



Prospects for the Negotiations on Brexit

Jolanta Szymańska

In June, the UK government entered into talks with the EU on the conditions for leaving the bloc. With that, the government ended speculation about the possibility of stopping Brexit that appeared shortly after the parliamentary election. The EU's consistent position on Brexit allowed it to impose on the British the mode of the talks and the priorities of the first phase of the negotiations. Divisions in the negotiating strategy among the main political forces in the UK may make the progress of the Brexit talks difficult and increases the risk of a no-deal scenario.

On 29 March, the British government formally notified the EU of its intention to leave, triggering a process of negotiations about the terms of separation as laid down in Article 50 of the Treaty on European Union (TEU).

Envisioning a strengthened Cabinet before the EU talks started, UK Prime Minister Theresa May on 18 April announced a snap election.¹ However, the results turned out to be different than intended—instead of a stronger position in parliament, it was weakened when it lost the absolute majority.²

The elections, though, did not delay the start of the Brexit negotiations. The first meeting of the UK and EU negotiators came even before the vote of confidence in the new government. During the meeting, agreement was reached on the timetable and priorities of the first phase of the negotiations. Plans and guidelines for the next stages of the talks are still under discussion.

Negotiation Scenarios. According to TEU, separation talks should be completed within two years from the moment Article 50 is triggered, so in March 2019. Although the European Council may extend the period, the EU wants to avoid any extensions because European elections are due in 2019.

The talks should last about 18 months, until October or November 2018. Negotiation rounds will be held once a month and each will consist of plenary sessions and negotiation group meetings. Contrary to UK expectations, the initial plan does not foresee parallel talks on both Brexit and a new deal with the EU from the beginning. The EU wanted sufficient progress in priority areas concerning the separation before negotiations on the future of EU-UK relations begin.

If the negotiations are successful, the Commission will present a proposed agreement to the Council and the European Parliament (EP). According to the treaty, the withdrawal agreement should consider the framework for the UK's future relationship with the Union. The EP must consent to the agreement by a simple majority vote, including Members of the European Parliament from the UK. The Council will conclude the agreement by a vote in the strong qualified majority format, meaning 72% of the 27 Member States (20 countries represent 65% of the EU27 population). The British parliament also must approve the agreement.

¹ J. Szymańska, "UK Snap General Election," *PISM Spotlight*, no. 4/2017, www.pism.pl/publications/spotlight/no-4-2017.

² J. Szymańska, "Tories Lose Their Absolute Majority in UK General Election," *PISM Spotlight*, no. 25/2017, www.pism.pl/publications/spotlight/no-25-2017.

Negotiation Priorities. It was agreed that citizens' rights issues, the UK's financial obligations to the EU, and other separation issues such as the relocation of EU agencies and British international obligations would be discussed in the first phase of the talks. Brexit will change the external borders of the EU, so the border between Northern Ireland and Ireland will also be one of the priorities of the first phase of negotiations.

On citizens' rights, the British government offered assurances that EU (and EEA) citizens are not going to be forced to leave the UK if within two years of a specified date they regularise their status. All EU nationals lawfully resident for at least five years will be eligible for the same treatment as UK citizens for healthcare, education, and social benefits. The European Commission, however, expects more: an immediate and indefinite guarantee of citizens' rights without the five-year requirement. The guarantee of entitlements is still in dispute. The EU wants the EU Court of Justice to continue to provide the final guarantees, but the UK plans to restore these powers to the national level.

The British contribution to the EU budget after leaving the EU (so-called "Brexit bill") is one of the most controversial issues. Striving to maintain the continuity of spending, the EU is demanding €100 billion from the UK. The British government does not accept this amount and wants to show its citizens the benefits of the EU exit, so will seek a lower final contribution.

Perspectives on EU-UK Relations after Brexit. The shape of the relationship between the UK and the EU after Brexit will depend largely on the expectations of the Brits themselves. The position presented by the first May government is quite general and the post-election political and public opinion in the United Kingdom can influence its further evolution. The result of the election is being treated as a correction of the outcome of the referendum on 23 June 2016, and it may force the UK to soften its position on its future relations with the EU.

In her Article 50 notification letter, the British government announced it would be a "hard Brexit"—leaving both the customs union and the single market and then developing future relationships with the bloc based on a free trade agreement. May still holds this position after the election. The situation in the House of Commons is, however, complicated. First, the Democratic Unionist Party, which supports the government, expects that the Commonwealth Travel Area between Northern Ireland and the Republic of Ireland will be retained after Brexit, which may be a prerequisite for softening the British position. Second, the possibility of preserving the unity of conservatives on Brexit legislation is doubtful. In the face of tensions between the Eurosceptic and pro-European factions of the Conservative Party, the government may be forced to seek the Labour Party's support for the final Brexit deal in a vote in the House of Commons. Labour is calling for a softer Brexit without specifying exactly what that means—some party members want to consider remaining in the customs union while others are demanding keeping UK membership of the single market.

Divisions over the negotiating strategy among the public also do not facilitate compromise on this issue among the main political forces. According to a YouGov study from mid-June 2017, 43% of UK citizens want the government to continue talks on its current negotiation terms, 23% want it to reconsider the priorities and seek a softer Brexit, 17% want to hold another referendum on an EU exit, and 7% want the government to abandon Brexit completely and remain a member of the European Union.

Conclusions. The outcome of the recent parliamentary elections in the UK could become a pretext for a broader debate in parliament over the UK position in its talks with the EU. During this debate, May's government could soften its position, which would increase the chance of closer UK-EU relations after Brexit. In the context of its now weak majority in the House of Commons, if the Tories forge ahead with a version of Brexit that does not include the opposition it may lead to the failure of the ratification process of the withdrawal agreement. This is the no-deal scenario and would be the hardest version of a hard Brexit. In it, the EU treaties would no longer apply to the United Kingdom and the country would revert to trading with the Union on WTO terms. That would result in huge costs to the UK.

As long as there is no consensus on the expected results of the negotiations among the British, it will be difficult to make clear progress in the talks with the EU. The first phase of negotiations will last until autumn. This gives the government some time to rethink its position on future relations with the EU. The British government must consider the EU's red lines—the indivisibility of the four freedoms (free movement of goods, capital, services, and labour) and the bloc's objection to any sectoral participation in the single market.

Given the complicated political situation in the UK, a transitional agreement regulating relations between the EU and UK after Brexit is likely at the beginning of the negotiation process. In its Brexit guidelines, the EU has confirmed its readiness to agree to such a solution.