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**Fourth Report of the BREXIT Working Group**

**Board of Governors**

**Meeting on 9 to 12 April 2019 – Athens**

1. **Background**

On 29 March 2017, the Government of the United Kingdom notified the European Council of the intention of the United Kingdom to withdraw from the Union.

This notification will have direct and indirect impact on the European Schools.

By invoking Article 50 of the Treaty of the European Union (TEU), a two-year negotiation period had started.

In order to follow-up this negotiation process and to analyze the possible scenarios for the intergovernmental system of the European Schools the Board of Governors decided in April 2017 to set up a Working Group to deal with all potential consequences of the ‘BREXIT’ and a potential denunciation of the Convention Defining the Status of the European Schools.

The Working Group is expected to analyze the legal situation and the potential consequences in the financial, the administrative and in the pedagogical areas. The Working Group should provide a risk assessment and define measures to mitigate identified risks. Finally, the Working Group shall prepare concrete proposals for the Board of Governors in order to ensure the ongoing provision of high quality teaching in all existing language sections in the European Schools.

The Working Group is composed of

* the Secretary-General of the European Schools,
* the Deputy Secretary-General of the European Schools (chairman),
* a representative of the EU Commission,
* three representatives of the Board of Governors (troika),
* a representative of the Directors,
* a representative of the Board of Inspectors,
* a representative of the seconded teaching staff,
* a representative of the locally recruited teaching staff,
* a representative of Interparents.

Pupils’ representatives will be invited when pedagogical aspects will be discussed.

Since April 2017 the Working Group met four times in order to have first discussions and to prepare this first report. In three meetings representatives of the UK delegation and the Director of the Europa School UK, Culham participated as guests at least for part of the meetings.

Based on the discussions of the first three meetings a ‘First Report of the BREXIT Working Group’ was presented in the meeting of the Board of Governors in December 2017.

**The first report**

* provided an analysis of the legal questions linked to the ‘BREXIT’,
* addressed the main areas affected by the BREXIT and the risks linked to the BREXIT,
* provided an overview concerning the Article 50 TEU negotiations as far as the European Schools are concerned,
* provided an indicative calendar linked to the BREXIT process and
* identified areas for a potential agreement between the Board of Governors and the UK Government.

The Board of Governors took note of the report including an indicative calendar and a risk register.

Moreover, the Board of Governors mandated at that time the Secretary-General of the European Schools to explore the possibilities and the legal framework for a potential agreement with the UK Government addressing the potential format of cooperation after the BREXIT and respectively after a potential denunciation of the Convention of the European Schools would take effect.

Based on this mandate the BREXIT Working Group forwarded its second report to the Board of Governors in April 2018 (doc. 2018-02-D-37-en-2).

The ‘**Second Report of the BREXIT Working Group’** provided an update concerning the ongoing Article 50 TEU negotiations which – at that time - had entered in the second phase and addressed questions linked to the possibilities and the legal framework for a potential agreement with the UK Government as requested by the Board of Governors in December 2017.

The Board of Governors took note of the report.

The **‘Third Report of the BREXIT Working Group’** provided an update concerning the state of play of the Article 50 BREXIT negotiations and – based on the findings of the ‘Second Report of the BREXIT Working Group’ - a comprehensive overview of the legal and practical consequences of the possible scenarios:

* BREXIT accompanied by a Withdrawal Agreement,
* BREXIT without a ‘deal’.

Moreover, it focused on the legal status of the staff of the European Schools with UK nationality and the addressed the accreditation of the Europa School UK, Culham.

The Board of Governors took note of the Report and

* endorsed its decision of December 2017 to maintain also in case of a BREXIT without a Withdrawal Agreement the accreditation of the Europa School UK, Culham until the end of the 2018/19 school year and
* mandated the BREXIT Working Group to continue addressing the risks linked to the two BREXIT scenarios.

On 15 January 2019 the Withdrawal Agreement was voted in the UK Parliament and did not find the necessary support.

By letter of 30 January 2019 (see Annex I) the UK delegation underlined that a BREXIT with a Withdrawal Agreement remains the main goal.

In this letter the UK delegation clarified that from their point of view in case of a ‘no deal BREXIT’ the UK would “fall out of the Convention” with immediate effect as of 30 March 2019. Nevertheless, the UK delegation would be open to continue the secondments of UK teachers and the supply of the two national inspectors until 31 August 2020 if the European Schools would agree with such an ‘arrangement’.

The UK seconded teachers and directors were informed at the same time as the Secretary-General about the position of the Department for Education in a hard BREXIT no-deal scenario, and that there was a risk that the secondments would end on March 29th. The staff were invited to attend online meetings on February 4 and 7 with the Department of Education so that the process of redundancy in the event of a hard BREXIT could be outlined. This process has caused considerable uncertainty for the staff members concerned and their families.

By letter of 13 February 2019 (see Annex II) the Secretary-General, on behalf of the Board of Governors of the European Schools, confirmed the legal position expressed in the three BREXIT Reports, but welcomed the preparedness of the UK delegation to continue the secondments of staff and the supply of the two national inspectors until 31 August 2020 notwithstanding the different interpretation of the Convention defining the Statute of the European Schools.

By letter of 20 February 2019 (see Annex III) the UK delegation underlined its willingness to continue to

* contribute to the system of the European Schools by seconding teachers until 31 August 2020;
* contribute with two national inspectors to the system of the European Schools until the end of the 2019/20 school year;
* provide experts in relation to the European Baccalaureate; and
* recognize the European Baccalaureate automatically if the European Baccalaureate is acquired before 31 August 2020, specifically granting holders of the European Baccalaureate all the benefits attaching to the possession of the diploma or certificate awarded at the end of secondary school education in the Member State of which they are nationals; entitlement to seek admission to any university in the UK on the same terms as nationals of the UK with equivalent qualification.

The Secretary-General confirmed by letter of 26 February 2019 (see Annex IV) this shared understanding and expressed his hope that with this confirmation the UK delegation will be in the position to halt the “at risk of redundancy process”.

1. **Content of the ‘Fourth Report of the BREXIT Working Group’**

Based on these developments, the Fourth Report of the BREXIT Working Group will

* provide an updated overview on the BREXIT negotiations,
* address again the two-scenarios (BREXIT with and without a deal) and
* provide particular information with respect to the legal status of the staff with UK nationality after the date of BREXIT.

Moreover, the Fourth Report addresses the accreditation of the Europa School UK, Culham.

1. **State of play of the Article 50 BREXIT negotiations**

On 22 May 2017, the Council, based on the Commission’s recommendations, authorised the opening of the Article 50 TEU negotiations with the UK and nominated the Commission as Union negotiator.

On 15 December 2017 the European Council agreed to move to the second phase related to transition and the framework for the future relationship and adopted Council Guidelines in this respect.

On 7 February 2018 the European Commission, Task Force for the Preparation and Conduct of the Negotiations with the United Kingdom under Article 50, published the position paper “Transitional arrangements in the withdrawal agreement”.

This position paper translated into legal terms the principles laid down in the European Council Guidelines of 29 April and 15 December 2017 and in the supplementary negotiating directives annexed to the Council Decision of 29 January 2018.

Under the Chapter ‘Transition Period’ within the draft ‘Withdrawal Agreement’ the EU position paper foresees a **draft** Article X+6 ‘European Schools’ with the following draft wording:

***“The United Kingdom shall be bound by the Convention defining the Statute of the European Schools until the end of the school year that is ongoing at the end of the transition period*.”**

Later on, the European Commission published, on 28 February 2018, its draft ‘Withdrawal Agreement’ between the EU and the UK.

