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## **Third Report of the BREXIT Working Group**

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Board of Governors

Meeting on 4 to 7 December 2018 – Brussels

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## I. Background

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

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

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

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

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

The Working Group is composed of

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

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

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

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

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## **The first report**

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

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

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

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

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

The Board of Governors took note of the report.

## **II. Content of the 'Third Report of the BREXIT Working Group'**

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

- BREXIT accompanied by a Withdrawal Agreement,
- BREXIT without a 'deal'.

Moreover, it focuses on the legal status of the staff of the European Schools with UK nationality.

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

On 22 May 2017, the Council, based on the Commission's recommendations, authorised the opening of the Article 50 TEU negotiations with the UK and nominated the Commission as Union negotiator. It is envisaged that the negotiations will last approximately 18 months from June 2017 until October/November 2018 (see also the indicative calendar in Annex I of this report).

According to the 'Terms of Reference for the Article 50 TEU negotiations' three initial negotiation groups have been established:

- Citizens' rights;
- Financial Settlement;
- Other Separation issues.

Concerning the issue of 'Financial Settlement' the EU COM Task Force for the Preparation and Conduct of the Negotiations with the United Kingdom under Article 50 TEU tabled on 12 June 2017 the position paper "Essential Principles on Financial Settlement".

The position paper is meant to provide the main principles of the EU position with respect to financial settlements. Under Chapter 'VII. Other bodies', as far as the European Schools are concerned, it states that "*until the end of the academic year 2020-2021, the United Kingdom should continue to contribute to the funding of the teachers it seconded to the European Schools in line with the cost sharing agreement related to the secondment of British teachers*".

Therefore, the financial aspects of the transition period are addressed under the financial provisions of the withdrawal agreement. They foresee a contribution of the UK until the end of the 2020/21 school year.

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

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

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

Under the Chapter 'Transition Period' within the draft 'withdrawal agreement' the EU position paper foresees a **draft** Article X+6 'European Schools' with the following draft wording:

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

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Later on, the European Commission published, on 28 February 2018, its draft 'withdrawal agreement' between the EU and the UK.

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

***"1. The United Kingdom shall be bound by the Convention defining the Statute of the European Schools<sup>107</sup>, as well as by the Regulations on Accredited European Schools adopted by the Board of Governors of the European Schools, until the end of the school year that is ongoing at the end of the transition period\*.***

<sup>107</sup>

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

<sup>107</sup> OJ L 212, 17.8.1994, p. 3.

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

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

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

On 19 July 2018 the European Commission published a Communication titled 'Preparing for the withdrawal of the United Kingdom from the European Union on 30 March 2019'<sup>1</sup>.

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

The EU27 leaders "noted that, despite intensive negotiations, not enough progress has been achieved".

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

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

An extraordinary European Council is scheduled on 25 November 2018.

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<sup>1</sup> COM(2018) 556 final.

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Once the Withdrawal Agreement is endorsed by the European Council (Article 50), and before it can enter into force, it needs to be ratified by the EU and the UK. For the EU, the Council of the European Union must authorize the signature of the Withdrawal Agreement, before sending it to the European Parliament for its consent. The United Kingdom must ratify the agreement according to its own constitutional arrangements.

## 2. Legal questions linked to the BREXIT

The BREXIT Working Group provided in its second report an overview on the legal consequences of the BREXIT.

The 'Third Report of the BREXIT Working Group', which reflects the discussions of the meeting of the BREXIT Working Group on 20 September 2018, addresses the legal consequences again in a comprehensive manner by addressing the two potential scenarios:

- BREXIT with a Withdrawal Agreement
- BREXIT without a 'deal'.

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

- **if the Withdrawal Agreement is ratified** before 30 March 2019, so that it can enter into force at that date, EU law will cease to apply to and in the United Kingdom on 1 January 2021, i.e. after a transition period of 21 months, the terms of which are set out of the Withdrawal Agreement. **With respect to the European Schools the draft Withdrawal Agreement even foresees a transition period of 29 months until 31 August 2021;**
- in the **absence of an agreement** on a Withdrawal Agreement, or if the Withdrawal Agreement is not ratified in time by both parties, there will be no transition period and EU law will cease to apply to and in the United Kingdom as of 30 March 2019. **With respect to the European Schools the 'no deal' or 'cliff-edge' scenario will mean that the United Kingdom will nevertheless be bound by the Convention defining the Status of the European Schools until 31 August 2020<sup>2</sup>.**

**This report addresses the consequences of the two possible scenarios in the following areas:**

- obligations of the UK vis-à-vis the system of the European Schools,
- accreditation process of the Europa School UK, Culham,
- legal status of staff members with UK nationality,
- status of UK experts.

