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## Constitutional Affairs

### *EP's AFCO Committee holds Brexit Workshop*

On Tuesday 21 March, the EP's Committee on Constitutional Affairs (AFCO) hosted a workshop on "*The Impact and Consequences of Brexit on Vested Rights of EU citizens and British citizens living in the EU27*". The seminar was run in conjunction with Parliament's Policy Department on Citizens' Rights and Constitutional Affairs and formed part of AFCO's ongoing work into *Brexit: the Constitutional Relationship of the United Kingdom with the European Union*.<sup>1</sup> Tuesday's workshop brought together **Antonio Fernández Tomás**, Professor of Public International Law, and **Diego López Garrido**, Professor of Constitutional Law, from the University of Castilla-La Mancha, Spain, who presented the conclusions of their study on this subject, which had been carried out at the EP's request. **Danuta Hübner** (EPP, Poland), Chair of AFCO, opened the session and noted that Brexit would continue to be a mainstay of the Committee's agenda. Now that the UK Government had given confirmation that the formal Article 50 withdrawal process would begin on Wednesday 29 March, Hübner said that AFCO would have an important role to play in scrutinising many of the key topics that the upcoming negotiations would "undoubtedly" raise.

### Opening remarks

**Antonio Fernández Tomás** took to the floor and began by defining vested rights as being "inherit on individuals who lay in a given legal system" whereby, after a change in said legal system, they were maintained under new rules. For him, whether or not EU citizens living in the UK or British citizens living in EU27 countries could maintain their current rights and liberties would come down to "pure case law". Fernández Tomás stated that such rights were not independent of the Treaty that provided for them. Should the Treaty be disappplied, those rights would cease to exist. In his view, it was legally inaccurate to refer to "vested rights" in the context of Brexit as, when the time came for Britain to formally withdraw from the Union, the two entities would be "charting a new legal course" together, not simply amending the existing system. For Fernández Tomás, the best means of providing a sense of legal clarity for citizens on both sides was to ensure that the issue was given a clear position of priority within the upcoming Article 50 negotiations. Without doing so, it would be "extremely complicated" to resolve any of the "inevitable" legal cases that would be brought forward post-Brexit, as the UK hadn't committed a crime in leaving the EU, while the EU had not broken any rules in withdrawing the application of Union *acquis* in the UK. For him, International Court of Justice thinking was in line with this and, to this end, the 1969 Vienna Convention on the Rights of Treaties already established that the withdrawal of a State from a particular accord did not affect what was in a given treaty before the conclusion of said state's departure. In short, Fernández Tomás noted that no vested rights would stand alone following Brexit unless the EU-UK withdrawal agreement made specific provisions for them. In the meantime, neither side was legally allowed to derive from Union law until a withdrawal agreement had been formally finalised. To conclude, it was in "everyone's interest" for an agreement to be reached within the two-year period outlined by Article 50 that made "clear provisions" for maintaining a set of circumstances that "as closely as possible" mirrored the current status quo.

**Diego López Garrido** was less over-arching in his address and focussed his legal analysis on existing Union law vis-à-vis the Brexit process. For him, however, it was essential to ensure that reaching agreement on citizens' rights was the "number one" issue from the Article 50

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<sup>1</sup> Full details of AFCO's ongoing Brexit-related work can be found here - <http://www.europarl.europa.eu/committees/en/afco/subject-files.html?id=20170131CDT01101>

process and not, as others had suggested, settling economic debts or fostering a future free trade deal. López Garrido was clear that protecting citizens' rights post-Brexit was "mutually beneficial". He cited figures of 3.2 million EU27 citizens living in the UK and over 1 million Brits living in other EU Member States as proof that negotiators on both sides would be dealing with "big numbers". For López Garrido, there was a great deal of uncertainty among many European citizens that had to be relieved and both the rights of residence and the ability to move freely within the Union had to be addressed "as a matter of urgency". He did, however, echo previous remarks that it was legally incorrect to talk about vested rights because the body of Union law from which they originated would no longer be applicable to the UK post-Brexit. Unless a solution was found during Article 50 negotiations, such rights would cease to exist "immediately". López Garrido noted that the EU Treaties did not allow for transitional provisions and, in order to minimise the number of people making legal challenges because of perceived breaches of their rights, he recommended that the UK's EU withdrawal agreement mirrored "as closely as possible" the current situation, so as to operate on a premise of reciprocity and cover a "broad panoply" of potential eventualities. Furthermore, López Garrido suggested that one further issue that ought to be kept in mind was the fact that there was the potential for imbalances to arise between the rights of UK and EU27 citizens post-Brexit. The reason for this was simple. While residency and freedom of movement rules among EU Member States were administered at Union level - through progressive harmonisation and the Charter of Fundamental Rights - the same would not be true of the UK post-Brexit. As such, for López Garrido, one could have a situation whereby UK citizens would enjoy various "benefits" of living in EU27 countries yet EU27 citizens living in post-Brexit Britain may be subjected to a mooted British Bill of Rights and no longer enjoy various legal protections offered by existing EU measures. In short, uncharted waters were approaching and the entire Brexit process was going to be "complicated".