**Article 125 of the draft ‘Withdrawal Agreement’ foresees on European Schools the following:**

***“1. The United Kingdom shall be bound by the Convention defining the Statute of the European Schools107, as well as by the Regulations on Accredited European Schools adopted by the Board of Governors of the European Schools, until the end of the school year that is ongoing at the end of the transition period\*.***

***107***

***2. The United Kingdom shall, with respect to pupils who before 31 August 2021 acquired a European baccalaureate and to pupils who are enrolled in a cycle of secondary studies in a European School before 31 August 2021 and acquire a European baccalaureate after that date, ensure that they enjoy the rights provided for in Article 5(2) of the Convention defining the Statute of the European Schools.”***

***107   OJ L 212, 17.8.1994, p. 3.***

***\* Explanatory note: i.e. until 31 August 2021.***

The European Council adopted on 23 March 2018 Guidelines which *‘welcome the agreement reached by negotiators on parts of the legal text of the withdrawal agreement’.* The draft Article 120 of the Withdrawal Agreement is part of the draft legal text, on which the negotiators reached an agreement in principle.

Since June 2018 the EU Article 50 negotiations mainly focused on the Northern Ireland/Ireland problematic and remaining issues of the Withdrawal Agreement which do not concern the European Schools directly. Moreover, the negotiations addressed a potential political declaration on the future relationship between the EU 27 and the United Kingdom which should be finalised together with the draft Withdrawal Agreement by October 2018.

On 19 July 2018 the European Commission published a Communication titled ‘Preparing for the withdrawal of the United Kingdom from the European Union on 30 March 2019’[[1]](#footnote-1).

At the European Council on 17 October 2018 the negotiations with UK were reviewed.

At that time the EU27 leaders “noted that, despite intensive negotiations, not enough progress has been achieved”.

Moreover, the European Council (Art. 50) called on the Union negotiator to continue his efforts to reach an agreement in accordance with previously agreed European Council guidelines.

Finally, the EU27 leaders declared their readiness to convene a European Council, if and when the Union negotiator reports that decisive progress has been made.

On 13 November 2018 the European Commission published the Communication “Preparing for the withdrawal of the United Kingdom from the European Union on 30 March 2019: a Contingency Action Plan’[[2]](#footnote-2) in order to prepare for a ‘no deal scenario’.

Finally, an extraordinary European Council was scheduled on 25 November 2018 and the EU 27 and the UK reached an agreement on the ‘Withdrawal Agreement’.

Before the Withdrawal Agreement can enter into force, it needs to be ratified by the EU and the UK. For the EU, the Council of the European Union must authorize the signature of the Withdrawal Agreement, before sending it to the European Parliament for its consent. The United Kingdom must ratify the agreement according to its own constitutional arrangements.

On 19 December 2018 the European Commission published the Communication ‘Preparing for the withdrawal of the United Kingdom from the European Union on 30 March 2019: Implementing the commission’s Contingency Plan’[[3]](#footnote-3).

In this Communication “calls upon Member States to take a generous approach to UK nationals who are already resident in their territory”.

On 15 January and 12 March 2019 the Withdrawal Agreement was voted in the UK Parliament and did not find the necessary support.

On 13 March 2019 the UK Parliament voted against a BREXIT without a Withdrawal Agreement and on 14 March 2019 the UK Parliament voted in favour of a temporary postponement of the BREXIT.

By letter of 20 March 2019 the UK Prime Minister asked the Council for an extension of the Article 50 period until 30 June 2019.

On 21 March 2019 the European Council dealt with the request of a postponement of the BREXIT and agreed on the following Council Conclusions:

1. *The European Council takes note of the letter of Prime Minister Theresa May of 20 March 2019.*
2. *In response, the European Council approves the Instrument relating to the Withdrawal Agreement and the Joint Statement supplementing the Political Declaration agreed between the European Commission and the government of the United Kingdom in Strasbourg on 11 March 2019.*
3. *The European Council agrees to an extension until 22 May 2019, provided the Withdrawal Agreement is approved by the House of Commons next week. If the Withdrawal Agreement is not approved by the House of Commons next week, the European Council agrees to an extension until 12 April 2019 and expects the United Kingdom to indicate a way forward before this date for consideration by the European Council.*
4. *The European Council reiterates that there can be no opening of the Withdrawal Agreement that was agreed between the Union and the United Kingdom in November 2018. Any unilateral commitment, statement or other act should be compatible with the letter and the spirit of the Withdrawal Agreement.*
5. *The European Council calls for work to be continued on preparedness and contingency at all levels for the consequences of the United Kingdom’s withdrawal, taking into account all possible outcomes.*
6. *The European Council will remain seized of the matter.*
7. **Legal questions linked to the BREXIT**

The BREXIT Working Group provided in its previous three reports an overview on the legal consequences of the BREXIT.

The ‘Fourth Report of the BREXIT Working Group’, which reflects the discussions of the meeting of the BREXIT Working Group on 21 February 2019, addresses again the legal consequences in a comprehensive manner by addressing the two potential scenarios:

In this context and with respect to the two scenarios it should be reminded that

* **if the Withdrawal Agreement is ratified** EU law will cease to apply to and in the United Kingdom on 1 January 2021, i.e. after a transition period of 21 months, the terms of which are set out of the Withdrawal Agreement. **With respect to the European Schools the draft Withdrawal Agreement even foresees a transition period of 29 months until 31 August 2021;**
* if the Withdrawal Agreement is not ratified in time by both parties, there will be no transition period and EU law will cease to apply to and in the United Kingdom as of the withdrawal date. **With respect to the European Schools the ‘no deal’ or ‘cliff-edge’ scenario will mean that the United Kingdom will nevertheless be bound by the Convention defining the Status of the European Schools[[4]](#footnote-4) until 31 August 2020[[5]](#footnote-5).**

1. **Obligations of the UK vis-à-vis the system of the European Schools**

The ‘First Report of the BREXIT Working Group’ already addressed the question whether the UK would leave the Convention automatically in case of BREXIT or whether only a denunciation in accordance with Article 31 of the Convention of the European Schools would terminate the UK membership to the Convention of the European Schools.

According to Article 31.1 of the Convention “*any Contracting Party may denounce this Convention by written notification to the Luxembourg Government; the latter shall inform the other Contracting Parties upon receipt of the notification. Denunciation shall be notified by 1 September of any year in order to take effect on 1 September the following year.”*

The UK Government did not notify the denunciation by 1 September 2017 nor by 1 September 2018.

The legal question was analysed by the Legal Service of the EU Commission, UK legal experts and the lawyers of the Office of the Secretary-General (OSG)[[6]](#footnote-6).

Finally, the members of the BREXIT Working Group proposed to the Board of Governors to follow - for the sake of legal certainty - the legal analysis of the EU Commission. According to this analysis, after BREXIT the UK will no longer be a contracting party of the Convention of the European Schools. By losing the status of an EU Member State the UK would cease ‘ipso facto’ to be a contracting party of the Convention of the European Schools.

**Nevertheless, based on Article 31.1 of the Convention of the European Schools in connection with Article 70 (1) (b) of the Vienna Convention the UK would be bound by the Convention of the European School until the end of the 2019/20 school year.**

The UK delegation clarified in its letter of 30 January 2019 (see Annex I) that the UK does not share this legal view, but is committed to continue the secondments of staff and supply of national inspectors until 31 August 2020.

Taking in consideration these two positions the following can be summarized:

**Main consequences of scenario 1: withdrawal under the Withdrawal Agreement, including for the European Schools a transition period until 31 August 2021**

* ***“The United Kingdom shall be bound by the Convention defining the Statute of the European Schools, as well as by the Regulations on Accredited European Schools adopted by the Board of Governors of the European Schools, until the end of the school year that is ongoing at the end of the transition period.”***

**This means in particular:**

* The UK will maintain its obligation to contribute to the system of the European Schools by seconding teachers until 31 August 2021.
* The UK will maintain to contribute with two national inspectors to the system of the European Schools until the end of the 2020/21 school year.
* The UK will continue to provide experts.
* The UK delegation will be invited to the Board of Governors and other bodies of the European Schools and the UK delegation will retain its voting rights until 31 August 2021.
* ***“The United Kingdom shall, with respect to pupils who before 31 August 2021 acquired a European baccalaureate and to pupils who are enrolled in a cycle of secondary studies in a European School before 31 August 2021 and acquire a European baccalaureate after that date, ensure that they enjoy the rights provided for in Article 5(2) of the Convention defining the Statute of the European Schools.***

**This means in particular:**

* The European Baccalaureate will be recognized by the UK for pupils
* who have acquired the BAC before 31 August 2021, but also for pupils,
* who are enrolled in the secondary cycle before 31 August 2021 no matter when they acquire their BAC.

