escalate the cost of trade between the UK and the rest of Europe, which could be damaging for both sides.<sup>204</sup> It would harm both sides since one-tenth of the EU exports are to the UK whereas half of the UK exports are to the EU; and the UK accounts for one-sixth of the EU economy.<sup>205</sup>

### **b) Free Movement of Workers**

Free movement of workers, the principle enjoyed by EU citizens contains the rights of movement and residence for workers, the rights of entry and residence for family members as well as the right to work in another Member State and be treated on an equal footing with nationals of that Member State.<sup>206</sup> The legal basis for the free movement of workers are Article 3(2) TEU (Treaty on European Union), and Articles 4(2) (a), 20, 26 and 45-38 TFEU.<sup>207</sup> What the principle aims is to abolish any discrimination based on nationality among the labors of the Member States as regards employment, remuneration and other conditions of work and employment.<sup>208</sup> Indeed, it was considered as a well-functioning principle in the times that the EU consisted of 12-15 Western European economies with similar income levels since the free movement of workers led the flexibility of the labor market as well as escalated opportunities to workers.<sup>209</sup> Yet, the free movement of workers became politically controversial with the quick expansion of the EU to contain 28 countries (27 except the UK) since it brought about

<sup>203</sup> *ibid*

<sup>204</sup> Irwin, G. (2015). BREXIT: the impact on the UK and the EU.

<sup>205</sup> *ibid*

<sup>206</sup> Europarl.europa.eu. (2017). Free movement of workers | EU fact sheets | European Parliament. [online] Available at: [http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuId=FTU\\_3.1.3.html](http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuId=FTU_3.1.3.html) [Accessed 18 Mar. 2017].

<sup>207</sup> *ibid*

<sup>208</sup> *ibid*

<sup>209</sup> Economicshelp.org. (2017). Free movement of labour – advantages | Economics Help. [online] Available at: <http://www.economicshelp.org/blog/1386/economics/free-movement-of-labour/> [Accessed 18 Mar. 2017].

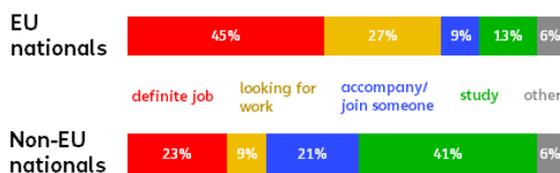
large migrant flows from low income countries to higher income countries, from the East to the West.<sup>210</sup> The advantages of free movement of works can be listed as:

- ★ *Dealing with labor shortages*
- ★ *Diminishing the rise in unemployment*
- ★ *Prevention of wage inflation*
- ★ *Creating additional demand through labor migration*
- ★ *More flexible labor markets*
- ★ *Filling undesirable jobs*
- ★ *Opportunities for works to work elsewhere*
- ★ *Assistance to deal with demographic challenges*
- ★ *Assistance to reduce regional inequalities<sup>211</sup>*

The United Kingdom is actually a state benefited from immigrant workers. For instance, there is a reliance on many immigrants to work in the National Health Service (NHS) filling skilled jobs such as nurses and doctors. Across the UK, EU immigrants make up 10% of registered doctors and 4% of registered nurses.<sup>212</sup> According to the OECD, migrants are more likely to be net contributors to public finances, and 63% of the Confederation of British Industry (CBI) state that free movement has benefitted their business.<sup>213</sup> However, the Prime Minister of the UK, Theresa May stated that controlling immigration would be one of her priorities during the negotiations.<sup>214</sup> To bring down the number of workers entering Britain by controlling access for every sector

### Reasons given for immigrating to the UK

Immigration of EU and non-EU nationals by main reason stated for migrating, year ending September 2016



\* The figures in this chart exclude British nationals. The figures only include the 'main' reason given so the actual proportion coming for any particular reason may be higher

Source: ONS Migration Statistics Quarterly Report, February 2017, table 3a

and every skill level is one of the goals.<sup>215</sup>

British governments have always been cheerleaders for free movement of goods, services and capital, while underestimating the continent's attachment to the same privilege for people.<sup>216</sup>

It might be said that differences of opinion exist within the UK side. On the one hand, the Prime Minister Theresa May and many of the cabinet members have made certain statements to tear

<sup>210</sup> ibid

<sup>211</sup> ibid

<sup>212</sup> Full Fact. (2017). EU immigration and NHS staff. [online] Available at: <https://fullfact.org/immigration/immigration-and-nhs-staff/> [Accessed 18 Mar. 2017].

<sup>213</sup> Irwin, G. (2015). BREXIT: the impact on the UK and the EU.

