

House of Commons to vote on Brexit deal after Christmas recess; potential voting outcomes

Petropoulou Paraskevi

Senior Economist

ppetropoulou@eurobank.gr

The author wishes to thank Anna Dimitriadou for her valuable help

UK Prime Minister Theresa May announced that her government will bring the Brexit deal back to parliament the week commencing on 14 January. After failing to receive further concessions from the EU leaders on the Irish border backstop — the most controversial item in the Withdrawal Agreement — that could potentially help her to secure majority support, the Parliamentary arithmetic for passing her Brexit deal remains challenging. However, as the end-March 2019 deadline is looming and EU officials have once more clarified at the 13-14 December European Council meeting that there is no room for a substantial renegotiation, the likelihood of the Brexit deal passing through parliament, at a first or a second vote, cannot be ruled out entirely. After the Grieve Amendment to the Withdrawal Act and the European Court of Justice's ruling that the UK can unilaterally and unconditionally revoke Article 50, 'no deal' Brexit seems the least likely scenario. An extension to the Article 50 negotiating period to facilitate either a general election or a second referendum is also a likely scenario. However, none of these two options is sure to resolve the Brexit impasse as neither the Conservative Party nor the Labour Party has internal consensus on a certain Brexit process.

The House of Commons to vote on Brexit deal in mid-January

Amid mounting pressure to set a specific date for the vote of the House of Commons on her Brexit deal, UK Prime Minister Theresa May announced that it will be held on the week commencing 14 January following a debate in parliament in the week commencing 7 January (as soon as the House of Commons returns from the Christmas recess, 20 December-7 January). The above announcement followed the government's decision earlier this month to postpone the Commons vote, initially scheduled for 11 December. The said deal that is formally signed between the UK government and the EU27 at an extraordinary EU Council meeting on 25 November, includes the legally binding Withdrawal Agreement, which lays out the terms of the UK's exit from the EU, as well as the non-binding Political Declaration, which provides the general framework of the future UK/EU relationship.¹ Addressing the UK Parliament at an extraordinary debate on the government's handling of Brexit earlier this month, the UK Premier acknowledged that if the vote were held on the initially scheduled date, she would have faced a heavy defeat. She accepted the "widespread and deep concern" of a large number of MPs over the Irish border backstop — the most controversial item in the Withdrawal Agreement — and pledged to hold new discussions with EU partners with the aim to getting "further reassurances", legally binding ones if possible, that the backstop will not be permanent. In short, Theresa May would seek to secure some concessions from the EU that could probably make her Brexit deal easier to get through the parliament.

DISCLAIMER

This document has been issued by Eurobank Ergasias S.A. (Eurobank) and may not be reproduced in any manner. The information provided has been obtained from sources believed to be reliable but has not been verified by Eurobank and the opinions expressed are exclusively of their author. This information does not constitute an investment advice or any other advice or an offer to buy or sell or a solicitation of an offer to buy or sell or an offer or a solicitation to execute transactions on the financial instruments mentioned. The investments discussed may be unsuitable for investors, depending on their specific investment objectives, their needs, their investment experience and financial position. No representation or warranty (express or implied) is made as to the accuracy, completeness, correctness, timeliness or fairness of the information or opinions, all of which are subject to change without notice. No responsibility or liability, whatsoever or howsoever arising, is accepted in relation to the contents thereof by Eurobank or any of its directors, officers and employees.

¹ For more details on the Withdrawal Agreement and the Political Declaration, see: "After the controversial Withdrawal Agreement, what next for Brexit?" Eurobank Research, November 21, 2018, <https://www.eurobank.gr/el/omilos/oikonomikes-analuseis/diethnis-oikonomia-kai-agores/after-controversial-withdrawal-agreement-what-next-for-brexit>.