As the European Commission has underlined in its Communications, all stake holders need to be prepared for all scenarios including the ‘no deal’ scenario.

The following table summarizes the obligations of the UK[[7]](#footnote-7) vis-à-vis the system of the European Schools **in case of a ‘no deal’**:

**Main consequences of scenario 2: withdrawal without a Withdrawal Agreement**

* **The UK will be bound by the Convention of the European Schools until the end of the 2019/20 school year (31 August 2020).**

**This means in particular:**

* The UK will maintain its obligation to contribute to the system of the European Schools by seconding teachers until 31 August 2020.
* The UK will maintain to contribute with two national inspectors to the system of the European Schools until the end of the 2019/20 school year.
* The UK will continue to provide experts.
* The UK delegation will be invited to the Board of Governors.
* The UK will recognize the European BAC automatically if the BAC is acquired before 31 August 2020.

1. **Situation of the staff members of the European Schools**

The European Schools employ in all staff categories (Seconded Staff, Locally Recruited Teachers, Administrative and Ancillary Staff) staff members with UK nationality. These colleagues are an integral part of the European Schools.

**aa) Seconded Staff Members**

The number of staff members seconded by the UK government has decreased over the last years from 247 in the 2010/11 school year to 55 in the 2018/19 school year.

|  |  |  |
| --- | --- | --- |
| **School year** | **Total number[[8]](#footnote-8)** | **remarks** |
| **2010/11** | 247 |  |
| **2011/12** | 233 |  |
| **2012/13** | 217 |  |
| **2013/14** | 177 |  |
| **2014/15** | 143 |  |
| **2015/16** | 119 |  |
| **2016/17** | 108 |  |
| **2017/18** | 78 | Out of them 15 are in their 9th year |
| **2018/19** | 55 | Out of them are 23 in their 9th year and 12 teachers are over the UK state pension age (although many teachers chose to work beyond this age) |
| **2019/20** | 53 | Estimation |
| **2020/21** | 28 | Estimation |

The majority of the seconded UK teachers in the system are currently in their last two years of secondment. In general, the UK delegation is willing to support a tenth year if requested by the school.

Although the European Schools have already experienced a significant loss of UK colleagues, the effect of losing the remaining colleagues with UK nationality should not be underestimated.

During their secondment UK teachers are – like seconded staff members from other Member States – subject to the seat agreement between the hosting Member State and the Board of Governors. All seat agreements foresee special rights to members of the seconded staff including the entitlement to a special residence permit[[9]](#footnote-9). This means that UK seconded staff members should not be in need of a particular residence permit as long as their secondment continues. Only after the termination of the secondment a residence permit would be required.

**bb) Locally Recruited Teachers**

The number of locally recruited teachers in general and the number of locally recruited teachers with UK nationality has increased significantly in the last year. Currently, 216 locally recruited teachers with UK nationality[[10]](#footnote-10) are employed in the European Schools.

Their rights and duties are ruled out in the Service Regulations for Locally Recruited Teachers in the European Schools that entered into force on 1 September 2016.

Neither the BREXIT nor the potential denunciation of the Convention would have direct implications on their existing contractual relations to the European Schools.

Nevertheless, they will lose their EU citizenship and - depending on the outcome of the negotiations on the BREXIT - their freedom of movement will be impacted in future. This will influence the decision of locally recruited teachers to stay or to leave the system.

Moreover, it will also influence the attractiveness of the European Schools as potential employer.

Different from seconded staff members, locally recruited teachers are not entitled to a particular residence permit. Becoming third country nationals as of the withdrawal date they will need a residence permit in case of a ‘no deal scenario’.

In order to ensure an interim phase as of the withdrawal in the case of a ‘no deal scenario’ the EU COM has requested Member States to “take a generous approach” to UK nationals who are already resident in their territory.

Some Member States already have established such interim measures, others are in the process of preparing them (for the details see Annex VII).

**cc) Administrative and Ancillary Staff (AAS)**

With the closing of the European School Culham on 31 August 2017, the number of members of the AAS with UK nationality has dropped to 16[[11]](#footnote-11).

Like the contract for the Locally Recruited Teachers, neither the BREXIT nor the potential denunciation of the Convention will have direct implications on their contractual relations to the European Schools.

Nevertheless, the attractiveness of the European Schools as an employer may be affected by a BREXIT, although the impact on the system will be minor due to the low number of AAS members with UK nationality.

With respect to their residence for members of the AAS the same rules do apply as for locally recruited teachers.

**dd) Summary on legal consequences**

Also with respect to the legal status of the staff of the European Schools the two different scenarios have a different impact.

**Main consequences of scenario 1: Withdrawal Agreement, including for the European Schools a transition period until 31 August 2021**

* **The United Kingdom will be a third country as of the withdrawal date.**
* **Staff members with a UK nationality will become ‘third country nationals” as of the withdrawal date.**

**This means in particular:**

* **Seconded Teachers** may finalize their secondment on 31 August 2021 at the latest.

The basis of their legal residence in the hosting Member State **during their secondment** is provided in the Seat Agreements between the Board of Governors and the hosting Member States (see for the details Annex VI).

* **Locally Recruited Teachers (LRT) and Administrative and Ancillary Staff (AAS)** would in principle be considered as workers within the meaning of Article 45 TFEU and would therefore be protected by the provisions of the Withdrawal Agreement.
* As of the withdrawal date the intra-EU Mobility of staff members will no longer be granted.

In case of a ‘no deal’ the consequences can be summarized as follows:

**Main consequences of scenario 2: withdrawal without a Withdrawal Agreement**

* **The United Kingdom will be a third country as of the withdrawal date.**
* **Staff members with a UK nationality will become ‘third country nationals” as of the withdrawal date.**

**This means in particular:**

* **Seconded Teachers** will have to finalize their secondment until 31 August 2020 at the latest.

The basis of their legal residence in the hosting Member State **during their secondment** is provided in the Seat Agreements between the Board of Governors and the hosting Member States (see for the details Annex VI).

* **Locally Recruited Teachers (LRT) and Administrative and Ancillary Staff (AAS)** will be subject to two different EU Directives concerning third country nationals which have been implemented in the EU Member States, unless a special regime is negotiated between the European Union and the United Kingdom. The two Directives referred to are:
* The ‘Long Term Residents Directive 2008/109’ provided they have been residing in the hosting Member State already five years.
* The ‘Blue Card Directive 2009/50)’ provided that they will be newly recruited and the conditions of the national law for offering a ‘Blue card’ are fulfilled.
* EU COM requests Member States “to take a generous approach” to UK nationals who are already resident in their territory. Details to the **interim measures** foreseen in the six hosting Member States can be found in Annex VI.
* As of the withdrawal date the intra-EU Mobility of staff members will no longer be granted.

**d) Situation with respect to the national inspectors and UK experts and external examiners**

The European Schools are supported by two national inspectors, nominated by the UK delegation. They carry responsibility for the evaluation of seconded teachers, for curriculum development as it relates to English and for related teacher professional development.  In addition, the UK secondary inspector has overall responsibility for the quality assurance of European Baccalaureate English examinations, both written and oral which are offered at six levels: L1; L1A; L11; L11A; L111 and LIV.

