

# There is no legal basis for making any extra payments to the EU

There are some on the continent who seem to think the UK will have to pay to leave the EU, based around negotiations over how much of the continuing liabilities of the EU the UK must pay. This is all nonsense.

There is no power in the EU Treaties to impose an additional one off levy on a state as it leaves the EU. Nor is there any power in the Treaty to demand any continuing budget contributions after departure. This is wise, as of course once a state leaves it leaves behind the judicial authority of the EU which would be the means of enforcing any such payment. Article 50 is clear. Once the state leaves it has no further rights and benefits, and no further duties or obligations.

It is of course true the Treaty does not prevent the EU accepting a payment volunteered by a departing state if it wished to pay one. However, the UK could not make such a payment legally under our own law and system for controlling public spending. Ministers can only authorise spending and sign cheques for approved expenditure under UK legislation and with Parliamentary authority for the budget provision that covers the payments. Ministers have proper authority to make the annual contribution payments to the EU, required by the Treaty as incorporated into UK law by the European Communities Act. They have absolutely no authority to make one off additional payments to the EU, and would have no authority to make contributions after we have left and have repealed the 1972 Act.

They will also find that if they wanted to make a payment as overseas aid to the EU it would not qualify under our Aid budget criteria, as the EU as a whole is too rich. The only way UK Ministers could authorise a leaving payment would be to put through an Act of Parliament specifically authorising such an ex gratia payment. I can't see many Conservative MPs wanting to vote for that.

Being in the EU is a bit like being a student in a College. All the time you belong to the College you have to pay fees. You have to obey all the rules of the institution. When you depart you have no further financial obligations, and you no longer have to obey their rules and accept their discipline. If you liked the College rules you can still apply them to yourself voluntarily. The College does not on your departure say we have borrowed money to improve the College while you were here so you will have a continuing bill for servicing the College debts. It does not say we failed to make proper provision for the future pensions of the people who taught you, so we will send you additional bills for their pensions. All your rights to reside and learn at the College cease, and all your duties to pay and obey cease. So it is with a country's membership of the EU.

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## Problems in eastern Europe

One of the most disappointing things about the high strategy of the EU has been its approach to Eastern Europe. Today there remain substantial problems on the eastern frontier of the Union.

In Turkey the President is seeking referendum endorsement for more centralised power. The President wants more control over the appointment of Judges, the ending of the office of Prime Minister and general rights to run the country as he sees fit. The EU clashed with the President over the recent coup attempt and they have been critical of his record on human rights. It looks as if after years of offering Turkey the prospect of membership of the EU, Germany and the others are cooling on the idea. Last year's promise of accelerated progress in achieving Turkish accession has been replaced by a distinct distancing. Instead of it being possible to get over the obstacles, EU sources seem more inclined now to play up the difficulties in the way of membership.

On the one hand Mrs Merkel and some of the other leaders seeking re election at home may find it convenient to distance themselves from their previous decision to speed up Turkish membership. On the other hand they face a big problem anyway, thanks to the EU/Turkey Association Agreement. This creates freer movement of people from Turkey into the Schengen area of the EU. The Turks are becoming unhappy about the lack of EU support for them in their task as acting host to more than 3 million refugees from the Middle East. Were they to encourage many of those people to head westwards into the EU Mrs Merkel would have a major problem on her hands.

In Serbia the EU has also been negotiating possible membership. Last week Serbia was to initiate a new train service into Kosovo, which had emerged from the various talks with the EU over how there could be some rapprochement between Serbia and Kosovo after their separation in 2008. The decision of the Serbian authorities to implement this idea with a train that had painted prominently down its sides the message "Kosovo belongs to Serbia" led to a furious exchange with Kosovo. Serbia had to accept the train would not be allowed over the frontier. Clinton and Blair are remembered fondly in Kosovo for assistance in their struggle with Serbia. What is the EU going to do about the tensions that have flared again between these two?

We have often discussed the EU's approach to Ukraine and their role in the run up to the illegal annexation of Crimea by a Russia which both saw an opportunity and felt a threat to its naval presence in Crimea. There are no signs of any resolution of this dispute either.

The EU has to be careful not to overstretch. Its long and weak eastern frontier is the source of instability, at a time when the western countries are wanting to turn their backs on migrant flows and the problems of the Middle East for electoral reasons.

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## The Theresa and Donald show

The US briefing is very positive for the first Trump/May meeting. They have happy memories of President Reagan's achievement, and fond recollections of the part Margaret Thatcher played alongside the US. Together they pursued and won the Cold War. Together they faced down the opposition of many Europeans to the Star Wars initiative which brought the USSR to the conclusion they could not longer compete without major reform. Together they cut taxes and promoted growth.

I remember well the day I took a translation of one of Mr Gorbachev's speeches to Margaret Thatcher. At first she could not believe that Gorbachev would have made statements in favour of free enterprise economics in the way he did. Once she accepted the source, she realised the opportunity that dialogue might bring. It was the reward for the strong stance she and the President had taken in earlier years, as the failing USSR strained every sinew to try to keep up with the space and arms race. It did so only at the expense of a huge expenditure of resource from its relatively low income per head. It fell behind when computer and digital technology and its related creativity came to the fore.

The UK will want to argue that today is a different global agenda and Mrs May and Mr Trump are different people from the then Prime Minister and President. Where Reagan and Thatcher had to deal with the cold war, the armed threat to the west from the USSR, and the plight of the countries of Eastern Europe under Soviet control, President Trump and PM May have the complex threats of terrorism and aggressive movements in several countries around the world. Where the Soviet Union prevented the movement of people in Eastern Europe under threat of death for those who tried, today we have the worry of excessive movements of people fleeing economic failure and civil war elsewhere.

There are some similarities. In the USA Mr Trump like Mr Reagan does want to cut and simplify taxes on a large scale. He does want to pump up the US growth rate as Mr Reagan did. All US Presidents are persuaded to say the US/UK relationship is special, but only a few mean it. Ronnie did. I think Mr Trump will too.

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## Fairer funding for schools

On Wednesday we debated the government's proposals for fairer funding for schools. The Conservative Manifesto drew attention to the large gap between

the best financed and worst financed state schools and promised action to provide fairer and more balanced levels of funding. The scheme includes a higher individual pupil amount that will be the same across the country, with continued additional payments for areas of deprivation, rural areas and other matters increasing the costs of education.

I raised with the Minister the question of how far the rebalancing would go. The Wokingham and West Berkshire schools have been short changed for many years by the old formula and need several years of increments to put things right.

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## A simple and important Bill

A BILL TO

Confer power on the Prime Minister to notify, under Article 50(2) of the Treaty on European Union, the United Kingdom's intention to withdraw from the EU.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1 Power to notify withdrawal from the EU

(1) The Prime Minister may notify, under Article 50(2) of the Treaty on European Union, the United Kingdom's intention to withdraw from the EU.

(2) This section has effect despite any provision made by or under the European Communities Act 1972 or any other enactment.

2 Short title

This Act may be cited as the European Union (Notification of Withdrawal) Act 2017.

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