



You have downloaded a document from  
**RE-BUŚ**  
repository of the University of Silesia in Katowice

**Title:** Minority government of Theresa May and the case of Brexit

**Author:** Robert Radek

**Citation style:** Radek Robert. (2020). Minority government of Theresa May and the case of Brexit. "Przegląd Prawa Konstytucyjnego" Nr 5 (2020), s. 389-405, doi 10.15804/ppk.2020.05.29



Uznanie autorstwa - Użycie niekomercyjne - Bez utworów zależnych Polska - Licencja ta zezwala na rozpowszechnianie, przedstawianie i wykonywanie utworu jedynie w celach niekomercyjnych oraz pod warunkiem zachowania go w oryginalnej postaci (nie tworzenia utworów zależnych).



UNIwersYTET ŚLĄSKI  
W KATOWICACH



Biblioteka  
Uniwersytetu Śląskiego



Ministerstwo Nauki  
i Szkolnictwa Wyższego

**Robert Radek<sup>1</sup>**

## **Minority Government of Theresa May and the Case of Brexit**

**Keywords:** hung parliament, minority government, the Conservatives, political party, Theresa May, Brexit

**Słowa kluczowe:** zawieszony parlament, rząd mniejszościowy, Partia Konserwatywna, partia polityczna, Teresa May, Brexit

### **Abstract**

The article is devoted to the characteristics of Theresa May minority government and its impact on foreign policy. The author concentrated on the political situation in Great Britain in the context of Brexit. Some interesting aspects have been chosen to illustrate the problem of minority government existence in Great Britain. Author explains various factors that influenced the foreign policy and negotiations with EU of the government cabinets without a sufficient majority in the parliament. The main thesis is that minority governments is not able to lead a successful foreign policy in long term and usually fails to be effective in this sphere and Brexit process is a visible example of such situation.

### **Streszczenie**

### **Rząd mniejszościowy Teresy May i przypadek Brexitu**

Artykuł poświęcony jest cechom rządu mniejszościowego Premier Teresy May i jego wpływowi na politykę zagraniczną. Autor skoncentrował się na sytuacji politycznej w Wielkiej Brytanii w kontekście Brexitu. Wybrano kilka interesujących aspektów ilustrujących

---

<sup>1</sup> ORCID ID: 0000-0003-1674-6600, PhD, Institute of Political Sciences, Faculty of Social Sciences, University of Silesia in Katowice. E-mail: robert.radek@us.edu.pl.

problem istnienia rządu mniejszościowego w Wielkiej Brytanii. Autor wyjaśnia różne czynniki, które wpłynęły na politykę zagraniczną i negocjacje z UE gabinetów rządowych bez wystarczającej większości w parlamencie. Główną tezą jest to, że rządy mniejszości nie są w stanie prowadzić długofalowej skutecznej polityki zagranicznej i zazwyczaj nie są skuteczne w tej dziedzinie, a proces Brexit jest widocznym przykładem takiej sytuacji.

✱

## I.

The Brexit as a political and judicial process has been started and the Great Britain and the European Union is facing that issue now. In the literature there are not many articles devoted to the problem of leaving European Union by a former member state and the process we observe can reveal lots of judicial and political aspects. One of the most interesting is the position of the negotiating government and its impact on the policy it leads. The fundamental question in the context of Brexit is whether the position of minority government can influence the whole complicated process of leaving the EU.

The main aim of the presented article is to analyze Theresa May minority government and its impact on foreign policy. There is also explained a very complicated political situation in Great Britain in the context of Brexit. Some interesting aspects have been chosen to illustrate the problem of minority government existence in Great Britain, as well as various factors that influenced the foreign policy and negotiations with EU of the government cabinets without a sufficient majority in the parliament. The main thesis is that minority governments is not able to lead a successful foreign policy in long term and usually fails to be effective in this sphere and Brexit process is a visible example of such situation.

The formation of minority government in the Westminster political system like in Great Britain is not a typical situation. It always is treated by experts and citizens as an extraordinary situation. If somebody wants to understand such abnormal situation, he must at the beginning start analyzing elections. So, firstly, it is important to realize that voters in a general election are not electing a government. All active voters are electing the House of

Commons, out of which a government is formed. It may be that most voters will cast their votes on the basis of who they want to be Prime Minister, but the truth is they are not electing the Parliamentary Members but representatives for their constituencies. Those representatives will collectively determine who will hold the office: that is their job as MPs. If a party wins an overall majority of seats in the House of Commons it is axiomatic that the leader of that party becomes Prime Minister and is invited by Her Majesty the Queen to form an administration. If one of the political parties wins more than 325 or so seats, the old Prime Minister resigns with an immediate effect and the new one is installed in 10 Downing Street by mid-morning the following day<sup>2</sup>.