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<sup>2</sup> This finding does not refer to the particular situation of the UK Europa School Culham.

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## a) Obligations of the UK vis-à-vis the system of the European Schools

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

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

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

The legal question was analysed by the Legal Service of the EU Commission, UK legal experts and the lawyers of the Office of the Secretary-General (OSG)<sup>3</sup>.

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

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

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<sup>3</sup> For the details see the 'Second report of the BREXIT Working Group' (doc. 2018-02-D-37-en-2).

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**Main consequences of scenario 1: withdrawal on 30 March 2019 under the Withdrawal Agreement, including for the European Schools a transition period until 31 August 2021**

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

**This means in particular:**

- The UK will maintain its obligation to contribute to the system of the European Schools by seconding teachers until 31 August 2021.
- The UK will maintain to contribute with two national inspectors to the system of the European Schools until the end of the 2020/21 school year.
- The UK will continue to provide experts.
- The UK delegation will be invited to the Board of Governors and other bodies of the European Schools and the UK delegation will retain its voting rights until 31 August 2021.

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

**This means in particular:**

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

As the European Council has stated, all stake holders need to be prepared for all scenarios including the ‘no deal’ scenario.

The following table summarizes the obligations of the UK vis-à-vis the system of the European Schools in case of a ‘no deal’:



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**Main consequences of scenario 2: withdrawal on 30 March 2019 without a Withdrawal Agreement**

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

**This means in particular:**

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

**b) Accreditation process of the Europa School UK, Culham**

**aa) Legal situation**

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

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

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

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

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

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

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

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

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

The legal experts consulted by the OSG came to the conclusion that in any case - and in contradiction with the analysis provided by the Legal Service of the EU Commission - the Board of Governors would be bound by its decision of December 2017 to maintain the accreditation process until the end of the 2018/19 school year. The Board of Governors had taken this decision despite the envisaged BREXIT and has created legitimate expectations. Moreover, it derives from the Regulations on Accredited European Schools and in particular its Article 21 that an accreditation process should cover complete school years and should not be terminated before the end of a school year.

In this context it needs to be recalled that – as already mentioned - also the draft withdrawal agreement, published by the EU COM on 28 February 2018, addresses the accreditation process. **Article 125 of the draft Withdrawal Agreement states:**

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

The following tables summarize the potential consequences of the two scenarios:

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**Main consequences of scenario 1: withdrawal on 30 March 2019 under the Withdrawal Agreement, including for the European Schools a transition period until 31 August 2021**

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

**This means in particular:**

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

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

**Main consequences of scenario 2: withdrawal on 30 March 2019 without a Withdrawal Agreement**

- **Certain legal ambiguity** with respect to the accreditation process.
- **According to Legal Service EU COM** the accreditation of the Europa School UK will end in principle with the BREXIT on 29 March 2019.
- **According to the legal experts of the OSG** the accreditation of the Europa School UK will end at the end of the 2018/2019 school year. This means in particular:
- A European BAC can be acquired in June 2019.
  - Under the current conditions, no European BAC can be acquired as of the 2019/20 school year.

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

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

**bb) Proposals to overcome the legal ambiguity and to ensure the BAC**

Currently in total 81 students are enrolled in the BAC cycle of the Europa School UK, Culham, 32 out of them in S 7 and 49 out of them in S 6.

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

Primary (504)							Secondary (356)						
R	1	2	3	4	5	6	1	2	3	4	5	6	7
84	83	82	84	56	56	57	56	56	52	59	52	49	32

With respect to the current 2018/19 school year and the BAC session 2019 it is recommended that the Board of Governors will confirm at its meeting in December 2018 its decision of December 2017 to maintain the accreditation process of the Europa School UK, Culham, until the end of the 2018/19 school year. This will ensure the BAC session 2019.

With respect to the 2019/20 school year no decision can be taken yet.

The prolongation of the accreditation will depend on the outcome of the audit process and will also depend on the conditions of the BREXIT (BREXIT with or without Withdrawal Agreement).

Nevertheless, it is recommended that the European Schools do further explore alternatives to ensure that the pupils currently enrolled in S 6 in the Europa School UK, Culham might obtain the European Baccalaureate in 2020.

