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## **Rights of the EU citizens in the context of no deal Brexit scenario**

### **Prawa obywateli UE w przypadku bezumownego wyjścia Zjednoczonego Królestwa z Unii Europejskiej**

**Słowa kluczowe:** Brexit, Unia Europejska, obywatele UE, status osiedlonego, status pre-osiedlonego, bezumowny Brexit

**Keywords:** Brexit, European Union, EU citizens, settled status, pre-settled status, no-deal Brexit

#### **Streszczenie**

Wielka Brytania kwestionowała swoje członkostwo w Unii Europejskiej po raz pierwszy już dwa lata po przystąpieniu do Wspólnot Europejskich. Pierwsze referendum zakończyło się wynikiem 67% do 33% na korzyść pozostania w UE. Drugie referendum zostało zorganizowane w lutym 2016 roku. Tym razem społeczeństwo było zdecydowanie bardziej spolaryzowane – zarówno geograficznie, jak i demograficznie. Ogromne różnice doprowadziły do rezultatu 51,9% do 48,1% na rzecz wyjścia z Unii Europejskiej. Zgodnie z art. 50 Traktatu o Unii Europejskiej, Wielka Brytania złożyła notyfikację Radzie Europejskiej o chęci wyjścia w dniu 29 marca 2017 roku. Od tego dnia zaczął płynąć dwuletni termin na negocjacje przyszłych relacji między Unią a Wielką Brytanią. Wobec braku możliwości osiągnięcia porozumienia na gruncie krajowym przez brytyjski parlament, termin wyjścia

Wielkiej Brytanii z Unii przedłużono do 12 kwietnia. Na kilka dni przed tym terminem dalej nie wiadomo na jakich zasadach Wielka Brytania wyjdzie z Unii – czy będzie to domyślny Brexit bez umowy (dealu), czy może jednak uda się osiągnąć wewnętrzne porozumienie. W takim otoczeniu politycznym trzeba zastanowić się nad prawami obywateli Unii Europejskiej żyjącymi w Wielkiej Brytanii w razie bezumownego wyjścia Wielkiej Brytanii z Unii, które wydaje się coraz bardziej prawdopodobne. 6 grudnia 2019 roku rząd brytyjski opublikował proponowane rozwiązanie na wypadek Brexitu bez dealu. Zostało ono uzupełnione w styczniu 2019 roku. Na podstawie ogłoszonych dokumentów można wyróżnić trzy sytuacje. Po pierwsze, obywatele UE i członkowie ich rodzin, którzy przyjechali do Wielkiej Brytanii przed 12 kwietnia 2019 roku będą mogli ubiegać się o status osiedlonego lub pre-osiedlonego uprawniający ich do przebywania na terenie Wielkiej Brytanii na stałe. Po drugie, obywatele UE i członkowie ich rodzin, którzy przyjadą do Wielkiej Brytanii w tzw. okresie przejściowym, tj. pomiędzy 12 kwietnia 2019 roku a 31 grudnia 2020 roku będą mogli ubiegać się o 36-ciomiesięczne pozwolenie na pozostanie na terenie Wielkiej Brytanii, a w czasie tego okresu będą mogli wystąpić o przyznanie uprawnienia do pobytu na stałe. Trzecią grupę stanowią obywatele UE i członkowie ich rodzin, którzy przyjadą do Wielkiej Brytanii 1 stycznia 2021 roku lub później. Będą oni traktowani jak wszyscy inni imigranci chcący osiedlić się w Wielkiej Brytanii. Będą więc musieli spełnić kryteria postawione przez Wielką Brytanię w ramach jednego z różnych trybów ubiegania się o prawo do pracy.

## **Introduction**

The United Kingdom joined the EU in 1973. Just two years later it was on the verge of leaving. There was a first referendum held but 67% of the British citizens voted to remain in the EU. Second referendum on the same issue was held in February 2016. Turnout was 71.8% - more than 30 million people cast their votes and by a slim 51.9% to 48.1% margin voted to leave. There were stark differences across the UK – both geographically and demographically. Also many argued that “leave” campaign was controversial and not related to the EU as a legal entity – more to its recent problems like eurozone and migration crises. Taking into account that there are only couple of days left to the Brexit day of April 12, 2019 (prolonged from original Brexit day of March 30, 2019), the most probable of all Brexit scenarios is no deal as the UK Parliament so far failed to agree on any option. On March 14, 2019 the House of Commons voted to take no deal option off the table, but the UK forgot that this is a default solution that will take place anyway in the absence of any agreement between

the UK and the EU – it's simply not UK's internal choice to make. What did lead to the second Brexit referendum? Why did the UK question its presence in the EU? What will happen to the rights of EU citizens in no deal scenario that seems to be the most plausible at the moment? These questions will be answered in due course.

