

Involvement of Europe's national parliaments will further complicate the Brexit deal

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*While the power of national parliaments in the European Union has generally been increased over the last two decades, as means of democratising the EU, their involvement in the Brexit process will further complicate the negotiations and prove difficult for the the next British government to handle, writes **Julian M Hoerner**.*



Amidst the triggering of Article 50 on 29 March, the announcement of a UK General Elections for June and the special Brexit summit which took place last Saturday, one could easily get the impression that the upcoming Brexit negotiation will purely be a matter between London and Brussels. However, as a recent article in [Politico Europe](#) highlighted, even an initial deal setting the terms of Britain leaving the EU could be subject to the approval of national parliaments from 27 member states as well as some regional chambers. While it is likely that any potential final trade deal between the UK and the EU should be [subject to national parliamentary](#) approval, the fact that even an initial 'divorce agreement' might involve dozens of additional actors further highlights the complexity of the negotiations the next British government will have to face.

The role of national parliaments in the European Union has generally been strengthened over the last two decades, with the aim of making the EU more democratic and to compensate for the perceived deficiencies of the European Parliament in representing the citizens in the EU, for example because of low electoral turnout and public visibility. The formal powers of national parliaments in EU affairs vary considerably, from binding mandates to the mere right to be informed – and so does their actual engagement. All national parliaments have been following developments in Britain very closely over the past year and many such as French *Assemblée* and *Sénat* have drawn up [extensive reports on Brexit](#). Parliamentary scrutiny of EU legal acts has to be seen in the context of domestic politics, and is often [used by populist parties to appeal to their voters](#), as I have shown in my own research. Any approval of a deal on Britain leaving the EU could thus become nested in domestic power struggles.

According to the abovementioned document by the German Parliamentary Research Services which was obtained by Politico, the German government might diverge from its earlier position that parliamentary involvement was not necessary for an initial transitional deal, depending on its content and scope. Irrespective of their domestic formal powers in EU affairs, whether or not national parliaments will have to be involved in the initial agreement governing the UK leaving the EU is likely to depend on whether it will be classified as a '[mixed](#)' agreement affecting the [shared competences](#) of the EU and the member states. Given Germany's position in the EU, the *Bundestag's* involvement has been historically an important factor mandated by the German constitutional court to be necessary for the country to participate in any treaty changes and for major policy initiatives to succeed, most recently in the case of the [European Stability Mechanism \(ESM\)](#). The Brexit negotiations themselves, however, [will not require the direct involvement](#) of the member states or their parliaments, at least not of the *Bundestag*.

While it is not clear whether any transitional or 'divorce' agreement requires the assent of national parliaments, any future trade deal most likely will. In December, Advocate General (AG) Sharpston of the European Court of Justice (ECJ) argued that a Free Trade Agreement between the EU and Singapore [should be approved by all member states](#), and not by the European Commission alone. The final decision of the Court is expected on 16 May. The implications of the involvement of dozens of national parliaments became obvious in the final ratification phase of the CETA agreement between the EU and Canada in late 2016. The European Commission classified it as a 'mixed agreement' while the decision of the ECJ on the exact delineation of competences under the common commercial policy was pending, even though [the Commission's own legal assessment is that trade is an exclusive EU](#)

competence.



Walloon Parliament

chamber. *Image by Age Platform, CC BY-SA 3.0.*

The near failure of CETA made clear that not only the parliaments of 'big' member states have to be reckoned with when parliamentary involvement is required. In the case of CETA, it was the parliament of the Belgian region of Wallonia with a population of around 3.5 million [which almost blocked the final agreement](#). Interestingly, Belgium and its regions might again play an interesting role in a Brexit deal, with the Flanders region having much stronger trade links to the UK as an export market compared to Wallonia which is generally much more sceptical of free trade, leading to two completely [different assessment of what a desirable outcome and negotiation strategy should be](#). This demonstrates how the involvement of national and (depending on the national constitutional order) regional parliaments will not only bring in a large number of additional veto players who could block or delay any deal, but will also further complicate the negotiations by interlinking them with domestic political dynamics.

Overall, national parliament can be expected to follow the Brexit process very closely. Legislative elections will take place in the three largest member states this summer: France, Germany and Britain itself. The changes in the composition of these chambers are likely to shape the negotiations, but as the case of CETA shows also the parliaments of small (sub-) national entities can have a significant impact on any deal on Britain leaving the EU, and even more likely on any new trade agreement between the UK and the other member states, depending on the much-anticipated judgement of the ECJ. In any case, the debate on the involvement of national parliaments further highlights what a complex and formidable task the Theresa May is facing for the next two years and beyond.

This post represents the views of the author and not those of the LSE Brexit blog, nor the LSE.

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