#### Debate

**Ramón Jáuregui Atondo** (S&D, Spain) took from the presentations that was, in fact, no such thing as acquired rights and, as such, demanded that agreement on them be reached "as soon as possible" once the Article 50 process began. His principle concern, however, was what would happen to citizens on "both sides of the fence" in the event of there being no agreement reached between UK and EU negotiators during the two-year period provided for in the Treaties. For Jáuregui Atondo, this situation was not outwith the realms of possibility, given that UK Prime Minister Theresa May had recently suggested that the UK would be better off with "no deal rather than a bad deal". **Maite Pagazartundúa Ruiz** (ALDE, Spain) said that anyone who suggested that little changed post-Brexit was "living a fallacy". For her, it created "huge problems", with at least 4 million citizens facing the very real prospect of losing rights that they had come to take for granted. She wondered, however, if in the event of no agreement being reached during the Article 50 timetable, the UK could negotiate these bilaterally post-Brexit. In her view, this could create problems for internal Union cohesion if some Member State enjoyed a better post-Brexit relationship with the UK than others.

**Barbara Spinelli** (GUE/NGL, Italy) said that the issue of vested rights had to be dealt with "immediately" and suggested that many people in England now regretted voting to leave the EU because the liberties that they enjoyed as Union citizens had not been spoken about during the referendum campaign. **Richard Corbett** (S&D, UK) said that it was clear to him that, away from an agreement being reached in UK/EU withdrawal discussions, the future rights of European citizens on both sides had very little to rely upon. He begged the question, however,

whether or not the EU27 were even legally entitled to agree among themselves which rights to grant to British citizens post-Brexit given that the rights of third nationals within EU Member States was, in fact, a national competence. Corbett also suggested that it would be worthwhile to glean further legal insight into whether or not reaching a bespoke deal for citizens of parts of the UK that had voted to remain - Scotland and Northern Ireland - was legally untenable or just “a political non-starter”. **Diane James** (NI, UK) suggested that much of what she had heard throughout the presentations was “conjecture” and said that neither project fear nor project revenge would reap rewards ahead of Britain’s withdrawal discussions. One point of particular interest for her, however, was what the future held for Gibraltar and its relations with both the UK and EU given its unique attributes.

#### Closing remarks

**Antonio Fernández Tomás** said that, while steps could be taken to extend the Article 50 process, doing so was unlikely to happen. He also suggested that allowing the UK to take a bilateral approach with Member States on a one-to-one basis was not in the interest of the EU27 as it had the potential to create divisions in the Union bloc. Fernández Tomás welcomed efforts made by the UK House of Lords to ensure that within three months the British Government put in place measures to guarantee the rights of EU27 citizens currently living in the UK, but stated that they, in fact, did not have the requisite legal grounding. In his view, those citizens would have their rights guaranteed by Union law three months after the triggering of Article 50 and, as such, the more important matter was what would be included in the following week’s Article 50 invocation and the negotiations to come. **Diego López Garrido** suggested that there was much uncertainty to come in the weeks ahead. For him, it was still unclear as to whether or not the EU-UK withdrawal arrangements would be negotiated in sequence or alongside the future relations accord. He did, however, support the argument that the UK had to negotiate with the EU as a whole and stated that Brussels had to be “crystal clear” on this. For López Garrido, conducting discussions in any other format was advantageous to the UK and he voiced his hope that soon-to-be released Council negotiating guidelines affirmed this perspective. In closing, López Garrido labelled Brexit a “lose-lose” situation, but made it clear that, in his view, the UK would be the biggest loser. For him, British citizens were losing “cherished rights and liberties” in 27 other countries - something that, in time, he believed Brits would come to regret. In the meantime, however, the most important thing was to “keep calm, avoid uncertainty and progress” towards finding an agreement that made the best of the situation that everyone now found themselves in.