### **Brexit political background**

The relationship between the United Kingdom and the European Union was uneasy from the very beginning.<sup>1</sup> When the United Kingdom first applied for membership in 1963, France vetoed its application. Reportedly France's President Charles de Gaulle didn't want English to replace French as the dominant language of the Communities<sup>2</sup>. The UK finally joined in 1973, but just two years later it was on the verge of leaving. In 1975, there was a referendum held on the question: "Do you think the UK should stay in the European Community (Common Market)?"<sup>3</sup>. The 67% of the people voted in favour and the UK stayed in the Communities<sup>3</sup>.

Tensions between the EEC and the UK exploded again in 1984. The UK's Conservative Prime Minister Margaret Thatcher<sup>4</sup> wanted to reduce British payments to the European budget. At that time, the UK was one of the three poorest nations in the Community, yet it was contributing a lot more into the budget than other countries due to its relative lack of farms. It is also worth noting that farm subsidies made up around 70% of total European expenditures at that time. The agreement negotiated by Thatcher has reduced Britain's contribution to the budget from more than 20% of the total in the '80s to about 12% and remains in place until today<sup>5</sup>.

The Maastricht Treaty that took effect in 1993 created the European Union (EU). The EU was designed to integrate Europe's nations both politically and economically. It was meant to include a united foreign policy, common citizenship rights and a single currency - the euro (the last not for the UK)<sup>6</sup>.

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<sup>1</sup> More: A. Geddes, *Britain and European Union*, Palgrave MacMillan 2013; D. Kenealy, J. Peterson, R. Corbett, *The European Union. How does it work?* Fifth edition, Oxford 2015; D. Gowland, A. Turner, A. Wright, *Britain and European Integration since 1945. On the sidelines*, Oxon 2010.

<sup>2</sup> A. Geddes, *Britain and European Union*, Palgrave MacMillan 2013, p. 54-56.

<sup>3</sup> *Ibidem*, p. 56-59.

<sup>4</sup> More about Margaret Thatcher: <https://www.gov.uk/government/history/past-prime-ministers/margaret-thatcher>; Item: Ch. Moore, *Margaret Thatcher: The Authorized Biography*, Allen Lane 2013

<sup>5</sup> A. Geddes, *op. cit.*, p. 67-69.

<sup>6</sup> D. Kenealy, J. Peterson, R. Corbett, *The European Union. How does it work?* Fifth edition, Oxford 2015, p. 38-39.

Labour Prime Minister Tony Blair<sup>7</sup> who won elections in 1997 was a strong supporter of the European Union. While in office, he devoted his efforts to rebuild ties with the rest of Europe<sup>8</sup>. His work was undermined when the EU imposed a ban<sup>9</sup> on British beef during “mad cow” (bovine spongiform encephalopathy) epidemic in the late ‘90s. The general EU ban was lifted in 1999<sup>10</sup>, but France kept its own ban in place for years after that even though rigorous sanitary checks were imposed on British beef anyway.

Unfortunately, the beef battle wasn’t the only trade conflict between the EU and the UK. In 2000, a 27-year-long “chocolate” dispute<sup>11</sup> was ended by the verdict from the European Court of Justice in Luxembourg. The verdict was victorious for the UK and British chocolate could finally be sold in the rest of Europe. France, Belgium, Spain and Italy, among other nations, had argued that only cocoa butter should be used when making chocolate (and not vegetable oil as it was in the UK factories). They also argued that British-made chocolate had far too much milk, and wanted it to be labelled as “household milk chocolate,” “chocolate substitute” or even “vegelate”.

Another event on the time series of tensions between the UK and the EU dates back to 2007. After plans for an official EU constitution collapsed, the controversial Lisbon Treaty<sup>12</sup> was agreed by the EU member states. Labour Prime Minister Gordon Brown<sup>13</sup> famously missed a televised ceremony in which the leaders of the 26 other member nations signed the treaty<sup>14</sup>. He obviously later signed the document but the tension remained.

