Brexit and its impact on the UK Higher Education sector and the rights of scholars and students

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ABSTRACT: This article reflects upon Brexit and its implications for Higher Education in the UK. First, it discusses how the EU Membership has influenced and shaped the development of the UK Academia, impacting on the content of academic curricula, research opportunities and staff and students mobility. The EU Membership has contributed to its internationalisation that might also suffer in the post Brexit scenario. Secondly, some economic aspects of Brexit in Higher Education are also examined, looking at corollary of research achievements and funding of the UK Universities, or its impact on financial planning heavily relying on the number of students' intake. More importantly, this paper argues that the biggest loss for the UK Higher Education Sector would definitely be Research, Academic Collaboration and EU Funding but also staff recruitment and students mobility. In particular that the future of Research and Mobility Programmes such as Horizon Europe and Erasmus + is very uncertain. This article also looks at the post referendum hostile environment for the EU academics and students that has affected negatively the numbers of students, EU staff and academic collaboration. Finally, it also discusses some limited gains that the UK Universities could draw from Brexit. Lastly, it concludes with some optimistic notes, that the UK Universities seized perfectly the opportunities arising for the EU Membership and will use this experience to continue to grow in a more global context.

KEYWORDS: Brexit – higher education – mobility of staff and students – learning and researching programmes – Erasmus+

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Introduction[1]

2019 witnessed an important political upheaval in British Politics and the history of Europe. First, the Brexit deadline fixed for March 29th, 2019, passed without any sign indicating when negotiations will end. Approaching the date, many scholars feared an 'accidental Brexit' – leaving the EU involuntarily without the deal as a consequence of the UK's inability to reach an agreement in the time determined by Art 50 TEU. The world has seen the UK almost surprised by its own deadline. Secondly, it was most likely, after the appointment of a hardline Brexiteer, Boris Johnson for the post of Prime Minister that the UK would leave the EU on the 31st of October 2019 with or without the deal. Instead, "*an excruciatingly long and confusing political dance is not over yet*".[2] The UK was granted another extension until the end of January 2020 that was eventually met. PM Boris Johnson was "*previously promising that he would rather die in a ditch than request one*".[3] He might be *constrained to do so once more since no progress has been made in the ongoing Brexit negotiations during the first trimester of 2020, making it difficult to meet the final exit deadline after the transition period in the end of the year.*[4]

The political turmoil and the UK's inability to negotiate the deal undermined the general respect for the UK government. The negotiations on the conditions of the UK's withdrawal from the EU have been hectic and inconclusive. The UK government was initially very secretive on the withdrawal strategy, but, in fact, did not have a clear agenda or understanding of likely solutions. Thus, the Chequers' Plan was turned down by the EU. Eventually, in November 2018, an agreement was reached, but rejected three times by the UK MPs. PM Boris Johnson managed to secure a deal at the last minute, but the internal political rivalry rejected it once more. Importantly, he obtained an absolute majority in general election on 12th December 2019, facilitating his plans to leave the EU at the end of January 2020.

For three and a half years, the 'Remain' campaigners had been fighting for a second referendum or at least to get some guarantees which would preserve the rights of EU nationals. Some still had some hopes and expectations to keep at least a portion of the EU *acquis*. This state of limbo has had a negative effect on academia, scholars and students. It created permanent uncertainty regarding the rights of EU academics, fees for the EU students, conditions of remaining in the UK and the content of the University curricula in post-Brexit era.

The most worrying aspect for the Higher Education Sector currently, is the Government's 'no commitment' to secure the UK's participation in the Erasmus programme.[5] This was the ultimate hope and 'a safety net' for UK universities to maintain a degree of involvement in the EU Research Programmes and funding.

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[1] Some parts of this research and some earlier data were considered in an article in Flemish K. Gromek-Broc and Kim van der Borght, "Brexit en de gevolgen voor het hoger onderwijs: mobiliteit, onderzoek en internationalisering in het gedrang", *Tijdschrift voor Onderwijsrecht en Onderwijsbeleid* No. 3 (2019): 144.

[2] Katya Adler, "Brexit dance goes on as EU approves new extension for UK", *BBC News*, October 28, 2019, https://www.bbc.com/news/world-europe-50205927.

[3] *Ibid.*

[4] Sam Blewett, "'It worries me,' admits Barnier as UK slows Brexit negotiations", *Independent*, April 25, 2020, https://www.independent.ie/business/brexit/it-worries-me-admits-barnier-as-uk-slows-brexit-negotiations-39156177.html.

[5] Sam Bright, "New Tory Brexit announcement is a ´disaster` for Erasmus", *Scram News*, February 27, 2020, https://scramnews.com/tory-brexit-mandate-erasmus/

The EU Membership was particularly beneficial for the UK Higher Education Sector. The 2015 LSE Report stresses that, "*proximity, cooperation and coordination are powerful factors in the development of modern systems of higher education and research, fertile for the development of knowledge and of ideas*".[6] Undeniably, the EU context had shaped the development and reconfiguration of the UK's universities, sharpened their competitiveness and helped to raise their international profile. They have been successful in attracting EU research funding, benefited from other EU advantages such as mobility of staff and students, teaching programmes, teaching cooperation and mutual recognition of diplomas enabling staff and new graduates to become immediately employable. The success of the UK academia is visible in the World Rankings: the quality of research contributes to their prestige and the quality of teaching attracts students from all over ~~of~~ the world. "*The UK accounts for 4.1% of researchers and 15.9% of the World's most highly cited articles*".[7] This also translates into financial return. The LSE Report acknowledged that "*Universities and colleges across the UK [gained in 2015] £3.9bn from sharing their ideas, expertise and resources with their research peers and the wider community*".[8] […] In addition, the financial contribution of the EU assisted UK universities on numerous occasions. For example, the EU had rescued "*the UK research councils ~~when~~ after the financial crisis of 2008, in which they were struggling to recover*" and thanks to this support, "*Research income from the EU at €0.8bn (£0.5bn) in 2013-14 has risen by almost 170% since 2004-2005*".[9] It is truly regrettable that this growing pattern, "*the UK Universities' success story*", has been abruptly interrupted with the 2016 referendum results without any further prospect to evolve within the EU. Subsequently, it has been difficult to plan, continue research collaboration with EU universities or attract new EU students and staff. The overwhelming victory of the Tory last December made the chances of continuing academic collaboration with the EU universities even slimmer.

Corbett & Gordon see in this unpredicted combination of Brexit and Boris Johnson's accession to power, a turning point for the academic sector in risk of fragmentation between research-intensive and teaching-intensive universities.[10] Furthermore, they predict that there will be an uneven distribution of resources across the disciplines favouring scientific subjects while relegating humanities and social sciences previously supported by EU funding.[11]

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[6] Anne Corbett, *Higher Education and Research Report of the hearing held on 8 December, 2015* (London: LSE, 2015), 20, http://eprints.lse.ac.uk/66947/1/Hearing-2---Higher-Education-and-Research-REPORT.pdf.

[7] "International Comparative Performance of the UK Research Base – 2013", UK's Department of Business, Innovation and Skills (BIS) (Netherlands: Elsevier, 2013), https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/263729/bis-13-1297-international-comparative-performance-of-the-UK-research-base-2013.pdf; Corbett, *Higher Education and Research Report*, 7.

[8] "Patterns and Trends in UK Higher Education, 2015", London, Universities UK, 2015, 34-35, https://www.universitiesuk.ac.uk/policy-and-analysis/reports/Documents/2015/patterns-and-trends-2015.pdf.

[9] *Ibid.*, see also "Patterns and Trends in UK Higher Education 2018", London, Universities UK, 2018, https://www.universitiesuk.ac.uk/facts-and-stats/data-and-analysis/Documents/patterns-and-trends-in-uk-higher-education-2018.pdf.