*EP's AFCO Committee discusses the Treaty Provisions on National Parliaments*

On Monday 20 March, the EP's Constitutional Affairs (AFCO) Committee held a Workshop on *Democratic Complementarity: Implementing the Treaty Provisions on National Parliaments*. The Workshop took place ahead of an Inter-parliamentary Committee Meeting, scheduled for Tuesday 2 May, on the implementation of Treaty provisions concerning national Parliaments. At the Workshop, three academics presented their research papers, commissioned by the EP's Policy Department for Citizens' Rights and Constitutional Affairs, before a short debate with MEPs.<sup>2</sup>

Summaries of research papers

**Dr Olivier Rozenberg**, Associate Professor, Centre d'Études Européennes, Sciences Po, summarised his study on *The Role of National Parliaments in the EU after Lisbon: Potentialities and Challenges*. Rozenberg's study specifically looked at the Treaty provisions regarding national Parliaments; the Early Warning Mechanism;<sup>3</sup> dialogue between national Parliaments and the European Commission; inter-parliamentary cooperation; the parliamentary dimension of budgetary and economic coordination; and the challenges raised by ongoing developments in EU legislative procedure.

Rozenberg's paper concluded that, despite the improvement in the justifications put forward by the Commission regarding the principle of subsidiarity, the Early Warning Mechanism had become "almost redundant", due to the reduction in the number of legislative proposals from the Commission in recent years. In contrast, Rozenberg saw political dialogue as a positive instrument, with over 4000 opinions sent to the Commission in the past decade and with no limitations on scope or timing. He then turned to two recent developments in the field of dialogue between the Commission and national Parliaments:

- The first was the "Green Card", a proposed method for national Parliaments to suggest a legislative initiative to the Commission. Here, Rozenberg felt that, despite the positive and proactive nature of the idea, the "Green Card" had so far failed to identify issues on which a sufficient number of chambers were united on;
- The second was the "Red Card", agreed by Member States during the UK's renegotiation of its EU membership in February 2016. If Chambers representing over 55% of the votes assigned to national Parliaments had issued a Reasoned Opinion against a legislative proposal within a 12-week period, the Council would discontinue consideration of that proposal, unless it was amended to accommodate the concerns expressed in the Reasoned Opinions. However, the UK voting to leave the EU had meant this "Red Card" had not been introduced.

Turning to inter-parliamentary cooperation, Rozenberg noted that the forums for this had become numerous and now included COSAC, the Inter-Parliamentary Conference (IPC) on CFSP and CSDP, the IPC on Stability, Economic Coordination and Governance (SECG), and the forthcoming Joint Parliamentary Scrutiny Group on Europol. In his view however, the divergence of opinions between national Parliaments, the institutional competition between national Parliaments and the EP, and the lack of real debate within the Conferences had to date

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<sup>2</sup> The papers are available at <http://www.europarl.europa.eu/committees/en/afco/events-workshops.html?id=20170314WKS00421>

<sup>3</sup> The possibility for national chambers to issue a Reasoned Opinion should they judge that a legislative proposal does not comply with the principle of subsidiarity.

hindered genuine and productive cooperation. To remedy this, he recommended modifying the Rules of Procedure of the conferences in order to make them more effective and efficient; dedicating additional resources to inter-parliamentary coordination; improving the timing of meetings and conferences; conducting meetings and conferences in a more interactive way; and using the most up-to-date technological advances, such as videoconferencing.

Regarding the field of budgetary and economic coordination, Rozenberg was pessimistic about the capacity of the IPC on SECG to establish genuine democratic control over the economic governance of the EU, and especially of the Eurozone. Therefore, his paper put forward options such as a Eurozone Parliament; a Eurozone Assembly; a Euro area component in the IPC on SECG; or a Euro area subcommittee within the EP.