The next UK’s prime minister David Cameron<sup>15</sup> became the first UK representative to veto a EU treaty in 2011 in the interests of protecting Britain’s financial sector<sup>16</sup>. Later, in early 2013, he gave a prominent speech in which he outlined the challenges facing Europe and

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<sup>7</sup> More about Tony Blair: <https://www.gov.uk/government/history/past-prime-ministers/tony-blair>.

<sup>8</sup> A. Geddes, op. cit., p. 84-96.

<sup>9</sup> Due to the Commission Decision 96/239/EC the export ban on UK cattle, their meat and products had been imposed since March 1996.

<sup>10</sup> In 1999, the ban was amended to allow de-boned beef and beef products from the UK produced under the Date-based Export Scheme.

<sup>11</sup> More about chocolate dispute: <http://news.bbc.co.uk/1/hi/uk/678141.stm>. It worth noting that the United Kingdom is one of largest chocolate producers in the European Union with its brands such as Mars, Milky Way, KitKat and Cadbury’s.

<sup>12</sup> Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon, 13 December 2007: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12007L/TXT&from=HR>

<sup>13</sup> More about Gordon Brown: <https://www.gov.uk/government/history/past-prime-ministers/gordon-brown>.

<sup>14</sup> More about Gordon Brown absence during ceremony: [http://news.bbc.co.uk/1/hi/uk\\_politics/7141279.stm](http://news.bbc.co.uk/1/hi/uk_politics/7141279.stm)

<sup>15</sup> More about David Cameron: <https://www.gov.uk/government/people/david-cameron>.

<sup>16</sup> More about David Cameron’s veto: <https://www.theguardian.com/world/2011/dec/09/david-cameron-blocks-eu-treaty>

promised to renegotiate membership in the EU if his Conservative Party won a majority in the next general election<sup>17</sup>. At the same time, more and more British voters supported the UK Independence Party (UKIP) and its anti-EU approach.

In the next couple years, the number of supporters of possible British exit from the EU (named as “Brexit” – a portmanteau of the words “Britain” and “exit”) increased even further due to the economic unrest in the eurozone and an ongoing migrant crisis.

David Cameron after winning re-election in May 2015 started to renegotiate the UK-EU relationship. He wanted to make amends to migrant welfare payments policy and financial policy. He also insisted on adding easier ways for Britain to block EU regulations. In February 2016, he announced the results of those negotiations, and set June 23 as the date of the promised referendum<sup>18</sup>.

Turnout for the referendum was 71.8% - more than 30 million people cast their votes. The referendum passed by a slim 51.9% to 48.1% margin but there were stark differences across the UK<sup>19</sup>. Northern Ireland and Scotland voted to remain in the EU, whereas England and Wales voted in favour of Brexit<sup>20</sup> (see the table below). The differences were also visible in terms of demographics. Most of the leave supporters were older, working-class people from smaller cities, while those who wished to stay were younger, with better jobs, who primarily lived in cities.

<b>Referendum results by location</b>		
<b>Region</b>	<b>Remain</b>	<b>Leave</b>
Britain	48%	52%
England	47%	53%
London	60%	40%
Scotland	62%	38%
Wales	48%	53%
Northern Ireland	56%	44%

<sup>17</sup> More: <https://www.bbc.co.uk/news/uk-politics-21148282>.

<sup>18</sup> More: <https://www.bbc.co.uk/news/uk-politics-35621079>

<sup>19</sup> More about the referendum: <https://www.electoralcommission.org.uk/find-information-by-subject/elections-and-referendums/past-elections-and-referendums/eu-referendum/electorate-and-count-information>.

<sup>20</sup>More about the results of the referendum: <https://www.electoralcommission.org.uk/find-information-by-subject/elections-and-referendums/past-elections-and-referendums/eu-referendum/eu-referendum-result-visualisations>.

In October 2016, Conservative Prime Minister Theresa May<sup>21</sup> that had assumed office following David Cameron's resignation, announced her intention to invoke Article 50 of the Treaty on European Union and formally give notice of Britain's intent to leave the EU. The order signed by May was delivered to the Council of the European Union on March 29, 2017<sup>22</sup>. That day marks the official start of the two-year countdown to Britain's EU departure, originally set for March 30, 2019.