[10] Anne Corbett and Claire Gordon, "More fragmentation and division? What 2020 will be like for higher education", *Blog LSE*, January 6, 2020, https://blogs.lse.ac.uk/brexit/2020/01/06/more-fragmentation-and-division-what-2020-will-be-like-for-higher-education/.

[11] *Ibid.*

It is clear that Brexit will bring significant changes to the research culture, functioning and organisation of degree programmes, curriculum design, staffing and the student numbers.

Time is politically fragile: there are a lot of 'unknowns', and various speculations as to what will happen only exacerbate the feelings of anxiety and confusion. More than three years after the vote, we do not see any clearer.

This research is concerned with one aspect of Brexit – its impact on Higher Education: an important sector of the UK economy. The research findings and data gathered have the potential to inform approaches to policy if only the government would be willing to consider the damage Brexit will do to UK academia and thus, find ways to mitigate its consequences. In this article, I have adopted a socio-legal approach to research, discussing first, the impact of Brexit on the academic community, the merits of EU membership (Europeanisation and to an extent, Internationalisation) and the impact of Brexit on the rights of EU staff and students now and in the prospective future.

"Europeanisation" of British Higher Education

The first question to ask is, "what does Brexit mean for the academic community?" There is no doubt that UK universities will bear a heavy cost of Brexit. It has been widely recognised, "*that the EU membership has strengthened universities and enhanced their positive impact on the economy and society.*"[12] Certainly, due to multiple advantages that the EU brought to the UK academia, withdrawal from the EU would mean losing at least a great part of them. The prospective withdrawal has already triggered a number of undesirable phenomena.

"*Europeanisation*" of Higher Education brought some unprecedented opportunities for academics and students. Proliferation of ideas, common projects, exchange programmes were facilitated by the open borders and exchange of information leading to many openings for students and scholars. For example, "*Europeanisation*" of Higher Education led to many alterations in the traditional content of degree programmes, modification of curricula, implementation of the so-called Bologna process that led to a partial harmonisation of the length of study and the content of a degree.[13] Corbett rightly notices that, "*the emerging European Higher Education Area, managed through the Bologna Process, has an indirect impact on higher education lives through its framing of codes of practice on quality assurance and recognition as well as the spin-off of its cooperative networks. Much of the UK's national regulation of higher education shadows the Bologna Process.*"[14]

While, all the degrees were subjected to the EU influence, to an extent, Law, Politics, Economics and Social Sciences had been the most exposed. These areas have benefited from an unprecedented scholarship that was used as a point of reference across Europe. The courses in EU Law, EU Policy, or European Economics were based on the same texts and similar content. Research in these areas was often backed by financial support, likewise numerous students' and young academics' programmes, projects and institutions were sponsored and subsidised. The EU-funded projects:

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[12] Dame Julia Goodfellow, "Brexit: What will it mean for universities, students and academics?", *The Telegraph*, July 01, 2016, http://www.telegraph.co.uk/education/2016/07/01/brexit-what-will-it-mean-for-universities-students-and-academics/.

[13] Reinalda Bob and Ewa Kulesza, *The Bologna Process – Harmonizing Europe's Higher Education* (Leverkusen: Budrich Publishers, Opladen & Bloomfield Hills, 2005).

[14] Bob and Kulesza, *The Bologna Process*; Corbett, Higher Education and Research Report, 8.

Marie-Curie Grants, Erasmus Plus, Horizon 2020 programmes, other Erasmus arrangements and exchanges are now at risk. The question today is the extent to which all these opportunities will no longer be available in the future. Marginson predicts that it is unlikely that the UK would be a full member of the mainstream European research programs, but might retain some limited access in certain areas.[15] He believes that, "*the net effect of retarding people's movement and taking the United Kingdom out of combined research teams will be to reduce the flows of knowledge, and weaken both UK and European research. […]* Currently, more than half of all doctoral students in the United Kingdom are foreign born. UK universities receive £1 billion a year through European programs such as Horizon 2020 and the European Institute of Innovation and Technology."[16]

I. Brexit and internationalisation

Brexit also threatens internationalisation in Higher Education in a wider perspective. Lay sees internationalisation as a predominant factor that puts the UK universities at the top of the university ranking lists worldwide. For the UK Higher Education sector, it is vital to maintain the centrality of international academic staff, but this cannot be taken for granted today.[17] 20% of the teaching and research staff at the top UK universities are non-British EU academics and it is clear that their number will decrease once Brexit becomes reality.[18] Their rights will be reduced, opportunities diminished and they might not enjoy working in the UK academia anymore. They may move to other places in Europe where their skills, research and networking would be highly valued and sponsored. The high percentage of EU academics contributed to the top Higher Education Institutions in the UK, for example, "*the London School of Economics has 38% EU academic staff, London colleges – Imperial, King's, University College London – have between a quarter and nearly a third, Oxford has 24% and Cambridge 22%*".[19] EU academics make also a considerable number in science, for example, "*physics (26%), chemical engineering (25%), biosciences (22%), chemistry (21%) and IT (20%).*"[20] In lower ranked universities this percentage was significantly lower.[21] The numbers speak for themselves: EU academics played a vital role in contributing to science degrees and research. In Humanities & Social Sciences, they usually taught international, comparative subjects or domestic subjects in a more international context; their research usually has had a global dimension. The former polytechnics and more professionally oriented Higher Education institutions holding low rankings in the universities league table were concentrated mainly on the domestic subjects, did not secure significant funding for research, and were in fact employing predominantly UK academics. In some areas such as Law, Economics and Political Sciences, there is a clear danger that Higher Education would become

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[15] Simon Marginson, "Brexit: Challenges for Universities in Hard Times", *International Higher Education*, v. 88 (Winter, 2017): 8, https://doi.org/10.6017/ihe.2017.88.9682.

[16] *Ibid.*

[17] Keith John Lay, "Reverse Internationalisation? Systems Theory, Brexit, and British Higher Education" in *Policies and Initiatives for the Internationalisation of Higher Education*, ed. Fatoş Silman, Fahriye Altinay Aksal and Zehra Altinay Gazi (Pennsylvania: IGI Global, 2019), 32-53.

[18] David Menendez Alvarez-Hevia and Karin Zotzmann, "Brexit and the Internationalisation of UK Universities: The Experience of Academic Staff from EU Member States", *Journal of Critical Realism* (2018).

[19] Ros Taylor, "No longer welcome: the EU academics in Britain told to 'make arrangements to leave'", *Blog LSE*, January 26, 2017, https://blogs.lse.ac.uk/brexit/2017/01/26/no-longer-welcome-the-eu-academics-in-britain-told-to-make-arrangements-to-leave/.

[20] *Ibid.*

[21] Menendez Alvarez-Hevia and Zotzmann, "Brexit and the Internationalisation of UK Universities".

focused on domestic needs and perspectives or professionally driven qualifications. Guth & Hervey argue that the increasing reliance on *marketisation of law* degree and dependence on the Solicitors Qualifying Examination would bring an emphasis on the core domestic subjects at the expense of internationalisation.[22] EU Law will stop being a core subject and other disciplines will lose their European context. There are also strong anti-internationalisation and anti-immigration feelings that have spread to Higher Education and could influence the design of the future degree programmes. UK scholars in general see this as a retrograding standard of Higher Education. In fact, Jamin and Van Caenegen observe that globalisation triggers "*a universal need for people trained in international questions*".[23] In the long term, according to Guth & Hervey, the system will create a gap between universities, the 'elite' Law schools would likely teach international subjects and the lower ranked universities will get a limited exposure to International issues.[24] Other subjects, in particular, the Political Sciences, Social Studies and Economy, will suffer the same effect on internationalisation.