As a reminder, the Northern Ireland backstop aims at preventing — no matter how subsequent negotiations on the future UK/EU relationship evolve — a hard border between Northern Ireland and the Republic of Ireland (i.e. no checks or physical infrastructure) so as to abide by the 1999 ‘Good Friday’ peace agreement. The Withdrawal Agreement envisions that the backstop will take the form of a temporary customs union (so-called "single customs territory" that will cover all goods except fishery products) encompassing not just Northern Ireland but the whole of the UK. Northern Ireland, however, will be in a deeper customs relationship with the EU than the UK, and even more closely tied to the rules of the EU single market and regulation in all products. The backstop will apply from the end of the transition period (i.e. end-December 2020). Up to July 2020, the UK can request an extension of the transition period for up to two years. If the transition period comes to an end (extended or not) and the two sides have not reached by then an agreement on a long-term economic relationship that guarantees that the border between the Republic of Ireland and Northern Ireland will remain open, the Withdrawal Agreement foresees that the backstop will come into force. MPs from all quarters of the UK political spectrum oppose vehemently the Irish border backstop agreement on the grounds that, among others, there is no mechanism for the UK to unilaterally exit the backstop arrangement, it leaves the UK as a rule-taker and not a rule-maker and violates a red line imposed by the Democratic Unionist Party (DUP) of Northern Ireland. The DUP is the junior partner in the UK coalition government upon which the government relies for a small seat majority in the parliament and has consistently opposed any kind of differential treatment for Northern Ireland in the backstop agreement.

UK Premier has so far failed to receive EU concessions to facilitate Brexit deal ratification

Responding to the UK Prime Minister’s plea for concessions, European Council President Donald Tusk held a special meeting on Brexit at the 13-14 December European Council where, however, no further concessions were made that could potentially shore up support among Brexiteers within the Conservative Party, the DUP and the Labour Party. The EU leaders were united in saying that there is no room for reopening negotiations on the legally binding Withdrawal Agreement, providing solely assurances that the backdrop would be temporary if it ever came into force. Such clarifications are already obvious in the existing Withdrawal Agreement and are therefore unlikely to appease either Tory and Labour Brexiteers or the DUP. In an official statement, the European Council reconfirmed the conclusions of the 25 November EU Council meeting stating that “if the backstop were to be triggered, it would apply temporarily, unless and until it is suspended by a subsequent agreement that ensures that a hard border is avoided”. Going back to the 25 November extraordinary EU Council meeting, European Commission President Jean-Claude Juncker had made clear that this is the "best and only deal possible", inviting UK MPs to take this into consideration ahead of the vote in the House of Commons.

Be that as it may, the UK Prime Minister insisted that talks for the provision of further clarifications/ reassurances on the Brexit deal are expected to continue into January. However, the EU is unlikely to change position until at least the House of Commons holds a vote on the Brexit deal, allowing the UK government to propose specific amendments that could facilitate the approval of the Withdrawal Agreement through parliament.

Theresa May’s pyrrhic victory of confidence vote leaves her weaker than ever

Theresa May’s decision to postpone the parliamentary vote on her Brexit deal infuriated a number of Conservative lawmakers, from hardline Brexiteers to Remainers who felt that the Brexit process has been mishandled. As a result, 48 Conservative MPs asked for a vote of confidence against her as conservative party leader (held on 12 December), which, however, she won by a margin of 200 to 117. Under Conservative Party rules, no further leadership challenge is allowed for another 12 months, allowing Theresa May more time to deliver Brexit. However, her loss of support from more than a third of her party, suggests that the UK Premier’s position within the party has weakened significantly and Conservative MPs remain deeply divided over her leadership and her handling of the Brexit process. Therefore, it remains doubtful whether the postponement of the Brexit vote has increased at all her chances of getting the deal through.

Parliamentary arithmetic for passing the Brexit deal remains challenging...

As things stand, the Parliamentary arithmetic for passing the Brexit deal in the mid-January vote remains challenging. For the ratification of the Brexit deal, 320 positive votes are needed, i.e. a simple majority from the 639 voting MPs.² Excluding the Speaker and one Deputy Speaker, the Conservative Party has 315 active MPs which together with the 10 DUP MPs make a working majority of five seats for PM May. This small majority showcases why the position of the hard Brexiteers within the Conservative Party and the DUP has been critical to the possibility of Theresa May's deal passing.

