

Brexit & the European Schools: State of Play - from INTERPARENTS

The following few pages are an attempt to describe the current situation and outline scenarios in relation to the possible outcomes of the Brexit negotiations, as they relate to the European Schools.

But it should also be very clear that the final negotiation can always lead to different results, and a different outcome.

An important question is whether (or until when) the UK can stay in the Convention¹ of the European Schools, and what the implications are for the financing of the system, the European Baccalaureate and the services provided by the inspectors, directors and teachers from the UK.

So far, so good! – The European Schools will start the school year 2018/19 with the UK still being a contracting party of the European Schools' Convention. This includes, among others, the obligation to provide seconded teachers and inspectors.² Moreover, concrete steps have already been taken to secure the participation of the UK in the European Schools well beyond the announced departure date for Brexit of 29/03/19, in the context of the proposed Transitional Period for exiting the EU (see below.)

Who is negotiating for the European Schools? – The Board of Governors of the European Schools, the Office of the Secretary General and The European Commission all have central but different roles to play in determining the future of the Schools post-Brexit. As INTERPARENTS indicated a year ago³, it is important to understand that the withdrawal of the UK from the EU itself has an impact on the schools, notwithstanding the fact that the 'Convention defining the Statute of the European Schools'¹ is a separate inter-governmental agreement and irrespective of what might ultimately be agreed in relation to the UK's participation in that Convention.

The European Commission administers the EU financial contribution⁴ to the Schools on behalf of the EU Budgetary Authority. Accordingly, the European Commission included the European Schools in its Working Paper "Essential Principles on Financial Settlement" in May 2017.⁵

In February (2018), the position set out in the Working Paper was formalised, in the framework of the UK-EU BREXIT negotiations, in the Position Paper "Transitional Arrangements in the Withdrawal Agreement" published⁶ 07/02/18. This proposed that the United Kingdom would 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.⁷

Significantly, the UK has already declared its position on the European Schools to be in "alignment" with this proposal.⁸

¹ https://www.eursc.eu/BasicTexts/SW1_21994A0817-en.pdf

² The continued status of the UK as a contracting party to the Convention at the start the academic year 2018/19 was assured by the fact that the UK did not denounce the Convention by the beginning of the 2017/18 school year.

³ <http://interparents.eu/pdf/BrexitBulletin-INTERPARENTS-2017-03-en.pdf>

⁴ The UK currently finances the school system indirectly in two ways: firstly through its secondment of teachers from the UK and secondly, through the contributions of the UK to the overall EU budget.

⁵ https://ec.europa.eu/commission/sites/beta-political/files/financial-settlement-essential-principles-draft-position-paper_en.pdf -- See VII, page 4.

⁶ <https://ec.europa.eu/commission/sites/beta-political/files/transition.pdf>

⁷ i.e. until 31 August 2021

⁸ See UK response published 21/02/18

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/682894/Draft_Text_for_Discussion_-_Implementation_Period_1_.pdf

The Commission proposal has since been expanded in the ***“Draft Withdrawal Agreement⁹ on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community”***, published 28/02/18.

Please note that the process is a dynamic ongoing one. For example, The European Commission has already issued an updated version¹⁰ of the Draft Withdrawal Agreement, indicating that there is agreement on the text relating to the European Schools at "negotiators' level." On 22-23 March, the European Council will examine the proposal.

For better or worse, the fate of the European Schools is therefore intimately tied to the outcome of the 'Article 50' negotiations for the withdrawal of the UK from the EU.

What does this mean? Our reading is that if this Commission proposal for the European Schools within the overall Draft Withdrawal Agreement is finally accepted by both parties:

- **Exit Date:** UK would continue to be bound by the Convention of the European Schools up to end of the School year 2020-2021 with all the rights and obligations that entails.
- **European Bacculaureate:** Official recognition of the European Bacculaureate by the UK government as a school-leaving certificate for the purposes of possible entrance to the UK Universities¹¹ would be ensured at least up to the school year 2027/2028¹²
- **Prolongation of the negotiation:** Under Article 50(3) of the Treaty of the European Union (TEU), the European Council, in agreement with the United Kingdom, might unanimously decide to extend the period in which the withdrawal agreement may be negotiated.

