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Brexit: the End of Europe or the End of the United Kingdom? (p. 5)
Stefano Civitarese Matteucci

Essays and Articles

Was It an Act of Self-Dissolution? Brexit and the Future of the United Kingdom (p. 21)

Justin Orlando Frosini

The Author begins by underlining the incredible impact the Brexit referendum of last June has had on the constitutional and political system of the United Kingdom and then goes on to address the specific issue of the future of Britain itself after leaving the European Union. In particular, the Author argues that Scotland, which voted overwhelmingly to stay in the EU, now finds itself in a “no win situation” because holding another referendum on independence appears to be unviable especially for economic reasons and would not necessarily be followed by a fast-track procedure to allow it to rejoin the EU. Moreover in the snap election of June 2017 the Scottish National Party lost 22 seats. The Author goes on to discuss the situation in Northern Ireland which, in his opinion, is even more precarious both economically and politically, given that it would be the only part of the UK where there would be a “hard border”. Then, in analyzing the results of the early elections to the Northern Ireland Assembly, he points how the pro-remain parties gained consensus while Arlene Foster’s DUP appeared to have paid a high price for its inexplicable support for Brexit, but now finds itself in the role of “kingmaker” after Theresa May lost her majority in the House of Commons following the snap election in June 2017. Given the decisive role of the DUP and the twelve seats conquered by the Scottish Conservatives the Author argues that at least in the short term this might safeguard the Union from self-dissolution. That said, a constitutional clash is on the horizon between the central government and the devolved nations with regard to the Great Repeal Act.

Brexit and the UK: Charting the Constitutional and Legal Obstacles (p. 41)

Peter Leyland

This article, which was completed in the wake of the referendum held in June 2016, focuses on some of the constitutional and legal implications of Brexit. The first section deals with the constitutional significance of the immediate political fallout of the referendum and the impact of the 2017 General Election. The second section analyses the constitutional questions raised by the Miller case following the referendum, including the relationship between Parliament and the executive and the constitutional independence of the courts. The third section assesses the impact of Brexit on the continued territorial integrity of the United Kingdom with particular attention to Scotland and Ireland (North and South). The final section adopts the paradigm of the Multi-Layered Constitution to demonstrate the complexity of the legislative task of disengagement from the European Union. The article was finally revised in June 2017 with many aspects remaining unresolved as Brexit negotiations were gathering pace.

UK Referendum on Brexit: Free Movement of EU Citizens in the Internal Market and the Issue of Social Rights' Cost (p. 69)

Francesco Bilancia

In the wake of the controversial political arguments developed during the Brexit campaign in the UK, the essay deals with the issue of guaranteeing social rights for EU citizens living in a different country than their own, in light of EU and member State legislation and ECJ case law. It seems quite evident that social protection standards connected with the free movement of workers in Europe are getting worse, within a context featuring protectionism as a new global policy, especially after Trump's election in the United States. The problematic framework emerging from this analysis turns on the strong legitimacy crisis of the EU integration process, accelerated by the robust criticism leveled against EU citizens' free movement rights, one of the chief political pillars on which European citizenship is founded.

Brexit: the ‘Long Good-Bye’, between European Union Law and International Law (p. 89)*Pietro Manzini*

On 29th March 2017, the United Kingdom’s notification to the European Council of its intention to leave the European Union brought to an end the purely national phase of Article 50 of the EU Treaty. Following the notification, a second phase of the withdrawal procedure has been initiated, which, unlike the first phase, is entirely governed by European Union law. Despite the detailed provisions of Article 50, even the European phase, as the national one, features many legal issues that are not easy to resolve. Some of these issues are explored in this article. In particular, three topics are discussed: a) steps and rules governing the withdrawal procedure; b) the role of the Court of Justice in the withdrawal procedure; c) the admissibility of revoking the withdrawal.

(Br)Exit and voice in the European Union’s Existential Crisis (p. 105)*Edoardo Nicola Fragale*

The article deals with the link between Brexit and the Eurozone crisis by using an approach inspired by the exit-voice-loyalty paradigm. Institutional asymmetries within the Eurozone not only have triggered competitive federalism mechanisms among the Union’s member states, thus facilitating imbalances among competitiveness levels, but also have contributed to the creation of formidable external constraints on individual governments. The institutional asymmetries of the Eurozone arise from the contrast between the single market, having a continental dimension, and political representation circuits, confined, even after the creation of the single currency, within well-defined national borders. In this context, the essay also addresses individual exit strategies. Migratory flows within the EU functioned as an outlet for voice within member countries most affected by the economic crisis, but also as a detonator of the British exit, intensifying protest against the rules on free movement of citizens within the EU.