In November 2018, the Draft Withdrawal Agreement and Outline Political Declaration agreed between the UK Government and the EU<sup>23</sup> (referred to by the general public as the "deal") was published. The House of Commons voted against the deal by a margin of 432 to 202 (the largest parliamentary defeat in history for a sitting UK government) on 15 January 2019<sup>24</sup>, and again on 12 March with a margin of 391 to 242 against the deal<sup>25</sup>.

Due to inability of the UK's Parliament to reach an agreement on the desired course of action, on March 20, 2019 May sent a letter to the EU<sup>26</sup> in which she had requested that Brexit be delayed until June 30, 2019. The EU offered an extension until May 22, 2019 in case of the UK's accepting the deal or April 12, 2019 otherwise (those dates were chosen to avoid hardship with European elections of May 2019)<sup>27</sup>.

Further UK internal Brexit talks led to a series of votes in the House of Commons on March 28, 2019. Neither of eight proposed options (ranging from confirmatory referendum to EFTA and EEA membership) gained a majority<sup>28</sup>. See the table below. In response, the President of the European Council Donald Tusk<sup>29</sup> called a special Brexit summit for April 10, 2019<sup>30</sup> – only two days before the set no-deal Brexit day of April 12.

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<sup>21</sup> More about Theresa May: <https://www.gov.uk/government/people/theresa-may>.

<sup>22</sup> Letter of 29<sup>th</sup> March 2017 from the Prime Minister of the United Kingdom to the President of the European Council, XT 20001/17: <http://data.consilium.europa.eu/doc/document/XT-20001-2017-INIT/en/pdf>

<sup>23</sup> Full text of the agreement: [https://ec.europa.eu/commission/sites/beta-political/files/draft\\_withdrawal\\_agreement\\_0.pdf](https://ec.europa.eu/commission/sites/beta-political/files/draft_withdrawal_agreement_0.pdf)

<sup>24</sup> More about the results of the vote: <https://commonsvotes.digiminster.com/Divisions/Details/562>

<sup>25</sup> More about the results of the vote: <https://commonsvotes.digiminster.com/Divisions/Details/623>

<sup>26</sup> Letter of 20<sup>th</sup> March 2019 from the Prime Minister of the United Kingdom to the President of the European Council, EUCO XT 20005/19: <https://data.consilium.europa.eu/doc/document/XT-20005-2019-INIT/en/pdf>

<sup>27</sup> More: Brexit: European Council adopts decision extending the period under Article 50:

<https://www.consilium.europa.eu/en/press/press-releases/2019/03/22/brexit-european-council-adopts-decision-extending-the-period-under-article-50/>

<sup>28</sup> More about those votes: House of Commons, Votes and Proceedings, Wednesday 27 March 2019, <https://publications.parliament.uk/pa/cm201719/cmvote/190327v01.html#anchor-3>

<sup>29</sup> More about Donald Tusk: <https://www.consilium.europa.eu/en/european-council/president/biography/>

<sup>30</sup> Special European Council (Art.50), 10/04/2019: <https://www.consilium.europa.eu/en/meetings/european-council/2019/04/10/>

<b>Option naming</b>	<b>Meaning of that option</b>	<b>For</b>	<b>Against</b>	<b>Defeated by</b>
Confirmatory referendum	The public votes in a referendum on any Brexit outcome passed by the Parliament before it can be implemented.	268	295	27
Customs union	Permanent and comprehensive UK-wide customs union with the EU to be included in any Brexit deal.	264	272	8
Labour's Brexit plan	The UK renegotiates the deal so that it includes permanent customs union with the EU, close alignment with the single market, commitments on participations in EU agencies and funding programmes.	237	307	70
Common Market 2.0	The UK leaves the EU but retains freedom of movement and makes contributions to the EU budget.	188	283	95
Revoking Article 50 to avoid no deal	The UK revokes Article 50 and remains in the EU.	184	293	109
No-deal exit on 12 April	The UK leaves the EU without any arrangements regarding future relations.	160	400	240
Malthouse Plan B	The UK agrees a trade agreement with the EU under which no tariffs or quotas will be applied between the parties.	139	422	283
EFTA and EEA membership	After Brexit, the UK re-joins the European Free Trade Association and European Economic Area – obtaining status similar to Iceland, Liechtenstein, Norway and Switzerland.	65	377	312

On April 5, 2019, Theresa May sent another letter to Donald Tusk asking for a further extension to the Article 50 two-year period<sup>31</sup>. This is the most recent state of affairs prior to the closure of this issue.