The 117 Conservative MPs who voted against Theresa May at the confidence vote is broadly indicative of the number of lawmakers from her party who would vote against the Withdrawal Agreement. Meanwhile, the DUP, which has consistently opposed any kind of differential treatment for Northern Ireland in the backstop agreement, has made clear that it will reject the deal unless the Irish backstop is removed. Therefore, far passing her deal through the House of Commons, Theresa May has no other choice but to try to lure support from the opposition parties, particularly the Labour Party, perhaps by offering a softer form of Brexit (via for instance permanent membership of the European Economic Area plus a customs union), given that the smaller opposition parties, Liberal Democrats, Scottish and Welsh Nationalists are vehemently opposed to Brexit and are expected to vote against anyway.

..but 'no deal' Brexit is no longer the default option

The rejection of the Brexit deal does not automatically imply a 'no deal' Brexit scenario.³ The majority of MPs in the House of Commons purportedly stands against such a scenario. Moreover, two key recent developments could exert a significant impact on the Brexit process:

- (i) *The Parliament approved the Grieve Amendment to the Withdrawal Act.* Conservative MP Dominic Grieve rebelled against his own government and achieved an amendment to the Withdrawal Act with the support of other Tories and the opposition. This ensures that, if the Brexit deal is voted down, the members of parliament could take over the Brexit negotiating process. In more detail, under the Withdrawal Act, if by 21 January no withdrawal agreement has been reached in principle between the UK and the EU or if the UK House of Commons has rejected it, the government should make a statement to Parliament within 21 days explaining how it intends to proceed. But instead of MPs simply voting "in natural terms" (i.e. just to take note of the government's alternative plan) as was initially planned, lawmakers will now be able to vote on what they propose the government to do next, an option that gives the power to parliament to have a say in the final deal and prevent a 'no deal' scenario. This is not legally binding on the government but it would be politically difficult to ignore.
- (ii) *Article 50 unilaterally revocable.* In a surprising development, the European Court of Justice (ECJ) ruled that the UK is free to unilaterally and unconditionally revoke Article 50 (i.e., reverse Brexit) and remain a full EU Member State with all rights unchanged as long as the Withdrawal Agreement has not been ratified. The ECJ reasoned that "the revocation by a Member State of the notification of its intention to withdraw reflects a sovereign decision to retain its status as a Member State of the European Union, a status which is neither suspended nor altered by that notification". Revocation should be subject to three conditions: (i) to be decided in accordance with the "constitutional requirements" of the Member State concerned, purportedly implying the need for a UK Act of Parliament to notify of the intent to withdraw; (ii) to be formally communicated to the European Council; and (iii) to not "involve an abuse practice". As it was laid down explicitly at the ECJ's press release, the UK "has not two options, but three, namely withdrawal from the European Union without an agreement, withdrawal from the European Union

² Out of the 650 lawmakers in the UK parliament, 639 have the right to vote, excluding the seven Sinn Féin MPs who do not take up their seats, the Speaker from the Conservative Party and three non-voting deputy speakers, one from the Conservative Party and two from the Labour Party.

³ A 'no deal' Brexit envisages the UK to leave not only the EU but also the single market and the customs union aiming to secure a free trade deal with the EU, ideally covering both goods and services. The UK would not have to abide by the four freedoms of the EU or be subject to the European Court of Justice. It would probably not have to contribute to the EU budget and would be able to sign free trade deals with other countries upon its exit from the EU but it would trade with the EU and other countries under World Trade Organization rules (hard Brexit scenario)

with an agreement, or revocation of the notification of the intention to withdraw...". All in all, the ECJ's rule further reduces the chances of the UK government passing the existing Brexit deal through parliament but also lowers the risk of a 'no deal' Brexit as revocation creates a potential for another option for both pro-EU MPs (to hold a second referendum aiming to reverse Brexit) and hard Brexiteers (to restart the whole withdrawal process for delivering a harder Brexit than that proposed by Theresa May).

