

Brexit negotiations – Progress to date

Since their official launch in June 2017, three rounds of negotiations on the United Kingdom's (UK) withdrawal from the European Union (EU) have been held. So far, the EU and UK have discussed the priority issues of citizens' rights, the financial settlement and the Irish border, but disagreements and ambiguities persist. After the third round, 'no decisive progress' was reached, according to Michel Barnier, the EU chief negotiator, which is likely to impede any advance to the second phase of talks in October, on transitional arrangements and the future EU-UK partnership, including trade relations.

Background to the Brexit negotiations

The UK voted [to leave the EU](#) in a referendum held on 23 June 2016. On 29 March 2017, the UK Prime Minister [notified](#) the European Council of the UK's intention to withdraw from the EU and from the Euratom Treaty (covering cooperation in nuclear energy), in accordance with the EU Treaty's Article 50. Furthermore, the UK government clarified that it would not seek continued membership of the EU Single Market, nor the EU's customs union, but rather rely on a comprehensive free trade deal with the EU. On 30 March 2017, the UK government [published](#) a White Paper on its Great Repeal Bill, which would revoke the 1972 European Communities Act, which gives effect to EU law in the UK, as from the day of the withdrawal, as well as transpose most existing EU law into UK law. The relevant legislation – the [European Union \(Withdrawal\) Bill](#) – was introduced in the UK Parliament on 13 July, and passed its second reading vote on 11 September. It still faces detailed scrutiny in committee and the crucial [third-reading vote](#), then it passes to the House of Lords.

Withdrawing from the EU: Article 50

The Lisbon Treaty introduced the explicit possibility for a Member State to withdraw from the EU. [Article 50](#) of the Treaty on European Union (TEU) now offers the only [legal way](#) for a Member State to exit the Union:

- The process [starts](#) when the withdrawing Member State (the UK) notifies formally the European Council of its intention to leave the EU; the European Council, meeting as 27, then issues guidelines for the negotiation and conclusion of an agreement on the withdrawal, which should take into account the framework for the future relationship between the EU and the UK.
- The UK and EU have two years to negotiate a withdrawal agreement; if such an agreement cannot be reached within that timeframe, UK membership of the EU comes to an end, unless the period is extended by common accord of the UK and the European Council, acting unanimously.
- The withdrawal agreement is negotiated by the EU, in accordance with the procedure set out in [Article 218\(3\)](#) TFEU and in light of the European Council's guidelines. The Council adopts negotiating directives and appoints the Union negotiator, on the basis of recommendations from the European Commission.
- The Council concludes the withdrawal agreement (with a 'super qualified majority' of the 27 remaining Member States: 72 % of the participating Member States, comprising at least 65 % of their population) after obtaining the consent of the European Parliament (EP) with a majority of the votes cast.
- Ratification of the withdrawal agreement by the remaining EU Member States is not required.
- Any ensuing international agreement(s) on the future relationship would have to go through Member States' national ratification procedures, unless falling completely under EU exclusive competence.

During exit negotiations, the UK does not take part in discussions within the Council and the European Council related to withdrawal, but Members of the European Parliament (MEPs) elected in the UK are able to participate in all EP debates on the withdrawal and vote on the eventual deal. For any other issue, the UK continues to enjoy all the rights and obligations of an EU Member State until the withdrawal takes effect. Once the UK leaves the Union, EU law will cease to apply to the UK and its overseas territories. International agreements between the EU and third countries will also no longer apply to the UK. The Court of Justice of the EU (CJEU) could be called upon to rule on various aspects of the withdrawal, including a withdrawal deal's compatibility with EU law.