The second part of Rozenberg's presentation focussed on four problems faced by national Parliaments and offered some recommendations on how to overcome them:

- How to associate opposition parties to EU activities and the inter-parliamentary network: here, Rozenberg recommended the promotion of best practices at the domestic level; a pluralist composition of any parliamentary delegation; and minority opinions sent to EU institutions;
- How to avoid inter-parliamentary cooperation becoming a “useless talking shop”: Rozenberg recommended committee-based compositions of parliamentary delegations; renewed working methods; and clever timing of the conferences;
- How national Parliaments could properly supervise a legislative procedure that regularly lasted nearly two years: Rozenberg felt that the solution was to stop solely focussing on the early period of legislative bargains;
- How national Parliaments could improve such an unclear decision-making process: in Rozenberg's opinion, there had to be more transparency regarding trilogue meetings; more transparency regarding Council activities; and a better way of connecting the future common legislative data base of the three institutions with IPEX.

**Dr Diane Fromage**, Assistant Professor in EU Law, University of Utrecht, had produced a briefing paper on *Subsidiarity as a means to enhance cooperation between EU Institutions and national Parliaments*. Her paper had concluded that rather than the introduction of the principle of subsidiarity in the 1992 Maastricht Treaty, it was the creation of the Early Warning Mechanism in the 2009 Lisbon Treaty that had enhanced cooperation between national Parliaments and the EU institutions. She felt that the Early Warning Mechanism had been “usefully complimented” by the political dialogue initiative; whereas the Early Warning Mechanism had strict limitations in terms of scope, timing and threshold, an opinion under the political dialogue could be sent on any document and at any time. The drawback was that it was a purely informal mechanism.

The Early Warning Mechanism had created some positive outcomes: it had granted more visibility to national Parliaments; it had provided the impetus to enhance inter-parliamentary cooperation between national Parliaments and for national Parliaments to carry out more focussed scrutiny. Fromage also felt that it had enhanced the relationship between national Parliaments and their governments.

Despite this, challenges remained. The Early Warning Mechanism had a very narrow scope, limited as it was to subsidiarity, a principle which lacked a common definition. In addition, the period for issuing a Reasoned Opinion was limited, national Parliaments relied on one another

to reach the required threshold for a “Yellow Card”, and even with a “Yellow Card” triggered, the Commission could still proceed with the proposal. National Parliament intervention came too late in the process to impact the proposal in its drafting stage, but too early to influence amendments.

Fromage concluded by suggesting improvements to the process. These included a common format for Reasoned Opinions; the Commission being more flexible as regards the threshold and timeframe for Reasoned Opinions; a continued focus on the quality of answers from the Commission; and giving Reasoned Opinions more visibility. She also called on the European Parliament to consider producing an Annual Report on the impact of Reasoned Opinions from national Parliaments on the legislative procedure.

**Dr Luís Heleno Terrinha**, Professor, Porto Faculty of Law, Catholic University of Portugal, had produced a briefing paper on *The legisprudential role of national Parliaments in the European Union*. The key findings from his paper were that:

- national Parliaments’ contributions to the EU law-making process should focus on the “rationality” of the Commission’s draft legislative proposals;
- the Early Warning Mechanism should not be limited to the principle of subsidiarity, but should extend to the principles of conferral and proportionality;
- the “Green Card” would be a significant way to channel the knowledge and opinions of national Parliaments into the legislative procedure at EU level. However, national Parliaments should not be assigned a right of initiative;
- the so-called “Red Card” would strengthen the role of national Parliaments as regards the principle of subsidiarity review, but it would require much stronger inter-parliamentary cooperation and would also require require an amendment to the Treaties;
- the Political Dialogue procedure could be enhanced to acknowledge the legisprudential role that national Parliaments have, without amending the Treaties.

#### Debate

**Markus Pieper** (EPP, Germany) felt that the debate on subsidiarity was just “not happening” in national Parliaments. He said that a total of only three “Yellow Cards” was a “woeful result”, and he therefore asked what could be done to improve the process without amending the Treaties. It seemed to **Pedro Silva Pereira** (S&D, Portugal) that, unlike the “Yellow Card” and “Red Card”, the “Green Card” represented a constructive intervention from national Parliaments, and he asked the three academics if that was really the case. Silva Pereira expressed concern that it could be used to block legislation or as a tool for anti-European measures coming from national Parliaments. He then asked about the consistency in giving such an own-initiative right to national Parliaments when the EP did not have such a possibility.