Tsiligiris and de Ruyter pointed out that UK transnational education constitutes another aspect of internationalisation, being so far a neglected dimension of Brexit.[25] The UK is seen as a world leader in transnational education (TNE) with 385,000 TNE students in 2015/16.[26] Indeed, within the EU, students study for a UK degree in countries such as Greece, Germany, Cyprus, Spain and Poland. It is clear that after Brexit becomes effective, a UK degree might not have the same value for EU students. The recognition of the UK diplomas and TNE qualifications would be subjected to national policies of the Member States and not EU Directive 36/2005 on the recognition of professional qualifications obtained in another Member State.[27] Some degree of harmonisation will remain but this might not be enough to assure prospective students, as they may have other choices elsewhere. In the worst case, the UK might lose its leading position as a pioneer of TNE programmes in the EU. This would be with a great regret in an area with lucrative future prospects. Transnational education (TNE) has evolved dramatically in recent years having "*new actors, new partnerships, new modes of delivery*": all these elements resulted in "*a proliferation of TNE*".[28] Yet, the UK is confronted with a double challenge here: one is forthcoming Brexit, which will inevitably bring some restrictions to TNE of which the UK is a partner; the second one is a fierce competition from other EU states that the UK already weakened by Brexit might have difficulty to outbid. The Netherlands, Germany and France have elaborated various strategies in a view to enhance their attractiveness to foreign students such as for example, expansion of programmes taught in English, offering some opportunities once the degree has been obtained or some visa and fees arrangements.[29]

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[22] Jessica Guth and Tamara Hervey, "Threats to internationalised legal education in the twenty-first century UK", *The Law Teacher*, vol. 52, No. 3 (2018): 350-370.

[23] Christophe Jamin and William van Caenegem (eds), *The Internationalisation of Legal Education* (Berlin: Springer, 2016), apud Guth and Hervey, "Threats to Internationalised legal education", 352.

[24] Guth and Hervey, "Threats to Internationalised legal education", 370.

[25] Vangelis Tsiligiris and Alex de Ruyter, "What the Higher Education Brexit Debate has not covered", *University World News*, January, 2018.

[26] *Ibid.*

[27] *Ibid.*

[28] Jane Knight, "Transnational education remodelled: toward a common TNE framework and definitions", *Journal of Studies in International Education*, vol. 20, issue 1 (2016): 34–47.

[29] Tsiligiris and Ruyter, "What the Higher Education Brexit Debate".

II. Mobility of staff & students as an economic factor

In fact, as Mayhew observes, just before the referendum in 2016, UK universities increasingly relied on EU undergraduates due to UK demographics and the decrease in number of applications from non-EU students.[30] Obviously, the number of EU students will certainly decrease if the UK starts charging them full fees, they will no longer be eligible for the students' loans and they will be subjected to the visa requirements.[31] Yet, it seems difficult to rely on fees and students, (currently there are 130,000 EU students at British universities), who might either be delayed by the Immigration Authority or refused a visa.

Julia Buckingham, president of the UK Universities rightly noticed: "*it is clear that the implications of exit under these circumstances remain largely unknown. It is in the government's power to alleviate many of these concerns*".[32] The UK government tried to reassure the academic community and the EU nationals, working and studying in the UK, issuing Technical Guidance in 2019 when an exit without a deal seemed unavoidable.[33] This document provides some responses to burning questions, but it is far from being encouraging. For all academics, there are two issues that really matter: research collaboration and mobility opportunities. The UK government in its Technical Guidance (January 2019) stated that "*it may not fund the UK based students studying abroad under the Erasmus+ scheme at a European university post-Brexit*".[34] Similarly, it does not intend to "*replace the Erasmus+ scheme with a nationally funded exchange scheme*", which was the case of Switzerland when the country found itself outside Erasmus + arrangements. The remaining options for strengthening the UK-EU academic collaboration lie with bilateral agreements or membership to European networks of universities.[35]

It is obvious that in respect to mobility, exchanges and collaboration, both the UK and the European academic institutions are losers. However, in relation to the EU students' applications, the UK is in a significantly worse position than other EU countries securing only a modicum of income through EU students' fees. The government confirmed that EU students will be paying a home fee for the year 2019/2020 but after that, nothing is guaranteed. At the time of referendum there was a non-negligible number "*125,000-130,000 EU students, studying at UK universities and the 43,000 university staff members from other EU countries*", all of them today face an uncertain future worrying about their immigration status, fees or loans.[36] For the time being, the EU students remain eligible for financial support.[37] Since the referendum in 2016, the

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[30] Ken Mayhew, "EU Higher Education and Brexit", *Oxfords Review of Economic Policy*, vol. 33, No. S1, (2017): 155-161.

[31] *Ibid.*

[32] Richard Adams, "Only half of UK universities ready for no-deal Brexit – study", *The Guardian*, September 16, 2019, https://www.theguardian.com/education/2019/sep/16/only-half-of-uk-universities-ready-for-no-deal-brexit-study.

[33] "How to prepare if the UK leaves the EU with no deal", The Government UK - GOV.UK, accessed 7 November 2019, at https://www.gov.uk/government/collections/how-to-prepare-if-the-uk-leaves-the-eu-with-no-deal.

[34] Ludovic Highman, "How will the UK's higher education sector remain connected to Europe following Brexit?", QS, March 25, 2019, https://www.qs.com/how-will-uks-higher-education-sector-remain-connected-europe-following-brexit/.

[35] *Ibid.*

[36] Marginson, "Brexit: Challenges for Universities in Hard Times".

[37] "Government confirms funding for EU students for 2018 to 2019", The Government UK - GOV.UK, accessed 7 September 2018, at https://www.gov.uk/government/news/government-confirms-funding-for-eu-students-for-2018-to-2019.

number of applications from outside the UK has fallen each year, but slightly increased in 2019/20. "More than 561,400 applications were received by UCAS, nearly 2,500 more than at the same time last year".[38]

Hence, the growth is marginal, largely compensated by applications from outside the EU. Chinese applications increased by 33% as compared to 2018. Applications from the EU are up by 1%.[39] Nonetheless, the home fees for EU students will terminate at a certain point and the numbers will sharply decline.

Taking into account all three years, the number of the EU students declined, the cooperation agreements were almost not signed with the universities in the EU and fewer UK students benefited from the exchanges.

In 2019, the number of academic staff EU citizens was estimated at 50,000 and 130,000 EU students and 15,000 UK students are studying in Europe. As far as EU academics are concerned, surprisingly the UCEA survey revealed no negative consequences on the staff recruitment in 2017/2018, although other surveys proved the opposite as discussed in section 5. Even if the recruitment figures are not dramatically different, in future there could be a real problem with recruiting EU staff. The Business Schools Survey (CABS) demonstrates that 41.5% of academics worry about losing EU staff or having problems in recruiting them.[40]

III. Research, collaboration and the EU funding

Undoubtedly, however, the biggest issue for the academic community are the research and financial consequences resulting from Brexit. We all know that there will be 'cuts' and limitations regarding EU funding, students and staff mobility but to what extent will very much depend on the deal the UK would be able to secure by the end of 2020 during the negotiation process. In August 2018, L. Cherry wrote, "*UK universities have potentially lost £121 million in EU research funding since last February*".[41] For research, EU funding is of fundamental importance for the UK universities. "*UK universities are a British success story - world-renowned, internationally competitive and […] generating an annual output of £95 billion for the British economy […]supporting 940,000 jobs and generate £13.1 billion of export receipts, and through their research, teaching and other activities. In science and research, the UK produces 15.2% of the world's most highly-cited articles – with only 0.9% of the world's population – and ranks first among competitors by field-weighted citation – indicator of research quality*".[42] The UK universities score incredibly well in all funding applications remaining "*a net beneficiary of EU research funding*".[43] Unmistakably first in a number of grants awarded by the European Research Council: "*between 2007 and 2017, the UK won*

[38] "Non-EU applications to UK universities up this year", ICEF Minitor, February 20, 2019, http://monitor.icef.com/2019/02/non-eu-applications-to-uk-universities-up-this-year/.

[39] "Non-EU applications to UK universities up this year", ICEF Minitor; see also Sue Hubble and Paul Bolton, *International and EU students in higher education in the UK FAQs*, Briefing Paper, CBP 7976 (London: House of Commons Library, 2019).

