

Event Report: Brexit and Citizens' Rights: The Case of Gibraltar

University of Gibraltar, Europa Point Campus – 25 April 2017



As a special British overseas territory sharing a land border with an EU country, Gibraltar's economy and people are expected to suffer significantly from Brexit, in spite of the fact that its population of 32,000 inhabitants voted overwhelmingly to stay in the EU in the UK's referendum.

With 12,000 European citizens crossing the border from Spain every day to work in Gibraltar, preserving a free flowing border post-Brexit with its neighbour Spain will be of utmost importance for Gibraltar's economy, which is greatly dependent on the cross-border workers who hold 40% of total jobs on the Rock. A free flowing border is also crucial for the tourist sector as the majority of the 10 million tourists who visit Gibraltar every year reach the Rock by land. Finally, a fluid border will be equally important for the economy of Andalucía since Gibraltar is the second largest employer for the whole Spanish region. The status of Gibraltar's airport and its access to the EU single airspace will also be an important issue in the withdrawal agreement, as will the participation of Gibraltar in the future trade agreements that the UK will strike with third countries. These are some of the issues that were addressed during our conference in Gibraltar on 25 April 2017.

The conference, organised by the European Citizen Action Service (ECAS) and Citizens Advice International (CAI), with the support of the Government of Gibraltar and Hassans International Law Firm, took place at the University of Gibraltar and was attended by 120 participants. The conference was also broadcast live and followed by over 70 viewers online, and was followed with great interest by the local media.

This event was organised in the framework of the project 'Brexit Takeaways', which aims to raise awareness among citizens of the possible impact of different Brexit scenarios on their rights and

advocate for the best possible deal for citizens. This project has received funding from the Joseph Rowntree Foundation Charitable Trust.

Address by Gibraltar's Chief Minister Fabian Picardo

Fabian Picardo opened the conference by raising one of the key issues at stake for Gibraltar in the Brexit negotiations. He mentioned, in particular, frontier fluidity, namely the ability to enter and leave Gibraltar in a smooth way, ensuring that people face no more hurdles than is necessary for security reasons. Picardo said that leaving the European project was far from what Gibraltarians wanted, having voted overwhelmingly to stay in the EU. He also emphasised Gibraltar's exemplary role in the transposition of EU law, being one of the jurisdictions most up to date in that regard, and as a case of success of the European project. He therefore regretted the veto power given to Spain by Clause 22 of the European Council guidelines on Brexit negotiations, which he perceived as an attempt by Spain to seize Brexit as a political opportunity to reinvigorate sovereignty claims over Gibraltar, but also as a slap in the face by the European Council, as opposed to the Commission's and the Parliament's more neutral parameters. He closed his speech by calling on the Commission's chief negotiator, Michel Barnier, not to forget the citizens of Gibraltar during the negotiations.

Raising awareness about the implications of Brexit and listening to citizens' concerns

ECAS' Director, **Assya Kavrakova**, explained the reasons why ECAS decided to carry out research about the impact of Brexit on citizens' rights and on EU funding. She argued that in the weeks after Brexit, ECAS' Your Europe Advice¹ legal experts witnessed a sharp increase in the number of enquiries concerning the UK as a result of the climate of uncertainty. She also noted that after Brexit several studies looked into the economic and financial impact of Brexit, but no one had analysed the issue of citizens' interests.

She went on to say that when ECAS started the study, hopes were that the UK and the EU could be heading towards a soft Brexit option, as portrayed in the study through the Norway and Switzerland models. However, it now seemed that a harder Brexit option, based on a unique agreement that could encompass several elements of the considered scenarios, could be the most plausible option. She explained that the goal of ECAS' study, presented at different events in London, Northern Ireland and Gibraltar, was not only to raise citizens' awareness about possible consequences of Brexit, but to listen also to the voices of citizens and be able to convey them to decision-makers at a conference in June in Brussels.