Unfortunately, from time to time it is possible that voters decide that there will be a hung parliament: i.e. the House of Commons in which no party has an overall majority of seats. The constitutional rule in these circumstances is that the leader who can command the confidence of the House forms a government. That confidence can be formally tested only when the House meets, but this mechanism is not always working. For example, in 2010 this did not take place until 12th day after the general election. Thus, the government usually is formed before the House of Commons meets. Government formation in these circumstances depends, first, on the parliamentary arithmetic (how many seats does each party have) and, secondly, on negotiations between the parties. Those negotiations are designed to see if some combination of parties can work together to propose a policy platform that would be likely to command a majority in the House. This cooperation can take a variety of forms, from formal coalition (as in 2010–15) via “confidence and supply agreements” to much more informal suck-it-and-see vote-by-vote deals. A confidence and supply agreement is when a minor party agrees to support a major party in any motion of confidence and as regards the passing of its budget. Under such an arrangement there is no formal agreement on other matters of legislation or policy.

According to Adam Tomkins, the incumbent Prime Minister may remain in office during the period of negotiations. He is under no duty to remain in office: no Prime Minister may be compelled to remain in office, if

---

<sup>2</sup> A. Tomkins, *A Fixed-Term Hung Parliament*, 4 May 2015, <https://britgovcon.wordpress.com/2015/05/04/a-fixed-term-hung-parliament> (15.12.2018).

he has concluded that he should properly depart, but likewise, he is under no duty to resign as well. Gordon Brown did nothing wrong in not resigning until five days after the 2010 general election: he was perfectly entitled to remain in office during that time to see whether he could form an agreement with other parties. Brown resigned as PM when it became clear to him that he could not do so and that Cameron was better placed to form an administration. On the other hand, an incumbent Prime Minister should not seek to cling to office once it has become clear that he is unlikely to be able to form an administration that can command the confidence of the House of Commons. All three leaders of the major parties acted appropriately in 2010, once a hung parliament was elected. From the presented observations it can be seen that it is not true that the largest party gets to go first; still less that it has an automatic right to form a government. It is true that on every occasion since 1924 the largest party has (as a matter of fact) gone on to form a government, but there is no constitutional rule that this must be so. The constitutional rule is that the government must command the confidence of the House of Commons<sup>3</sup>.

In 2011 there was introduced the Fixed-term Parliaments Act (FTPA)<sup>4</sup>, which has a new impact on political situation in Great Britain. Before the FTPA was passed a parliament had been elected for a maximum term (of five years) but it was for the Prime Minister to decide within that term when the next general election should be called. The Act removes this power from the PM. An early general election may occur now, only if one of two things happens: either the Commons passes a motion stating “that this House has no confidence in Her Majesty’s Government” or the Commons passes by a two-thirds majority a motion “that there shall be an early parliamentary general election”<sup>5</sup>. The second motion is unlikely, unless both Government and Opposition agree that an early general election is in their parties’ and the public interest.

As Tomkins claims, a no-confidence motion requires no-two-thirds majority of MPs: as in any other parliamentary vote a bare majority of the votes

---

<sup>3</sup> Ibidem.

<sup>4</sup> *Fixed-term Parliaments Act 2011*, [http://www.legislation.gov.uk/ukpga/2011/14/pdfs/ukpga\\_20110014\\_en.pdf](http://www.legislation.gov.uk/ukpga/2011/14/pdfs/ukpga_20110014_en.pdf) (15.12.2018).

<sup>5</sup> Ibidem, p. 2.

cast is sufficient. The effect of a no-confidence motion being passed is not that there will be an immediate general election. Rather, the Act stipulates that there will be a 14-day period for the parties (both governing and opposing) to seek to form a new administration that can command the confidence of the House. Only if no such administration is formed within this time, will there then be a dissolution and a new election. The FTPA breaks two matters that had previously been linked: confidence and supply, and resignation and dissolution. It had formerly been thought that was a government to be defeated on its Queen's Speech (i.e. the outline of its legislative programme, presented to Parliament at the beginning of each session) or on its budget, such a defeat would amount to a loss of confidence and would lead to the government's resignation and to a general election. Under the FTPA this is no longer possible. It is clear under the Act that only a motion using the words "this House has no confidence in her Majesty's Government" is a vote of confidence. No other vote, no matter how important, is a vote of confidence, unless it includes these words. Thus, was a government to lose a vote on its Queen's Speech, or was a government to fail to get its budget through, this would not by itself mean that the House had lost confidence in the government<sup>6</sup>.