[40] Tsiligiris and Ruyter, "What the Higher Education Brexit".

[41] Libby Cherry, "Brexit will rewrite UK universities' success story", *In Facts*, August 15, 2018, https://infacts.org/brexit-will-rewrite-uk-universities-success-story/.

[42] "How can the government ensure universities are best placed to maximise their contribution to a successful and global UK post-EU exit?", Universities UK, March 2018, https://www.universitiesuk.ac.uk/policy-and-analysis/reports/Documents/2018/brexit-briefing-march-18.pdf, also see Ellie Bothwell, "Universities 'generate £95 billion for UK economy'", *The World University Rankings*, October 16, 2017, https://www.timeshighereducation.com/news/universities-generate-ps95-billion-uk-economy

[43] Highman, "How will the UK's higher education sector".

over 1,850 grants, compared to 1,330 in Germany, and this includes six Nobel Prizes, four Fields Medals and five Wolf Prizes."[44]

On top of the list of the academic institutions of Member States receiving funding from the EU, we find in first place the University of Oxford with (€330 million) EU contribution, followed by University of Cambridge (€306 million) and University College London (€278 million) and Imperial College London (€208 million). The only non-UK Institution is the University of Copenhagen (€215 million). In the first 5 of the EU league table scoring for the highest EU financial input, four are UK Universities.[45] Four of the top recipients of Horizon 2020, in 2018 were the University of Cambridge (€267 million), the University of Oxford (€260 million), University College London (€253 million) and Imperial College London (€178 million)".[46] It has been estimated that funding from the European Research Council (ERC) and Marie Skłodowska-Curie Actions programme (MSCA) for 2019 and 2020 amounts to €1.2bn covering projects such as "*to fight cancer or combat climate change*".[47] Theresa May's government promised to secure Horizon 2020 funding if the UK leaves without a deal. But, Boris Johnson has changed this assurance into 'a potential eventuality'. In April 2020, the UK's participation in the EU research programmes is less certain than ever. But, even if there is a last minute agreement, withdrawal from the EU will heavily affect research anyway. Cherry rightly observed, in light of Theresa May's assurance that the UK academics would get access to the EU research programmes, that "*this hurried promise does little to tackle the long-term damage that Brexit will do to UK research*".[48] She argues that after Brexit, the UK will not be able to control its research arrangements, limited in choice to Horizon 2020 as a third country associate, without a decisive power on the directions or strategy of research.[49] Pilkington makes the same point "*becoming a third country may mean the UK loses an opportunity to shape the international research agenda and drive cutting-edge research. It also means that projects would not be based at UK universities, resulting in the loss of management positions, contract research staff, and PhD students at UK institutions.*"[50]

Another issue concerns the number of postgraduate students: a vital part of the UK's research capacity. According to the Russell Group, there was a 9% decrease in the number of EU postgraduate research students enrolled in 2018/2019, impacting negatively on Britain's research force. As mentioned, the number of undergraduate students has risen by 1%, but it has fallen at taught postgraduate level by 5%

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[44] Janet Beer, "A no-deal Brexit seriously threatens UK universities", *The Guardian*, January 4, 2019, https://www.theguardian.com/education/2019/jan/04/a-no-deal-brexit-seriously-threatens-uk-universities

[45] Highman, "How will the UK's higher education sector".

[46] Jan Peter Myklebust, "Factors behind being in top five Horizon 2020 recipients", University World News, July 28, 2018, https://www.universityworldnews.com/post.php?story=20180728055500387, see also Jonathan Adams, "International research collaboration after the UK leaves the European Union", Universities UK, April, 2017, https://www.universitiesuk.ac.uk/policy-and-analysis/reports/Documents/2017/international-collaboration-uk-post-exit.pdf.

[47] Sally Weale, "A no-deal Brexit seriously threatens UK universities", 4th January 2019, https://www.theguardian.com/education/2019/jan/04/universities-raise-alarm-over-no-deal-brexit-and-eu-student-enrolment, see also Mike Finn (ed), *The Gove Legacy, Education in Britain after the Coalition*, (UK: Palgrave, 2015).

[48] Cherry, "Brexit will rewrite UK universities' success story".

[49] *Ibid.*

[50] Hilary Pilkington, "Brexit will impact the UK's world-leading research – but only if we let it", *Universities UK Blog*, October 14, 2019, https://www.universitiesuk.ac.uk/blog/Pages/Brexit-will-impact-the-UK's-world-leading-research-–-but-only-if-we-let-it.aspx.

(Postgraduate programmes usually comprise both: research and taught programmes). [51]For the time being, the decrease in EU research students is not alarming, but it would fall further after Brexit.

It may be time to look at other avenues and opportunities. Mayhew's research proves that the UK academic collaboration with the US is greater than with the EU, but the EU-UK network grows faster.[52] Another avenue for common research projects and students' exchange and intake is China with which a number of UK universities have already a strong link.

However, we need to be realistic and accept that even if UK universities get access to programmes and funding, these advantages will never be equal to those available to other Member States of the EU and there will always be an anxiety over the future limitations.

The French president speaking to European Students at Sorbonne University on the 26th of September 2017 unravelled his plans to "*create an EU innovation agency and to expand the Erasmus student-exchange programme*".[53] In March 2018, he reiterated the 2017 Gothenburg Council Conclusions promising, "*the networks including 20 "European universities"* aiming to "*consolidate the triangle of innovation, research and education in Europe and encourage more European integration in higher education*" that should take shape before 2024.[54] Ultimately, the EU's ambition is to build a European Education Area.[55] The quality and competitiveness between the European universities lie in the centre of this initiative. As discussed before, UK universities have been a particularly successful bidder for EU funding that represents a non-negligible 16% of the total research income. They could play a major role in this initiative. Well, most likely the UK universities along with its students and academics will not take part in these new opportunities with a great loss for all.

The second round of talks negotiating Brexit in 2020 ended with very disappointing results manifestly showing no serious commitment from the UK,[56] and a 'no-deal Brexit' could still occur at the end of the transition period.[57] The destiny of the Erasmus Programme is more uncertain than ever. The new Conservative government opposed a long-standing commitment and declared that "*the UK will [...} stay in some parts of Erasmus, and not indefinitely*". A petition was subsequently launched to secure UK's participation in Erasmus.[58]

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[51] Sally Weale, A no-deal Brexit seriously threatens UK universities, 4th January 2019, https://www.theguardian.com/education/2019/jan/04/universities-raise-alarm-over-no-deal-brexit-and-eu-student-enrolment accessed 15th of May 2019

[52] Mayhew, "EU Higher Education and Brexit".

[53] Eric Maurice, "Macron to lay out plan for EU 'pioneers'", *EUObserver*, September 26, 2017, https://euobserver.com/institutional/139154.

[54] "Emmanuel Macron's Reforms of Higher Education and Research", Hedclub, accessed September 20, 2019, https://hedclub.com/en/library/higher_education_and_research_in_france_the_winds_of_change.

[55] See also, "European Universities Initiative", European Commission, accessed September 20, 2019, https://ec.europa.eu/education/education-in-the-eu/european-education-area/european-universities-initiative_en

[56] Imogen Braddick, "Michel Barnier laments 'disappointing' post-Brexit talks and says 'the clock is ticking' on securing deal", *Evening Standard*, April 24, 2020, https://www.standard.co.uk/news/politics/brexit-talks-disappointing-eu-michel-barnier-a4423506.html

[57] Claire Milne, "Could we still have a ´no deal` Brexit in 2020 at the end of the transition?", *Full Fact*, October 18, 2019, https://fullfact.org/europe/no-deal-brexit-2020-end-transition/.

[58] Bright, "New Tory Brexit announcement".