The border in Gibraltar and in Northern Ireland: beyond a physical division

Malachy Vallely, Director of Leuven Institute for Ireland in Europe, compared the meaning of the word 'border' in Gibraltar and in Northern Ireland, which goes beyond a physical division, and the implications of Brexit in that regard, in particular concerning the peace agreement between Northern Ireland and the Republic of Ireland, fearing that the establishment of a hard border between the two could bring back old tensions. He also explained that the EU provided a fundamental framework that

¹ Your Europe Advice (YEA) is a service for free legal advice to Citizens, which ECAS provides on behalf of the European Commission.

allowed Northern Ireland and Ireland to overcome tensions and work together, and regretted that such an opportunity could not have been replicated in the case of Spain and Gibraltar.

ECAS' study on the implications of Brexit scenarios for citizens' rights

Marta Pont (ECAS) presented the findings of ECAS' study, which considers different Brexit scenarios and their impact on EU citizens' rights. These include the right of entry and right to live and work in another EU country, the right to establish oneself professionally in another EU country, the right to non-discrimination and EU consumer and passenger rules, amongst others. The conclusion of her presentation was that there is no best alternative to EU membership under which all the different rights associated with EU citizenship can be fully secured. Therefore, a choice will have to be made during the negotiations about which scenario provides the widest guarantees to these rights and can, at the same time, be embraced by those who voted to leave the EU.

In her presentation, she also pointed to the impact that Brexit will have in terms of access to EU public funds for UK-based entities and, in particular, for Gibraltarians, considering that the main funding streams that benefit Gibraltar are the Structural Funds, which are only open to Member States' participation. While Gibraltar will be excluded from these funding programmes post-Brexit, other funding streams that Gibraltarian companies and Gibraltar University currently benefit from, namely Erasmus+ and Horizon 2020, have a larger scope and could accommodate the participation of Gibraltar in the future arrangements.

"An orderly, sensible and well-managed Brexit is in the best interest of everyone"

Gibraltar's Deputy Minister **Joseph Garcia** started his speech by stressing that Gibraltarians have always considered themselves proud Europeans and they now find themselves in a position they did not want to be in. After the Brexit result, preserving a fluid frontier with Spain will be of utmost importance for Gibraltar's economy, which is strongly dependent on frontier workers who cross the border from Spain everyday to work there. This is also the case for Spain, as Gibraltar contributes 25% of the GDP of its neighbouring Spanish region and 7,000 frontier workers in Gibraltar are Spanish nationals.

He regretted the ill-intentioned behaviour of the Spanish Government, which is using the new rules on Schengen to implement systematic checks at the border, thereby restricting freedom of movement by inflicting long delays. He noted that solutions for a fluid border already exist under special arrangements for border crossings at both EU level – the so-called 'Local Border Traffic Regulation', as well as at national level in Spain, with regard to its overseas territories of Ceuta and Melilla. Only political will is needed. He also mentioned the various contacts that Gibraltar's Ministers are having with the UK to make sure that Gibraltar can get its share of the UK's future trade agreements with third countries, considering that the UK is the primary commercial partner of Gibraltar.

Second part: panel session with Q&A moderated by Michael Llamas, Gibraltar's General Attorney

Michael Llamas opened the panel on a personal note, recalling the longstanding relationship between ECAS and himself, as ECAS launched, in 1992, hot lines on border control throughout Europe to check whether the requirements of the Single European Act were being applied, and received a large number of complaints submitted by Gibraltar. He noted that the issue of the border was already key at

the time and it still remains the critical issue for Gibraltar in the Brexit negotiations. He also stressed the need to distinguish between free movement as it is understood in the UK, where it is largely associated with immigration, and frontier or cross-border work, as it applies to Gibraltar. He then introduced the panel, which was composed of the previous two speakers from ECAS and Malachy Vallely, in addition to:

- Molly Scott Cato, MEP for the Greens for Southeast England and Gibraltar
- Daniela Tilbury, Vice-Chancellor and CEO at the University of Gibraltar
- Gemma Vásquez, lawyer and Chairwoman of the Gibraltar Federation of Small Businesses (also spokeswoman for Gibraltar Stronger in Europe Campaign)

“We are fighting for a ratification referendum that compares one real future with another real future”

MEP **Molly Scott** talked about the Green Party’s forward-looking approach towards migration, that is, as something that should not be countered or feared, but rather accepted and managed, which they defended both during the Bremain campaign and ever since the Brexit referendum. She also explained that the Greens are fighting for a ratification referendum that compares one real scenario of future EU-UK relationship with another real scenario, arguing that people voted on the basis of fictitious promises and that the UK Prime Minister has no mandate for the hard Brexit she is pushing for. She added that it is precisely a hard Brexit option that poses problems for Gibraltar, whilst a soft option of staying in the Single Market would ease the prevailing tensions between Spain and Gibraltar.