One option, which would need further legal analysis, could be that the pupils will be enrolled in one of the 13 European Schools, but will sit the BAC in the facilities of the Europa School UK. The ES Bergen would volunteer to support the Europa School UK, Culham in this respect.

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### c) Situation of the staff members of the European Schools

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

#### aa) Seconded Staff Members

The number of seconded staff members seconded by the UK government has decreased over the last years from 247 in the 2010/11 school year to 60 in the 2018/19 school year.

School year	Total number <sup>4</sup>	remarks
2010/11	247	
2011/12	233	
2012/13	217	
2013/14	177	
2014/15	143	
2015/16	119	
2016/17	108	
2017/18	78	Out of them 15 are in their 9 <sup>th</sup> year
2018/19	55	Out of them are 23 in their 9 <sup>th</sup> year and 12 teachers are over the UK state pension age (although many teachers chose to work beyond this age)
2019/20	37	Estimation, Out of them 9 would be in their 9 <sup>th</sup> year
2020/21	28	Estimation, Out of them 6 would be in the 9 <sup>th</sup> year

The majority of the seconded UK teachers in the system are currently in their last two years of secondment.

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<sup>4</sup> Figures from the documents "*Facts and figures on the beginning of the 2017-2018 school year in the European Schools*" related to the relevant school years and extract from Business Objects on 25 October 2018.

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The UK government provided seconded teachers prolonged as of the 2016/17 school year with a prolongation for another four years, but with the following caveat: “... *this contract will continue for a maximum of four years unless otherwise renewed, or until such time as the United Kingdom is no longer a party of the Convention Defining the Statute of the European Schools*”.

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.

### **bb) Locally Recruited Teachers**

The number of locally recruited teachers in general and the number of locally recruited teachers with UK nationality has increased significantly in the last year. Currently, 216 locally recruited teachers with UK nationality<sup>5</sup> are employed in the European Schools.

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

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

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

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

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

With the closing of the European School Culham on 31 August 2017, the number of members of the AAS with UK nationality has dropped to 16<sup>6</sup>.

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

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

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<sup>5</sup> Figures on 25 October 2018 (Business Objects) – 2018/19 school year.

<sup>6</sup> Figures on 25 October 2018 (Business Objects) – 2018/19 school year.

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## dd) Legal consequences

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

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

- **The United Kingdom will be a third country as of 30 March 2019.**
- **Staff members with a UK nationality will become ‘third country nationals’ as of 30 March 2019.**

#### **This means in particular:**

- **Seconded Teachers** may finalize their secondment on 31 August 2021 at the latest.  
The basis of their legal residence in the hosting Member State must first and foremost be checked against the Seat Agreements between the Board of Governors and the hosting Member States.
- **Locally Recruited Teachers (LRT) and Administrative and Ancillary Staff (AAS)** would in principle be considered as workers within the meaning of Article 45 TFEU and would therefore be protected by the provisions of the Withdrawal Agreement.
- As of April 2019 the intra-EU Mobility of staff members will no longer be granted.

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

**Main consequences of scenario 2: withdrawal on 30 March 2019 without a Withdrawal agreement**

- **The United Kingdom will be a third country as of 30 March 2019.**
- **Staff members with a UK nationality will become 'third country nationals' as of 30 March 2019.**

**This means in particular:**

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

The basis of their legal residence in the hosting Member State must first and foremost be checked against the Seat Agreements between the Board of Governors and the hosting Member States.

- **Locally Recruited Teachers (LRT) and Administrative and Ancillary Staff (AAS)** will be subject to two different EU Directives concerning third country nationals which have been implemented in the EU Member States, unless a special regime is negotiated between the European Union and the United Kingdom. The two Directives referred to are:

- The 'Long Term Residents Directive 2008/109' provided they have been residing in the hosting Member State already five years.
- The 'Blue Card Directive 2009/50' provided that they will be newly recruited and the conditions of the national law for offering a 'Blue card' are fulfilled.

- As of April 2019 the intra-EU Mobility of staff members will no longer be granted.

**ee) Additional measures to be taken**

In this context again Article 31.2 second sentence of the Convention of the European Schools needs to be recalled which states: "*The Board of Governors shall decide which organizational measures, including staff measures, are to be taken as a result on denunciation by any Contracting Parties*".