IV. EU staff & students and their rights in the post Brexit scenario

Honetheless, any loss seems to be detrimental to the UK Higher Education Sector.[59] McCann calculates that the young voters would have to live 60 years, bearing the consequences of the Brexit decision.[60] In addition, Brexit vote coincided with the government's plans to reform the Higher Education funding system for research which makes research funding centralised, more discretionary, thus, less attractive to leading EU researchers.[61]

The Russell Group, the *MillionPlus* group, and other HE grouping strongly supported the Remain campaign.[62] Times Higher Education published the results of referendum in academia. 88.5% of staff voted to remain, 2.1% were undecided, only 9.5% of staff were pro-Brexit.[63] Yet, some convinced Brexiteers, others: likely academics from the low ranked universities and those on temporary contracts who might have seen some opportunities for their careers in withdrawing from the EU.

The figures manifestly show that Higher Education Sector has been overwhelmingly pro-European. Universities represent a strong voice against Brexit but in three and a half years, their efforts have been vain. A year after referendum, Leszek Borysiewicz, Vice-Chancellor of Cambridge University at that time, pleaded strongly against the paranoia of Brexit and the political attitude instigated by the Conservative party: "*we (the UK universities) need to have our voice heard, the rights of the EU scholars and students need to be protected; we need to secure mobility of talent, the ideas should flow globally, we should facilitate traffic of ideas, recruiting easily and openly, we need to retain access to the European funding. Collaboration with the European Universities means more jobs and it is a serious boost for the economy*".[64]

In August 2017, the top UK universities – the Russell Group, formulated 10 demands focusing on the EU nationals' rights – arguing that "*Mrs May's approach is hurting a sector which generates £73bn a year for the economy.*"[65] Borysiewicz, who preceded Stephen Toope as a Vice-Chancellor of Cambridge University, in a response to the government's plan to offer a 'settled status' to the EU citizens who had lived in the UK for five years, warned that Brexit could become Brexodus if government does not come with better guarantees.[66] UK Higher Education sector is also a major exporter generating 10% of the UK's exports on services (around £10.71 billion in 2011) and

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[59] Mike Finn, *British Universities in the Brexit Moment: Political, Economic and Cultural Implications* (Melbourne: Emerald Publishing Limited, 2018).

[60] Adam P. McCann, "Brexit, Higher Education, and Responsible Governance", *European Journal of Comparative Law and Governance*, v. 4, issue 3 (2017): 205-210.

[61] Daniel Cressey, "Controversial UK research reform crosses finish line", *Nature International Weekly Journal of Science*, April 28, 2017, https://www.nature.com/news/controversial-uk-research-reform-crosses-finish-line-1.21919.

[62] Key Mayhew, "UK higher education and Brexit", *Oxford Review of Economic Policy*, v. 33, No. S 1 (2017): 155-161.

[63] John Morgan, "EU referendum: nine out of ten university staff backed Remain", *The World University Ranking*, June 16, 2016, https://www.timeshighereducation.com/news/european-union-referendum-nine-out-of-ten-university-staff-back-remain, also in Menendez Alvarez-Hevia and Zotzmann, "Brexit and the Internationalisation of UK Universities".

[64] Capacity to collaboration. "The Vice-Chancellor discusses Brexit", Cambridge University, Youtube, accessed September 10, 2019, https://www.youtube.com/watch?v=ApUf_F8S9TE.

[65] Rachael Pells and Joe Watts, "Brexit: UK's top universities demand Theresa May rethink plans for EU citizens' rights", *Independent*, August 3, 2017, http://www.independent.co.uk/news/uk/politics/brexit-eu-citizens-rights-universities-russell-group-theresa-may-oxford-cambridge-a7873761.html.

[66] Noreena Hertz,"Cambridge University warns of 'Brexodus' without improved offer to EU citizens", *ITV News*, June 30, 2017, http://www.itv.com/news/2017-06-30/cambridge-university-warns-of-brexodus-without-improved-offer-to-eu-citizens/.

research is a strategic asset in the economy, [a condition] for innovation.[67] Universities are often fundamental for local economies.[68] Regrettably, 'a settled status' remained a final solution for which all EU citizens need to apply presumably before December 2020 and we can expect some discretionary decisions that would impact negatively on EU academics and their families in post Brexit Britain.

In fact, in the heart of the negotiations talks are the EU workers' rights, residency requirements and rights of family members.[69] PM Boris Johnson's divorce deal agreed with Brussels just before the Brexit deadline of 31st October was vague on workers' guaranties potentially being inferior to the former PM Theresa May's deal.

Yet, during PM Theresa May's leadership, there had been numerous attempts to adopt a differentiated approach towards the UK and the EU working force. One year after the referendum, the government plan leaked to the papers attracted some strong reactions from the pro-EU camp. The proposal provided a different treatment for skilled workers, unqualified workers and family members. The most targeted were the low-skilled EU workers who could get a maximum of two years' residency. High-skilled workers were also subjected to work permits. Some jobs might have been out of reach for the EU workers and other might impose a cap on the EU citizens. The Government plan envisaged imposing restrictions on family members which could lead to what Borysiewicz called 'Brexodus'. The proposal intended to set up a threshold of at least £18,600 income per year for EU citizens if they wish to bring their family here.[70] That government plan was one of many of that kind and hopefully, it would not materialise, but the direction Theresa May and Boris Johnson's governments have taken, is worrying. The Hostile Environment Policy towards illegal immigrants was introduced by Theresa May in 2012, the Home Secretary at that time. Later it became a powerful tool of the 'Leave' campaign. The Policy led to the Windrush Scandal and other forceful operations. For example, "*the Home Office had tried to deport at least 300 highly skilled migrants (including teachers, doctors, lawyers, engineers and IT professionals) under the 322(5) provision, succeeding in 87 cases*".[71] It is not surprising, therefore, that after Brexit vote, the EU academics living and working in the UK felt undermined.

Further, PM Boris Johnson's manifesto for the December 2019 General Election clearly stated "*that its post-Brexit immigration policy will end free movement and preferential treatment for EU citizens coming to live in the UK […] restricting benefits and increasing charges for future EU migrants.*"[72] He opted for an "*Australian-style points-based system*" based on

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[67] Key Mayhew, "UK higher education and Brexit", *Oxford Review of Economic Policy*, v. 33, No. S 1 (2017): 155-161. Quoting Patterns and Trends in UK Higher Education Report 2015 at https://www.universitiesuk.ac.uk/policy-and-analysis/reports/Documents/2015/patterns-and-trends-2015-annexe.pdf.

[68] *Ibid.*

[69] Eszter Zalan, "Britain to fence off EU workers, draft says", *EUObserver*, September 6, 2017, https://euobserver.com/uk-referendum/138900.

[70] Borysiewicz, Britain to fence off EU workers, draft says, https://euobserver.com/uk-referendum/138900, 6 September 2017, accessed 15th September 2017.

[71] Amelia Hill, "Home Office 'wrongly tried to deport 300 skilled migrants'", *The Guardian*, November 23, 2018, https://www.theguardian.com/uk-news/2018/nov/23/home-office-tried-to-deport-300-skilled-migrants-under-terrorism-law.

[72] Alasdair Sandford, "Brexit: Are Boris Johnson's Tories being fair to future EU migrants?", *Euronews*, November 20, 2019, https://www.euronews.com/2019/11/20/brexit-are-boris-johnson-s-tories-being-fair-or-unfair-to-future-eu-migrants.

skills […] to control who comes in".[73] As a matter of fact, the Australian model does not seem to be of any consolation for the EU academics, researchers and for the promising, but inexperienced scholars who contribute to the UK's research culture. The system Australia is using is highly discriminatory and outmoded in comparison with the EU values on non-discrimination. Skilled workers receive points for their young age or for their command of English. Many EU scientists in the UK were not particularly fluent in English but had been excellent researchers. The system discriminates on the basis of age attributing points for young age and uses many other discriminatory practices that have been outlawed in Europe. Thus, Australian model creates the second and third category of immigrants openly acknowledging that their rights are not comparable with the rights of Australian nationals.