### **Rights of the EU citizens in the case of no-deal Brexit**

In the event that the UK leaves the EU in a no deal scenario, the UK will not be subject to any arrangements with the EU - especially those set out in the deal. Therefore, the UK government published its proposal for EU citizens' rights in the event of a "no deal" Brexit on 6 December 2018<sup>32</sup> and provided further details in late January 2019<sup>33</sup>. It mostly encompassed immigration issues.

In the event of no deal, EU citizens and their family members already resident in the UK by April 12, 2019 will be welcome to stay. They will be treated as part of the UK community and will have until December 31, 2020 to apply to the EU Settlement Scheme<sup>34</sup> for the "settled" or "pre-settled" status to protect their right to stay in the UK permanently.

Who will qualify for those statuses? EU citizens (and their eligible family members understood as spouse, partner, dependent child or extended family member) who have "continuously resided" in the UK for at least five years before applying will be granted indefinite leave to remain<sup>35</sup> (ILR, also called 'settled status'). Those with less than five years of "continuous residence" will be granted leave to remain (also called "pre-settled status") to allow them to complete five years' residence and become eligible for settled status<sup>36</sup>.

"Continuous residence" is understood as "presence" in the UK as long as an EU national (and the family member) has not been absent from the UK for more than six months in total in any

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<sup>31</sup> Letter of 5<sup>th</sup> April 2019 from the Prime Minister of the United Kingdom to the President of the European Council: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/793058/PM\\_letter\\_to\\_His\\_Excellency\\_Mr\\_Donald\\_Tusk\\_\\_1\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/793058/PM_letter_to_His_Excellency_Mr_Donald_Tusk__1_.pdf)

<sup>32</sup> Citizens' Rights - EU citizens in the UK and UK nationals in the EU, Department for Exiting the European Union. Policy Paper:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/790570/Policy\\_Paper\\_on\\_citizens\\_rights\\_in\\_the\\_event\\_of\\_a\\_no\\_deal\\_Brexit.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/790570/Policy_Paper_on_citizens_rights_in_the_event_of_a_no_deal_Brexit.pdf)

<sup>33</sup> Immigration from 12 April 2019 if there is no deal. Policy paper. Published 28 January 2019:

<https://www.gov.uk/government/publications/eu-immigration-after-free-movement-ends-if-theres-no-deal/immigration-from-30-march-2019-if-there-is-no-deal#fn:2>

<sup>34</sup> Immigration from 12 April 2019 if there is no deal. Policy paper. Published 28 January 2019, point 6

<sup>35</sup> More about application to the EU Settlement Scheme (settled and pre-settled status):

<https://www.gov.uk/settled-status-eu-citizens-families/what-settled-and-presettled-status-means>

<sup>36</sup> More: Apply to the EU Settlement Scheme (settled and pre-settled status): <https://www.gov.uk/settled-status-eu-citizens-families/what-settled-and-presettled-status-means>

12-month period (calculated from their application date). In addition, a single period of absence of up to 12 months is permitted for an important reason such as pregnancy, childbirth, serious illness, a period of study, vocational training or an overseas posting. Also any period of absence for the purpose of compulsory military service should be allowed.

The application process for the “settled” status will involve three main steps: proof of identity, confirmation of “continuous residence” and declaration of criminal convictions. Firstly, all applicants will be requested to complete the ID verification stage via an app<sup>37</sup> (which will be used to scan valid ID documentation). Once the initial app ID verification stage is complete, applicants will be able to continue their application process using the gov.uk website<sup>38</sup>.

Next step - confirmation of “continuous residence” in the UK will be completed via automated checks with other government departments such as HMRC<sup>39</sup> and DWP<sup>40</sup>. Where no data would be available, applicants will be required to submit additional documentation proving their residence over the five year period.

In the last step, the applicants will be requested to declare their criminal convictions. What is important, only serious (or multiple) offences are expected to affect the outcome of the application.