What happens in the event of 'no deal' being reached? In the event of this “not very probable” scenario, the UK would leave the EU in March 2019, without a transition period, and might notify its withdrawal from the Convention of the European Schools. Provided such a notification occurs any time after 31/08/18 i.e. from the beginning of the new school year of 2018/2019, the UK would be bound by the Convention of the European Schools up to the end of the 2019/2020 school year.¹³

In such an outcome, the European Bacculaureate would no longer be legally recognised in the UK. But this does not mean that it would not be accepted by individual UK institutions offering tertiary education. The large majority of the foreign “End of Secondary” qualifications, accepted for entrance to the UK universities, are not a part of specific treaties, but are judged on their merits¹⁴, and the educational value of the European Bacculaureate has never been questioned.

⁹ Article 120 https://ec.europa.eu/commission/sites/beta-political/files/draft_withdrawal_agreement.pdf

¹⁰ https://ec.europa.eu/commission/sites/beta-political/files/draft_agreement_coloured.pdf

¹¹ Note that while Article 120 includes recognition of the European Bacculaureate (as per Article 5.2 of the Convention), the proposal is not addressing the level of the tuition fees which may be charged by UK universities. Neither is there any mention of recognition of equivalency of studies in the lower years (e.g. S5) as per Article 5.1 of the Convention.

¹² School year 2020/2021 + 7 more years, corresponding to the longest possible normal period of Secondary schooling, not counting possible repeated years.

¹³ See Article 31.1 of the Convention of the European Schools in connection with Article 70 (1) (b) of the Vienna Convention on the Law of Treaties.

¹⁴ In this regard, it is noteworthy that UK universities will shortly have to assess the 'New Marking Scale' which will enter into force for the European Bacculaureate session 2021.

What could be the impact in the schools?

- **English language:** Brexit should have no direct impact on the existence of the Anglophone (EN) sections¹⁵ because admittance to a linguistic section¹⁶ is determined by an applicant's 'mother tongue' or 'dominant language', not their nationality.¹⁷

Nor should Brexit or denunciation of the Convention remove the legal basis for the teaching of English, or courses in English; English is legally recognised as one of the languages of tuition by Annex II of the Convention of the European Schools. Furthermore, even after Brexit, English will remain one of the official languages in some Member States.¹⁸

In addition to the European School pupils who have English as L1 -- and not even counting the growing number of Accredited European Schools offering tuition in/through English -- currently, 14,000 children in the system have English as their L2 and 3,000 have English as L3. Consequently, almost without exception, every child is exposed to English throughout their school career. The challenge is rather, therefore, how to find and keep suitable teachers (either seconded or locally recruited) and how to pay for them.

- **Seconded Teachers:** The contracts of the UK's seconded teachers (and directors) might well come to an end if the UK leaves the Convention. According to our information, this would concern up to 37 teachers at the end of the school year 2019/2020 (for the scenario in which there is 'No deal' on Brexit declared post 31/08/18) or 26 teachers at the end of the school year 2020/2021 (Transition agreement scenario). It has been recognised that *"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."*¹⁹ Many perform pivotal roles²⁰.

- **Locally Recruited Teachers:** Currently, the office of the Secretary General of the European Schools is considering ways to hire replacements and to increase the attractiveness of our contracts for Locally Recruited Teachers. This might offer a solution for Seconded Teachers interested in staying in the system, as well as for acquiring teachers from elsewhere. However, together with the loss of the UK financial contribution to the European Schools, this will have a certain budgetary impact that the European School parties (Member States and European Commission) must be ready to cover.

- **UK citizens working in the European Schools:** There are UK nationals working in the European Schools either as Locally Recruited Teachers (LRTs) or as staff with administrative or other functions.

The proposed transition agreement provides guarantees for all citizens of the UK to continue working normally in the EU (and *vice versa*). Even in the case of a 'no-deal' on the Brexit negotiations, we understand that there should be no short-term implications on their existing contractual relations to the European Schools. But they would lose their EU citizenship rights and consequently might lose their freedom of movement.²¹ This could influence the decision of UK staff to join, to stay, to leave or to move within the system.

¹⁵ The EN section currently accommodates 4,500 pupils across the system.

¹⁶ <https://www.eursec.eu/BasicTexts/2014-03-D-14-en-5.pdf> See article 47.e)

¹⁷ i.e. The funding for teachers is determined by the proportion of pupils of each nationality in the system. The cost of teaching is increasingly 'topped up' by the EU contribution to the budget.

¹⁸ English is one of the official languages of Ireland, Malta and the Kingdom of the Netherlands

¹⁹ First report of the European Schools' Working Group to the Board of Governors - 2017-11-D-13-en-1

²⁰ including (but not certainly limited to) supporting pupils through UK university applications through UCAS.