In the UK, since the referendum in on June 23rd 2016, the Tories have been particularly hostile to all EU nationals, inciting general anti-immigration atmosphere. They have fuelled anti-European debate "*[portraying] European incomers in the overwhelmingly negative terms - exploring a stereotypical image that they tend to milk the system rather than contribute to it.*[74] These xenophobic attitudes do not make the EU academics to feel at home.[75] It has been three and a half years already that the EU academics have experienced a state of limbo, carrying on their teaching and research, worrying about their jobs, families, research opportunities or changes in the University curricula and reorganisation of academic staff that might affect them. In fact, many EU academics "*left their posts at Britain's most prestigious universities in the year after the Brexit vote*" – 11 per cent rise in comparison with the previous year.[76] "*Brexit uncertainty has prompted an exodus of top talent from science departments at the elite universities […], 36 per cent of academics who left a chemistry post [at the Russell Group Universities] in 2016-17 were EU nationals.*"[77] In other disciplines, many EU scholars have also found a job in the EU where the EU funding opportunities are not threatened, others moved worrying for their families' situation. For example, "*4,280 European staff quit their academic posts at the leading research-intensive Russell Group universities in 2016-17, compared to 3,865 in 2015-16.*"[78] Additionally, the percentage of those who have taken an academic position in the UK in the last three years has been scarce. In a wider political spectrum, the situation has been very much the same for more than 3 years. There has been no real sense of direction, or clear agenda. PM Theresa May's government had revealed little and too late. This also seems to be the case with PM Boris Johnson's government. In 2018, the UK adopted the European Union (Withdrawal) Act 2018, apparently designed to provide "*certainty and clarity*", as PM Theresa May explained. In fact, time has demonstrated that her claims were highly overstated.[79]

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[73] *Ibid.*

[74] *Ibid.*

[75] Kenneth A. Armstrong, *Brexit Time* (Cambridge: Cambridge University Press, 2017), 300, see also Michael Dougan (ed), *The UK After Brexit: Legal and Policy Challenges* (Cambridge: Intersentia 2017).

[76] Eleanor Busby, "Thousands of EU academics left posts at leading British universities after Brexit vote", *Independent*, August 13, 2019, https://www.independent.co.uk/news/education/education-news/brexit-eu-academics-university-no-deal-professors-a9047616.html.

[77] Busby, "Thousands of EU academics left posts at leading British".

[78] *Ibid.*

[79] Reuters, "Brexit law clears major hurdle in reprieve for Theresa May", Christian Today, September 12, 2017, https://www.christiantoday.com/article/brexit.law.clears.major.hurdle.in.reprieve.for.theresa.may/113533.htm.

Nonetheless, PM Boris Johnson reassured the academic community that the top researchers would be offered fast-track visas.[80] Answers to questions regarding living and working conditions have also been suggested. For example.[81]

In case of a 'no deal', the EU academics would have to apply for a visa to work in the UK. The UK Tier 2 Visa (General) route is likely to be relevant for the EU academics. They will need to apply once they were offered a job at the UK university. For students, Tier 4 is applicable for the student visa for those who got the place in the UK University. There is some prospect that the students would be able to stay up to two years after they completed their degree, currently they can remain only 4 months after their graduation, which is good news for the students and their potential employers.[82] In relation to the point system, the government promised that if one scores 70 points, one should automatically get the visa. This would make applications easier for academics, as having doctorates guarantees a score of 70 points.[83] However, scoring points does not seem to be a dignifying recognition of their skills and expertise.

Undoubtedly, the EU academics will not be able to maintain the *status quo* and the question is only the extent to which the rights of members of the academic community will be reduced or withdrawn. But, what rights are at stake? Apart from the residence rights and free movement that would limit academic mobility of staff and students, other rights such as access to benefits, acquired rights, rights of the family members will also matter. Prior to the referendum, Douglas-Scott accurately noticed that too little attention was drawn to the acquired rights. She argued that, "*in spite of being central to the Brexit debate, the topic of acquired rights is beset by confusion and misinformation*".[84] There are many issues regarding acquired rights that are unclear and the solutions at present unknown. Optimistically, we can expect that certain rights associated with residence in both the United Kingdom and the EU Member States can be frozen.[85] The analogy could be drawn between the ECtHR decision in *Kurić and Others v. Slovenia*.[86] The ECtHR held that withdrawing the right of permanent residence from these citizens that previously enjoyed permanent residence constituted a violation of the ECHR Art.° 8 on the right to private and family life. The *Kurić* doctrine seems to benefit more British citizens living in the EU but has some implications for the rights of EU citizens in the UK. Thus, the UK will become a Third Country and the automatic rights to reside and to free movement would cease. The UK nationals wishing to reside in the EU would be able to use the 2003/109/EC Directive designed to regulate the long term residence for the Third Country Nationals.[87] Applying the *Kurić* decision, the right

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[80] Eleni Courea and Cristina Gallardo, "UK Conservative manifesto explained", *Politico*, November 24, 2019, https://www.politico.eu/article/uk-conservative-manifesto-explained/.

[81] Heather Stewart, Jamie Grierson, Hilary Osborne, Richard Partington and Fiona Harvey Conservative party manifesto: what it says and what it means https://www.theguardian.com/politics/2019/nov/24/conservative-manifesto-the-key-points-policies-boris-johnson, 25 November 2019.

[82] "Employing Foreign Workers in the UK", TimelessTime blog, accessed February 2020, https://timelesstime.co.uk/knowledgebase/employing-foreign-workers-in-the-uk/.

[83] *Ibid.*

[84] Sionaidh Douglas-Scott, "What Happens to 'Acquired Rights' in the Event of a Brexit?", *U.K. Const. L. Blog*, May 16, 2016, https://ukconstitutionallaw.org.

[85] Guayasén Marrero González, "'BREXIT' Consequences for Citizenship of the Union and Residence Rights", *Maastricht Journal of European and Comparative*, v. 23, issue 5 (2016): 798.

[86] ECtHR, Judgment of 26 June 2012, *Kurić and Others v. Slovenia*, Application No. 26828/06.

[87] Dimitri Kochenov, *EU Citizenship and Withdrawal from the Union: How Inevitable Is the Radical Downgrading of Rights?*, LEQS Paper No. 111/2016 (London: European Institute LSE, 2016), 29, www.lse.ac.uk/europeanInstitute/LEQS%20Discussion%20Paper%20Series/LEQSpaper111.

of residence could be preserved for those who had already been permanent residents in the EU. As far as the EU citizens in the UK, the *Kurić* jurisprudence would also apply since the UK is signatory of the ECHR. However, nationality alone of one of the EU Members would not provide any entitlements to residence or free movement in the UK.[88] However, Piris and Eicke question this legal basis arguing that "*the ECHR does not per se grant, or provide for a positive obligation to grant, any particular immigration status*" but it might constitute a basis under Art.° 8 "*on which an EU citizen - a resident in the UK could seek to rely in order to resist removal from the UK*".[89] Family reconciliation might be another issue relying on the ECHR and the ECtHR's case law.

Moreover, other rights might be affected, for example the rights to pension benefits. Currently, the UK Higher Education Sector is facing cuts in the USS pension schemes. In late November 2019, 60 universities were taking part in a strike over pensions and pay.[90] "*Lecturers have already had their pension rights severely reduced in order to maintain the highly beneficial pension rights of those […] who have already retired.*"[91] The USS pension scheme under the current reforms negatively affects academic staff, while "*the contributions are going up, retired lecturers will be bringing home about £12,000 less per year*".[92] The overall deficit in the USS pension funds might have an additional negative impact on the EU staff after Brexit, in case there is no specific agreed term that preserves their pension entitlements. Besides, the Court of Justice of the European Union (CJEU) would not have authority to defend their rights. Furthermore, the future of many important Directives on the rights of EU workers, implemented in the UK law, but often contested, is uncertain. In the pre general elections debate, Labour offered an option for a second referendum, promising to secure a new Brexit deal that protects workers' jobs, and presumably the rights of the EU workers were included.[93] Alas, Labour suffered an unprecedented defeat in December 2019, and the chances for the second referendum vanquished.

