COMPARISON BETWEEN THE LEGAL PARTICULARITIES OF ROMANIA'S AND THE UNITED KINGDOM'S MEMBERSHIP OF THE EUROPEAN UNION

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Abstract

Since its early accession to the European Economic Community (the predecessor of the European Union), the United Kingdom has, at times, shown itself reluctant to fully integrate and adopt the acquis communautaire. The UK has chosen to negotiate several opt-outs – more than any other Member State – regarding certain EU policies, with notable examples being the Monetary Union and the Schengen Agreement. Despite being granted such exemptions, the UK has remained a more sceptical member of the EU and has become the first to ever invoke the applicability of Article 50 of the Treaty on European Union, starting the process of withdrawal from the organisation. According to the terms provided by Article 50, the completion of said process should take place in the first half of 2019, coinciding with the rotating Presidency of the Council being taken over by Romania, who only joined the EU in 2007. Its legal standing is noticeably different compared to that of the UK: Romania's participation in the aforementioned EU policies, which the UK has opted out of, is mandatory, but conditioned by the fulfilment of specific criteria. Romania is also, alongside Bulgaria, the object of certain safeguard measures designed to address the specific issues faced by the two states.

The purpose of this article is to compare certain legal particularities that characterise Romania's and the United Kingdom's membership of the EU, and to determine their consequences with regard to each of the two states' relationship with the organisation, as well as to the complex position the EU finds itself in during the first half of 2019.

Keywords: *Opt-out – Integration – Area of Freedom, Security and Justice – Schengen Agreement – Economic and Monetary Union.*

1. Introduction

The United Kingdom, while a strong proponent of the free market and of the liberalisation of trade, has often been considered one of the more reticent Member States with regard to the integration process and the transfer of powers toward the European Union, starting with its refusal to participate in the founding of the European Communities[1] - a decision which has since been called a mistake by some historians[2] – and continuing, after the UK's eventual accession, with its attempts to steer the organisations towards enlargement, as opposed to the deepening of the integration

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[1] The United Kingdom decided not to take part in the Schuman Plan, that lead to the establishment of the European Coal and Steel Community (ECSC) in 1952, and later withdrew from the negotiations held at Messina regarding the creation of the European Economic Community (EEC) and the European Atomic Energy Community (Euratom). The UK finally joined the European Communities in 1973; its first application to join the European Communities had been made in 1961, and its second in 1967, but both had been vetoed by France.

[2] Helen Parr, *Britain's Policy towards the European Community. Harold Wilson and Britain's world role, 1964–1967*, Routledge, 2006, p 1.

process[3]. Several times, when other Member States agreed upon a new or enhanced form of integration, the UK chose not to participate and was granted an opt-out. While not the only state to enjoy such benefits, it became the Member State with most opt-outs[4], regarding the Schengen Area, the Economic and Monetary Union, the Charter of Fundamental Rights of the European Union and the area of freedom, security and justice. This feeling of detachment from the European Union, reflected in the general population, became more and more accentuated over the years and culminated, in 2016, with the referendum regarding the UK's withdrawal from the EU[5], when a little under 52% of the voters decided that they wanted the state to leave the organisation. This decision came about despite the fact that, a few months prior to the referendum, the UK's government had negotiated with the EU and had managed to obtain several desired changes regarding EU legislation[6].

A state that has benefited from the UK's push toward the enlargement of the European Communities is Romania, who became a Member State in 2007, alongside Bulgaria, following a general move toward integrating countries from Eastern Europe in the EU[7]. Upon its accession to the organisation, Romania was made the subject of a series of special conditions and its participation in the Schengen Area and in the Monetary Union was deferred until the state would fulfil the necessary conditions. Twelve years after its accession, Romania has still not become a member of the Schengen Area and has not adopted the Euro.

This article will present and compare the relationship between the EU and the United Kingdom and Romania, respectively, with regard to these areas of policy where the process of integration has proven more complicated, either due to the state's reticence to fully participate, in the UK's case, or the state's failure to fulfil the required conditions, in Romania's case, with a view to identify the causes and potential solutions to this state of affairs.

2. The Schengen Area

The European Communities were founded in the 1950s and took the Member States through an intense process of integration that involved significant changes in national legislation, an economic boom, and several clashes between European leaders based on the differing views regarding the future direction of the

[3] The United Kingdom's preference for a less involved form of cooperation lead to its founding of the European Free Trade Association, in 1960, as an alternative to the EEC. It soon became clear, however, that the UK's economic interests would be better served as part of the integration-based EEC, especially due to the fact that trade with the Commonwealth countries – who had traditionally been the UK's preferred economic partners – had entered a decline. See Helen Parr, *op. cit.*, p. 122.