So, what next for Brexit?

In what follows we outline potential outcomes to the Commons vote on the Brexit deal that might not necessary resolve the Brexit impasse. These include the following:

- ✓ *The House of Commons approves the Brexit deal.* With Article 50 deadline (29 March 2019) looming and EU officials having once more made clear that there is no room for a substantial renegotiation on the Brexit deal, it may be harder for some MPs to reject it. Moderate Brexiteers within the Conservative (and the Labour Party) could be convinced that voting against the deal would risk the UK crashing out in a 'no-deal' Brexit. On the flipside, hard Brexiteers could fear that voting against it could risk a softer Brexit or even worse (via revoking Article 50) a reversal of Brexit. But if the deal passes with opposition support, Brexit risk could be replaced by domestic political risk as the DUP has threatened to vote for no confidence in the government if the deal passes without its consent.
- ✓ *The House of Commons rejects the Brexit deal with a small majority (say around 20-30 votes).* Under such a scenario, the existing Brexit deal is not completely off the table and MPs could decide to revote. But if the House of Commons rejects it with a large majority (more than 80-90 votes), the Brexit deal is 'dead', opening up a highly unpredictable set of scenarios, as follows:
 - *UK Premier resigns or is forced to do so.* Under such a scenario, an interim PM would be appointed with the sole mission of facilitating the parliamentary approval of a Brexit deal until a Conservative Party leadership contest is held. The latter could be postponed until after the Brexit deal ratification. The PM would remain caretaker-leader of the Conservative party for the interim period.
 - *The House of Commons takes over the Brexit negotiating process.* Under the terms of the Grieve Amendment, the House of Commons could take over the Brexit negotiating process and instruct the government to pursue a different course of action. The main question in this case is what type of instructions the House of Commons would provide. Will these be towards a new type of Brexit that would require modifications to the legally binding Withdrawal Agreement (i.e. removing the Irish border backstop) or just the non-binding Political Declaration (i.e. a new type of Brexit, probably along the lines of the Norway-style EEA/EFTA arrangement?).⁴ Assuming that the government accepts the proposed instructions, the PM would return to the EU and explore the possibility of a renegotiation. With the House of Commons giving a clear signal that the proposed amendments could command a majority, the EU will likely be positive to them, provided that they are related to the non-binding Political Declaration. But the EU is likely to strongly oppose any proposed amendment related to the legally binding Withdrawal Agreement.
 - *Revoke Article 50 and call a second referendum ('People's Vote').* For a second referendum to be held, a parliamentary majority is required. Small opposition parties including the SNP, Lib Dems, Plaid Cymru and the Green Party are reportedly putting pressure on the Labour Party to get behind their campaign for another referendum. Labour party leader Jeremy Corbyn has said that his party could consent if it fails in its main objective of bringing about a general election.

⁴ A Norway-style agreement involves the UK leaving the EU but joining the European Free Trade Association(EFTA) and becoming a member of European Economic Area (EFTA membership is necessary for EEA membership). This would allow the UK to retain full access to the single market. But the UK would continue paying to the EU budget, would be subject to all EU laws and would have to accept the four freedoms of the EU; the freedom of the movement of goods, people, services and capital within the EU, leaving the UK as a rule-taker.

According to an LSE study⁵, the shortest period required for conducting a second referendum is 24 weeks. Under such a scenario, the main question is whether the public would be offered all options: leave with the terms of the Withdrawal Agreement, leave with no deal or remain in the EU. A second referendum would require a relatively long Article 50 extension that in turn would require the unanimous approval of the European Council. But the EU may not accept an extension beyond the end-May 2019 European Parliament election. More importantly, recent polls are inconclusive as to whether the public views have shifted since the 2016 EU referendum.

