

Five Questions on Brexit to GERTRUDE LÜBBE-WOLFF

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Gertrude Lübbe-Wolff , Maximilian Steinbeis Fr 24 Jun 2016

1. *What were your thoughts when you first heard of the result of the referendum this morning?*

If that decision is not reversed, the EU will lose one of only 12 member states where perceived corruption is closer to the level of Denmark than to the level of China. It will lose a member whose realism is badly needed in the Union – a member which, for instance, had enough common sense and was sober enough never to join the Monetary Union although it could have. And it will lose a member state which I feel belongs to Europe. I feel more at home in a European Union including the UK than I would feel in one without it. That may be an unbritish sort of feeling. No wonder. After all, I am German.

1. *Could an exit of the UK result in changes to the constitutional setup of the European Union, for better or worse?*

I am not sure which way this will turn out. UK exit will mean a further decrease in the sense of accountability within the EU. On the one hand, that is a gloomy prospect for wise institutional reform. On the other hand, the shock over what has happened, and the fear of further disintegration, might produce an awakening effect. So I try to remain optimistic.

1. *What does the referendum teach us about the merits and limits of direct democracy*

That it would have been better to have had more direct democracy with respect to European matters in more countries, and earlier.

1. *Do you think the decision for Brexit could be reversible?*

Legally, it certainly is. According to Art. 50 TEU, an intended withdrawal becomes effective only with the entry into force of a withdrawal agreement or, failing that, two years after notification of the intention to withdraw. That period can be extended by a unanimous vote in the Council, in which, of course, the exiteer does not take part. If the people of the UK changed their mind before the exit procedure according to Art. 50 TFEU is completed, I do not see how the UK could be forced to leave, nevertheless. EU institutions may see a Brexit as irreversible, i.e. they may announce that they see no chance for a potential reentry application, which would require, among other things, a unanimous vote in the Council and consent by all member states, to be successful. So far, however, we do not have a Brexit. We only have a referendum which is, legally, an act of UK-internal relevance only.

1. *Do you see a way to keep Scotland and Northern Ireland within the European Union?*

If the UK were to break apart as a consequence of the Brexit vote, the resulting parts can apply for EU membership and be integrated according to Art. 49 TEU. That would require a unanimous vote in the Council and consent by each and every EU member state in accordance with its own constitutional requirements. Whether and, if so, how a UK exit and the acceptance of, say, Scotland as a new member could be combined into a „partial Brexit“ is a difficult question. Temporal coordination might be possible and make sense, but I do not think there is a lawful way to spare Scotland the Art. 49 TEU requirements for the accession of new members.

Questions by Maximilian Steinbeis

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