<sup>214</sup> Asthana, A., Walker, P. and Henley, J. (2017). May on collision course with Conservative backbenchers over hard Brexit. [online] the Guardian. Available at: <https://www.theguardian.com/politics/2016/oct/02/may-on-collision-course-with-backbenchers-seeking-soft-brexite> [Accessed 18 Mar. 2017]

<sup>215</sup> McTague, T., Livingstone, E., Kroet, C. and McTague, T. (2017). How Theresa May plans to reduce immigration after Brexit. [online] POLITICO. Available at: <http://www.politico.eu/article/how-theresa-may-plans-to-reduce-immigration-after-brexite/> [Accessed 18 Mar. 2017].

<sup>216</sup> Rankin, J. (2017). Freedom of movement: the wedge that will split Britain from Europe. [online] the Guardian. Available at: <https://www.theguardian.com/politics/2016/oct/06/freedom-of-movement-eu-uk-brexite-negotiations-theresa-may> [Accessed 19 Mar. 2017].

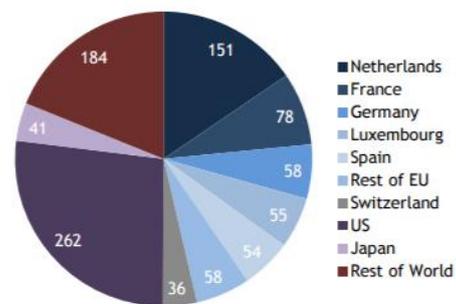
up the ties with the EU; on the other hand, there are some powerful proponents of a relatively smoother exit within the British side. There are expressions made by Chancellor Philip Hammond and other ministers who have sought to reassure employers that they will continue to be able to hire workers from the EU after Brexit<sup>217</sup> as well as desires from David Davis, the Brexit Secretary to put end to the right of EU citizens to live and work freely in the UK.<sup>218</sup> The biggest risk for the rest of the EU is seen the possibility of escalation of hostility towards immigration in other states due to impact of the UK's restriction policy on immigrants.<sup>219</sup>

### c) Free Movement of Capital

Free movement of Capital is based on Articles 63 to 66 TFEU supplemented by Articles 75 and 215 TFEU for sanctions.<sup>220</sup> Its content is the removal all restrictions on capital movements between Member States as well as between Member States and third countries.<sup>221</sup> Free movement of capital is considered as a key to the single market since it encourages economic progress by enabling capital to be invested efficiently.<sup>222</sup> One should not be forgotten to say that the Member States have the option of safeguard measures in exceptional circumstances; the possibility to apply restrictions that existed before a certain date to third countries and certain categories of capital movements; and a basis for the such restrictions' introduction.<sup>223</sup>

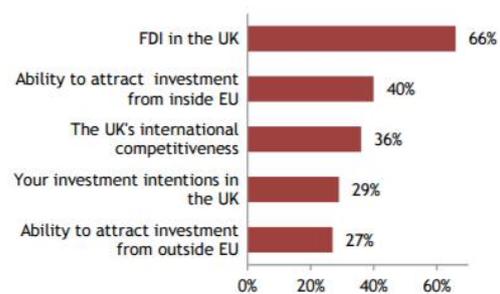
Free movement of capital has been affective in the UK's economy in a very positive way. Foreign Direct Investment (FDI) is a well-known phenomenon throughout the world, and within the Europe, free movement of capital makes it inevitable. The point relevant with the UK about this phenomenon is the fact that the UK is the largest recipient of FDI in the EU.<sup>224</sup> In 2013, 46% of the stock of FDI in the UK was the EU-sourced. Disproportionately, the EU-sourced FDI in the UK comes from a small number of host countries such as France,

**EU states are the biggest source of UK FDI**  
Inward stock of FDI in the UK (Ebn, 2013)



Source: ONS

**Brexit would damage investment prospects**  
Balance of CBI members who say the impact is negative



Source: CBI/YouGov (June-July 2013)

<sup>217</sup> McTague, T., Livingstone, E., Kroet, C. and McTague, T. (2017). How Theresa May plans to reduce immigration after Brexit. [online] POLITICO. Available at: <http://www.politico.eu/article/how-theresa-may-plans-to-reduce-immigration-after-brexit/> [Accessed 19 Mar. 2017].

<sup>218</sup> McTague, T., Spence, A. and Cooper, C. (2017). Big Brexit, little chancellor. [online] POLITICO. Available at: <http://www.politico.eu/pro/philip-hammond-britains-grown-up-chancellor-uk/> [Accessed 19 Mar. 2017].

<sup>219</sup> Irwin, G. (2015). BREXIT: the impact on the UK and the EU.

<sup>220</sup> Europarl.europa.eu. (2017). Free movement of capital | EU fact sheets | European Parliament. [online] Available at: [http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuld=FTU\\_3.1.6.html](http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuld=FTU_3.1.6.html) [Accessed 19 Mar. 2017].