**Paulo Rangel** (EPP, Portugal), rapporteur for the forthcoming AFCO Report on the implementation of Treaty provisions concerning national Parliaments, welcomed the proposals for greater flexibility in issuing Reasoned Opinions. On Rozenberg’s point concerning the role of the opposition parties in Reasoned Opinions, Rangel felt that there should be a procedure where an Opinion could have a side letter of dissenting views, like in court. He also felt that the rights of national Parliaments were dependent on logistical conditions; the 8-week period was quite restrictive. Rangel felt that IPEX had a major role in information sharing and provision, and favoured its development. He also called for a “European Week” across the 28

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Member States, where all national Parliaments would be focussed on European affairs in the same week. Finally, Rangel said that he wanted to draw the attention of national Parliaments to the fact that they had a "big tool" in scrutinising their own national governments.

Committee Chair **Danuta Hübner** (EPP, Poland), said that there had been a huge effort from the Commission to ensure that any legislative proposal respected the principle of subsidiarity, and this explained why so few "Yellow Cards" had been triggered. Hübner noted that subsidiarity was normally seen as defending the national state against the over-activity of the EU; however, it went both ways, and there was nothing stopping national Parliaments calling for EU-level action to tackle inefficiencies across Member States. Hübner concluded her remarks by calling on national Parliaments to focus on implementation, and noting that the 8-week period began once the final translation was completed; those national Parliaments who had a translated text first had much longer than 8 weeks.

#### Closing remarks

In short closing remarks, **Rozenberg** repeated his view that the political dialogue was a more effective tool than issuing Reasoned Opinions. Responding to Rangel, he said that a "Green Card" could indeed be used as a negative tool and to constrain the legislator, but he described it as a "lightweight" procedure. **Fromage** felt that the three "Green Cards" issued so far, on food waste, corporate social responsibility and the Audiovisual Media Services Directive, had been successful, in that they had highlighted issues and put them on the Commission's agenda. She did not think that the "Green Card" would be used as something negative, especially if it was seen as an invitation for the Commission to look at something. **Terrinha** felt that keeping the "Green Card" as a soft mechanism would prevent it being used to block legislation.

## Justice and Home Affairs

### *MEPs discuss Danish Europol Agreement*

On Thursday 23 March, MEPs on the EP's Committee on Civil Liberties, Justice and Home Affairs (LIBE) discussed the new Europol Regulation, and the agreement regarding Denmark's association with Europol, with the Council Presidency, Commission and Europol.

### Background

On 3 December 2015, Denmark held a referendum on whether to opt-in to EU justice and home affairs (JHA) policies. 53% of citizens voted against opting in, meaning, in practical terms, that Denmark would remain exempt from large parts of JHA policies, including participation in Europol. Following the vote, informal discussions began between the Commission and Danish officials as to how Denmark could remain associated with Europol. On 15 December 2016, a Joint Declaration by the Commission, European Council and Danish Government was published, setting out the terms of an agreement to "minimise the negative effects of the Danish departure from Europol, following the referendum in Denmark on 3 December 2015".

At a LIBE Committee meeting on Tuesday 24 January, the process for the Danish agreement entering into force was further outlined.<sup>4</sup> Two separate legislative procedures were required: the first a Council Implementing Decision to add Denmark to the list of third countries with which Europol could conclude Operational Cooperation Agreements; and the second the conclusion of the Operational Cooperation Agreement itself between Europol and Denmark. On Thursday 9 February, the LIBE Committee signalled its agreement to adding Denmark to the list of third countries and organisations with which Europol can conclude agreements, and on 14 February the EP voted in plenary to approve the draft Council Implementing Decision. The Council formally agreed the Decision on 17 February.

### Opening remarks

A representative of the Maltese Government, representing the Council Presidency, began by highlighting the "important" role Denmark played in the EU's internal security. He then turned to the Operational Cooperation Agreement between Europol and Denmark. Negotiations had been ongoing since the Council had agreed the Implementing Decision, and in mid-March, the Council had received the draft Operational Cooperation Agreement between Denmark and Europol, sending it to the EP on Tuesday 21 March. He noted that this Agreement had some new elements compared to typical Europol Cooperation Agreements with third countries, but would leave it to Commission and Europol representatives to go into more detail. He concluded by emphasising that the Operational Cooperation Agreement would not and could not make Denmark a full member of Europol, but would only ensure the possibility for future cooperation between Denmark and Europol.