## II.

During last several years, at regular intervals political polls have predicted that the occurrence of hung parliament in the Great Britain is a highly possible. Since the autumn of 2006, a hung parliament has been regularly predicted every few months in the polls. The likelihood of a hung parliament has increased for two reasons – firstly, because of the growth of third parties and secondly, because of the changes in the way that the electoral system translates popular votes into seats in the Commons<sup>7</sup>. A 'hung Parliament', sometimes

---

<sup>6</sup> A. Tomkins, *op.cit.*

<sup>7</sup> R. Radek, *Hung Parliament and Minority Government Formation in Westminster Parliamentary System (selected aspects)*, "Przegląd Prawa Konstytucyjnego" 2015, No. 6, p. 177; D. Butler, *Hung Parliaments: Context and Background*, [in:] *No Overall Control? The Impact of a 'Hung Parliament' on British Politics*, eds. A. Brazier, S. Kalitowski, Hansard Society 2008, pp. 8–9.

**Table 1. Share of seats won by governing party since 1945**

	Labor	Conservative
1945	+146	
1950	+5	
1951		+17
1955		+54
1959		+100
1964	+4	
1966	+96	
1970		+31
February 1974	-33	
October 1974	+3	
1979		+43
1983		+144
1987		+102
1992		+21
1997	+179	
2001	+167	
2005	+61	
2010		-20
2015		+6
2017		-9
2019		+80

Source: Own work based on UK Election Statistics at: <http://www.electoralcommission.org.uk>; <https://www.parliament.uk/mps-lords-and-offices/mps/current-state-of-the-parties> (10.10.2020).

also called as ‘balanced Parliament’ or ‘Not Over all Control’ (NOC), causes four likely outcomes. These have been set out by Paul Norton as follows<sup>8</sup>:

<sup>8</sup> P. Norton, *The Perils of a Hung Parliament*, [in:] *No Overall Control? The Impact of a ‘Hung Parliament’ on British Politics*, eds. A. Brazier, S. Kalitowski, Hansard Society 2008, p. 109.

- a minority government;
- a coalition;
- a failure to produce a government at all;
- two or more of these things during the lifetime of a parliament.

Although hung parliaments are common in other parliamentary democracies, they are relatively rare in the Westminster Parliament, in which the First Past the Post electoral system usually rewards the party with the most votes with a majority of seats. In fact, Westminster has experienced a hung parliament in 2017, and there were only six others in the 20th century, following the general elections of January 1910, December 1910, December 1923, May 1929, February 1974, and May 2010. There were also two instances in which the government lost its majority in the Commons between general elections: in April 1977 and February 1997. These situations of no overall control resulted from parties losing seats over the course of a Parliament, through by-elections and defections.

### III.

On 30 June 2016, Theresa May, a British politician, announced her candidacy for the leadership of the Conservative Party to replace Prime Minister David Cameron, who resigned, following the outcome of the European Union membership referendum in which 52% of voters voted in favor of leaving the EU. Theresa May emphasized the need for unity within the party regardless of positions on leaving the EU, saying she could bring “strong leadership” and a “positive vision” for the country’s future. Despite having backed a vote to remain in the EU, she insisted that there would be no second referendum, saying: “The campaign was fought... and the public gave their verdict. There must be no attempts to remain inside the EU, no attempts to rejoin it through the back door... Brexit means Brexit”. An opinion poll that day found 47% of people choosing Theresa May as their preferred candidate to be prime minister<sup>9</sup>.

---

<sup>9</sup> H. Carr, *Theresa May Is Britons’ Favorite for PM – Poll*, Sky News, <https://web.archive.org/web/20160702045052/http://news.sky.com/story/1719848/theresa-may-is-britons-favorite-for-pm-poll> (10.10.2020).



On 13 July 2016, two days after becoming the Leader of the Conservative Party, Theresa May was appointed for prime minister by Queen Elizabeth II, becoming the second female British prime minister after Margaret Thatcher<sup>10</sup>.

On 20 July 2016, May attended her first Prime Minister's Questions since taking office, and made her first overseas trip as prime minister afterwards, visiting Berlin for talks with German Chancellor Angela Merkel. During the visit, Theresa May said that she would not trigger the Art. 50 of the Treaty of Lisbon – the process for withdrawing from the European Union – before 2017, suggesting it would take time for the UK to negotiate a “sensible and orderly departure” from the EU. However, although Angela Merkel said it was right for the UK to “take a moment” before beginning the process, she urged May to provide more clarity on a timetable for negotiations. Shortly before travelling to Berlin, Theresa May had also announced that in the wake of the referendum, the UK would relinquish the presidency of the Council of the European Union, which passes between member states every six months on a rotation basis, and that the UK had been scheduled to hold in the second half of 2017<sup>11</sup>.