Today, Brexit is a reality and even in the best scenario, EU citizens, academics or students will find themselves in the position of vulnerability, running into a danger to be subjugated to some differentiated conditions in respect to UK nationals. In practice, such a differentiated treatment would trigger discrimination in employment and beyond.[94] For example, how to safeguard equal opportunities in employment in

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pdf; see Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, at https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32003L0109.

[88] Guayasén Marrero González, "'BREXIT' Consequences for Citizenship of the Union and Residence Rights", *Maastricht Journal of European and Comparative*, v. 23, issue 5 (2016), 798.

[89] "Could EU citizens living in the UK claim 'acquired rights' if there is a full Brexit?" LexisNexis, April 11, 2016, at https://s3-eu-west-2.amazonaws.com/sqe-essexcourt/wp-content/uploads/2016/04/08152911/Could-EU-citizens-living-in-the-UK-claim-acquired-rights-if-there-is-a-full-Brexit.pdf, quoting Jean-Claude Piris, "If the UK votes to leave—The seven alternatives to EU membership", Centre for European Reform, January 12, 2016, https://www.cer.eu/publications/archive/policy-brief/2016/if-uk-votes-leave-seven-alternatives-eu-membership.

[90] "University staff strike over pensions and pay", *BBC News*, November 25, 2019, https://www.bbc.com/news/education-50459152

[91] "University strikes offer a lesson in principles pay and pensions", *The Guardian,* December 2, 2019, https://www.theguardian.com/education/2019/dec/02/university-strikes-offer-a-lesson-in-principles-pay-and-pensions.

[92] *Ibid.*

[93] Labour Manifesto for General Elections December 12th 2019, at https://labour.org.uk/manifesto/the-final-say-on-brexit/.

[94] Patricia Mindus, *European Citizenship after Brexit: Freedom of Movement and Rights of Residence* (UK:

the situation where EU nationals need a work permit? Imposing a requirement for a work permit on long term residents would hinder their chances to be recruited, getting a permanent contract and it would impact negatively on their promotions, access to benefits or access to executive positions. The fact that a work permit that can be limited or revoked would inevitably compromise the equal treatment principle by creating an inferior category of workers. But, what matters to academics? Equal opportunities would certainly be one concern. Besides, the right to do research would be a central point and related to it, access to funding, academic freedom, mobility. What matters to students? Certainly, there are rights such as a right to study and to reside, access to benefits and grants, university fees, free movement, often a right to take up a part-time student job.

Unsurprisingly, the academic community sees 'Brexit' as damaging and retrograding the achievements and progress of the Higher Education Sector, negatively affecting the students' numbers, students, staff mobility and high-quality research. Academia was indeed a big "winner" of the UK membership in the EU. However, the overwhelming opinion of the UK scholars and the students, supporting the 'Remain campaign' prior the referendum, is of the view that the British people's vote should be respected. A predominant part of the intellectual community stood firmly behind EU membership, but nothing so far has been able to make an impact on the Conservative party and its irrational hate for "Europe" to change the history trajectory.

The second referendum could have been an option and Jeremy Corbyn considered it in his manifesto for the 2019 general election.[95] His crushing defeat ruled out such an eventuality. The academic community needs to accept that Brexit is a fact. Nonetheless, the interests of the academic community should be seen and protected as an important sector in the country's economy.

In short, there are no winners here. The EU and the UK are both losing out , EU scholars in the UK face an uncertain future. There will be cuts and limitations: internationalisation, exchanges and EU networking will suffer and there are certainly worse years to come for UK scholars with the fewer opportunities.

V. Potential benefits for Higher Education sector after the withdrawal from the EU

There is also another side of the coin predicting some positive outcomes for UK academia arising from Brexit. Corbett and Gordon argue that Brexit is an opportunity to rethink the Higher Education mission, its programmes and its recipients. Theresa May pleaded strongly in favour of new business models for UK universities "*with less dependence on revenue from international education*".[96] Now, UK universities have no other choice and must come up with alternatives. Brexit will force the UK universities to become self-sufficient. After the withdrawal from the EU, UK universities would be able to charge EU students higher fees. Brexit also removes access to UK student loans for EU students. In practice, the UK taxpayer subsidised them since the loan

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Palgrave, 2018).

[95] Andrew Sparrow, "Brexit: Corbyn says second referendum could be 'healing process' – as it happened", *The Guardian*, May 9, 2019, https://www.theguardian.com/politics/live/2019/may/09/brexit-latest-news-corbyn-manifesto-launch-corbyn-seeks-to-make-euro-elections-about-social-justice-not-brexit-as-he-launches-labour-campaign-live-news.

[96] Marginson, "Brexit: Challenges for Universities in Hard Times", 8.

repayments proved to be difficult for the EU students to meet, in particular, from those who returned home classifying some below repayment thresholds.

As far as research funding is concerned, the House of Commons report states that the distribution of domestic research funding was concentrated in hands of a few Universities, mainly Oxford, Cambridge and London concentrating most of the EU funding. Brexit will allow a fairer distribution of resources across the country that would benefit all regions.[97] Some also sustain that the UK would be able "*to direct its existing EU contribution to research into its own projects*" and more relevant for local needs' initiatives.[98] Other potential opportunities reside in creating new links with the Universities outside the EU,[99] and to go 'global', building on some undeniable achievements and experience of the Erasmus + Programme.[100]

Finally, more UK nationals would receive a University degree, since they will need to get the numbers of admissions up. While the danger of there being a laxing of recruitment standards is plausible, it is clear that with more places available, more UK nationals will be able to apply for university places.[101]

Conclusion

After three and a half years of turmoil and political instability, the academic community grudgingly accepted the reality of Brexit. In fact, the overwhelming victory of PM Boris Johnson in December 2019, utterly evaporated the timid hopes for a second referendum, but to some extent was perceived as a relief – a way out of a state uncertainty and disarray. 2020 starts constructively for the academic community preparing for the ineluctable consequences of Brexit in Higher Education. McCann advocated in 2017 that the Higher Education sector needed to be taken seriously calling for "responsible governance" and not to allow "*short-term parochial political interests to supersede the immense rewards of Erasmus+, EU Structural Funding, and EU Research framework Programmes*".[102] Corbett and Gordon called it an "Intelligent Brexit that would preserve the UK universities" network with EU universities and foster academic collaboration.[103] Any other options would make UK universities uncompetitive and would damage its reputation as the top research institutions.[104] Nonetheless, it is absolutely clear today, that many achievements of Europeanisation and to a certain degree, internationalisation will be lost.

PM Boris Johnson's leadership rejects the option of the UK adopting the Norwegian Model of "associated country" unwilling to make any concessions on free movement and to compromise on the "Single Market" issues. Alas, all possible

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[97] "Exiting the EU: Challenges and Opportunities for Higher Education", House of Commons, Report 2016-2017, 25 at https://publications.parliament.uk/pa/cm201617/cmselect/cmeduc/683/683.pdf.

[98] John Morgan, "Brexit, the Perks and Pitfalls for Higher Education", *The World University Ranking*, 2015, https://www.timeshighereducation.com/features/brexit-the-perks-and-pitfalls-for-higher-education.

[99] Anne Corbett and Claire Gordon, "Brexit and Higher Education and Research" in *The Routledge Handbook of the Politics of Brexit*, eds. Patrick Diamond, Peter Nedergaard and Ben Rosamond (London: Routledge, 2018), ch.9, 324

[100] "Exiting the EU: Challenges and Opportunities for Higher Education", House of Commons, 23

[101] Marginson, "Brexit: Challenges for Universities in Hard Times".

[102] McCann, "Brexit, Higher Education and Responsible Governance", 208.

[103] Anne Corbett and Claire Gordon, "The University Challenge: What type of Brexit would work for Higher Education?", *LSE Blog*, April 2, 2017, https://blogs.lse.ac.uk/politicsandpolicy/the-university-challenge-brexit-and-he/.