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

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

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

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

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

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

<b>Level</b>	<b>Candidates: Written</b>	<b>Candidates: Oral</b>
L1	321	321
L1A	51	51
L2	1232	893
L2A	130	105
L3	245	72
L4	1	0
<b>TOTAL</b>	<b>1980</b>	<b>1442</b>

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

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

### **III. Conclusions of the Budgetary Committee**

The Members of the Budgetary Committee took note of the 'Third Report of the BREXIT Working Group'.

### **IV. Proposal**

The members of the Board of Governors are invited

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

Indicative Calendar<sup>7</sup>

Date	European Schools	EU Article 50 Negotiations
29 March 2017		Notification of the BREXIT by the UK Government
4 – 7 April 2017	Decision of the Board of Governors to set up a working group dealing with the BREXIT	
29 April 2017		EU Council at EU 27 adopted a set of political guidelines which define the framework for the negotiations
3 May 2017		EU COM recommendations including negotiation guidelines
10 May 2017	1 <sup>st</sup> meeting of the BREXIT Working Group	
22 May 2017		EU Council authorized the opening of the negotiations
12 June 2017		EU COM Position paper “Essential Principles on Financial Settlement” mentioning the ES
19 June 2017		1 <sup>st</sup> round of Article 50 negotiations ➤ Publication of terms of reference
17 – 20 July 2017		2 <sup>nd</sup> round of Article 50 negotiations
28 – 31 August 2017		3 <sup>rd</sup> round of Article 50 negotiations

<sup>7</sup> The calendar will be updated on a regular basis.

11 September 2017	2 <sup>nd</sup> meeting of the BREXIT Working Group	
18 - 21 September 2017		4 <sup>th</sup> round of Article 50 negotiations
9 – 12 October 2017		5 <sup>th</sup> round of Article 50 negotiations
7 – 8 November 2017	Budgetary Committee	
9 – 10 November 2017		6 <sup>th</sup> round of Article 50 negotiations
13 November 2017	3 <sup>rd</sup> Meeting of the BREXIT Working Group	
5 – 7 December 2017	<b>1<sup>st</sup> Report to be presented to the Board of Governors</b> ➤ Prolongation of the accreditation of ES Europa until the end of 2018/19 school year	
15 December 2017		Article 50 Council Negotiation Guidelines
29 January 2018		Article 50 Council Decision with supplementary negotiation directives
7 February 2018		COM position paper on 'Transitional arrangements in the Withdrawal Agreement'
21 February 2018		UK position paper concerning the 'Implementation Period'
22 February 2018	4 <sup>th</sup> Meeting of the BREXIT Working Group	

28 February 2018		Publication of the EU COM Draft Withdrawal Agreement
13 – 14 March 2018	Budgetary Committee	
22 – 23 March 2018		European Council Council Guidelines of 23 March 2018
17 – 19 April 2018	<p><b>2<sup>nd</sup> Report to be presented to the Board of Governors</b></p> <ul style="list-style-type: none"> <li>➤ Recommendations with respect to the Article 50 'withdrawal agreement'</li> <li>➤ Proposals to amend the Service Regulations for LRT</li> </ul>	
June 2018		European Council
19 July 2018		EU COM Communication 'Preparing for the withdrawal of the United Kingdom from the EU on 30 March 2019"
20 September 2018	5 <sup>th</sup> Meeting of the BREXIT Working Group	
17 October 2018		European Council ➤ No finalization of the EU Article 50 negotiations
November 2018	Budgetary Committee	

25 November 2018		Extraordinary European Council
December 2018	<b>3<sup>rd</sup> Report to be presented to the Board of Governors</b>	
February 2019		Council and EP decision on the Withdrawal Agreement with the UK
29 March 2019		<b>BREXIT</b>
April 2019	<b>4<sup>th</sup> Report to be presented to the Board of Governors</b>	
31 August 2020	End of transitory period in case of 'no deal scenario'	
31 August 2021	End of transitory period according to Article 125 of the draft Withdrawal Agreement	

### School population

Elèves dans section anglaise qui n'ont pas dans leur(s) nationalité(s) 'British'.

