

The European Parliament in the Brexit Process: Leading Role, Supporting Role or just a Small Cameo?¹

Monika Brusenbauch Meislova
Masaryk University, Brno, Czech Republic²

Introduction

The paper researches the role of the European Parliament (EP) in the politically-charged Brexit process and outlines the opportunities and challenges that it implies. The EP's role is explored within four specific dimensions: 1) constitutional dimension; 2) procedural dimension; 3) party-political dimension and 4) national-interest dimension. Within the constitutional dimension, the analysis focuses firstly on how the EP has reacted institutionally to Brexit (i.e. in terms of setting up special committees or working groups) and secondly on the relationship between the EP and other EU institutions, reflecting on the interinstitutional balance and dynamics in the withdrawal process. The procedural dimension concentrates on the extent to which the EP is able to influence the withdrawal process as opposed to only giving or withholding its consent to any final deal negotiated between the British government and the European Commission. In this context, attention is paid also to the balance between the EP's formal and informal role(s) in the Brexit process. Within the party-political dimension, the paper discusses the partisan influence, exploring if and how party-political ties impact EP's performance vis-à-vis Brexit. Finally, the national-interest dimension addresses the extent to which MEPs are (or are not) split along national lines when it comes to taking positions on the UK's withdrawal from the EU.

1 Constitutional Dimension

The European Parliament's role in the Brexit process stems from its constitutional mandate and functions vested in it by the EU Treaties (Stoll 2017, p. 13). As is widely known, the procedure for an EU member state to withdraw from the European Union, if it should wish to do so, is laid down in the Article 50(TEU). The Article 50 recognises a specific role for the EU's parliamentary body, according to which the Council needs to obtain its consent before it can

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² Contact information: brusenbauch.meislova@email.cz

conclude the withdrawal agreement. Ultimately, it is this right to withhold consent to the final agreement that offers the EP political leverage to influence the negotiations, effectively making it a veto player (European Parliament 2018a). With the EP's consent being by no means automatic, it represents a primary source of parliamentary influence on Brexit negotiations. Indeed, the EP has not been afraid to exercise its power of veto and refuse to ratify agreements that did not reflect its preferences, such as the Anti-Counterfeiting Trade Agreement (ACTA) or the Terrorist Finance Tracking Program (TFTP) agreement (Armstrong 2016; De La Baume 2017b; Eckers 2015). Parliament's consent power is, however, not devoid of ambiguities, as it will mean a vote by 751 MEPs, including also the outgoing 73 members from the UK.

What is more, the EP must be kept regularly informed about the state of play of the negotiations. More specifically, the *Framework Agreement on relations between the European Parliament and the European Commission* stipulates that "the Commission keeps the EP informed, and the Commission undertakes to take due account of what the EP says" (De La Baume 2017b). Within the Brexit context, the right to be informed was further elaborated in the statement of 15 December 2016 issued after the informal meeting of EU 27 heads of state or government which proclaimed that the European Parliament will be "closely and regularly informed" during all phases of the negotiations: "In particular, the Council presidency will be ready to inform and exchanges views with the EP before and after each meeting of the General Affairs Council" (European Council 2016). It also stated that EP representatives would be invited to the preparatory meetings (Sherpa meetings) ahead of European Council meetings (European Council 2016).

1.1 Brexit Coordinator and Brexit Steering Group

The European Parliament has appointed its own coordinator for the negotiations on the UK's withdrawal from the EU. At the 8 September 2016 meeting of the its Conference of Presidents (CoP), Guy Verhofstadt, Chair of ALDE group and former Prime Minister of Belgium, was given this role, with the CoP stressing "the importance of this decision as crucial to guaranteeing the Parliament's involvement throughout all stages of the future negotiations" (Carmona, Cîrlig and Sgueo 2017, p. 16). According to McGowan (2018, p. 82), by appointing Guy Verhofstadt the EP "signalled its intentions to be centrally involved as a 'key player' in Brexit negotiations". Needless to say, Verhofstadt's appointment attracted Europe-wide coverage.