**Victoria Amici**, Head of Unit, Police Cooperation and Information Exchange, in the Commission's Directorate-General for Home Affairs (DG HOME), said that the December 2016 Joint Declaration had set out some important conditions. These were: Denmark's continued membership of the EU and the Schengen area; Denmark's obligation to fully implement the Data Protection Directive on police matters by 1 May 2017; and Denmark's agreement to the application of the jurisdiction of the European Court of Justice (ECJ) and of the competence of the European Data Protection Supervisor. Amici then outlined in further

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<sup>4</sup> See Brussels Bulletin No. 529

detail how these conditions had taken shape in the draft Operational Cooperation Agreement. Regarding data protection and the EPDS's role, Article 10 (4) (c) of the Agreement made a "crucial reference" to the relevant data protection provisions contained in the new Europol Regulation. This meant that Denmark and Europol would be bound in their relationship by the provisions in the Europol Regulation setting out data protection safeguards. There was only one aspect where Denmark's position differed from that of the other EU Member States; its non-participation in the cooperation board.

Turning to the jurisdiction of the ECJ, Amici said that the overriding goal was to secure a uniform application and interpretation of the Denmark Europol Agreement. The draft text provided that the ECJ had jurisdiction on questions over the validity and interpretation of the Agreement raised by Danish Courts and those relating to Denmark's compliance with the Agreement. The ECJ was also competent on issues of judicial redress against a decision of the EPDS and competent to rule on matters concerning Europol's liability.

She concluded by mentioning the assessment provision clause (Article 25), a part of the text reinforced following the opinion of the EP in February.<sup>5</sup> In the amended text, the Commission would be required to carry out an assessment covering the operational effectiveness of the Agreement as well as Denmark's compliance with the data protection provisions contained therein, by 31 October 2020. Depending on the results of that assessment, the Commission could then submit a recommendation to the Council for a Decision authorising the opening of negotiations on an EU-Denmark Agreement that would replace the Europol-Denmark Agreement.

A representative from Europol said that the Agreement reflected the unique position that Denmark found itself in. From 1 May 2017, Denmark would still be an EU Member State but not party to the new Europol Regulation, and would therefore be treated as a third country with which Europol had an Agreement. Denmark's specific position was reflected by the fact that it would have to pay a financial contribution to Europol. In addition, the country would second cost-free national experts to Europol, to staff the 24/7 service dealing with Danish requests; it would have to accept the powers of the ECJ and the EPDS in relation to the Agreement; and it would have to apply the relevant EU data protection framework. These additional conditions, which other third countries were not subject to, would be offset by "Norway-plus" measures. Denmark would benefit from a 24/7 service with Danish-speaking experts based in The Hague or Copenhagen; Denmark would become an observer in Europol's Management Board and its subgroups; Denmark would remain associated to existing analysis projects that it was already participating in; and it would be informed directly of any information concerning Denmark.

#### Debate

**Agustín Díaz De Mera García Consuegra** (EPP, Spain), rapporteur on the Europol Regulation, said that he did not have much to add. He noted that he would present his draft Report on the Operational Cooperation Agreement on 30 March, with the vote in Committee on 11 or 12 April and the vote in EP plenary scheduled for 27 April. **Anders Primdahl Vistisen** (ECR, Denmark) and **Morten Helveg Petersen** (ALDE, Denmark) welcomed the draft Operational Cooperation Agreement, although Vistisen expressed his concerns about sunset clauses, external evaluation mechanisms, or "undue pressure" being put on Denmark.

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<sup>5</sup> The EP Resolution called for the Operational Cooperation Agreement to expire five years after its entry into force. After the five years, either full Danish membership of Europol or the conclusion of an international agreement should be pursued.

## Other News

### *Irish Senate establishes Brexit Committee*

On Monday 20 March, it was announced that the Irish Senate (Seanad Éireann), had established a Committee on *Withdrawal of the United Kingdom from the European Union*. The Committee has been appointed to consider the implications for Ireland of the Brexit process and is mandated to present its findings to the Senate by 30 June 2017. Following its constitution, the Committee then held its first full meeting on Thursday 23 March to discuss issues pertaining to the Common Travel Area with officials from the Department of Justice and Equality.