On 18 April 2017, Theresa May announced that she would call a parliamentary vote to hold an early general election on 8 June 2017 in order to guarantee certainty and security for years ahead predicting to strengthen the position of the Conservatists<sup>12</sup>. The election was the first snap election held under the Fixed-term Parliaments Act 2011 after MPs gave May the two-thirds super-majority required. Unveiling the Conservative manifesto in Halifax on 18 May 2017, Theresa May promised a new programme for Britain with lots of ambitious aims in it<sup>13</sup>. On Brexit it committed to leaving the single mar-

---

<sup>10</sup> *The Queen received in audience The Right Honorable Theresa May*, Official site of the Royal Family, 13 June 2016, <https://www.royal.uk/queen-received-audience-right-honorable-theresa-may> (10.10.2020).

<sup>11</sup> *Brexit: Theresa May says talks won't start in 2016*, BBC News, <https://www.bbc.com/news/uk-politics-36841066> (10.10.2020); *Angela Merkel backs Theresa May's plan not to trigger Brexit this year*, The Guardian, 20 July 2016, <https://www.theguardian.com/politics/2016/jul/20/angela-merkel-backs-theresa-mays-plan-not-to-trigger-brexit-this-year> (10.10.2020).

<sup>12</sup> *Theresa May to seek general election on 8 June*, BBC News, <https://www.bbc.com/news/uk-politics-39629603> (10.10.2020).

<sup>13</sup> *May signals break with Thatcherism in manifesto for 'country and community'*, The Guardian, 18 May 2017, <https://www.theguardian.com/politics/2017/may/18/theresa-may-launch>

ket and customs union while seeking a “deep and special partnership” and promised a vote in parliament on the final agreement.

However, the Great Britain was supposed to create a new political clarity after the elections 2017 and to begin formal negotiations to leave the European Union, the situation became more complicated. Instead, the experts<sup>14</sup> started to predict an unstable government at a hung Parliament and a deeply damaged Prime Minister Theresa May, whose authority and credibility fractured by her failure to maintain her Conservative Party’s majority in Parliament. There were even demands that she should resign, but Theresa May rejected them and said she would cling to power by forming a minority government with the support of the Democratic Unionist Party of Northern Ireland (DUP) and she did it to stabilize the political situation. Because the Conservatives won the most seats and the most votes, Theresa May got the first chance to form a new government, despite winning only 318 seats, 12 fewer than in 2015, and short of a formal majority of 326 in the 650-seat House of Commons. The Democratic Unionists won 10. For European Union leaders, who were expecting her to emerge with a reinforced majority, the uncertainty was unwelcome, especially as they tried to prioritize issues such as climate change and their relationship with an unpredictable and unfriendly President Trump. There was also resentment that, once again, the British had complicated things out of political hubris and partisan self-interest<sup>15</sup>.

#### IV.

On 4 December 2018, on a motion passed by MPs by 311 to 293 votes<sup>16</sup>, the May Government was found in contempt of Parliament for the first in histo-

---

er-conservative-manifesto-for-community-and-country (10.10.2020).

<sup>14</sup> *How a minority government does (not) work*, The Economist, 9 June 2017, <https://www.economist.com/speakers-corner/2017/06/09/how-a-minority-government-does-not-work> (14.04.2020).

<sup>15</sup> S. Erlanger, K. Bennhold, S. Castle, *The British Election That Somehow Made Brexit Even Harder*, New York Times, 9 June 2017, <https://www.nytimes.com/2017/06/09/world/europe/uk-theresa-may-minority-government.html> (15.12.2018).

<sup>16</sup> B. Kentish, *Theresa May government found in contempt of parliament over failure to publish full Brexit legal advice*, The Independent, 4 December 2018, <https://www.independent.co.uk/>

ry. The vote was triggered by the government failing to lay before Parliament any legal advice on the proposed withdrawal agreement on the terms of the UK's departure from the European Union, after a humble address for a return was unanimously agreed to by the House of Commons on 13 November 2018. The government then agreed to publish the full legal advice for Brexit that was given to the Prime Minister by the Attorney General during negotiations with the European Union.

In the following days, exactly on 12 December 2018, Theresa May's government faced a vote of no confidence in her leadership over opposition to her negotiated Brexit deal from the Conservative Party, after the number of Conservative MPs exceeded the 48 no-confidence letter, threshold that the 1922 Committee Chairman, Sir Graham Brady required one to be held. May won the vote with 200 Conservative MPs voting for her, compared to 117 voting against. As a part of her speech to the Parliamentary Conservative Party before the no-confidence vote was opened, it was reported that May conceded that she would step down as prime minister after delivering Brexit and would not lead the Conservative Party into the next General Election in exchange for Conservative MPs voting to have confidence in her leadership so that she would be able to keep the party, Parliament and the UK stable during the final stages of Brexit. May later confirmed this after meeting EU leaders, including Jean-Claude Juncker in Brussels<sup>17</sup>.