<sup>221</sup> ibid

<sup>222</sup> ibid

<sup>223</sup> ibid

<sup>224</sup> Irwin, G. (2015). BREXIT: the impact on the UK and the EU.

Germany, Spain and Ireland.<sup>225</sup> Furthermore, The EU share of FDI is much higher in the energy, retail and wholesale trade, transportation and manufacturing sectors than it is in financial and professional services.<sup>226</sup> On the other hand, half of all European headquarters of non-EU firms locate in the UK.<sup>227</sup> Furthermore, it must be reminded that the UK hosts more HQs than Germany, France, Switzerland and the Netherlands host in total.<sup>228</sup>

#### EU firms are invested across sectors in the UK 2013 data

Sector	EU FDI \$m	EU share	Biggest EU investors
Retail, wholesale	66,443	62%	NE, DE, FR
Mining, quarrying	61,708	73%	n/a
Financial services	55,850	24%	NE, DE
ICT	39,190	34%	FR, DE, LU
Utilities	34,989	90%	n/a
Transportation	31,125	75%	DE, NE, ES
Food, beverages	23,555	41%	NE, FR, LU
Total	452,525	46%	NE, FR, DE

Source: ONS, GC calculations

Furthermore, many large European corporates are heavily invested in the UK.<sup>229</sup> When the Brexit negotiations would be concluded, how FDI could be affected is now unpredictable. All taxation agreements with both Member States and the non-EU countries are arranged within the scope of TFEU. It seems like that the UK and the EU would spend a considerable amount of time on negotiating the new arrangements. The UK would either need to negotiate third-country treatment under TFEU or a series of new double taxation agreements with member states.<sup>230</sup> Having said that, what should be considered is the UK's success in attracting FDI projects. At the end of the negotiation process, one particular challenge would be to attract European headquarters for multinationals away from the UK, but this will depend as much on the business environment in individual European countries.<sup>231</sup> It is expected from the UK to look for ways to restore the competitiveness of the FDI offer after the departure from the EU.

#### d) Freedom of Establishment and Freedom to Provide Services

According to the legal basis of this principle; Articles 26, 49 to 55 and 56 to 62, those who are self-employed and professionals or legal persons legally operating in one Member State within the scope of Article 54 TFEU may carry on an economic activity in a stable and continuous way in another Member State (freedom of establishment: Article 49 TFEU); or offer and provide their services in other Member States on a temporary basis while remaining in their country of origin.<sup>232</sup> What the right of establishment means is the permanent installation in a Member State in purpose of sustaining

<sup>225</sup> *ibid*

<sup>226</sup> *ibid*

<sup>227</sup> *ibid*

<sup>228</sup> *ibid*

<sup>229</sup> *ibid*

<sup>230</sup> *ibid*

<sup>231</sup> *ibid*

<sup>232</sup> Europarl.europa.eu. (2017). Freedom of establishment and freedom to provide services | EU fact sheets | European Parliament. [online] Available at: [http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuid=FTU\\_3.1.4.html](http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuid=FTU_3.1.4.html) [Accessed 20 Mar. 2017].

an economic activity in relevant State.<sup>233</sup> It is hard to deny that right of establishment is highly related with the right to enter and reside since self-employed persons -not just themselves, but their families- come to a Member State and pursue an economic activity.<sup>234</sup> Moreover, according to the EU law, family members of the self-employed persons have right of permanent residence in that State in condition of staying a continuous period of five years, and they may enjoy their rights even the self-employed persons die.<sup>235</sup> Inevitably, this is a factor increasing the number of immigrants in the Member States. On the other hand, freedom to provide services, controversially to right of establishment, must be limited in time, be sustained against payment and must contain some form of foreign aspect if the border is not physically crossed; in other words, if the headquarters is originated in other country.<sup>236</sup> However, the clear distinguishing of the right of establishment and freedom to provide service is quite impossible since a person or a company might require to have an establishment in another Member State for providing services in that state.<sup>237</sup> Same conditions must be provided to the person providing a service while s/he sustains his/her activity in the Member State where the service is provided.<sup>238</sup>

### 3) Trade outside the EU

It is expected that the departure from the EU would cost a suffrage in trade with Europe. The statistics do not lie; but also, sometimes, do not show us what we exactly need. On the other hand, the loss resulted from the departure could be subsidized by the trade relations with the rest of the world. Considering the fact that economic growth is much stronger in the rest of the world than in the European Union, to boost trade with non-EU countries might be a brand-new opportunity for the UK.<sup>239</sup> What was impossible while being the EU member, to broker its own trade deals with non-EU countries is probable for the UK after leaving the EU. Reducing