Verhofstadt chairs the influential Brexit Steering Group (BSG) which was established to prepare and coordinate deliberations, considerations and resolutions on Brexit across the whole parliament. Working under the CoP's aegis, it comprises six members, all of them prominent parliamentarians: besides Verhofstadt, it is Elmar Brok (EPP), Roberto Gualtieri (S&D), Philippe Lamberts (Greens/EFA), Gabriele Zimmer (GUE/NGL) and Danuta Hübner (EPP). As we can see, the BSG comprises only five major political groups within the parliament, whilst excluding the less influential fringe groupings. The BSG regularly publishes comments on Commission position papers or UK position papers as well as statements on various issues. Verhofstadt is also accompanied by two lead representatives, Elmar Brok and Roberto Gualtieri, to Sherpa meetings where sensitive debates and political decision-making on Brexit take place.

1.2 Interinstitutional Dynamics

The EP does act independently and autonomously in the Brexit process, whereas simultaneously cooperating with other EU institutions. In the immediate aftermath of the British referendum, the EP expressed a strong preference for the European Commission to be the EU's primary negotiator, as it was the Commission that has traditionally lead complex negotiations such as those on accession treaties (European Parliament 2016). Indeed, it was already in the resolution adopted by the EP at a special plenary session as early as five days after the British referendum that the EP invited the Council to appoint the European Commission as a negotiator. In addition, there is a close alliance between the EP (and Verhofstadt in particular) on the one hand and the European Commission on the other. EU's chief Brexit negotiator, Michel Barnier, has been regularly invited to relevant CoP meetings and the EP's Conference of Committee Chairs, briefing leading MEPs before and after each round of negotiations (Carmona, Cîrlig and Sgueo 2017, p. 17; De La Baume 2017b).

Other EU institutions (and British authorities alike) frequently acknowledge the EP's key part in the Brexit process as well as its legitimate right to scrutinize it. Their acceptance of the validity of its role and arguments is corroborated in various types of pronouncements in which they increasingly identify the EP as a significant actor whose opinion must be taken into account. Most prominently, Michel Barnier has repeatedly underscored assembly's powers in Brexit, repeatedly claiming that nobody should underestimate it. As De La Baume and Herszenhorn (2017) opine, Barnier is "aware he needs to bring the Parliament with him and has carefully courted his former colleagues throughout the entire process" which goes to testify the symbolic recognition achieved by the European Parliament in the Brexit negotiations.

Moreover, the EP's position does not deviate from the European Commission's or the Council's one in any significant way. As will be seen further below, policy preferences of the three institutions are largely aligned on Brexit. Yet, there is one topic that the EP has been prioritizing and that, to a degree, distinguishes its position from the others and thus helps crystallize parliamentary identity vis-à-vis Brexit negotiations. From the outset, it portrays itself as a force for and guardian of British citizens' rights protection in the EU. Reflective of the level of interest that this issue has generated within the EP is not only the number of special statements on BSG's red lines on UK national's rights proposals but also the fact that a Task Force on the rights of EU citizens in the UK and UK citizens in the EU was set up within the EP by Sophie In 't Veld. The EP also initiated a meeting with the European Council to scrutinize "how far EU countries are in the preparations for U.K. nationals living in the EU" (De La Baume 2018).

2 Procedural Dimension

Based solely on the wording of the Article 50(TEU), the EP's formal role in Brexit is rather limited. Yet, instead of waiting till the end of the negotiation process and seek its retrospective approval (and taking a risk that it will be denied), the institutional practice has shifted in ways that give the EP influence over the mandate already during the negotiation phase (Armstrong 2016). Indeed, Brexit has been high on the assembly's agenda, with the EP devoting a great amount of attention to and exerting influence over withdrawal negotiations as they go along by utilising several existing procedures and practices in place.