EU citizens and their family members planning to arrive to the UK between April 12, 2019 and December 31, 2020 will be encompassed by temporary transitional arrangements. All those that wish to stay longer than three months will need to apply to the Home Office for leave to remain within three months of arrival. Subject to identity, criminality and security checks, leave to remain will be granted for 36 months which will include permission to work and study<sup>41</sup>. This will be non-extendable, temporary leave so those who wish to stay longer-term will need to apply in due course under the future border and immigration system

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<sup>37</sup> Using the ‘EU Exit: ID Document Check’ app. Information for EU citizens and their families applying to the EU Settlement Scheme. Guidance: [https://www.gov.uk/guidance/using-the-eu-exit-id-document-check-app?mc\\_cid=f83e311ff8&mc\\_eid=0b7819009a](https://www.gov.uk/guidance/using-the-eu-exit-id-document-check-app?mc_cid=f83e311ff8&mc_eid=0b7819009a)

<sup>38</sup> It is possible here: [https://user-auth.apply-for-eu-settled-status.homeoffice.gov.uk/auth/realms/AUK/protocol/openid-connect/auth?client\\_id=accessuk&state=4683463d-a22e-49c1-8560-48c1176acbd&redirect\\_uri=https%3A%2F%2Fapply-for-eu-settled-status.homeoffice.gov.uk%2Fau-settlement%2F0%2F%27%3Fauth\\_callback%3D1&scope=openid&response\\_type=code&mc\\_cid=f83e311ff8&mc\\_eid=0b7819009a](https://user-auth.apply-for-eu-settled-status.homeoffice.gov.uk/auth/realms/AUK/protocol/openid-connect/auth?client_id=accessuk&state=4683463d-a22e-49c1-8560-48c1176acbd&redirect_uri=https%3A%2F%2Fapply-for-eu-settled-status.homeoffice.gov.uk%2Fau-settlement%2F0%2F%27%3Fauth_callback%3D1&scope=openid&response_type=code&mc_cid=f83e311ff8&mc_eid=0b7819009a)

<sup>39</sup> Her Majesty's Revenue and Customs government department. More about it: <https://www.gov.uk/government/organisations/hm-revenue-customs>

<sup>40</sup> The government's Department for Work and Pensions. More about it: <https://www.gov.uk/government/organisations/department-for-work-pensions>

<sup>41</sup> Immigration from 12 April 2019 if there is no deal. Policy paper. Published 28 January 2019, point 11

arrangements. The details of the UK's future skills-based immigration system are set out in a white paper published on December 19, 2018<sup>42</sup>.

EU nationals arriving in the UK following the transition period (from 1 January 2021 onwards) will be subject to a new immigration system (which will not differentiate between EU and non-EU migrants). People coming to work in the UK will have to pursue one of the routes set out in the above mentioned white paper<sup>43</sup>.

For example, there will be route for skilled workers who will be sponsored by an employer. They will be entitled to stay longer periods, to bring dependants and in some cases to settle permanently. This route will be open to migrants from all countries<sup>44</sup>.

Another route will be open for non-sponsored temporary short-term workers at all skills levels. This route will be subject to tightly defined conditions, it will be a transitional route only and it will be open solely to migrants from specified low-risk countries<sup>45</sup>.

Separate routes will be operating for innovators (meaning experienced business people who want to set up a business in the UK that is innovative, scalable and viable), exceptionally talented people (meaning highly skilled individuals in the creative, arts and humanities, science, research and engineering, and digital technology sectors, who wish to work in the UK), investors (meaning those who make a substantial financial contribution to the UK) and other temporary workers (such as Youth Mobility Schemes for people aged 18-30, sportspeople, those in the creative sector and charity workers)<sup>46</sup>.

What is important, once the new border and immigration system is introduced from 2021, employers and others will be obliged to check EU citizens' status using the Home Office's Digital Status Checker<sup>47</sup>.

Another crucial dimension of no deal Brexit is the stop of mutual recognition of professional qualifications between the EU and the UK<sup>48</sup>. People that acquired their qualification in the

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<sup>42</sup> The UK's future skills-based immigration system. HM Government, December 2018: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/766672/The-UKs-future-skills-based-immigration-system-accessible-version.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/766672/The-UKs-future-skills-based-immigration-system-accessible-version.pdf)

<sup>43</sup> The UK's future skills-based immigration system. HM Government, December 2018.

<sup>44</sup> The UK's future skills-based immigration system. HM Government, December 2018, p. 40-41.

<sup>45</sup> The UK's future skills-based immigration system. HM Government, December 2018, p. 43.

<sup>46</sup> The UK's future skills-based immigration system. HM Government, December 2018, p. 41-51.