Such internal problems of government policy were a great opportunity for the Leader of the Opposition and Labor Party Leader, Jeremy Corbyn, who tabled on 17 December 2018 a motion of no confidence in May's prime ministership, citing May's refusal to set the date for the meaningful vote on her Brexit deal before Christmas, and instead pushing it back to mid-January. The following day, the government refused to allow time for the motion to be debated. John Bercow, Speaker of the House of Commons, confirmed that they

---

news/uk/politics/contempt-parliament-vote-theresa-may-brexit-legal-advice-government-geoffrey-cox-a8667091.html (15.04.2019); *'Please back my deal': Prime minister's plea to Commons after three government defeats*, Sky News, <https://news.sky.com/story/mps-gear-up-for-marathon-five-day-brexit-deal-debate-11571280> (19.09.2019).

<sup>17</sup> J. Watts, L. Buchan, *Theresa May wins critical vote of confidence from Conservative MPs, thwarting Brexiteer rebels*, The Independent, 12 December 2018, <https://www.independent.co.uk/news/uk/politics/theresa-may-wins-vote-confidence-conservative-leadership-brexit-deal-eu-vote-a8679986.html> (25.01.2020).

were under no obligation to do so. Following the defeat of May's Brexit deal on 15 January 2019 by a margin of 230 votes (202 in favor and 432 opposed<sup>18</sup>), Corbyn tabled a motion of no confidence in the Government, to be voted on by parliament the following evening. The motion was defeated by 325 votes to 306, so with the majority of 19<sup>19</sup>.

A similar situation was on 14 February 2019, when Theresa May suffered another House of Commons defeat after MPs voted by 303 to 258 – a majority of 45 – against a motion endorsing the government's Brexit negotiating strategy. Problems of May's minority government were continued the following months. For example, on March 12, May was again defeated in the House of Commons by 149 votes (242 in favor and 391 against) on her latest deal after she secured last-minute concessions from the EU. Almost three weeks later, on March 29, Theresa May was again defeated by 58 votes in the Commons (286 in favor and 344 against)<sup>20</sup>.

The context of the last voting was linked with the Brexit negotiations. Two days before the House of Commons voting, on 27 March 2019, at the meeting of the 1922 Committee, Theresa May confirmed that she will “not lead the UK in the next stage of Brexit negotiations”, meaning she was expected to resign after the third meaningful vote, if it had passed successfully. However, no date was stated, and her reported wording was ambiguous and thus carried no binding force. After defeating the third meaningful vote on March

---

<sup>18</sup> It was the largest majority against a United Kingdom government in history.

<sup>19</sup> *Labor makes no-confidence move against PM*, BBC News, 17 December 2018, <https://www.bbc.com/news/uk-politics-46599895> (15.08.2019); *Brexit: Cabinet 'rumps up' no-deal planning*, BBC News, 18 December 2018, <https://www.bbc.com/news/uk-politics-46600850> (15.08.2019); A. Sparrow, K. Rawlinson, K. Lyons, *Jeremy Corbyn tables no-confidence motion after May defeat – as it happened*, The Guardian, <https://www.theguardian.com/politics/live/2019/jan/15/brexit-vote-parliament-latest-news-may-corbyn-gove-tells-tories-they-can-improve-outcome-if-mays-deal-passed-politics-live> (20.02.2019); F. Krauze-Jackson, *May Loses Brexit Vote in Landslide, Faces Confidence Vote*, Bloomberg Politics, 15 January 2019, <https://www.bloomberg.com/news/articles/2019-01-15/may-loses-brexit-vote-in-a-landslide-throwing-deal-into-disarray> (25.01.2019).

<sup>20</sup> H. Steward, *MPs ignore May's pleas and defeat her Brexit deal by 149 votes*, The Guardian, 12 March 2019, <https://www.theguardian.com/politics/2019/mar/12/mps-ignore-mays-pleas-and-defeat-her-brexit-deal-by-149-votes> (03.04.2019); T. Edgington, *What Brexit deal did MPS reject?*, BBC News, 29 March 2019, <https://www.bbc.com/news/uk-politics-47745831> (23.04.2019).

29 Theresa May did not state anything in regards to standing down, so Jeremy Corbyn stated that if May cannot find an alternative to her deal, “she must go, not at an indeterminate date in the future but even now”<sup>21</sup>.

