The EU and the UK came to a new trade agreement on Christmas Eve 2020, closing a protracted and contentious negotiation process. Prime Minister Boris Johnson declared "We've taken back control of our laws and our destiny" while Commission president Ursula von der Leyen observed with relief that "we can finally put Brexit behind us." Brexit ushered lasting political turmoil in the UK, but it threw the EU into a full-blown membership crisis: the departure of the UK constitutes the most spectacular repudiation to date of the objective enshrined in the EU Treaty, that of creating "an ever closer union among the people of Europe."

In the four and a half years that elapsed since a slim majority of the British electorate decided to exit the EU, a lot has been said and written about the causes of Brexit. In this wide-ranging debate some commentators have focused on an unlikely culprit: the EU's own exit clause, Article 50, which was adopted with the Lisbon Treaty in 2007. Art. 50 provides for the right to unilateral withdrawal from the EU. It stipulates that a Member State may autonomously leave the Union by notifying the European Council of its intention and either conclude a "withdrawal agreement" with the Union or wait for "two years after the notification."

It has been argued that by making departure possible and legal, Art. 50 facilitated the UK's exit from the EU, and could potentially lead to more exits, ultimately fostering the EU's disintegration. Did the EU indeed install a "self-destruct button" into its foundational document? Why would the EU ever consider enabling the secession of its constituent members?

Article 50: a polity question

Rules of withdrawal matter because they tell us something important about the identity of the polity. Indeed, in academic debates it is thought that the exit option is what distinguishes an international organization from a federation. Unilateral withdrawal of members of international organizations is generally easy, as was recently demonstrated by the Trump administration's decision to pull out from the WHO, but such provisions are exceedingly rare in federations. One can reasonably argue that exit clauses lower the costs of secession and impact adversely the principles that are crucial for polity-maintenance, such as cooperation and solidarity. The stakes are especially high for the EU polity, which is of its own kind and still developing. Therefore, according to Harbo (2008), the introduction of Art. 50 had

ontological consequences on the EU itself, bringing it closer to a confederation/international organization and further away from a federation proper.

The peculiar nature of Art. 50 begs the question of the political process that made this "DNA mutation" of the Community even possible.

The ideational underpinnings of A50

Art. 50 was adopted in the Lisbon Treaty, but the debate about the right to withdraw started well before that. Already during the 1956 Treaty of Rome negotiations the French government proposed a legal right to secede as did Altiero Spinelli during the 1984 draft Treaty establishing the European Union. Perhaps early attempts failed because of the natural reluctance to "speak about divorce on the wedding day." But it is also true that at the time the EU was smaller, more homogenous, less politicized and less active in core political issues than later on.

Serious consideration was given to the legal possibility of withdrawal at a crucial, for European integration, juncture in the early 2000s. At this point in time, post-communist states in eastern and central Europe were preparing to accede to the EU, while talks were on-going regarding the adoption of a new, ambitious, constitution for the EU. The inclusion of an explicit exit right was thought of as a way of effectively combining the twin objectives of deepening and broadening. The two can be seen as antithetical: the more members or "veto-players" the EU has the less able it is to take integrative steps, because of the multiple and even divergent interests that need be respected. Hence, allowing for the exit of a recalcitrant member state is the price paid for avoiding breakdown and paralysis.

De Witte provides a succinct description of this logic contained in the draft constitution dubbed "Penelope": In theory, the new Constitutional Treaty could only enter into force if all member state governments approved it at the preparatory Intergovernmental Conference and was subsequently ratified by the member states according to their own constitutional requirements. However, having learned from earlier failures, like the Treaty of Maastricht in Denmark and the Treaty of Nice in Ireland, EU officials now argued that the majority of states should be able to go ahead with the Treaty, even if against the opposition of a few countries. What would happen to the recalcitrant ones? They would be forced to leave the EU and immediately start negotiations regarding future relations.

This "extraordinary plan to kick awkward members out of the European Union" was, in the

end, dropped. However, the idea that an exit option should be institutionalized, and that this would enable rather than hinder integration, remained ingrained.

Building political support for Art. 50

The more immediate and practical reason for the inclusion of an explicit exit right in the form of Art. 50 was to shore up support for the Constitutional Treaty among the eastern and central European newcomers, but also old member states, where Euroscepticism was on the rise, by making it easier for them to "sell" the Treaty at home. On the one hand, entering in the EU without a transparent exit option could be looked upon with suspicion, especially in post-Soviet states, given the prior experience of coercive attachment to the USSR.

On the other hand, the inclusion of the exit clause was meant to appease Eurosceptics in old member states where such tendencies were significant, namely, the UK and Denmark. The drafter of Art. 50, Lord Kerr, has said that it was included, in part, to undermine an argument made by British opponents of EU membership about being "trapped" in an ever-closer union. As Giscard D'Estaing, President of the Convention, explained at the time: "the objective of such measure is to provide an answer to arguments uttered here and there in the world, according to which membership of the EU would be considered an antidemocratic constraint, almost diabolical, to which the unfortunate citizens would have no means of escape."

It is perhaps ironic that, while the ambitious Constitutional Treaty failed (having been rejected in 2005 by the French and the Dutch voters), the exit clause persisted and was included in the subsequent Treaty of Lisbon.

Conclusions

This short overview helps explain the rationale behind the adoption of the EU's exit clause. Despite critical assessments, Art. 50 was approved to accomplish important aims, including boosting the EU's democratic credentials, tempering Euroscepticism, and, ultimately, facilitating the emergence of stronger coalitions in favour of integration. Most probably, Art. 50 was never meant to be used. Whether the EU's exit clause can lead, in the long run, to a strengthening or weakening of the EU is right now just a matter of conjectures.

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