

Personal Paradoxes

Michel Barnier

In May 2017, the European Union's chief negotiator on Brexit addressed the 7th State of the Union Conference of the European University Institute in Florence. 'Protecting Citizens' Rights in the Negotiations with the UK' was his theme, and he gave some telling examples of how Brexit impacts people's lives. These examples appear in italics in the text.

I will speak in English – obviously, I wish to be understood by the people who speak French, especially two days before this crucial election in my country. But it is equally important to be understood by the British people ...

The State of the Union conference has become a major forum for debate. And debate on the future of European citizenship is very much needed, now more than ever. My topic today is the importance of the rights of European citizens and the priority that they will be given in the forthcoming Brexit negotiations. In particular, free movement of people is at the heart of European citizenship. The principle was intensively discussed during the United Kingdom's referendum campaign. Today, it would seem that this principle is under attack. How did we get here?

In 2004, the UK was one of very few countries to immediately open its labour market to the new Member States. Indeed, the United Kingdom was – and remains – an attractive destination for Europeans. Studies show the positive impact of openness on national growth and prosperity. The free movement of EU citizens makes labour markets more efficient. It creates more choice for Europeans. It allows companies to find the right talent. On balance, EU citizens contribute more than they benefit from the UK tax and social security system. In short, free movement of people is one of the four essential freedoms. These four freedoms are indivisible. This is how our Single Market works. And let me be clear: the integrity of the Single Market will never be compromised in these negotiations.

But this point fell on deaf ears during the referendum campaign. The British debate first concentrated on ‘welfare tourism’, which we must fight. It then shifted its focus to opposing free movement, which we must defend.

There are lessons for all of us in this campaign. We should not allow populists to take the political debate hostage. But we should not ignore what are often deeply felt opinions and reactions. People are concerned about the free movement of EU workers, not only in the UK, but also in many other Member States. This is certainly the case, I can tell you as a French citizen, in my home country. And people often have good reason to be concerned. But the solution lies in a *fairer* labour market, and in *better training* for people. We must also apply EU and national rules in a more rigorous manner so as to prevent them from abuse. The solution is not to restrict the free movement of fellow EU citizens. Stopping free movement will not improve social protection.

This debate goes far beyond Brexit.

However, it is important to draw a number of lessons from Brexit if we are to encourage a more informed public debate across the Member States. Here are some interesting facts that Brexit has highlighted:

- A large UK food retailer testified in the House of Commons that only one in fifty job applicants are UK nationals.
- The British Hospitality Association warned that 60,000 vacancies may not be filled if EU citizens are barred from the labour market.
- And UK farmers have stressed many times their need for access to the EU labour pool.

Against this background, the Brexit process will contribute to a better understanding, for us all, of the nature and benefits of EU integration. It will also bring into stark relief what it is to be or not to be a Member of the European Union.

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Let me now turn to the Brexit negotiations – which Jean-Claude Juncker and the European Council have asked me to conduct. The EU is ready to start negotiations based on the clear guidelines of the European Council. Two days ago, the Commission put forward its recommendations for the forthcoming negotiations. I confidently expect that the Council on 22 May will give me a mandate to start negotiations. It is now clear exactly what the EU intends to place on the negotiation table in June.

The European Council has decided that preserving the rights of EU citizens and their families will be a priority; will be my priority. I anticipate

that protecting these rights will be both easy and complex at the same time. What do I mean by that? It should be easy to agree on general principles. But it will not be as easy to formulate all these principles neatly in a legally precise text. There are a number of questions, in particular, that require close attention. To begin with, who should be protected, and for how long?

The cut-off date is simple and logical: it is the day when the UK leaves the EU. But protection should apply for the lifetime of the citizens who are concerned.

EU law specifies who it is that benefits from these rights. The law sets out the rights of several categories of individual, both those who are economically active and those who are inactive. Currently, around 3.2 million EU citizens work and live in the UK, and 1.2 million British citizens work and live in the EU. EU law also concerns frontier workers. Finally, it concerns people who have worked or lived in the UK in the past. The rights of family members should also continue to be protected including in those circumstances where family members are not themselves EU citizens.

So, we know who we want to protect. But, what are the principles that we will put forward? Number one: the level of protection afforded under EU law must not be watered down. Brexit should not alter the nature of people's daily lives.

Number two: there must be equal treatment between all EU and UK nationals in the UK. Inversely, equal treatment between UK citizens and the nationals of the 27 Member States must also be the rule when UK citizens live in those 27 states. Number three: the EU requires crystal-clear guarantees that rights will be effectively enforced.

For UK citizens in the EU, the European Court of Justice will play its role to ensure the application of the withdrawal agreement. Similarly in the UK, the rights in the withdrawal agreement will need to be directly enforceable and the jurisdiction of the European Court of Justice maintained.