Crucially, to set out the EP's position and provide ex-ante guidance, MEPs regularly adopt resolutions on Brexit. The first one was adopted on 5 April 2017, generally showcasing the EP's "uncompromising approach toward the UK" (De La Baume 2017a). Setting out the European Parliament's preconditions for its final approval of any UK-EU withdrawal agreement, the assembly's views largely echoed the sentiments of the Commission and the European Council on a wide range of matters, including sequencing of negotiations and the rejection of parallelism, citizens' rights and the Irish border (European Parliament 2017b).

The second resolution on the state of play of negotiations with the UK was adopted on 3 October 2017, specifying the EP's red lines and emphasising that the British government's progress on Brexit was insufficient. It underlined the same three key issue areas as the Commission and the Council, i.e. the financial settlement, the future rights of EU citizens and the Irish border (European Parliament 2017a).

The third resolution was voted on by a large majority on 13 December 2017, signalling the EP's support for the European Commission and the European Council and recommending the European Council to move on to the second phase of Brexit negotiations. In the Parliament's opinion, five outstanding issues needed to be fully addressed before a final withdrawal agreement might be approved, including citizens' rights and ensuring that commitments made with respect to Northern Ireland were fully enforceable (European Parliament 2017c).

The EP issued its fourth resolution on 14 March 2018 with an aim to feed into the guidelines on the framework for the future EU-UK relationship that the European Council adopted at its 22-23 March 2018 meeting. In this latest account of the parliament's thinking, the assembly suggested concrete proposals for the future EU-UK relationship. More specifically, it proposed an association agreement that would be based on four pillars: trade and economic relations, foreign policy, internal security and thematic cooperation (for instance, on cross-border research and innovation projects) (European Parliament 2018c).

Apart from resolutions, the EP can influence negotiations by what Danuta Hübner, the Chair of the Constitutional Affairs Committee, calls "specific sectorial resolutions" on various areas, such as budgetary issues, transport or citizens' rights (De La Baume 2017b). Indeed, given the complex and complicated nature of Brexit, an important component of EP's autonomy is development of high-quality, reliable and evidence-based in-house knowledge. MEPs therefore draw on the expertise of the parliamentary committees which have produced and commissioned a host of detailed expert studies which address Brexit implications in a broad range of policy areas and which benefit not only MEPs themselves but also the broader public. Interestingly, the knowledge-building process is much faster than, for instance, in the case of the Comprehensive Economic and Trade Agreement (CETA) negotiations (cf. Roederer-Rynning 2017)

3 Party-Political Dimension

As is apparent from Table 1, all four EP's resolutions on Brexit were passed with an overwhelming majority which points to a considerable degree of consensus within the assembly. Likewise, many MEPs that the author interviewed or had a correspondence with congruently referred to the unusually strong common accord that the parliament has been showing as far as Brexit and its proceedings are concerned.

Table 1: *Voting record of the EP's resolutions on Brexit*

	The total number of MEPs present	Outcome					
		Votes for		Votes against		Abstentions	
		Absolute numbers	Relative share (% of the present MEPs)	Absolute number	Relative share (% of the present MEPs)	Absolute number	Relative share (% of the present MEPs)
Resolution 04/2017	699	516	73,8	133	19,0	50	7,2
Resolution 10/2017	678	557	82,1	92	13,6	29	4,3
Resolution 12/2017	686	556	81,1	62	9,0	68	9,9
Resolution 03/2018	705	544	77,2	110	15,6	51	7,2

This said, however, MEPs are not unanimous in their approach to Brexit, far from it. Views on Brexit naturally vary widely across the chamber which is evident, more often than not, in the EP's plenary sessions. Some have even indicated that it is its diverse political makeup that makes the EP an unpredictable player in the approval process (Casert and Moulson 2016).

