

Article 50: Is it a trap or not?

Some of our supporters have expressed a concern that invoking Article 50 of the Lisbon Treaty, which is the EU's own prescribed exit route, would lure us into a trap designed to ensnare countries and ensure that departure from the EU is impossible.

Any discussion of this subject must begin by looking at what Article 50 actually says; Its wording is as follows:-

1. Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.

2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article 218(3) of the Treaty on the Functioning of the European Union. It shall be concluded on behalf of the Union by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.

3. The Treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period.

4. For the purposes of paragraphs 2 and 3, the member of the European Council or of the Council representing the withdrawing Member State shall not participate in the

discussions of the European Council or Council or in decisions concerning it.

A qualified majority shall be defined in accordance with Article 238(3)(b) of the Treaty on the Functioning of the European Union.

5. If a State which has withdrawn from the Union asks to rejoin, its request shall be subject to the procedure referred to in Article 49.

Robert Oulds, the Director of the Bruges Group and a member of the CIB Committee has researched this subject in some detail. These are his conclusions:-

1) Article 50 does not preclude unilateral withdrawal. If after two years a withdrawing country does not want to conclude an agreement then it can just simply leave. But Article 50 is the only way the EU can be brought to the negotiating table, otherwise a post-EU withdrawal agreement will take time to achieve, from 5 to 10 years.

2) Article 50 can be initiated by an Act of Parliament or by Royal Prerogative, HM Government simply making the decision to withdraw by giving notification. Such notification cannot be cancelled, only delayed but that can only be done by unanimous agreement of the European Council.

3) Once the UK has submitted its notice to leave Britain will automatically withdraw unless those negotiations are extended. The European Council will have to unanimously agree to the extension, perhaps one or more of the UK's less reliable 'allies' on the continent will wish for Britain to just go and will therefore not extend the discussions thus forcing the withdrawal to take place regardless of whether or not there had been a change of heart at home.

4) The provisions in Article 50 are there because the European Union wants to perceive itself as a voluntary union but also

to make sure that it can negotiate a future post-EU relationship based mainly on trade.

As can be seen, there is no “trap” in Article 50. What is does make clear is that if a country leaves, it would be a long process if that country has second thoughts and decides it wants to re-join. However, which prisoner, being offered the chance of release after 44 years in jail, would be upset on being told “once we let you out, it will be very hard for you to come back in there again”?

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