The political situation in the ruling party and the government itself started to become more and more complicated. People were witnessing official negotiations among party influential politicians, who were more and more determined to change the party leader and, in consequence, the prime minister. Finally, Theresa May confirmed that she would resign from leadership on June 7, announcing that it was then clear to her that it was in the best interests of the country for a new prime minister to lead effort connected with the Brexit. Her resignation to the Queen took place on July 24. This coincided with the arrival of Boris Johnson as prime minister, who was elected by the Conservative Party membership. By constitutional convention Theresa May did not step down until she assured the Queen that Johnson would be able to command the confidence of the House of Commons<sup>22</sup>.

## V.

The Brexit revealed in a very spectacular way how difficult is to continue negotiations with the EU leaders when the position of government is weak. Secondly, Theresa May was not deeply convinced<sup>23</sup> they were doing the right step with this political process.

---

<sup>21</sup> *Brexit: Theresa May vows to stand down if deal is passed*, BBC News, 27 March 2019, <https://www.bbc.com/news/uk-politics-47725529> (22.05.2019); *Brexit: MPs reject May's EU withdrawal agreement*, BBC News, 30 March 2019, <https://www.bbc.com/news/uk-politics-47752017> (22.05.2019).

<sup>22</sup> R. Mason, *Next Tory leader could face immediate confidence vote*, The Guardian, 6 June 2019, <https://www.theguardian.com/politics/2019/jun/06/new-tory-leader-could-avoid-immediate-confidence-vote> (20.06.2019); *Recap: Theresa May sets departure from No 10*, BBC News, 24 May 2019, <https://www.bbc.com/news/live/uk-politics-48394091> (11.06.2019).

<sup>23</sup> Theresa May even said: “I think the economic arguments are clear. I think being part of a 500-million trading bloc is significant for us. I think, as I was saying to you a little earlier, that one of the issues is that a lot of people will invest here in the UK because it is the UK in Europe. If we were not in Europe, I think there would be firms and companies who would be looking to say, do they need to develop a mainland Europe presence rather than a UK presence? So, I think there are definite benefits for us in economic terms”.

It should be stated that the 2015 Referendum Act did not expressly require Art. 50 to be invoked, but prior to the referendum, the UK government said it would respect the result. When David Cameron resigned following the referendum, he said that it would be for the incoming prime minister to invoke Art. 50. The new prime minister, Theresa May, said she would wait until 2017 to invoke the article, in order to prepare for the negotiations<sup>24</sup>. In October 2016, she said the UK would trigger Art. 50 in March 2017, and in December she gained the support of MP's for her timetable<sup>25</sup>.

In January 2017, the UK Supreme Court ruled in the Miller case<sup>26</sup> that government could only invoke Art. 50 if authorized by an act of parliament would do so. The government subsequently introduced a bill for that purpose, and it was passed into law on 16 March 2017 as the European Union (Notification of Withdrawal) Act 2017. On 29 March 2017, Theresa May triggered Art. 50 when Tim Barrow, the UK's ambassador to the EU, delivered the invocation

---

N. Hopkins, R. Mason, *Exclusive: what Theresa May really thinks about Brexit shown in leaked recording*, "The Guardian", 26 October 2016, <https://www.theguardian.com/politics/2016/oct/25/exclusive-leaked-recording-shows-what-theresa-may-really-thinks-about-brexit> (20.03.2020).

<sup>24</sup> A. Renwick, *What happens if we vote for Brexit?*, The Constitution Unit, 19 January 2016, <https://constitution-unit.com/2016/01/19/what-happens-if-we-vote-for-brexit> (12.12.2019); C. Cooper, *David Cameron rules out possibility of second EU referendum despite online petition*, The Independent, 27 June 2016, <https://www.independent.co.uk/news/uk/politics/brexit-what-is-eu-referendum-petition-david-cameron-a7105596.html> (20.11.2019); R. Mason, P. Oltermann, *Angela Merkel backs Theresa May's plan not to trigger Brexit this year*, The Guardian, 20 July 2016, <https://www.theguardian.com/politics/2016/jul/20/angela-merkel-backs-theresa-mays-plan-not-to-trigger-brexit-this-year> (20.11.2019).

<sup>25</sup> A. Spence, *Theresa May to begin Brexit process by end of March*, Politico, 2 October 2016, <https://www.politico.eu/article/theresa-may-to-begin-brexit-process-by-end-of-march> (10.03.2019); C. Cooper, *British MPs back Theresa May's Brexit timetable*, Politico, 9 December 2016, <https://www.politico.eu/article/british-mps-back-theresa-mays-brexit-timetable> (10.03.2019).