Experts play a key role in relation to the European Baccalaureate. Under the guidance of the national inspector, they are involved in the evaluation of examination proposals, the elaboration of the written examination papers, the selection of examination material, the quality assurance of oral examination proposals and English language versions of papers in other subjects.

Currently, there are 8 experts of UK nationality involved in the European Baccalaureate; 5 of these are involved in English and 3 in other subjects.

In 2018, the European Baccalaureate generally also involved 66 external correctors with UK nationality (41 for the written examinations and 25 for the oral examinations). The recruitment and approval of these correctors is also undertaken by the UK secondary inspector.

The number of candidates who sat the English language examinations in the European Baccalaureate 2018 indicate the scale of the undertaking:

|  |  |  |
| --- | --- | --- |
| **Level** | **Candidates: Written** | **Candidates: Oral** |
| L1 | 321 | 321 |
| L1A | 51 | 51 |
| L2 | 1232 | 893 |
| L2A | 130 | 105 |
| L3 | 245 | 72 |
| L4 | 1 | 0 |
| **TOTAL** | **1980** | **1442** |

Depending on the two scenarios (BREXIT with and without Withdrawal Agreement) the cooperation with the national inspectors, which is based on the Convention of the European Schools, will either end by the end of the 2020/21 or already by the end of the 2019/20 school year.

The possibility to continue to the cooperation with the UK authorities after this transition period should be further explored.

1. **Accreditation process of the Europa School UK, Culham**

**aa) Legal situation**

The accreditation process of the ‘Europa School UK, Culham’ started in April 2013 with the approval of the general interest file presented by the UK Authorities.

At its meeting of 2-4 December 2014, the Board of Governors approved the Europa School’s accreditation request as regards the nursery and primary cycles and mandated the Secretary-General to sign an Accreditation Agreement covering these cycles for three years.

The dossiers of conformity for the accreditation of Europa School UK for S1-S5 (2015-02-D-8-en-2) and for the European Baccalaureate (2015-02-D-9-en-2) were approved at the Board of Governors in April, 2015.

In April 2017, the Board of Governors expressed a favourable opinion on the report on the audit of the nursery and primary cycle at Europa School and decided to mandate the Secretary-General to renew the Accreditation Agreement currently in force for a further two years, in line with the length of the BREXIT negotiations.

The consequent audit was arranged early after the opening of the relevant sections of the Europa School UK, concluding on 29th September 2017 with a positive recommendation for final approval by the Board of Governors.

The Board of Governors decided in December 2017 to mandate the Secretary-General to continue the accreditation process up to S 5 and to sign an agreement for the European Baccalaureate cycle **for two years until the end of the 2018/19 school year.** The Board of Governors took this decision in awareness of the envisaged date of the BREXIT (29 March 2019).

The BREXIT raises the question whether this accreditation might be maintained in the future, given the fact that UK would no longer be a part of the EU territory.

Also this question was analysed by the Legal Service of the EU COM and the lawyers of the Office of the Secretary-General and discussed in depth during the meeting of the Working Group on 22 February 2018.

The Legal Service of the EU COM took the view that in case that the Article 50 TEU negotiations would not result in an agreement with the UK and the Union or efforts to include the topic of the Europa School UK in such an agreement would not succeed, that in principle the accreditation could only be maintained until the date of the BREXIT (29 March 2019). Nevertheless, COM would not oppose a continuation of the accreditation until the end of the 2018/19 school year.

**Due to this legal ambiguity, the Board of Governors approved in April 2018 the following conclusion concerning the accreditation of the Europa School UK, Culham:**

1. *The European Schools welcome that the accreditation process of the Europa School UK, Culham is addressed in the draft withdrawal agreement and that - subject to the final decision of the Board of Governors - the accreditation of the Europa School UK, Culham might be prolonged until the end of the transition period.*
2. *Moreover, the European Schools take the view that in case of an ‘uncontrolled’ BREXIT the accreditation process of the Europa School UK, Culham, should be maintained at least until the end of the 2018/19 school year. Taking in consideration the remaining legal uncertainty, the UK national authorities are encouraged to provide the pupils currently enrolled in the Europa School UK, Culham with the necessary safeguards in case the accreditation would finish by the end of March 2019.*

Based on the ‘Third Report of the BREXIT Working Group’ the Board of Governors decided in December 2018

* to endorse its decision of December 2017 to maintain also in case of a BREXIT without a Withdrawal Agreement the accreditation of the Europa School UK, Culham until the end of the 2018/19 school year and
* mandated the BREXIT Working Group to continue addressing the risks linked to the two BREXIT scenarios.

The following tables summarize the potential consequences of the two scenarios for the accreditation of the Europa School UK, Culham:

**Main consequences of scenario 1: withdrawal under the Withdrawal Agreement, including for the European Schools a transition period until 31 August 2021**

* ***“The United Kingdom shall be bound by the Convention defining the Statute of the European Schools, as well as by the Regulations on Accredited European Schools adopted by the Board of Governors of the European Schools, until the end of the school year that is ongoing at the end of the transition period.”***

**This means in particular:**

* The accreditation process of the Europa School UK, Culham, might be prolonged until the end of the 2020/21 school year.
* This will require a decision of the Board of Governors, as the current accreditation is covered until the end of the 2018/19 school year.
* The BAC sessions 2019, 2020 and 2021 are covered.

In case of a ‘no deal’ the consequences can be summarized as follows:

**Main consequences of scenario 2: withdrawal without a Withdrawal Agreement**

* **The accreditation of the Europa School UK will end at the end of the 2018/19 school year.**

This means in particular:

* A European BAC can be acquired in June 2019.
* Under the current conditions, no European BAC can be acquired as of the 2019/20 school year.
* According to the legal expert consulted by the OSG the accreditation might be prolonged on the basis of Article 31 of the Convention for a very limited period of time.

**bb) Potential prolongation of the accreditation beyond 31 August 2019**

The Europa School UK, Culham, was audited during the 2018/19 school year. The audit report was presented to the Joint Board of Inspectors at their meeting on 6 February 2019 (see doc. 2018-12-D-16-en-1).

The report is positive, the inspectors in charge of the audit propose a prolongation of the audit for all cycles.

Currently in total 80 students are enrolled in the BAC cycle of the Europa School UK, Culham, 32 out of them in S 7 and 48 out of them in S 6.

The following table gives an overview of the total school population:

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Primary (504) | | | | | | | Secondary (356) | | | | | | |
| R | 1 | 2 | 3 | 4 | 5 | 6 | 1 | 2 | 3 | 4 | 5 | **6** | **7** |
| 84 | 83 | 82 | 84 | 56 | 56 | 57 | 56 | 56 | 52 | 59 | 52 | **48** | **32** |

**(1) Withdrawal Agreement**

**In case of a Withdrawal Agreement** the accreditation should be prolonged until 31 August 2021. A further prolongation should not be envisaged at this stage.

**(2)’No deal’ scenario**

**In case of a ‘no deal scenario’** a general prolongation of the accreditation should not be envisaged in this moment of time. In this context it needs to be recalled, that the Convention of the European Schools does not foresee schools outside the territory of an EU Member State.

Nevertheless, a prolongation of the accreditation limited to the current S 6 (and S 5) was discussed in the BREXIT Working Group on 21 February 2019.

**(a) Potential prolongation until 31 August 2020**

A prolongation of the accreditation until 31 August 2020 could be based on the following two arguments:

Firstly, such a measure would respect the ‘BAC cycle’ by ‘protecting’ those 48 pupils currently in S 6 who have already entered in the BAC cycle.

Secondly, the European Schools and the UK delegation do agree that the UK will contribute to the system of the European Schools until 31 August 2020. This includes also the supply of the two national inspectors until this date.