	<b>M</b>	<b>P</b>	<b>S</b>	<b>Total</b>
<b>Alicante</b>	30	73	123	<b>226</b>
<b>Bergen</b>	30	80	113	<b>223</b>
<b>Bruxelles I</b>	22	116	198	<b>336</b>
<b>Bruxelles II</b>	45	110	160	<b>315</b>
<b>Bruxelles III</b>	34	90	139	<b>263</b>
<b>Bruxelles IV</b>	26	147	251	<b>424</b>
<b>Frankfurt</b>	58	191	183	<b>432</b>
<b>Karlsruhe</b>	23	93	135	<b>251</b>
<b>Luxembourg I</b>	80	168	148	<b>396</b>
<b>Luxembourg II</b>	62	182	185	<b>429</b>
<b>Mol</b>	28	102	163	<b>293</b>
<b>München</b>	19	59	87	<b>165</b>
<b>Varese</b>	41	132	150	<b>323</b>
<b>Total</b>	<b>498</b>	<b>1543</b>	<b>2045</b>	<b>4076</b>

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## Language 2

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



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### Language 3

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

## Risk Analysis 'BREXIT'

No	Risk	Description	Action	Comments
1	<b>Uncontrolled 'BREXIT'</b>	<p>The 'BREXIT' and the denunciation of the Convention may not take effect on the same time. Moreover, it is not clear whether UK can stay a contracting party of the Convention after the BREXIT.</p> <p>In particular, the second semester of the 2018/19 school year may be concerned.</p>	<ul style="list-style-type: none"> <li>➤ Legal clarification by 12/2017</li> <li>➤ Consultation of the UK delegation</li>   <li>➤ Analysis of the possibility of an 'agreement' based on the Convention by 04/2018</li>   <li>➤ 'influence' the Article 50 negotiations</li>   <li>➤ Analysis the situation of other international organizations (Florence)</li> </ul>	<p>LS EU COM denies possibility of a separate agreement, but period until end of 2020/21 school year is addressed in the draft 'Withdrawal Agreement'</p>
2	<b>Financing of the system</b>	<p>With the 'BREXIT', the financing of the EU will be reviewed. The amount of the future contribution of the EU COM to the budget as of 2019 is unclear.</p> <p>The contribution of the UK delegation via secondments risks going down to zero.</p> <p>In the same time the need for English native, locally recruited teachers, financed by the EU COM, will increase.</p>	<ul style="list-style-type: none"> <li>➤ Preparation of the 2019 budget</li> </ul>	<p>UK is supposed to contribute to the system until the 2020/21 school year according to the draft 'withdrawal agreement'</p>

			<ul style="list-style-type: none"> <li>➤ Review of the 'cost sharing mechanism'</li> </ul>	<p>The European School Summit addressed the Cost Sharing Mechanism</p> <p>The 'Enlarged Presidency Working Group' addressed cost sharing in its meetings in June, September and October 2018.</p> <p>A proposal will be submitted to the Budgetary Committee in November and to the Board of Governors in December 2018.</p>
3	<b>Staffing</b>	<p>The number of teachers second by the UK risks going down to zero.</p> <p>The attractiveness of the European Schools as employer for UK nationals is at risk.</p>	<ul style="list-style-type: none"> <li>➤ Mandate LRT WG to analyze the attractiveness of the 'package' offered to LRT</li> <li>➤ Concrete proposals of the LRT WG by 04/2018</li> </ul>	<p>done</p> <p>adopted by the BoG in April 2018</p>

			<ul style="list-style-type: none"> <li>➤ Explore further ways to attract and retain EN native teaching staff</li> </ul>	concrete proposal to be presented to the BoG in December 2018
4	<b>Loss of teaching and learning quality</b>	<p>The loss of English native teachers and pupils might affect the quality of teaching and learning.</p> <p>The system will lose two inspectors who play a key role in quality assurance.</p>	<ul style="list-style-type: none"> <li>➤ Analysis of the language sections in the 13 schools</li> </ul>	done
5	<b>Recognition of the BAC in the UK</b>	With the denunciation of the Convention, the BAC is no longer automatically recognized in the UK.	<ul style="list-style-type: none"> <li>➤ Recognition of the BAC could be part of an 'agreement'</li> <li>➤ Analysis of the 'Convention on the Recognition of Qualifications concerning Higher Education in the European Region'. First step: contact DG EAC by 10/2017</li> <li>➤ Define the role of UCAS coordinators</li> </ul>	<p>Recognition is part of the draft 'withdrawal agreement'</p> <p>Outcome: The Convention of the Council of Europe does not help</p>
6	<b>Accreditation process of the Europa School UK, Culham</b>	The accreditation process of the Europa School Culham might be influenced because the school will no longer be located in an EU Member State.	<ul style="list-style-type: none"> <li>➤ Legal clarification by 12/2017</li> </ul>	

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			➤ Verify whether the cooperation with the Europa School UK, Culham could be subject to a particular agreement	Accreditation is addressed in the draft 'Withdrawal Agreement'