Let us now have a closer look at MEPs' voting behaviour during roll call votes from the plenary sessions during which the four resolutions on Brexit were debated and voted on. By far the strongest opposition against the EP's Brexit resolutions has come from the ENF group, with 94 percent of its members rejecting the first and fourth resolution and 86 percent voting against the second and the third one. Non-Inscrits (MEPs not sitting in any of the recognized political groups) rank a distant second, rejecting the resolutions on average by 51,2 percent of their "members", followed closely by the EFDD group (with 50,6 percent of its delegates voting on average against the resolutions). The opposition coming from the ECR group has been distributed less evenly, ranging from 75 percent of its delegates voting against the first resolution over 45 percent in case of the fourth and 38 percent in case of the second resolution to mere 3 percent in case of the third one. By contrast, none of EPP or ALDE MEPs has ever voted against any of the four resolutions and also S&D (with one member [0,5 percent] voting against one of the resolutions) and the Greens-EFA (with 4 percent voting against the first resolution and 2 percent against the fourth one) groups have stood strongly behind the resolutions.

The main ideological divide within the EP on Brexit therefore seems to be between those political groups represented in the BGS (EPP, S&D, ALDE, Greens/EFA and GUE/NGL) and those outside it (ECR, EFDD, ENF and NI). Also, the draft resolutions were always co-signed by the five major political groupings represented in the BSG only. These findings show that ideological preferences, indicated by membership in political groups, are a relatively strong predictor of MEPs' voting on Brexit.

4 National-interest dimension

Turning to the national-interest dimension, it is especially the British MEPs that stand out from other national delegations vis-à-vis Brexit, often tabling various alternative amendments to the EP resolutions that usually get rejected. It is the British MEPs that vote most strongly against the resolutions (in average, 40 percent of British MEPs voted against the four resolutions on Brexit) which lends support to the claim that they pursue policy preferences consistent with the needs of their country which are, inevitably, different from the rest of the EU. France ranks second, with 27 percent of French MEPs voting on average against the resolutions, followed by Greece (19 percent), the Netherlands (18 percent) and Denmark (17 percent). Conversely, Slovenian, Estonian, Luxembourgian and Maltese MEPs have been, so far, always uniformly in favour of the resolutions. Also Romania has been very strongly in favour, with only 1 percent of its MEPs voting on average against them, and so has been Ireland, Spain (both 2 percent) and Cyprus (4 percent). This suggests rather limited fragmentation of the EP along national lines and it seems that – with the exception of British MEPs – its role as a force in Brexit negotiations has not been moderated by member state interests in any significant ways. It therefore seems reasonable to assume that, on the evidence so far, party cohesion among EP political groups holds greater explanatory power, suggesting that the most influential factors are ideological rather than territorial.

Conclusion

The Brexit process constitutes one of the most significant and politically sensitive tasks to ever face the EU and its institutions, including the European Parliament. Brexit has taken the EU's assembly into an uncharted territory, enabling a means of extending parliamentary scrutiny and oversight to a new area.

As we could see, the EP's formal role in the Brexit process is rather limited, as it can only give, or withhold its consent to the final withdrawal agreement (but cannot amend it) and receive regular information on the progress of negotiations. In this sense, it is the ability to withhold its consent (and its readiness to do so, as shown by previous rejections of agreements brokered down by the Commission) that gives teeth to the assembly's involvement in Brexit policy-making and that represents the primary source of parliamentary influence in this area.

At the same time, the paper revealed that even though the EP is not a negotiating party as such, it does have certain ways of leveraging influence throughout the negotiation phase of the withdrawal agreement. Indeed, having created capacities for internal scrutiny of the Brexit process, the EP utilizes its consent power to make claims, condition Brexit negotiations and gain greater presence, visibility and influence in the EU politics. In other words, as a watchdog and a veto player, the EP utilizes this power strategically to impose *ex ante* constraints and affect the preferences in the Brexit policy-making, thereby expanding its informal influence as such.

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