[4] Three other Member States currently have opt-outs: Denmark has three (regarding Defence, the Economic and Monetary Union and the Area of freedom, security and justice), the Republic of Ireland has two (regarding the Schengen Agreement and the Area of freedom, security and justice) and Poland has one (regarding the Charter of Fundamental Rights of the European Union). Noticeably, all opt-outs concern the same few areas of competence.

[5] It was not the first referendum the UK held regarding this issue. In 1975, two years after the UK had become a member of the European Communities, a referendum was called regarding said membership. That referendum had a significantly different outcome: two-thirds of the electorate expressed support for the UK's accession to the Communities.

[6] For more on the results of these negotiations, see Andrew Glencross, *Why the UK Voted for Brexit. David Cameron's Great Miscalculation*, Palgrave Macmillan, 2016.

[7] Ten states, most of them from the former Soviet area of influence, had joined the organisations in 2004.

Communities[8]. In comparison to this eventful and tumultuous period in European history, the late 1970s and the first half of the 1980s have been called "a period of relative political stagnation in the EEC".[9] While the first steps towards the realisation of the single market had been taken by the implementation of the free movement of goods between 1957 and 1968, the free movement of capital, services and persons were properly put into practice only through the Treaty of Maastricht.[10]

An important step was taken in 1985, with the signing, on 14 June, of the Schengen Agreement by five Member States of the European Communities: France, Germany and the Benelux Economic Union (comprised of Belgium, Luxembourg and the Netherlands). This Agreement was the result of several debates regarding, in particular, the free movement of people between the Member States and the definition of this concept, as well as that of the concept of citizenship[11]. Some Member States held the view that the freedom of movement applied only to their own citizens, which meant that border controls needed to be upheld. Other Member States considered that the freedom of movement should be applied to other citizens as well, and that the territory of the European Communities should be frontier-free.[12] This would necessitate, in turn, particularly thorough controls at the external borders of the European Economic Community (presently, of the EU) as well as the establishment of a common policy regarding visas, asylum and the status of refugees.[13] The Agreement defined several important notions, regulated the way border controls were to be carried out and laid out several rules on the matter of visas, but was not part of the European *acquis* and was not mandatory for the Member States of the Communities who had not signed it.

The Schengen Agreement was later supplemented by the Schengen Convention,[14] signed on 19 June 1990, which concerned the Agreement's implementation. The Convention was integrated in 1999 in the EU's legal framework by means of a Protocol annexed

[8] The French President, Charles de Gaulle, envisioned an intergovernmental Community, where the interests of the Member states took precedence, while German-born Walter Hallstein, one of the founding fathers of the Communities and the first President of the Commission of the EEC, supported a supranational approach and a federal Europe.

[9] Paul Craig, Gráinne de Búrca, *EU Law: Text, Cases, and Materials*, Sixth Edition, Oxford University Press, 2015, p. 7

[10] Paul J. J. Welfens, *An Accidental Brexit. New EU and Transatlantic Economic Perspectives, Palgrave Macmillan*, 2017, p. 265.

[11] With regard to the notion of citizenship, the Court of Justice stated that the matter remains strictly in the competence of the Member States and must be settled in accordance with their national law. See Massimo Condinanzi, Allessandra Lang, Bruno Nascimbene, *Citizenship of the Union and Free Movement of Persons*, Martinus Nijhoff Publishers, 2008, p. 6. The United Kingdom defined the term "national", referring to those who enjoyed freedom of movement, as including "British citizens; persons who are British subjects and have the right of abode in the United Kingdom, and British Dependent Territories citizens who acquire their citizenship from a connection with Gibraltar. Consequently, other British Dependent Territories citizens and British overseas citizens are excluded". In a unilateral declaration, Denmark stated that EU citizenship is different from the concept of Danish citizenship, as defined by its national law.

[12] Augustin Fuerea, *Manualul Uniunii Europene*, 6th Edition, Universul Juridic, 2016, p. 50.

[13] Massimo Condinanzi, Allessandra Lang, Bruno Nascimbene, *op. cit.*, p. 205.

[14] Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders.

to the Treaty of Amsterdam[15] and allowed for the elimination of all border controls between Member States and the creation of a single external border, where all controls would be carried out according to a unified procedure.[16] Consequently, the policy regarding visas, asylum and border control were included in the *acquis communautaire*[17] as part of the area of freedom, security and justice, and all Member States, except those with opt-outs, became legally bound to join the Schengen Area upon fulfilling the technical requirements.