[104] *Ibid.*

scenarios for access to the EU Research Funding, cooperation with EU universities or the EU students' intake imply some form of free movement or at least, a limited access to the Single Market.

For example, an option for "responsible governance" put forward by McCann consisted in a form of reciprocal free movement for academics conditional upon holding a form of the EU Research Funding.[105] The UK would not have any decisional power over the size or nature of the EU research budget, but UK academics could take part in the assessment process, having albeit indirectly, 'a say' in the selection procedure.[106] Today, with Johnson's government, the reciprocal arrangements seem to be the only scenario, but even this minimalist approach might not necessarily be supported by the political will.

Scholars and researchers would like to see the government's commitment to engage with the successor programme to Horizon 2020 (Horizon Europe), "failing that, promise to provide funding for UK institutions to participate as a 'Third Country'."[107] However, there is not much clarity on the extent to which the deal negotiated by PM Boris Johnson would protect the interests of the Higher Education Sector. The Liberal Democrats put forward some amendments in this respect to the UK Withdrawal Bill, but were defeated in the House of Commons on the 8th of January.[108]

There is no a miracle solution to safeguard all acquis of internationalisation and "*Europeanisation*" that UK universities have acquired over 40 years as a member of the EU. The mobility of students and academics arising from the EU membership will end. In particular, EU students will face a number of immigration restrictions. Mayhew believes that lower ranking Higher Education institutions would bear the highest cost in terms of numbers.[109] The government seems to be determined to control the students' influx. In addition, the fees for University courses will be significantly higher since EU students will not benefit anymore from the same treatment as home students. They will not be eligible for UK student loans either. Thus, many will not even apply, unable to afford a UK university degree.

Similarly, the opportunities resulting from Erasmus Programme and Horizon Europe are currently uncertain. The government expressed no commitment by saying: "*The UK will consider options for participation in elements of Erasmus+ on a time-limited basis, provided the terms are in the UK's interests.*"[110] Even if we get an agreement for the time being, we cannot guarantee that it would last. Erasmus itself, allowed over 200,000 UK students between 1987 and 2013, to study at European universities.[111] The scheme was very successful, increasing the number of Erasmus students each year. "*In 2017, 16,561 UK students participated in Erasmus, while 31,727 EU nationals came to the UK*".[112] It seems that the Government had no intention to support the scheme. In January, Gavin

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[105] McCann, "Brexit, Higher Education and Responsible Governance".

[106] *Ibid.*

[107] "A ´no deal` Brexit: implications for University and minimising risks", Universities UK, November 2019, accessed 20 December 2019, at https://www.universitiesuk.ac.uk/policy-and-analysis/brexit/Documents/no-deal-brexit-implications-for-universities-and-minimising-risk.pdf.

[108] Éanna Kelly, "UK parliament rejects proposal to keep country in EU's Erasmus+ scheme", *Science, Business*, January 9, 2020, https://sciencebusiness.net/news/uk-parliament-rejects-proposal-keep-country-eus-erasmus-scheme.

[109] Mayhew, "EU Higher Education and Brexit".

[110] Bright, "New Tory Brexit announcement".

[111] *Ibid.*

[112] Reality Check team, "Erasmus: What could happen to scheme after Brexit?", *BBC News*, February 17, 2020, https://www.bbc.co.uk/news/education-47293927.

Williamson, the Secretary of State for Education had said that Erasmus membership "*will be a question for further negotiations*" and that the UK would "*develop our own alternative arrangements should they be needed*".[113]

Withdrawal from the EU would cut many links, advantages and money. First, it will never be possible to keep the same facilities in research and mobility that are available to EU Members. The research grants awarded to UK institutions will diminish and internationalisation, cooperation and partnerships with other EU universities will be limited. Furthermore, there is also a non-negligible impact on family members, in particular, the families composed of a mix of EU and UK nationals, and those composed of EU and non-EU nationals, so called "Brexit families", who are facing many uncertainties today.[114] Currently, EU citizens need to apply for the EU Settlement Scheme, the application will be evaluated, and the attribution of this status might bring some unfavourable decisions.[115] In addition, PM Boris Johnson has announced that he will impose new restrictions on EU immigration two years ahead of schedule, promised initially until 2023 to business groups by Theresa May. He chose an "Australian-style points system", which was a part of his political manifesto in the December election. The system targets unskilled workers, attributing preferential treatment to those highly qualified. Thus, the academic community seems to be spared, but the distribution of points is based on the evaluation scheme, which itself is discriminatory and will necessarily lead to some unfair decisions.[116]

In any case, a number of EU university staff members working in the UK will diminish; some will leave, finding more stable academic environment with full access to EU funding, EU Grants and international cooperation. Today, the number of EU staff members in UK universities is high. For example, a quarter of people employed by the University of Kent are EU nationals.[117] Possibly, the fear and some radical predictions might never materialise. However, the leading EU academics might still find better guarantees and security at work and in research elsewhere within the EU.

In sum, it is difficult to find any positive aspects that Brexit could bring to Higher Education. A small number of possible gains were discussed in Section 4 of this article. The EU's research programmes have shaped UK universities by transforming their priorities and paving the way for them "*to become world leaders in research, raising standards, giving them access to research facilities across Europe and helping them to attract staff*" and "*no UK-led programme could ever match [the numerous advantages] of Erasmus and Horizon programmes*".[118] In addition, "*mobility of staff and students brought £2.7bn to the British economy,*

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[113] John Morgan, "PM says UK 'will continue to participate' in Erasmus+", *The World University Ranking*, January 15, 2020, https://www.timeshighereducation.com/news/pm-says-uk-will-continue-participate-erasmus.

[114] Majella Kilkey, "Conditioning family-life at the intersection of migration and welfare: the implications for 'Brexit families'", *Journal of Social Policy* v. 46, issue 04 (2017): 799.

[115] "Apply to the EU Settlement Scheme (settled and pre-settled status)", The Government UK - GOV.UK, accessed February 17, 2020, https://www.gov.uk/settled-status-eu-citizens-families/applying-for-settled-status.

[116] Lizzy Buchan, "Brexit: Boris Johnson to impose new restrictions on EU immigration two years earlier than planned", *Independent*, January 19, 2020, https://www.independent.co.uk/news/uk/politics/brexit-eu-immigration-boris-johnson-limit-restrict-low-skilled-workers-transition-period-a9290921.html.

[117] Cicely Oliver, "How will Brexit affect universities and students?", *The Complete University Guide*, April 20, 2020, https://www.thecompleteuniversityguide.co.uk/international/how-will-brexit-affect-universities-and-students/#whatwillchangeafterBrexit.

[118] Layla Moran quoted in John Morgan, "Lib Dems press to keep UK in EU research programmes and Erasmus", *The World University Ranking*, January 8, 2020, https://www.timeshighereducation.

as well as 19,000 extra jobs".[119] It is truly regrettable to see all these opportunities gone. In short, Brexit for the UK Higher Education is simply "*a self- inflicted harm*".[120]

Looking on the bright side, UK universities, highly competitive and at the top of the World Ranking scale, will certainly fight to maintain their standards. Albeit, exchanges, collaboration, and partnership with other universities in the EU will become more difficult but will certainly continue to exist on the same basis as with other third countries.[121]

The academic world will bear the cost of this political decision but as an intellectual community – a spotlight for academic debate, the Higher education Sector is well placed to minimise its negative consequences.

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com/news/lib-dems-press-keep-uk-eu-research-programmes-and-erasmus.

[119] Oliver, "How will Brexit affect universities and students?".

[120] Vernon Bogdanor, "Britain and the EU: In or Out - One Year On 2017", lecture, Gresham College, Youtube, June 29, 2017, accessed 20 May 2019, at https://www.youtube.com/watch?v=39KtssUwd-Q.

[121] "A ´no deal` Brexit: implications for University and minimising risks", Universities UK.