“We were expecting at least 30% of our income coming from the EU as research funding”

Daniela Tilbury, Vice-Chancellor and CEO of the University of Gibraltar, said that Brexit came as a shock and as a big disappointment to them, and while it will not be catastrophic for the future of the University, as it is still young and therefore flexible, it will require a reshaping of their strategic lines. In order to compensate for the impact of Brexit on both access to EU funding and flow of international students, Tilbury explained that they are looking to strengthen their ties with the UK and to develop international mobility programmes similar to Erasmus+ with Commonwealth countries. However, compared to other UK universities, which receive many European students, due to their small size they are going to be less impacted. She was also positive that Europe will want to negotiate the continuation of the UK’s participation in the EU’s research and innovation programmes, considering the important contribution of the UK to Europe in these fields. She concluded by saying that, while the University was shaken and disappointed about the EU referendum, there will be opportunities and ways around the challenges and that Brexit will not be devastating.

“The EU has been critical to the fluidity of the border”

Gemma Vasquez, Chairwoman of the Gibraltar Federation of Small Businesses and spokesperson of the Remain campaign in Gibraltar, explained why the Bremain campaign yielded such positive results by linking it very closely to the border issue. She recalled that the reason why the border with Spain opened in 1985 was that Spain wanted to join the European Union, and stresses that the EU has been critical to the fluidity of the border or to the very working of the border, which has been hindered on many occasions. She explained that, because of the past experiences, Gibraltarians were sceptical that a fluid border could be ensured in the event of a Brexit, which explains the big success of the Bremain

campaign. In her position as Chairwoman of the Gibraltar Federation of Small Businesses (GFSB), she presented the work of the cross-frontier group, composed of members of the trade unions and the business sectors from both Gibraltar and Spain, which was set up to deliver a message of unity given the common challenges that Brexit will imply for both sides of the border due to the frontier workers.

Discussion

The panel debate was followed by a lively discussion with many contributions and questions from the audience. Among the different topics that were raised during the discussion and addressed by the panellists, the following can be distinguished:

- The feasibility of the European Parliament's proposal for an associate citizenship being given to UK citizens willing to keep their ties and rights with the EU post-Brexit
- The implications of the veto given to Spain by the European Council negotiating guidelines
- The status of the airport of Gibraltar and the future aviation deal with the EU to take into account Gibraltar's special geographical location and address, among other things, the regular need to divert flights to Gibraltar due to bad weather
- The inability of Gibraltarians to participate in the UK's general election of 8 June, when the future Brexit option is going to be voted on
- The ability of ECAS to bring up the issue of Gibraltar at EU level
- The impact of restricted access to EU funding on the business sector, especially as most EU funding comes from the Structural Funds, which are only open to Member States

Closing remarks

The key topics presented and discussed at the conference were summarised by **Richard Buttigieg**, Lawyer and Trustee of Citizens Advice Bureau Gibraltar. He concluded by thanking ECAS for the opportunity to have a debate on the implications of Brexit for Gibraltarians and to give salience to their messages at EU level.

The concluding words were given by the Minister for Equality and Housing in Gibraltar, **Samantha Sacramento**. She stressed that Clause 22 didn't surprise them and that it should not scare them. She noted that it was precisely the continuous presence of an unfriendly neighbour (Spain) that has made Gibraltarians stronger and has prepared them for the two years lying ahead. Whilst Brexit will be a challenge for Gibraltar and the Gibraltarian government is not necessarily at the negotiating table, she emphasised the fact that they have received a strong mandate from Gibraltarians and that they will fight for the best possible deal for Gibraltar.

[Watch the video clip with the main highlights](#)

[Access ECAS' presentation of its study](#)

[Media coverage](#)

[Access ECAS' study on Brexit and citizens' rights](#)

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