<sup>26</sup> *R (Miller) v. Secretary of State for Exiting the European Union* is a United Kingdom constitutional law case decided by the United Kingdom Supreme Court on 24 January 2017, which ruled that the UK Government (the executive) may not initiate withdrawal from the European Union by formal notification to the Council of the European Union as prescribed by the Art. 50 of the Treaty on European Union without the Act of the UK Parliament permitting the government to do so, <https://www.supremecourt.uk/cases/docs/uksc-2016-0196-judgment.pdf> (20.10.2019).

letter to European Council President Donald Tusk. This made 29 March 2019 the expected date that the UK would leave EU.

In December 2018, the European Court of Justice (ECJ) ruled that the UK could unilaterally revoke its notification of withdrawal, as long as it was still a member and had not agreed a withdrawal agreement. The decision to do so should be “unequivocal and unconditional” and “follow a democratic process”. If the UK revoked their notification, they would remain a member of the EU under their current membership terms. The case was launched by Scottish politicians, and referred to the ECJ by the Scottish Court of Session<sup>27</sup>.

Prior to the negotiations, Theresa May said that the UK government would not seek permanent single market membership, would end ECJ jurisdiction, seek a new trade agreement, end free movement of people, and maintain the Common Travel Area with Ireland. The EU adopted its negotiating directives in May, and appointed Michael Barnier as Chief Negotiator<sup>28</sup>. Negotiations commenced on 19 June 2017. Negotiating groups were established for three topics: the rights of EU citizens living in Britain and vice versa; Britain’s outstanding financial obligations to the EU; and the border between Northern Ireland and the Republic of Ireland. In December 2017, a partial agreement was reached. It ensured that there would be no hard border in Ireland, the rights of UK citizens in the EU and EU citizens in the UK will be protected, and estimated the financial settlement to be £35–39 billion. Prime Minister May stressed that nothing was agreed until everything was agreed. Following this partial agreement, EU leaders agreed to move on to

---

<sup>27</sup> R. Taylor, A. Wilson, *Revoking Article 50 after the ECJ’s ruling*, University of Aberdeen School of Law, 11 December 2018, <https://ukandeu.ac.uk/revoking-article-50-after-the-ecjs-ruling> (20.11.2019); *Brexit ruling: UK can cancel decision, EU court says*, BBC News, 10 December 2018, <https://www.bbc.com/news/uk-scotland-scotland-politics-46481643> (20.11.2019).

<sup>28</sup> Prime Minister Theresa May set out the Plan for Britain, including the 12 priorities that the UK government will use to negotiate Brexit, <https://www.gov.uk/government/speeches/the-governments-negotiating-objectives-for-exiting-the-eu-pm-speech> (20.11.2019); Compare with: *Directives for the negotiation of an agreement with the United Kingdom of Great Britain and Northern Ireland setting out the arrangements for its withdrawal from the European Union*, <https://www.consilium.europa.eu/media/21766/directives-for-the-negotiation-xt21016-ad01re02en17.pdf> (20.11.2019).



the second phase in the negotiations: discussion of the future relationship, a transition period and a possible trade deal<sup>29</sup>.

In March 2018, a 21-month transition period and the terms for it were provisionally agreed. Two months later, Irish Taoiseach Leo Varadkar said that there had been little progress on the Irish border question – on which the EU proposed a backstop, to come into effect if no overall trade deal had been reached by the end of the transition period – and that it was unlikely that there would be a solution before October 2018, when the whole deal was to be agreed. In July 2018, the UK government published the Chequers plan<sup>30</sup>, its aims for the future relationship to be determined in the negotiations. The plan sought to keep the UK access to the single market for goods, but not necessarily for services, while allowing for an independent trade policy.

After the attempt to accept the plan of Brexit in the British Parliament and its poor results, that was described earlier, Theresa May wrote in March 2019 a letter to European Council President Tusk requesting to postpone Brexit until 30 June 2019. After the European Council summit meeting in Brussels, EU leaders rejected this date and offered instead a choice of two alternatives. There were several options agreed between the UK government and the European Council. The first alternative was that if MPs rejected May's deal, Brexit would be due to occur by 12 April 2019, with, or without, a deal – or alternatively another extension be asked for and a commitment to participate in the 2019 European Parliament elections given. The second alterna-

---

<sup>29</sup> A. Land, V. Miller, *Brexit: the talks begin*, Briefing Paper No. 8017, House of Commons Library, 12 July 2017, <https://researchbriefings.files.parliament.uk/documents/CBP-8017/CBP-8017.pdf> (20.11.2019); D. Staunton, P. Smyth, F. Kelly, P. Leahy, W. Clarke, *Brexit breakthrough: Taoiseach says 'politically bullet-proof' deal rules out hard border*, *The Irish Times*, 8 December 2017, <https://www.irishtimes.com/news/world/uk/brexit-breakthrough-taoiseach-says-politically-bullet-proof-deal-rules-out-hard-border-1.3320030> (20.11.2019); C. Hope, *Theresa May to tell Ireland 'nothing is agreed' on terms of Brexit as row over deal intensifies*, *The Telegraph*, 11 December 2017, <https://www.telegraph.co.uk/news/2017/12/11/theresa-may-tell-ireland-nothing-agreed-terms-brexit-row-deal> (20.11.2019).