### *Legal Affairs MEPs approve Subsidiarity and Proportionality report*

On Tuesday 21 March, Members on the EP's Legal Affairs (JURI) Committee adopted their Report on the *Annual Report 2014 on Subsidiarity and Proportionality*.<sup>6</sup> Drafted by British MEP Sajjad Karim (ECR), the Report forms part of an annual process that ensures the Commission is correctly conducting its business in line with Treaty obligations to actively engage national Parliaments in the European decision-making process. The report will now be put to a vote by the whole House at a forthcoming plenary session in Strasbourg.

### *Dutch Tweede Kamer agrees Brexit Report*

On Tuesday 21 March, the Committee on European Affairs of the Dutch Tweede Kamer (House of Representatives) agreed a report on the UK's exit from the European Union.<sup>7</sup> The Report's conclusions note that: guaranteeing the existing rights of Dutch (and other EU) citizens in the UK is a top priority and should be done as soon as possible; the EU27 should preserve a close trading relationship with the UK, and the negotiations should include a focus on the conclusion of a new trade agreement; the Dutch Parliament should be closely involved in the negotiations; the consequences of Brexit for the EU's long-term budget should be investigated; and the UK's exit from the Euratom Treaty should be separate from Brexit negotiations.

### *European Council summit to agree Brexit guidelines*

On Tuesday 21 March, European Council President, Donald Tusk, announced that he had called a meeting of the EU27 Heads of State or Government for Saturday 29 April to adopt Council guidelines for upcoming Brexit negotiations. The statement followed a Downing Street announcement the previous day that the UK would invoke Article 50 and trigger the formal withdrawal process for leaving the Union on Wednesday 29 March. Ahead of the EU27 Council meeting, the EP is expected to adopt its own Brexit Resolution at the 3-6 April plenary session in Strasbourg. Coordinating its work through the Conference of Presidents (comprising President Tajani and Chairmen of the EP's 8 political groups), Brexit Coordinator Guy Verhofstadt (ALDE, Belgium) and the Constitutional Affairs (AFCO) Committee, Parliament must give its consent by simple majority to the outcome of the withdrawal talks between the UK and EU27 Member States.

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<sup>6</sup> The JURI Draft Report can be found here - <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fNONGML%2bCOMPARL%2bPE-587.620%2b01%2bDOC%2bPDF%2bV0%2f%2fEN>

<sup>7</sup> The full Report will be available online in English by the end of March. The Report in Dutch is available at <https://www.tweedekamer.nl/nieuws/kamernieuws/rapporteurs-presenteren-aanbevelingen-over-brexit>

*Barnier provides Article 50 warning to Committee of the Regions*

On Wednesday 22 March, Michel Barnier, Chief Negotiator in charge of the Commission's special *Taskforce for the Preparation and Conduct of the Negotiations with the United Kingdom under Article 50 of the TEU*, told a meeting of regional elected officials meeting in Brussels that the UK would face complicated "human, economic, financial, legal and political consequences" should it fail to reach an agreement with EU27 Member States on its departure from the EU.<sup>8</sup> Barnier, addressing Members of the Committee of the Regions, warned that a disorderly Brexit would lead to "total uncertainty" for citizens, breakdowns in trade links for consumers and businesses and chaos at border posts as customs control were re-introduced. Barnier stressed that his watchword for the negotiations would be "citizens first" and that his other top priority would be reaching a quick settlement on the UK's outstanding financial obligations to the EU. In his words, "there is no price to pay to leave, but we must settle accounts".

*EP's PECH Committee discusses Brexit*

On Wednesday 22 March, the EP's Committee on Fisheries (PECH) held an exchange of views on Brexit. Each EP Committee has been invited to submit "key messages" to the Conference of Presidents (the EP's political group leaders) ahead of the 3-6 April plenary session in Strasbourg, where the whole Parliament will adopt its Resolution on Brexit. The debate in PECH Committee covered issues such as market access, common management, quotas and the impact of Brexit on other EU countries, but some MEPs also touched on the draft PECH contribution as prepared by Committee Chair Alain Cadec (EPP, France). **Ian Hudghton** (Greens/EFA, UK) took issue with the draft PECH Committee contribution, and noted that his political group had not supported it. **Diane Dodds** (NI, UK) found herself in the "unusual" position of supporting a Scottish Nationalist, and she stressed the importance of language and tone ahead of the negotiations. The only other UK MEPs that spoke were Mike Hookem and David Coburn, both UKIP. Hookem rejected the positions of other political groups on the contribution and towards Brexit, whilst Coburn gave his view that the UK fishing industry had been "sacrificed" by the UK Government when joining the EU.