- *New elections/ Conservative Party loses a vote of confidence called by the Labour Party.* The Labour Party has explicitly warned that it will table a motion of no confidence in the government if the Brexit deal is rejected. The government could lose a no confidence vote via a simple majority. Such a scenario implies conservative MPs would actively vote against the government, which looks quite unlikely at this stage given that they would risk losing their seat (opinion polls show that The Labour Party and the Conservative Party are neck-to-neck). As things stand, the 10 DUP MPs are also unlikely to side with the Labour Party to oust a Tory government (as long as Theresa May's deal has not been endorsed). But if the conservative government loses, the new government would have 14 days to win a confidence vote otherwise a general election would be called automatically. For general elections to be avoided either the Conservative Party must appoint a new leader who manages to win a confidence vote or the Labour Party must form a government and win a confidence vote, coming to power without a general election. Alternatively, under the Fixed-Term Parliaments Act, early elections could be held should 2/3 of MPs vote in favor.⁶ An election could be held within roughly two months meaning that a short extension to Article 50 may be required. If the Labour Party wins, it would likely seek to renegotiate with the EU a softer form of Brexit (e.g. permanent customs union).
- ✓ *No-deal Brexit.* Under such a scenario, the UK exits the EU on 29 March 2019 without an agreement on the terms of the Brexit divorce and without a legal basis for trade with the EU and other countries (disorderly hard Brexit). Such a development could inflict serious economic damage to the UK, which would have to trade under World Trade Organization (WTO) rules with exports subject to the EU's common external tariffs and associated customs checks as of 30 March 2019.

⁵ <http://blogs.lse.ac.uk/brexit/2018/09/05/how-long-would-it-take-to-hold-a-second-referendum-on-brexit/>

⁶ This was the case in April 2017 when Theresa May called an early election

Eurobank Economic Analysis and Financial Markets Research

Dr. Tasos Anastasatos: *Group Chief Economist*
tanastasatos@eurobank.gr, + 30 210 33 71 178

Research Team

Anna Dimitriadou: *Economic Analyst*
andimitriadou@eurobank.gr, + 30 210 3718 793

Marisa Yiannisis: *Administrator*
magiannisi@eurobank.gr, +210 3371242

Ioannis Gkionis: *Senior Economist*
igkionis@eurobank.gr, + 30 210 33 71 225

Dr. Stylianos Gogos: *Economic Analyst*
sgogos@eurobank.gr, + 30 210 33 71 226

Maria Kasola: *Economic Analyst*
mkasola@eurobank.gr, +30 210 3371224

Olga Kosma: *Research Economist*
okosma@eurobank.gr, + 30 210 33 71 227

Paraskevi Petropoulou: *Senior Economist*
ppetropoulou@eurobank.gr, + 30 210 37 18 991

Dr. Theodoros Stamatiou: *Senior Economist*
tstamatiou@eurobank.gr, + 30 210 3371228

Elia Tsiampaou: *Economic Analyst*
etsiampaou@eurobank.gr, +30 210 3371207

Eurobank Ergasias S.A, 8 Othonos Str, 105 57 Athens, tel: +30 210 33 37 000, fax: +30 210 33 37 190, email: Research@eurobank.gr

Eurobank Economic Analysis and Financial Markets Research

More research available at <https://www.eurobank.gr/en/group/economic-research>

- **7 Ημέρες Οικονομία:** Weekly review of the Greek economy
- **Greece Macro Monitor - Focus Notes:** Periodic publication on the latest economic & market developments in Greece
- **Economy & Markets:** Analysis & research on the Greek and international economy
- **Regional Economics & Market Strategy Monthly:** Monthly edition on economic & market developments in the region
- **Emerging Markets Special Focus Reports:** Periodic publication on specific EM economy and markets developments
- **Daily Overview of Global markets & the SEE Region:** Daily overview of key macro & market developments in Greece, regional economies & global markets
- **Global Macro Themes & Market Implications for the EA Periphery and the CESEE:** Monthly review of the international economy and financial markets
- **Global Markets Special Focus Reports:** Periodic publication on specific global economy and markets developments

Subscribe electronically at <https://www.eurobank.gr/el/omilos/oikonomikes-analuseis>

Follow us on twitter: https://twitter.com/Eurobank_Group