From a legal point of view such a prolongation of the accreditation limited to the current S 6 could be seen as an **extraordinary transitory measure** based on the second sentence of Article 31.2 of the Convention of the European Schools which reads as follows:

*“The Board of Governors shall decide which organizational measures, including staff measures, are to be taken as a result of denunciation by any of the Contracting Parties.”*

Such a decision, as any decision linked to accreditation, would require a unanimous vote of the Board of Governors.

**(b) Potential prolongation until 31 August 2021**

By letter of 25 January 2019 the management of the Europa School UK, Culham’ forwarded a letter of their pupils currently enrolled in S 5.

The management asks to support a temporary continuation of the accreditation of the school until 31 August 2021 in order to ensure a European Baccalaureate for the 52 pupils currently enrolled in S 5.

Pupils currently enrolled up to S 4 might have the possibility to award the International Baccalaureate (IB).

This request was underlined by a letter of the parents of the S 5 Students of 24 March 2019.

1. **Conclusions of the Budgetary Committee**

The Budgetary Committee responded positively to the different scenarios proposed in the BREXIT Working Group’s report.

1. **Proposal**

The members of the Board of Governors are invited to discuss the Report and

* to agree in case of a BREXIT with a Withdrawal Agreement on a prolongation of the accreditation of the Europa School UK, Culham, until 31 August 2021,

respectively

* to agree in case of a BREXIT without a Withdrawal Agreement (‘no deal’ scenario) on a prolongation of the accreditation of the Europa School UK, Culham,
  + exclusively for S6 until 31 August 2020 and S7 until 31 August 2021 (i.e. for the pupils currently in S5 and S6) **or**
  + exclusively for S7 until 31 August 2020 (i.e. for the pupils currently in S6).

In case of a BREXIT this will be considered as the last renewal of accreditation.

**Annex I**

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**Department for Education**

**Level 1 Sanctuary Buildings**

**Great Smith Street London**

**SW1P 3BT**

**www.gov.uk/dfe Email:**

**general.es@education.gov.uk**

**30 January 2019**

**Mr Giancarlo Marcheggiano**

**Secretary-General of the European Schools**

**Rue de la Science 23 - 2nd floor**

**B-1040 Brussels**

**Belgium**

Dear Mr. Marcheggiano

Leaving the EU with a deal remains the Government’s top priority. This has not changed. However, a responsible government must plan for every eventuality, including a no deal scenario. We are therefore intensifying and accelerating no deal planning to ensure we are fully prepared.

In the event of a no deal exit, the UK will automatically fall out of the European Schools Convention on exit day (29 March 2019). No denunciation is required or expected having already been notified under Article 50.

In this situation, our priority is to avoid disruption to the European Schools, pupils, teachers and to the Europa School. We therefore propose that the UK Government and the European Schools enter into an arrangement through which the UK will continue to contribute to the European Schools system through secondment of teachers and the supply of the two national inspectors until 31 August 2020. We also propose that the Europa School should retain its accreditation for its pupils to complete the European Baccalaureate until that date. We believe that in a no deal scenario this short-term arrangement is in the best interests of our staff, the pupils at Europa and also the European Schools system as a whole.

We would welcome the opportunity to discuss our proposal with you as a matter of urgency so that we are able to offer our seconded teachers some employment stability in a no deal scenario and provide the pupils at Europa School with some reassurance.

In the event that we are not able to secure such an arrangement, the UK seconded teachers would be subject to redundancy and would leave their posts on 29 March 2019. I have today written to all our seconded teachers to inform them that in the event of a no deal exit, their employment as a UK seconded teacher to the European School system is likely to be ended in 2019 unless we can reach an arrangement with the European Schools system for the UK to continue its contribution until 31 August 2020.

Clearly, we would much prefer to minimise the uncertainty and associated anxiety this news will cause to those affected, so we have today informed all UK seconded teachers and the department’s trade unions that we have entered into a period of formal consultation with them regarding their future employment with the Department for Education and that the UK seconded teachers are at risk of compulsory redundancy. This process will be halted at the point at which a deal between the UK and EU is ratified by both Parliaments or we have entered into an arrangement with the European Schools, as we propose.

Our seconded teachers will receive a package of support. This will include career transition support services such as mentoring and advice from a teaching profession adviser, confidential, independent advice, support from our employee assistance programme and information on all vacancies within the UK government.

I have also confirmed to the teachers that they will continue to receive their full pay and contractual benefits during the formal redundancy consultation and any subsequent notice period.

We will shortly be arranging group briefing meetings and one-to-one consultation meetings for all UK seconded teachers via Skype. We will also be arranging consultation meetings with the relevant trade unions for employees of the Department (namely Public and Commercial Services (PCS), The FDA, and Prospect). We would very much appreciate the support of the Office and the School Directors to enable the UK seconded teachers to attend these meetings which will be arranged at the end of the school day.

We would also like to discuss with you the possibility of the UK seconded teachers being offered direct employment upon conclusion of their contracts with the UK Department for Education. Please note that we are proceeding on the basis that the Acquired Rights Directive 2001/23/EC does not apply in the current situation. I am conscious that the application of the Directive is very fact sensitive and if you consider the Directive may be of application please could you inform us.

I look forward to hearing from you and discussing our proposal in more detail.

Yours sincerely

Katherine Stoate

Head of UK Delegation

cc. Mr Andreas Beckman, Deputy Secretary-General

**Annex II**

Brussels, 13 February 2019

2019-02-L-12/GM/AB

Ms Katherine Stoate

Head of UK Delegation

Department for Education Level 1 Sanctuary Buildings Great Smith Street London

SW1P 3BT

Email: general.es@education.gov.uk

Dear Ms Stoate,

I would like thank you for your letter of 30 January 2019.

In this letter, you address the potential consequences of a BREXIT with and without ‘a deal’.

I fully agree with you on the importance of the Withdrawal Agreement and its Article 125 and with your statement that the ratification of the Withdrawal Agreement remains our main goal.

However, our interpretation of the Convention defining the Statute of the European Schools in case of a ‘no deal’ BREXIT (the “Convention”) deviates from the interpretation provided in your letter.

Indeed, the position of the European Schools decision-making bodies and in particular the Board of Governors, as expressed in the Reports of the BREXIT Working Group, has been that the United Kingdom is bound by the Convention until 31 August 2020 in case of a ‘no deal’ BREXIT.

However, despite this differing interpretation of the Convention, I note and appreciate that we share the same objective of acting in the interest of the European Schools, our staff and family members, our pupils and parents.

I therefore welcome the UK Delegation’s intention to continue the secondment of staff members until 31 August 2020 and the supply of two national inspectors until this date.

Also during this period, I welcome the United Kingdom’s intention to continue to honor its duties as set out in the Convention of the European Schools and its implementing rules.

I intend to inform the seconded staff members concerned about our shared objective, as confirmed in both your letter and our reply, in order to provide these colleagues and their families with the necessary reassurance that they can stay as seconded staff members in our schools in the case of no deal BREXIT until 31 August 2020.

Yours sincerely,

**Annex III**



20 February 2019

Mr Giancarlo Marcheggiano

Secretary-General of the European Schools

Rue de la Science 23 - 2nd floor

B-1040 Brussels

Belgium

Dear Mr. Marcheggiano

Thank you for your letter of 13 February.

I am pleased that we share the same objective of acting in the interest of the European Schools, its staff and family members, pupils and parents and that you accept that UK teachers can remain as seconded staff until August 2020 in the event that we leave the EU without an agreement.

As you are aware, our position is that in a no deal scenario, the UK will automatically fall out of the European Schools Convention on exit day (29 March 2019) and that no denunciation of the European Schools Convention by the UK is required or should be expected, the UK having already notified under Article 50. With respect to your point about commitments and rules covered by the Convention, to be helpful we would like to clarify that in the event of a no deal scenario, until August 2020 the UK’s contribution will be to continue to:

* contribute to the system of the European Schools by seconding teachers until 31 August 2020;
* contribute with two national inspectors to the system of the European Schools until the end of the 2019/20 school year;
* provide experts in relation to the European Baccalaureate; and
* recognise the European Baccalaureate automatically if the European Baccalaureate is acquired before 31 August 2020, specifically granting holders of the European Baccalaureate all the benefits attaching to the possession of the diploma or certificate awarded at the end of secondary school education in the Member State of which they are nationals; entitlement to seek admission to any university in the UK on the same terms as nationals of the UK with equivalent qualification.