<sup>30</sup> *The Chequers plan*, officially known as *The future relationship between the United Kingdom and the European Union* is a UK Government white paper concerning Brexit, published on 12 July 2018 by the prime minister, Theresa May. See more: <https://www.gov.uk/government/publications/the-future-relationship-between-the-united-kingdom-and-the-european-union/the-future-relationship-between-the-united-kingdom-and-the-european-union-html-version> (20.11.2019).



tive was that if MPs approved May's deal, Brexit would be due to occur on 22 May 2019. The later date was the day before the start of European Parliament elections. During 10 April 2019 late-night talks in Brussels, a further extension was planned, to 31 October 2019. However, Theresa May had again requested an extension only until 30 June. Under the terms of this new extension, if the Withdrawal Agreement was to be passed before October, Brexit would occur on the first day of the subsequent month. The UK would then be obligated to hold European Parliament elections in May, or leave the EU on 1 June without a deal<sup>31</sup>. Till the time when Theresa May was holding a position of Prime Minister, the EU adopted a stance of refusing to renegotiate the Withdrawal Agreement.

Critics of hung parliaments in general argue that it will inherently result in weak and unstable government with ministers lacking the power and authority to deal with pressing economic, social and national security challenges. The case of Brexit "soap opera" confirms such an opinion. Theresa May's minority government was not effective in this field.

In conclusion minority governments which may be the consequence of hung parliament in Westminster system may have problems with extraordinary foreign issues, and Brexit confirmed such a problem. However, Britain has experienced several times hung parliaments out of which the cabinet of Theresa May was the first with serious changes in the political system.

## Literature

Butler D., *Hung Parliaments: Context and Background*, [in:] *No Overall Control? The Impact of a 'Hung Parliament' on British Politics*, eds. A. Brazier, S. Kalitowski, Hansard Society 2008.

Cooper C., *British MPs back Theresa May's Brexit timetable*, "Politico", 9 December 2016, <https://www.politico.eu/article/british-mps-back-theresa-mays-brexit-timetable>.

---

<sup>31</sup> *Brexit: Departure date pushed back by at least two weeks*, BBC News, 22 March 2019, <https://www.bbc.com/news/uk-politics-47663031> (20.11.2019); *Brexit: UK and EU agree delay to 31 October*, 11 April 2019, <https://www.bbc.com/news/uk-politics-47889404> (20.11.2019); Compare with: <https://www.consilium.europa.eu/media/39042/10-euco-art50-conclusions-en.pdf> (20.11.2019).

- Krauze-Jackson F., *May Loses Brexit Vote in Landslide, Faces Confidence Vote*, Bloomberg Politics, 15 January 2019, <https://www.bloomberg.com/news/articles/2019-01-15/may-loses-brexit-vote-in-a-landslide-throwing-deal-into-disarray>.
- Land A., Miller V., *Brexit: the talks begin*, Briefing Paper No. 8017, “House of Commons Library”, 12 July 2017, <https://researchbriefings.files.parliament.uk/documents/CBP-8017/CBP-8017.pdf>.
- Norton P., *The Perils of a Hung Parliament*, [in:] *No Overall Control? The Impact of a ‘Hung Parliament’ on British Politics*, eds. A. Brazier, S. Kalitowski, Hansard Society 2008.
- Radek R., *Hung Parliament and Minority Government Formation in Westminster Parliamentary System (selected aspects)*, “Przegląd Prawa Konstytucyjnego” 2015, No. 6.
- Renwick A., *What happens if we vote for Brexit?*, The Constitution Unit, 19 January 2016, <https://constitution-unit.com/2016/01/19/what-happens-if-we-vote-for-brexit/>.
- Spence A., *Theresa May to begin Brexit process by end of March*, “Politico”, 2 October 2016, <https://www.politico.eu/article/theresa-may-to-begin-brexit-process-by-end-of-march/>.
- Taylor R., Wilson A., *Revoking Article 50 after the ECJ’s ruling*, University of Aberdeen School of Law, 11 December 2018, <https://ukandeu.ac.uk/revoking-article-50-after-the-ecjs-ruling>.