<sup>47</sup> The UK's future skills-based immigration system. HM Government, December 2018, p. 72-74.

<sup>48</sup> Providing services including those of a qualified professional if there's no Brexit deal. Department for Business, Energy & Industrial Strategy. Guidance. Published 12 October 2018:

UK and applying to work in the EU will be treated as those who obtained such qualifications in the so called “third countries”. This is especially important for professions such as nurse, dentist, doctor, midwife or architect where qualifications are recognised automatically. Analogically, the EU nationals’ professional qualifications acquired outside the UK will not be recognised automatically in the UK<sup>49</sup>.

Last basic question regarding no deal Brexit scenario concerns the British citizens living in the EU member states outside the UK. What will happen to them? First of all, there is no immediate change for British citizens in the EU – at least until the end of the transition period lasting till December 31, 2020 and during that period they should be able to apply to have their rights protected in their host member states<sup>50</sup>.

### **Conclusion**

Article 50 of the Treaty of the European Unions was enacted by the Treaty of Lisbon on December 1, 2009. It introduced for the first time a procedure for a member state to withdraw voluntarily from the EU. It states that any member state may decide to withdraw from the Union in accordance with its own constitutional requirements. Once it does, it 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. 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, unless the European Council, in agreement with the member state concerned, unanimously decides to extend this period. If a state which has withdrawn from the Union asks to re-join, its request shall be subject to the procedure referred to in Article 49 of the Treaty of the European Union.

Even the lack of formal procedure to withdraw from the EU hasn’t stopped the UK to question its membership many years prior to the Lisbon Treaty. First Brexit referendum was held in 1975 only two years after the UK joined the EU. The UK citizens voted to remain by two thirds. Second referendum following 40 years of uneasy relationship weakened by

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<https://www.gov.uk/government/publications/providing-services-including-those-of-a-qualified-professional-if-theres-no-brex-it-deal/providing-services-including-those-of-a-qualified-professional-if-theres-no-brex-it-deal>

<sup>49</sup> Providing services including those of a qualified professional if there’s no Brexit deal. Department for Business, Energy & Industrial Strategy. Guidance. Published 12 October 2018.

<sup>50</sup> Citizens’ Rights - EU citizens in the UK and UK nationals in the EU, Department for Exiting the European Union. Policy Paper, points 17-27.

various political and trade conflicts was held in February 2016. More than 30 million people cast their votes and by a slim 51.9% to 48.1% margin voted to leave. There were stark differences across the UK – both geographically and demographically.

Since that day, the UK hasn't been able to reach an internal consensus on the terms that should apply to Brexit. With no progress towards a smooth withdrawal from the EU, a chaotic no-deal Brexit - the default outcome if no action is taken - is becoming more possible every day. The uncertainty around the way in which the UK will leave the EU has caused tremendous economic losses for the UK. To name just two: four quarters of declining business investments and the lowest annual growth rate of the overall economy since 2009. Estimates by economists suggest that even before it has happened, Brexit has cost the UK economy around 1.5 - 2.5 % of GDP<sup>51</sup>.

Even if the UK is granted a long extension to the Article 50 talks (which will be discussed on April 10, 2019, but seems not to be desired by the UK as Theresa May proposes prolongation only until June 30, 2019), the negative sentiment is highly unlikely to go away. The worst economic effects of Brexit were always likely to come in the long term - simply nobody will ever look at the country and its business and political environment in quite the same way again.

The uncertainty for the businesses is only one angle of the hardships caused by the ever more probable no deal Brexit. Second dimension of uncertainty is about securing the rights of over three million EU citizens in the UK and around one million UK nationals in the EU<sup>52</sup>. The future of those people is still not certain despite all policy documents and political declarations. The draft immigration rules that were described in the section above are set but will they be obeyed or changed in due course? And if changed – will those changes be favourable for the concerned EU citizens? The time will show. One thing that is certain right now is the fact that Brexit originally pronounced as the first step towards the demise of the EU, has proven it stronger and more powerful than ever. Some even argue that the UK will re-join the EU by 2030 proving that it's neither economically nor politically sound decision to leave this strong European organism.

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<sup>51</sup> More: <https://www.ft.com/content/cb298576-3116-11e9-8744-e7016697f225>

<sup>52</sup> Citizens' Rights - EU citizens in the UK and UK nationals in the EU, Department for Exiting the European Union. Policy Paper, point 1.