

# European Union Law

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# **Withdrawal from the EU: the Brexit**

Lesson No 5

- Can the EU send off a Member State?
- Can a Member State leave the EU?

## **EXIT FROM THE EUROPEAN CLUB**

# Expelling a State from the EU membership?

Unlike other international organizations (ex. United Nations), the EU has in no case the power to expel its members

- i. Maybe because this would imply the power to amend Treaties, which is in principle excluded –the EU lacks the *Kompetenz-Kompetenz*
- ii. More probably because this would be at odds with the philosophy of ever wider and closer integration, as well as with the EU citizenship of the citizens of the State to be expelled

→ what if a MS has persistently violated the European foundational values – Art 2 TEU (cp. Art 6 UN Charter)?

Can a Member State leave the EU?

**WITHDRAWING FROM THE EU  
PRE- AND POST-LISBON**

## Lisbon Treaty → the new regime on the withdrawal from the Union: Art 50 TEU

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

*“2. A MS 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 Art 218(3) TFEU. 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 MS concerned, unanimously decides to extend this period.*

*“4. For the purposes of paragraphs 2 and 3, the member of the European Council or of the Council representing the withdrawing MS 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 Art 238(3)(b) TFEU.*

*“5. (...)”*

The UK is about to leave the EU

## **THE BREXIT**



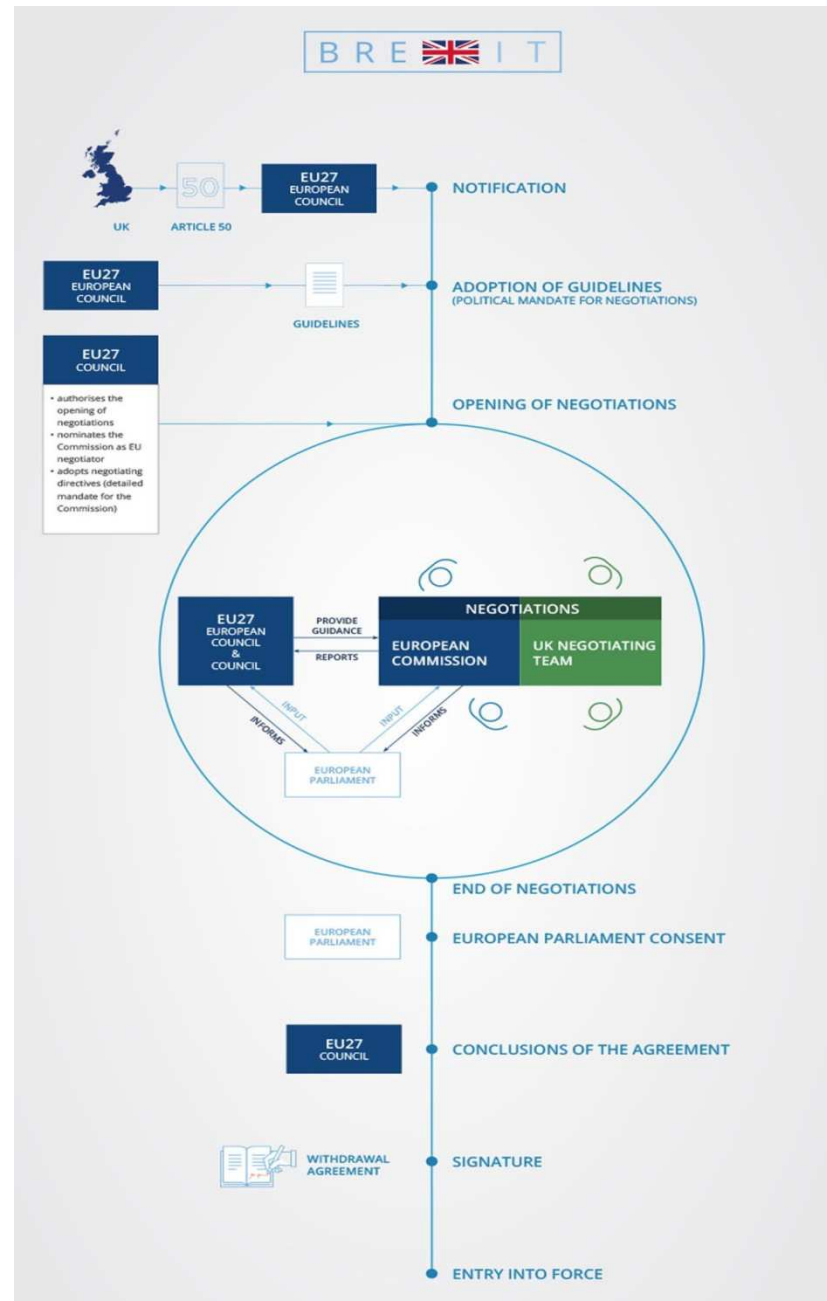
## Brexit: The relevant chronology

<http://www.consilium.europa.eu/en/policies/eu-uk-after-referendum/>

- 2015-11-10: Letter from Cameron to Tusk (President of the European Council), pointing out “the areas where (he was) seeking reforms to address the concerns of British people over (UK) membership of the EU”
- 2016-2-19: European Council, *A New Settlement for the UK within the EU*
- 2016-6-23: UK Referendum – UK citizens vote to leave the EU
- 2017-3-29: UK formally triggers Art 50 TEU to leave the EU
- 2017-5-22: Council authorises the start of Brexit talks and adopts negotiating directives (Art 50)
- 2017-6-19: Start of negotiations between UK and the EU
- 2017-9-25: The 4<sup>th</sup> round of the Brexit talks begins

# The Brexit negotiation process explained

- <http://www.consilium.europa.eu/en/policies/eu-uk-after-referendum/>



Infographic - Brexit process: <http://www.consilium.europa.eu/en/infographics/brexit-process/>