Let me now turn to the third issue. The Article 50 agreement will need to define material rights. The media has focused a great deal on the 'right to stay'. Individuals legally residing in the UK today must remain residents after withdrawal, including in those cases when people have no documents to prove residency. Obviously, the same goes for UK nationals in the 27. No one should be confronted with a mountain of red tape. But the right to residence is only one aspect amongst many others. There are a whole series of rights at stake. Let me give you some examples.

For instance, what if a skilled Polish worker for BMW who works at

Plant Oxford, loses his job? Will he keep his right to UK unemployment benefit for a few months even if he goes back to Poland to look for a job? That is what EU law allows today.

What if a self-employed photographer from Edinburgh who lives in Malaga goes bankrupt? Will she still have access to the same healthcare – under the same conditions – as Spanish nationals? If she decides to restart her professional life in the UK, will she still be able to require that her social security rights obtained in Spain are taken into account by the UK?

The withdrawal agreement must provide clear and affirmative answers to these questions. Given legal certainty is a question of respect for more than four million people. Let me give you some further examples of the sorts of situations that we will inevitably have to confront:

- *A Greek engineer in the UK must maintain the right to export the full amount of her old-age pension to Greece if she decides to retire in Athens.*
- *A German worker in the UK must have access to healthcare under the same conditions as UK nationals.*
- *The Spanish widow of a UK national living in the UK must continue to enjoy the rights that she has today.*
- *A Scottish designer who has worked in Hungary for the last ten years, and who finishes his career in Glasgow, must be able to aggregate all his pension periods after returning to the UK. If his daughter decides to stay in Budapest to attend university there, she must be treated in the same manner as a Hungarian national.*
- *The son of a Polish worker residing in the UK must be able to attend higher education under the same conditions as a British national. It should not matter if this happens in 2020 or in 2030.*

For the coordination of social security systems, national administrations in the EU deal with cross-border cases on a daily basis. They take care of the aggregation of rights and the export of benefits. Post-Brexit, the principle of a single applicable law should continue to apply. Protecting these rights is our moral duty. It is also a political necessity: we will not discuss our future relationship with the UK until the 27 Member States are reassured that all citizens will be treated properly and humanely. Otherwise, there can be no trust when it comes to constructing a new relationship with the UK.

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I know that in order for this new partnership to be solid and sustainable, we have to build it together on the base of mutual trust. It would be



premature of me to discuss the details of this future relationship today. Nevertheless we can be certain that Brexit will inevitably entail a number of negative consequences. This is not a question of ‘punishment’. There are consequences that simply follow logically from the choice made by the British people. Let me give you an example of just one potential difficulty.

Peter, a PhD student from Essex, receives a grant from his university in 2020. He then wishes to spend four months at the University of Turin in order to deepen his knowledge with regard to, for instance, a collaborative project on Euroscepticism. 2020 is after Brexit, so Peter will be a third-country national by then. He will have to make sure that he still has the right to reside and study on Italian territory. And he will probably need to look into private health insurance as he will no longer have the European Health Insurance Card.

This is only one example. This leads me to the consequences for the UK of the EU’s research and higher education policy. I understand that universities are keen to have clarity as soon as possible with regard to the future relationship that they will find themselves in. Planning takes time. And I know how important EU policy is for creating networks and exchanges between universities in all 28 countries.

It is certainly true that the EU has cooperation agreements with third countries – Norway, Israel or Switzerland. One option is that the UK could decide to continue to support university networking and joint projects as a third country after Brexit. But this would require a different legal and financial framework.

I do not expect negotiations to bring clarity on these and a plethora of other issues in the immediate future. We first need to tackle the rights of citizens, get a fair and clear agreement, and the orderly withdrawal of the United Kingdom. The sooner we make sufficient progress, the sooner we can start tackling these sometimes complex issues.

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To conclude, some in the UK have tried to blame Member States for the continued uncertainty that citizens have been confronted with for ten months now. That is wrong. The only cause of uncertainty is Brexit. The only way to remove uncertainty and to protect rights properly is through an Article 50 agreement. Here, I should like to finish by saying that I will, of course, approach our British friends constructively and amicably on all issues. But I will also be firm, backed by European Council guidelines and Council directives and also the resolutions of the European Parliament. I will base my position on factual evidence and on EU law. *And I will do*

everything in my power to ensure that information on the negotiations is made public so that an informed debate can take place. That, I am confident, will dramatically increase our chances of reaching an enduring agreement.

Let me add as a real conclusion a personal note which is also a kind of a personal paradox: I remember that my very first vote, when I was 21, long time ago, last century, in France, was to say ‘yes’ to the accession of the UK. At that time, we had a referendum in France for the accession of the UK, Ireland, Norway and Denmark. And I campaigned at that time for the ‘yes’ for the accession. It was not so easy for a member of the Gaullist party. But I did it. And sincerely, I never regretted that vote. And that is the reason why I regret what is happening now. But let’s turn the page together, in mutual respect, and find solutions together.



LIBERTY —The right to obey the police.