We also request that the UK is invited to attend European Schools Board of Governors meetings during this period. We would be content to attend other meetings if invited.

Noting and accepting that we have different views of the interpretation of the Convention in a no deal scenario, I would be grateful if you would confirm that you can agree to these arrangements as soon as possible so that we can provide certainty and clarity for the European Schools and halt the “at risk of redundancy” process.

I look forward to hearing from you.

Yours sincerely

Katherine Stoate Head of UK Delegation

cc. Mr Andreas Beckman, Deputy Secretary-General

**Annex IV**

Brussels, 26 February 2019

2019-02-L-19/GM/AB

**Ms Katherine Stoate**

Head of UK Delegation

Department for Education Level 1 Sanctuary Buildings Great Smith Street London

SW1P 3BT

Email: general.es@education.gov.uk

Dear Ms Stoate,

Thank you for your letter of 20 February 2019.

I can confirm our shared understanding that in case of a ‘no deal BREXIT’ the UK will continue until 2020 to:

* contribute to the system of the European Schools by seconding teachers until 31 August 2020;
* contribute with two national inspectors to the system of the European Schools until the end of the 2019/20 school year;
* provide experts in relation to the European Baccalaureate; and
* recognize the European Baccalaureate automatically if the European Baccalaureate is acquired before 31 August 2020, specifically granting holders of the European Baccalaureate all the benefits attaching to the possession of the diploma or certificate awarded at the end of secondary school education in the Member State of which they are nationals; entitlement to seek admission to any university in the UK on the same terms as nationals of the UK with equivalent qualification.

Moreover, during this period, I intend to invite the UK delegation to participate in the meetings of the Board of Governors as an observer.

I hope that with this confirmation you are in the position to halt the “at risk of redundancy process” and would appreciate in this sense a final confirmation in the interest of our staff members, pupils and parents concerned.

Yours faithfully,

Giancarlo MARCHEGGIANO   
Secretary-General

Cc: Heads of Delegation of the European Schools

**Annex IV**

**Indicative Calendar[[12]](#footnote-12)**

|  |  |  |
| --- | --- | --- |
| **Date** | **European Schools** | **EU Article 50 Negotiations** |
| 29 March 2017 |  | Notification of the BREXIT by the UK Government |
| 4 – 7 April 2017 | Decision of the Board of Governors to set up a working group dealing with the BREXIT |  |
| 29 April 2017 |  | EU Council at EU 27 adopted a set of political guidelines which define the framework for the negotiations |
| 3 May 2017 |  | EU COM recommendations including negotiation guidelines |
| 10 May 2017 | 1st meeting of the BREXIT Working Group |  |
| 22 May 2017 |  | EU Council authorized the opening of the negotiations |
| 12 June 2017 |  | EU COM Position Paper “Essential Principles on Financial Settlement” mentioning the ES |
| 19 June 2017 |  | 1st round of Article 50 negotiations   * Publication of terms of reference |
| 17 – 20 July 2017 |  | 2nd round of Article 50 negotiations |
| 28 – 31 August 2017 |  | 3rd round of Article 50 negotiations |
| 11 September 2017 | 2nd meeting of the BREXIT Working Group |  |
| 18 - 21 September 2017 |  | 4th round of Article 50 negotiations |
| 9 – 12 October 2017 |  | 5th round of Article 50 negotiations |
| 7 – 8 November 2017 | Budgetary Committee |  |
|  |  |  |
| 9 – 10 November 2017 |  | 6th round of Article 50 negotiations |
| 13 November 2017 | 3rd Meeting of the BREXIT Working Group |  |
|  |  |  |
| 5 – 7 December 2017 | **1st Report to be presented to the Board of Governors**   * Prolongation of the accreditation of ES Europa until the end of 2018/19 school year |  |
|  |  |  |
| 15 December 2017 |  | Article 50 Council Negotiation Guidelines |
| 29 January 2018 |  | Article 50 Council Decision with supplementary negotiation directives |
| 7 February 2018 |  | COM position paper on ‘Transitional arrangements in the Withdrawal Agreement’ |
| 21 February 2018 |  | UK position paper concerning the ‘Implementation Period’ |
|  |  |  |
| 22 February 2018 | 4th Meeting of the BREXIT Working Group |  |
|  |  |  |
| 28 February 2018 |  | Publication of the EU COM Draft Withdrawal Agreement |
|  |  |  |
| 13 – 14 March 2018 | Budgetary Committee |  |
|  |  |  |
| 22 – 23 March 2018 |  | European Council  Council Guidelines of 23 March 2018 |
|  |  |  |
| 17 – 19 April 2018 | **2nd Report to be presented to the Board of Governors**   * Recommendations with respect to the Article 50 ‘withdrawal agreement’ * Proposals to amend the Service Regulations for LRT |  |
|  |  |  |
| June 2018 |  | European Council |
| 19 July 2018 |  | EU COM Communication ‘Preparing for the withdrawal of the United Kingdom from the EU on 30 March 2019” |
|  |  |  |
| 20 September 2018 | 5th Meeting of the BREXIT Working Group |  |
|  |  |  |
| 17 October 2018 |  | European Council   * No finalization of the EU Article 50 negotiations |
|  |  |  |
| November 2018 | Budgetary Committee |  |
| 25 November 2018 |  | Extraordinary European Council – Approval of the Withdrawal Agreement |
|  |  |  |
| December 2018 | **3rd Report to be presented to the Board of Governors** |  |
|  |  |  |
| 21 February 2019 | 6th Meeting of the BREXIT Working Group |  |
| 5 – 6 March 2019 | Budgetary Committee |  |
|  |  |  |
| 21 - 22 March 2019 |  | European Council |
|  |  |  |
| 29 March 2019 |  | **Originally envisaged date of BREXIT** |
|  |  |  |
| 9 – 12 April 2019 | **4th Report to be presented to the Board of Governors** |  |
|  |  |  |
| 12 April 2019 |  | **Envisaged date of BREXIT in case of ‘no deal’** |
| 22 May 2019 |  | **Envisaged date of BREXIT in case of a Withdrawal Agreement** |
|  |  |  |
| 31 August 2020 | End of transitory period in case of ‘no deal scenario’ |  |
|  |  |  |
| 31 August 2021 | End of transitory period according to Article 125 of the Withdrawal Agreement |  |