*French Constitutional Court delays decision on CETA*

On Wednesday 22 March, the French Constitutional Court decided to delay its decision on whether the EU-Canada Comprehensive Economic and Trade Agreement (CETA) is legally compatible with the French constitution. In February, over 100 French politicians referred the deal to the Court and asked for an opinion on its legality with French law. The Court would normally provide such an opinion within a month, but has decided to take more time on the case and to receive further expert input. The final decision is now expected in early summer.

*Commission registers two European Citizens' Initiatives on the rights of EU citizens*

On Wednesday 22 March, the Commission registered two European Citizens' Initiatives (ECIs) on the rights of EU citizens after Brexit. It also rejected one on preventing Brexit.<sup>9</sup> The European Citizens' Initiative (ECI) was introduced in the 2009 Lisbon Treaty, and aims to give citizens a greater role in participating in the development of EU policies. If any proposal registered under the ECI gathers over one million signatures from at least seven EU Member

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<sup>8</sup> A full recording of Barnier's address can be found here - <http://ec.europa.eu/avservices/video/player.cfm?ref=1135825>

<sup>9</sup> See Commission press release at [http://europa.eu/rapid/press-release\\_IP-17-649\\_en.htm](http://europa.eu/rapid/press-release_IP-17-649_en.htm)

States within a year, the Commission must set out whether or not it intends to act on that proposal and the reasons for its decision. The first of the two ECIs registered on 22 March calls on the Commission to separate EU citizenship from Member State nationality. The second calls on the Commission to guarantee the rights of all EU citizens to move and reside freely within the EU. The rejected proposal called on the Commission to stop the UK leaving the EU. The Commission's decisions were based purely on the legal admissibility of the proposed initiatives.

*60th anniversary celebrations take place in Rome*

On Friday 24 and Saturday 25 March, many leading European figures will gather in Italy to celebrate the 60th anniversary of the signing of the Treaty of Rome; the document that gave birth to the modern-day European Union.<sup>10</sup> On Friday, EP President, Antonio Tajani (EPP, Italy) will lead a Parliament Delegation to meet Italy's Prime Minister, Paolo Gentiloni, and President, Sergio Mattarella, before being joining EU Heads of State or Government, European Council President Donald Tusk and European Commission President Jean-Claude Juncker for an audience with Pope Francis at the Vatican. On Saturday, European leaders will take part in the official 60th anniversary ceremony. EU leaders are expected to agree the "Rome Declaration", setting out a vision for the EU's post-Brexit future.

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<sup>10</sup> Further information relating to 60th anniversary celebrations can be found here - <http://www.europarl.europa.eu/news/en/news-room/20170320STO67752/the-eu-turns-60-anniversary-of-the-treaty-of-rome>

## Calendar

*Maltese Presidency: forthcoming European Council meetings (January-June 2017)*

29 April: **European Council of EU27 to agree Brexit negotiating guidelines**

22-23 June: **European Council**

*Maltese Presidency: forthcoming inter-parliamentary meetings in Valletta and Brussels (January-June 2017)*

23-24 March: Chairpersons' Meeting of the Committees on Social Affairs

6-7 April: Chairpersons' Meeting of the Economic and Environmental Affairs Committee

26-28 April: Inter-parliamentary Conference for the Common Foreign and Security Policy (CFSP) and the Common Security and Defence Policy (CSDP)

28-30 May: COSAC Plenary Meeting

*Forthcoming inter-parliamentary Committee meetings (ICMs) in the European Parliament*

2 May: ICM: "The implementation of Treaty provisions concerning national Parliaments" (organised by the EP's Constitutional Affairs Committee)

(tbc): ICM: "State of play of the CFSP/CSDP" (organised by the EP's Foreign Affairs Committee)

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