²¹ See articles 24 and 32 in the EC Draft Withdrawal Agreement proposing to limit free movement of UK national residents in the EU27 and relating to 'frontier workers'. https://ec.europa.eu/commission/sites/beta-political/files/draft_withdrawal_agreement.pdf

On the other hand, under Article 31.2 of the Convention of the European schools, it is the Board of Governors that shall decide on staff measures to be taken in such situations following any denunciation from the Convention.

- **Inspectors:** Another issue where a solution must be found for the period after a possible exit of the UK from the Convention is the replacement of the UK-appointed inspectors. This is a crucial aspect to ensure educational quality control, given the breadth of responsibilities of these inspectors (including inspection of the many teachers delivering lessons in English, preparation and supervision of the English language elements of the Baccalaureate and supporting the introduction of the 'new marking scale' in the UK).

- **UK nationals in the pupil population:** It has been recognised that native speakers of English help create the immersive English language environment needed for informal language learning in the schools. The number of pupils who are UK nationals also determines the number of teachers which the UK is required to second, for as long as the UK is party to the Convention. Places are granted in the European Schools in line with a system of categorisation based on the parents' employer. The employment status of UK officials is being dealt with internally. Whatever the outcome, it may be noted however that there is already provision in the rules of the European Schools for the children of parents who cease to work for the EU Institutions to keep the right to continue their education in their schools as 'CAT3' pupils.²²

Other possible outcomes post Brexit? Finally, it should be noted that 'Brexit', either with or without a transition period, would not necessarily signal the end of the cooperation between the Convention of the European Schools and the UK. Some experts consider that a new agreement could be envisaged for the future if both parties were interested.

What is INTERPARENTS doing?

INTERPARENTS has been active in pushing the concerns of European School parents about Brexit to the fore since the day of the UK referendum result and continues to work hard to ensure the interests of families are safeguarded.²³

INTERPARENTS was instrumental in the launch of the Working Group mandated by the Board of Governors in April 2017 to analyse Brexit, as it relates to the European Schools, and to make proposals. The Working Group has met four times so far, with the mandate to analyse the legal situation (including for the Accredited School 'Europa' in Culham), to monitor the negotiations in the EU institutions, to analyse the risks (such as financing, staffing, the quality of teaching and learning and the future recognition of the European Baccalaureate), to define measures to mitigate the risks and provide an action plan, and finally to prepare concrete proposals.²⁴

Given the political nature of the TEU Article 50 Brexit negotiations, INTERPARENTS is urging that the Working Group focus particularly on what is within the control of the European School system itself and that measures are taken promptly (and well before March 2019) to protect teaching, quality control and finances, whatever the timing and outcome of the negotiations may be.

²² <https://www.eursec.eu/Documents/411-D-1999-en.pdf#search=Category%203> and <https://www.eursec.eu/en/European-Schools/enrolments/school-fees>

²³ See 'Annual Review 2017' www.interparents.eu

²⁴ See 'Decisions of the Board of Governors' <https://www.eursec.eu/Documents/2017-04-D-2-en-3.pdf>

- To this end, INTERPARENTS makes use of its membership of the Board of Governors and various other fora:
- INTERPARENTS contributes with ideas and comments to the working group examining how the package for Locally Recruited Teachers can be made more competitive in the market.
- In December 2017, INTERPARENTS and representatives of its member associations met with Commissioner Oettinger and called for a review on the dysfunctional ‘cost sharing mechanism’ and were rewarded by the personal commitment of the Commissioner to hold a high-level summit on the European Schools this Spring.
- INTERPARENTS made a submission to the UK Commons Select Committee on the Implications of Brexit for Higher Education.²⁵
- INTERPARENTS is also promoting the support of pupils in navigating the Tertiary Education Market by increasing and harmonising advice about courses delivered by Member States.

We hope that the above information may be helpful to our parent community and welcome feedback through your local Parent Association.

***Disclaimer:** The above is an information note from INTERPARENTS. It expresses only the views of its authors on the current state of the subject in question. It is not an official document and it is not expressing an official position of the EU Commission, the OSGES, the European schools, the UK or any Member State of the Convention of the European Schools. It is not replacing any official document made by these parties. The information provided is not engaging the responsibility of INTERPARENTS or its members.*

²⁵ <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/education-committee/the-impact-of-exiting-the-european-union-on-higher-education/written/43050.html> and <http://www.parliament.uk/business/committees/committees-a-z/commons-select/education-committee/news-parliament-2015/brexit-higher-education-evidence-publication-16-17/>