**Annex V**

**School population**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Elèves dans section anglaise qui n'ont pas dans leur(s) nationalité(s) 'British'. | | | | | |
|  |  |  |  |  |  |
|  | **M** | **P** | **S** | **Total** |  |
| **Alicante** | 30 | 73 | 123 | **226** |  |
| **Bergen** | 30 | 80 | 113 | **223** |  |
| **Bruxelles I** | 22 | 116 | 198 | **336** |  |
| **Bruxelles II** | 45 | 110 | 160 | **315** |  |
| **Bruxelles III** | 34 | 90 | 139 | **263** |  |
| **Bruxelles IV** | 26 | 147 | 251 | **424** |  |
| **Frankfurt** | 58 | 191 | 183 | **432** |  |
| **Karlsruhe** | 23 | 93 | 135 | **251** |  |
| **Luxembourg I** | 80 | 168 | 148 | **396** |  |
| **Luxembourg II** | 62 | 182 | 185 | **429** |  |
| **Mol** | 28 | 102 | 163 | **293** |  |
| **München** | 19 | 59 | 87 | **165** |  |
| **Varese** | 41 | 132 | 150 | **323** |  |
| **Total** | **498** | **1543** | **2045** | **4076** |  |
|  |  |  |  |  |  |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  |  | Language 2 | | | |
|  |  |  |  |  |  |
|  | **P** | | **S** | **Total** |  |
| **Alicante** | 271 | | 360 | **631** |  |
| **Bergen** | 106 | | 195 | **301** |  |
| **Bruxelles I** | 790 | | 1143 | **1933** |  |
| **Bruxelles I (Berkendael)** | 75 | |  | **75** |  |
| **Bruxelles II** | 624 | | 1083 | **1707** |  |
| **Bruxelles III** | 607 | | 1027 | **1634** |  |
| **Bruxelles IV** | 669 | | 848 | **1517** |  |
| **Frankfurt** | 333 | | 382 | **715** |  |
| **Karlsruhe** | 142 | | 182 | **324** |  |
| **Luxembourg I** | 697 | | 880 | **1577** |  |
| **Luxembourg II** | 590 | | 768 | **1358** |  |
| **Mol** | 108 | | 217 | **325** |  |
| **München** | 337 | | 573 | **910** |  |
| **Varese** | 364 | | 547 | **911** |  |
| **Total** | **5713** | | **8205** | **13918** |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |

**Language 3**

|  |  |  |
| --- | --- | --- |
|  |  |  |
|  | **S** |  |
| **Alicante** | 25 |  |
| **Bergen** | 7 |  |
| **Bruxelles I** | 429 |  |
| **Bruxelles II** | 460 |  |
| **Bruxelles III** | 379 |  |
| **Bruxelles IV** | 252 |  |
| **Frankfurt** | 170 |  |
| **Karlsruhe** | 91 |  |
| **Luxembourg I** | 403 |  |
| **Luxembourg II** | 266 |  |
| **Mol** | 22 |  |
| **München** | 561 |  |
| **Varese** | 43 |  |
| **Total** | **3108** |  |
|  |  |  |

**Annex VI**

**Risk Analysis ‘BREXIT’**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No** | **Risk** | **Description** | **Action** | **Comments** |
| 1 | **Uncontrolled ‘BREXIT’** | The ‘BREXIT’ and the denunciation of the Convention may not take effect on the same time. Moreover, it is not clear whether UK can stay a contracting party of the Convention after the BREXIT.  In particular, the second semester of the 2018/19 school year may be concerned. | * Legal clarification by 12/2017 * Consultation of the UK delegation * Analysis of the possibility of an ‘agreement’ based on the Convention by 04/2018 * ‘influence’ the Article 50 negotiations * Analysis the situation of other international organizations (Florence) | LS EU COM denies possibility of a separate agreement, but period until end of 2020/21 school year is addressed in the draft ‘Withdrawal Agreement’ |
| 2 | **Financing of the system** | With the ‘BREXIT’, the financing of the EU will be reviewed. The amount of the future contribution of the EU COM to the budget as of 2019 is unclear.  The contribution of the UK delegation via secondments risks going down to zero.  In the same time the need for English native, locally recruited teachers, financed by the EU COM, will increase. | * Preparation of the 2019 budget * Review of the ‘cost sharing mechanism’ | UK is supposed to contribute to the system until the 2020/21 school year according to the draft ‘withdrawal agreement’  The European School Summit addressed the Cost Sharing Mechanism  The ‘Enlarged Presidency Working Group’ addressed cost sharing in its meetings in June, September and October 2018.  A proposal will be submitted to the Budgetary Committee in November and to the Board of Governors in December 2018. |
| 3 | **Staffing** | The number of teachers second by the UK risks going down to zero.  The attractiveness of the European Schools as employer for UK nationals is at risk. | * Mandate LRT WG to analyze the attractiveness of the ‘package’ offered to LRT * Concrete proposals of the LRT WG by 04/2018 * Explore further ways to attract and retain EN native teaching staff | done  adopted by the BoG in April 2018  concrete proposal to be presented to the BoG in December 2018 |
| 4 | **Loss of teaching and learning quality** | The loss of English native teachers and pupils might affect the quality of teaching and learning.  The system will lose two inspectors who play a key role in quality assurance. | * Analysis of the language sections in the 13 schools | done |
| 5 | **Recognition of the BAC in the UK** | With the denunciation of the Convention, the BAC is no longer automatically recognized in the UK. | * Recognition of the BAC could be part of an ‘agreement’ * Analysis of the ‘Convention on the Recognition of Qualifications concerning Higher Education in the European Region’. First step: contact DG EAC by 10/2017 * Define the role of UCAS coordinators | Recognition is part of the draft ‘withdrawal agreement’  Outcome: The Convention of the Council of Europe does not help |
| 6 | **Accreditation process of the Europa School UK, Culham** | The accreditation process of the Europa School Culham might be influenced because the school will no longer be located in an EU Member State. | * Legal clarification by 12/2017 * Verify whether the cooperation with the Europa School UK, Culham could be subject to a particular agreement | Accreditation is addressed in the draft ‘Withdrawal Agreement’ |
|  |  |  |  |  |