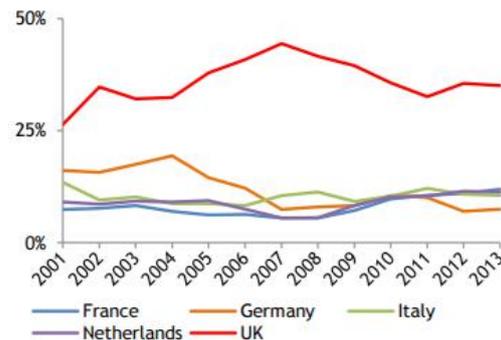
**The UK leads in most financial services**  
International market share by country

	UK	FR	DE
Cross-border bank lending	17%	9%	9%
Foreign exchange turnover	41%	3%	2%
Exchange-trade derivatives	7%	---	8%
Interest rate OTC derivatives	49%	7%	4%
Hedge funds assets	18%	1%	---
PE investment value	10%	5%	2%
Fund management	8%	3%	2%
Marine insurance	22%	4%	5%

Note: various time periods in 2012 and 2013

Source: TheCityUK

**UK dominates wholesale financial services**  
Share of EU wholesale financial services GVA



Source: London Economics, Eurostat

<sup>233</sup> Europedia.moussis.eu. (2017). Europedia - Right of establishment in the EU. [online] Available at: [http://www.europedia.moussis.eu/books/Book\\_2/3/6/05/1/?all=1](http://www.europedia.moussis.eu/books/Book_2/3/6/05/1/?all=1) [Accessed 20 Mar. 2017].

<sup>234</sup> ibid

<sup>235</sup> ibid

<sup>236</sup> Europedia.moussis.eu. (2017). Europedia - Freedom to provide services in the EU. [online] Available at: [http://www.europedia.moussis.eu/books/Book\\_2/3/6/06/?all=1](http://www.europedia.moussis.eu/books/Book_2/3/6/06/?all=1) [Accessed 20 Mar. 2017].

<sup>237</sup> ibid

<sup>238</sup> ibid

<sup>239</sup> Woodford Investment Management Ltd. (2017). The economic impact of 'Brexit' - Woodford Investment Management Ltd. [online] Available at: <https://woodfordfunds.com/economic-impact-brexit-report/> [Accessed 20 Mar. 2017].

the tariffs from those countries to below the EU levels is one of the moves that can be made by the UK in order to compete with the EU and create an advantage to the UK itself. One must be reminded that the European Union has been already negotiating new free trade deals with a number of non-EU countries due to the global fall in tariffs in recent years inevitably brings about a decrease in gains from free trade.<sup>240</sup> In other words, it can be said that the UK starts the race of making trade agreements at the same line with the EU because of the recent changes mentioned very previously. Moreover, turning face to the world outside the EU, establishing new trade deals and creating fast growing markets could contribute to the development of the competitiveness of the UK's manufacturing industry and goods exports is very likely to be a so deep breath for the UK's economy relying on financial services so much.<sup>241</sup> Brexit may impact on the location, liquidity and cost of financial services in Europe if it undermines London's competitive position. This would be costly for businesses and households across Europe. Most large European banks have major operations in London which would be costly to relocate.<sup>242</sup>

## Conclusion

When the issue is examined with a broad perspective, it clearly seems that the UK and the EU have never been a perfect match. There have always been controversies rooted to the very depth of the history. Fundamental differences have constantly been problematic in their relations. The Article 50 was triggered by Theresa May; which means, the Brexit process has officially started. It seems like a long and hard journey expects the both sides due to the terms that will be negotiated during the talks. The abovementioned topics, which seem a few quantitatively; but qualitatively complicated, complex, connected, detailed and of course vital, must be debated comprehensively. A hard task is waiting for the negotiating teams. The outcomes of the negotiations and the final conclusion that would lead the official departure of the UK will definitely open a new page in the politics and economics of the Europe, and certainly of the World.

### Further Readings

<https://woodfordfunds.com/economic-impact-brexit-report/>

[https://www.global-counsel.co.uk/sites/default/files/special-reports/downloads/Global%20Counsel\\_Impact\\_of\\_Brexit.pdf](https://www.global-counsel.co.uk/sites/default/files/special-reports/downloads/Global%20Counsel_Impact_of_Brexit.pdf)

<http://www.civitas.org.uk/email-resources/myth-and-paradox.pdf>

<http://uk.businessinsider.com/key-brexit-terms-glossary-2017-2016-12>

<http://www.politico.eu/article/eu-gets-ready-for-battle-leaked-guidelines/>

<http://www.politico.eu/article/britain-10-year-interim-zero-for-zero-trade-deal-brexit/>

<sup>240</sup> ibid

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<sup>242</sup> Irwin, G. (2015). BREXIT: the impact on the UK and the EU.

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