Following the UK withdrawal notification, the 27 Heads of State or Government, meeting at a Special European Council on 29 April, adopted the [political guidelines](#) for the negotiations with the UK, in line with Article 50 TEU. The guidelines set out a phased approach. In a first phase, the negotiations should aim to provide clarity and legal certainty to citizens (the first priority for negotiations is to safeguard the status and rights of EU and UK citizens derived from EU law), businesses and international partners on the immediate effects of Brexit, as well as to disentangle the UK from its commitments as a Member State (the 27 EU leaders seek a [single financial settlement](#) to ensure compliance with all UK obligations undertaken as an EU member). In a second phase, if the European Council decides 'sufficient progress' has been achieved on the withdrawal deal, preliminary discussions could take place on the framework for the future EU-UK relationship (any agreement(s) would be concluded once the UK becomes a third country), as well as regarding any possible transitional arrangements following the withdrawal. The [procedural arrangements](#) set out in December 2016 by the 27 EU leaders were confirmed. On 22 May 2017, following the Commission's recommendation, the Council [nominated](#) the European Commission as the Union negotiator and adopted the mandate for the talks with the UK, comprising the negotiating directives for the first phase. Priority is given to citizens' rights and status; the financial settlement; the border with Ireland and the Northern Ireland peace process, and other separation issues, including the overall governance of the withdrawal agreement. Once the European Council decides the second phase can start, new negotiating directives will be issued.

On 5 April 2017, the **European Parliament** adopted a [resolution](#) on the negotiations with the UK, setting out the EP's priorities and red lines for the talks. Citizens are the main concern for the EP, together with the integrity of the Single Market and the EU's fundamental freedoms, the financial settlement, the issue of [Northern Ireland](#) and its peace process. The EP also stated its wish for fair and close future relations between the EU and the UK, after Brexit. Parliament is expected to discuss a further resolution during the October I plenary session.

Potential timeline

According to the [Commission](#), the actual negotiating period would only be around 18 months, to allow time for the conclusion of the withdrawal deal (EP consent, and conclusion of the agreement by the Council) to be completed in time for the 29 March 2019 deadline for UK membership of the EU to end (unless extended).

Outcome of the latest (third) round of Brexit talks

The official (Article 50) negotiations were [launched](#) on 19 June 2017, with the first round focused on agreeing the timing, structure and first priorities of the talks. This was preceded by a series of [position papers](#) published by the European Commission, followed by several from the [UK government](#). The [second round](#) was held a month later. Negotiating groups were established on [citizens' rights](#), the financial settlement and 'other separation issues', while the Irish border and the governance of the withdrawal agreement were to be discussed at the coordinators' level. Following this round, a [Joint technical note on citizens' rights](#) was published, identifying the points on which the sides agree, disagree or need further clarification. The CJEU role in safeguarding citizen's rights post-Brexit emerged as a major point of contention, among others.

Prior to the third round of negotiations (28-31 August 2017), the UK government issued [proposals](#) in a number of policy and 'future partnership' papers, for instance on [Northern Ireland and Ireland](#), on [enforcement and dispute resolution](#), on [future customs arrangements](#). Even so, many in the EU have [deplored](#) the impossibility to define clearly Britain's position on Brexit, as well as the UK's [handling of the talks](#), in particular its attempt to push for discussions on the EU-UK future partnership, including trade, before the immediate priorities are settled. At the end of the round, despite some limited advances, the EU chief negotiator regretted the lack of progress on the key issues, with major divergences (re-)emerging:

- UK standards and regulations: the EU rejected the notion of automatically recognising post-Brexit UK standards and regulations, as incompatible with the autonomy of the Single Market;
- Financial settlement: in an apparent reversal, the UK argued against the existence of a legal obligation to continue paying for commitments undertaken as EU-28 after the date of the withdrawal;
- Citizen's rights – while the UK seeks enforceability of the [citizens' rights](#) through UK courts and rejects CJEU jurisdiction, the EU insists that citizens' rights should be directly enforceable before national jurisdictions, under the control of the CJEU. An updated [joint note](#) shows the remaining differences.

In this context, it appears highly unlikely that the European Council concludes in October that 'sufficient progress' has been achieved on these first priorities, allowing the negotiations to proceed to the second phase. The next round of negotiations is due to take place in the last week of September.