**Annex VII**

**Overview ‘Residence Permit’**

|  |  |  |
| --- | --- | --- |
| **Member States** | **Seconded Staff**  **(until termination of the secondment)** | **Locally Recruited Staff** |
| **Belgium** | *Seat Agreement of 12 October 1962*  *Article 7*  *Le Ministère des Affaires étrangères du Royaume de Belgique délivrera aux directeurs et aux membres du corps enseignant des Ecoles qui n’ont pas la nationalité belge, le permis séjour spécial établi conformément à l’arrêté royal du 6 décembre 1955, relatif au séjour en Belgique de certains étrangers privilégiés.*  *Article 8*  *Sur le territoire belge, les directeurs, ainsi les membres du corps enseignant et le personnel administratif des Ecoles :*  *a) ne si-ont pas soumis, non plus que leur conjoint et les membres de leur famille vivant à leur charge, aux dispositions limitant l’immigration et aux formalités d’enregistrement des étrangers ;* | **Brexit-law**  Belgium has drafted a general law covering different aspects impacted by Brexit. Two parts of this law touch upon citizen’s rights. This law has been introduced in Parliament and it is Parliament that will eventually decide on the final content.   1. **Right of residence**   Belgium plans a transitional period till the end of 2020 in which residence rights of UK-citizens are guaranteed. This period can be shortened or modified by Royal Decree or the scope can be changed to cater for all eventualities (e.g. agreement coming into force, UK not reciprocating, EU-wide solution found…). UK-citizens whose residence permits run out in that period can have them prolonged till the end of the period. Pending applications for UK-citizens and their family members on 29/03/2019 will be treated according to the rules applying on 29/03/2019 (i.e. 2004/38). Family reunifications with UK-citizens who exercised their EU-freedom of movement before 29/03/2019 will be treated according to the rules valid on 29/03/2019 (i.e. 2004/38) even if the application is done after 29/03/2019 (but within the transitional period).  UK-citizens will be encouraged to apply for long term residence as third country nationals in the EU (2003/109) during the transition period to be sure of a permanent solution.   1. **Social Security**   Similar to residence rights, social security rights of UK (e.g. pensions, invalidity benefits, …) and BE-citizens (e.g. health care in the UK, …)) will continue as before till the end of 2020. This period can be shortened by Royal Decree or the scope of the guarantee can be changed to cater for all eventualities (e.g. agreement coming into force, UK not reciprocating, EU-wide solution found…).  Belgian institutions will try to obtain the necessary cooperation from UK institutions to exchange the social security information they need. If they cannot obtain this information, they will inform the concerned and ask him/her to provide all relevant information. |
| **Germany** | Sitzstaatabkommen zwischen der Regierung der Bundesrepublik Deutschland und dem Obersten Rat vom 21. Januar 1994[[13]](#footnote-13)  *Artikel 8*  *Die ausländischen Bediensteten der Schulen sowie die zu ihrem Haushalt gehörenden und von ihnen unterhaltenen Familienmitglieder unterliegen nicht dem Erfordernis einer Aufenthalserlaubnis. Die Bestimmungen über die allgemeine Meldepflicht nach den Meldegesetzen der Länder der Bundesrepublik Deutschland bleiben unberührt.*  Sitzstaatabkommen zwischen der Regierung der Bundesrepublik Deutschland und dem Obersten Rat vom 31. Juli 2002[[14]](#footnote-14)  *Artikel 8*  *Das abgeordnete Personal der Schule sowie die zu ihrem Haushalt gehörenden und von ihnen unterhaltenen Familienmitglieder unterliegen nicht dem Erfordernis einer Aufenthalserlaubnis. Die Bestimmungen über die allgemeine Meldepflicht nach den Meldegesetzen der Länder der Bundesrepublik Deutschland bleiben unberührt.* | **What happens if there is a no-deal Brexit? Will British citizens be required to leave Germany straight away?**  No, no British citizen will be required to leave Germany immediately in the event of a no-deal Brexit. The Federal Government is planning an **initial transition period of three months**, which can be extended. During this time, British citizens and their family members who previously had the right of free movement will be able to continue living and working in Germany as before.  All those affected will be required to apply before the end of the transition period to the foreigners authority responsible for them for the residence permit they will require for their ongoing residency and to register with the residents registration office responsible for where they live, if they have not already done so. They will be allowed to remain for the time between submitting their application and receiving the decision from the foreigners authority.  Some foreigners authorities are already planning a procedure for voluntary registration/application before the date of leaving the EU.  **What will the long-term status of British citizens and their family members be after a no-deal Brexit?**  If the United Kingdom leaves the European Union without a final agreement, the legal status of the British citizens affected will change permanently. They will lose their status as EU citizens or family members of an EU citizen and will become third-country nationals.  **This means that after the initial three-month transition period, those affected will need to have a residence permit. They must apply to the responsible** [**foreigners authority**](https://www.bamf.de/SiteGlobals/Functions/WebGIS/EN/WebGIS_Auslaenderbehoerde.html) **for this. They will automatically be allowed to remain for the time between submitting their application and receiving the decision from the foreigners authority.**  You can get information on residence permits on the [website of the Federal Office for Migration and Refugees](http://www.bamf.de/EN/Willkommen/Aufenthalt/WichtigeInformationen/wichtigeinformationen-node.html) and from your [foreigners’ authority](https://www.bamf.de/SiteGlobals/Functions/WebGIS/EN/WebGIS_Auslaenderbehoerde.html), among other places.  Some foreigners authorities are already planning a procedure for voluntary registration/application before the date of leaving the EU.  Source: <https://www.gov.uk/guidance/living-in-germany#visas-and-residency> |
| **Italy** | Seat Agreement between the Republic of Italy and the Board of Governors of September 1963  Article 7  *Le Ministère des Affaires Etrangères délivrera au directeur et aux membres du corps enseignant ainsi qu’au personnel administratif de l’Ecole n’ayant pas la nationalité italienne une carte de séjour spéciale.* |  |
| **Luxembourg** | Seat Agreement between the Government of the Grand Duchy of Luxembourg and the Board of Governors of 13 October 1971  *Article 7*  *The Heads and the members of the teaching staff of the School who do not have Luxembourg nationality shall qualify for the special conditions established for the residence in the Grand Duchy of Luxembourg of certain privileged aliens.*  *Article 8*  *In the territory of the Grand Duchy of Luxembourg, the Representative of the Board of Governors, his staff, the Heads and the members of the teaching staff and the administrative staff of the School shall:*  *(a) together with their spouses and dependent members of their families, not be subject to immigration restrictions or to formalities for registration of aliens;* | **Rights of residence**  After 29 March 2019, British nationals no longer have the right of residence as Union citizens but are considered as third country nationals. Hence, British nationals must have a residence permit and meet the conditions for a category of residence permit as stated in the amended law of 29 August 2008 on the free movement of persons and immigration.  After 29 March 2019, British nationals living in Luxembourg will need to apply for a residence permit as a third country national. **Those British nationals already living in Luxembourg on 29 March 2019 will be able to continue using their existing residence card as proof of residence until 30 March 2020. After this date, they will need to have a third country residence permit and will need to apply for one before 31 December 2019.**  Procedural facilitations will be applied when processing applications for residence permits for British nationals and their family members.  Further information on the application procedure will be published in due course on www.guichet.lu  These procedural facilitations only apply to British nationals residing in Luxembourg before 29 March 2019.  Source: <https://gouvernement.lu/fr/dossiers/2019/brexit.html> |
| **Netherlands** | Seat Agreement between the Netherlands and the Board of Governors o | **Als er geen akkoord wordt gesloten (no deal)**  Als de EU en het VK er toch niet in slagen om een akkoord over de Brexit te sluiten, stelt de Nederlandse regering een overgangsperiode in van 15 maanden tot 1 juli 2020.  Tijdens deze overgangsperiode behouden Britten die voor de Brexit rechtmatig in Nederland verblijven hun rechten op verblijf, studie en werk in Nederland. Dit geldt ook voor familieleden van Britse burgers die zelf geen EU-nationaliteit hebben.  Britse burgers en hun familieleden worden verspreid over de overgangsperiode uitgenodigd door de Immigratie- en Naturalisatiedienst (IND) om een aanvraag voor een definitieve verblijfsvergunning in te dienen. Voor deze verblijfsvergunning zullen dezelfde voorwaarden gelden als voor EU-burgers. Daarmee kunnen alle Britten die rechtmatig verblijven in Nederland hier blijven wonen, studeren en werken. Uw werkgever hoeft geen aparte werkvergunning voor u aan te vragen.  Source:  <https://www.rijksoverheid.nl/onderwerpen/brexit/vraag-en-antwoord> |
| **Spain** | Seat Agreement between Spain and the Board of Governors  *Artículo 5*  *Los Directores, los miembros del personal docente y el Administrador, destinados a la Escuela por los Estados miembros:*  *- No estarán sometidos, al igual que su cónyuge o los miembros de su familia que vivan a su cargo, a las disposiciones limitativas de la inmigración y a las formalidades de registro de extranjeros cuando sean ciudadanos de la Unión Europea.* |  |

1. COM(2018) 556 final. [↑](#footnote-ref-1)
2. COM(2018) 880 final. [↑](#footnote-ref-2)
3. COM(2018) 890 final. [↑](#footnote-ref-3)
4. The UK delegation considers to be not bound by the Convention in case of a ‘no deal’ BREXIT, but is willing to contribute to the system of the European Schools until 31 August 2020. [↑](#footnote-ref-4)
5. This finding does not refer to the particular situation of the UK Europa School Culham. [↑](#footnote-ref-5)
6. For the details see the ‘Second Report of the BREXIT Working Group’ (doc. 2018-02-D-37-en-2). [↑](#footnote-ref-6)
7. The UK denies this obligation, but accepts to contribute to the system of the ES until 31 August 2020. [↑](#footnote-ref-7)
8. Figures from the documents “*Facts and figures on the beginning of the 2017-2018 school year in the European Schools”* related to the relevant school years and extract form Business Objects on 25 October 2018. [↑](#footnote-ref-8)
9. For the details see Annex VII of this document. [↑](#footnote-ref-9)
10. Figures on 25 October 2018 (Business Objects) – 2018/19 school year. [↑](#footnote-ref-10)
11. Figures on 25 October 2018 (Business Objects) – 2018/19 school year. [↑](#footnote-ref-11)
12. The calendar will be updated on a regular basis. [↑](#footnote-ref-12)
13. Referring to the European Schools in Karlsruhe and Munich. [↑](#footnote-ref-13)
14. Referring to the European School in Frankfurt. [↑](#footnote-ref-14)