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Watchdogs and Veto players

Europe's parliaments will keep an eye on Brexit negotiations

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Since UK Prime Minister Theresa May announced that “Brexit means Brexit”, many wonder how the process of negotiating Brexit will unfold. What governments and EU institutions do, will in any case be controlled by parliaments. They matter when it comes to Brexit. Valentin Kreilinger explains why.

1 Parliaments and Brexit

Not only Westminster and the European Parliament try to shape Brexit negotiations and the future relationship between the UK and the EU-27: The case of Wallonia and CETA shows that other parliaments – national or even regional – matter when it comes to Brexit. The influence of these parliaments related to Article 50 TEU is limited, but a free trade agreement or another form of association between the UK and the EU-27 would need their consent. This blog post argues that European parliaments should strengthen the coordination with each other in order to avoid lacking information on the different strands of the negotiations on Brexit.

2 The European Parliament

One of the great ironies of history is that the European Parliament, which the UK has often considered as toothless and undemocratic, has the power to yield a veto against the withdrawal agreement and against a possible EU-UK free trade deal (Article 218 TFEU). In the past, it stopped agreements such as SWIFT and the Anti-Counterfeiting Trade Agreement (ACTA). Besides using “ex-post” veto power, the European Parliament strives for a seat at the table and for direct influence over the negotiations. Even though governments have so far resisted these demands, involving the European Parliament in earlier stages of the process could reduce the risk of possibly jeopardising years of negotiations.

3 National Parliaments

But what about parliaments in the EU-27? Any discussions about Brexit that take place in the European Council are the subject of specific scrutiny procedures that have emerged in most national parliaments for the control of “their” head of state or government at European Council meetings. Article 50’s notification about the intention to withdraw merely depends on the constitutional provisions of the member state in question. The subsequent steps do little to create hurdles for an exit; decisions that can be taken by qualified majority and the two-year sunset clause of Article 50(3) are meant to facilitate the exit. Only the EU’s guidelines for the negotiations (on the basis of which the European Commission prepares the negotiation mandate) must be agreed by consensus in the European Council. Thus the role of individual governments and national parliaments is limited. The European Parliament was empowered for exactly that reason.

While national parliaments can be seen as watchdogs related to the (technical) withdrawal agreement, they are genuine veto players when it comes to the “soft” versions of Brexit. Following the European Commission’s decision to consider CETA as a mixed agreement that requires ratification in national parliaments, the same is likely to apply to an EU-UK free trade agreement.

4 The case for a COSAC “Brexit Working Group”

Each parliament is on its own, both related to Article 50 and a possible free trade agreement. The European affairs committees in national parliaments and the Constitutional Affairs Committee in the European Parliament will carry most of the scrutiny burden. But the body that could be the tool for parliaments to discuss Brexit among themselves does not need to be created, only reinvigorated: it was invented by Laurent Fabius in 1989 and is called COSAC, the Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union. At its [next meeting in Bratislava from 13 to 15 November 2016](#), the issue of Brexit negotiations should be put on the agenda and COSAC should consider setting up a “Brexit working group” that functions as a network for the exchange of information and best practices between the EU-27 national parliaments and the European Parliament. Such a modest strengthening of COSAC would not replace the control exercised by each parliament individually, but it would lead to a better coordination between national parliaments and the European Parliament on a crucial issue for the EU.

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