Since 1985, almost all other Member States of the Communities have integrated the Schengen *acquis*, starting with Italy, in 1990, and even the states that are part of the European Free Trade Association[18] have decided to participate. However, when signing the Treaty of Amsterdam, the Republic of Ireland and the United Kingdom obtained opt-outs regarding the Schengen *acquis*.[19] The Member States negotiated protocols saying they could decide, on a case by case basis, whether to participate in certain acts adopted regarding this matter and to implement them (in the case of the latter two states, the unanimous vote of all states that are party to the Agreement would be necessary). In 1999, the UK asked to participate in certain provisions of the Schengen *acquis*, such as police cooperation, and its request was approved in 2000.[20] The Republic of Ireland followed with a similar request, which was approved in 2002.[21]

The UK's reasoning regarding its decision to opt out of the Schengen *acquis* was that, being an island nation, it had the possibility to better control the access of third country nationals onto its territory.[22] Moreover, an inquiry held by the UK's House of Lords Select Committee on the European Communities had found that, while the abolition of internal frontiers with respect to goods, services and capital was fully possible and advantageous, the elimination of border controls on persons would represent a security risk.[23]

At present, the only Member States of the European Union – excluding the ones who have opt-outs – who do not participate in the Schengen Area are Cyprus[24], Bulgaria, Romania and Croatia. All four states are legally bound to integrate the

[15] The Treaty of Amsterdam was signed in 1997 and entered into force in 1999.

[16] Augustin Fuerea, *op. cit.*, p. 54.

[17] The Schengen *acquis* was defined by the Council Decision 1999/435/EC concerning the definition of the Schengen acquis for the purpose of determining, in conformity with the relevant provisions of the Treaty establishing the European Community and the Treaty on European Union, the legal basis for each of the provisions or decisions which constitute the acquis.

[18] Iceland, Liechtenstein, Norway and Switzerland.

[19] Denmark is a special case. Despite being party to the Schengen Agreement, it is not legally bound by its provisions and can refuse to implement them. See Augustin Fuerea, *op. cit.*, p. 62.

[20] Council Decision 2000/365/EC concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen acquis. For more information, see Augustin Fuerea, *op. cit.*, p. 63.

[21] Council Decision 2002/192/EC concerning Ireland's request to take part in some of the provisions of the Schengen acquis.

[22] Elspeth Guild, "The Single Market, Movement of Persons and Border", *The Law of the Single European Market*, Catherine Barnard, Joanne Scott (eds.), Hart Publishing, 2002, p. 295.

[23] Elspeth Guild, *op. cit.*, p. 298.

[24] Cyprus is legally bound to join the Schengen Area, but has been prevented to do so by the territorial dispute regarding the island's northern part.

Schengen *acquis*, according to the Treaties of Accession.[25]

Romania's request to participate in the Schengen Area was approved by the European Parliament in 2011, but was denied by the Council, with particular opposition from the Dutch and Finnish representatives. In December 2018, the European Parliament once again voted – unanimously – in favour of allowing both Bulgaria and Romania to join the Schengen Area. A unanimous decision from the European Council is needed in order to achieve this aim.

While it is to be expected that a recently joined state will not have yet fulfilled the requirements for integrating the Schengen acquis, the debates in Romania's case have been centred on political arguments as much as on technical ones and, as such, the possibility of its joining the Schengen Area remains hard to predict.

3. The Economic and Monetary Union

The signing and ratifying of the Single European Act (SEA) was another sign of the quickening pace of European integration, with its stated objective being that of creating, by the end of 1992, a single market where all impediments to the free movement of goods, persons, services and capital were removed[26]. The SEA was signed in 1986 by all Member States, despite the differing views on the relevance of the Treaty: France and Germany saw it "as a means of advancing the cause of political, economic and monetary integration". This view was strongly supported by the Commission, led by French-born Jacques Delors, who proposed, in 1989, "a three-stage plan for full economic and monetary union" and "a social charter of workers' and citizens' rights".[27]

These plans were debated in 1990 and led to the signing, in Maastricht, of the Treaty on European Union (TEU), bringing about several significant reforms, such as "provisions for a Social Chapter (previously known as the Social Charter) and for a common foreign and security policy (CFSP) which envisaged a more influential role for the EU in the international system".[28] Of particular relevance was the Economic and Monetary Union (EMU), which would be built in three stages. The final stage would have to be reached no later than 1999, with as many members as were found to satisfy the convergence criteria for joining the Euro area.[29] The idea of the EMU had existed for many years, but it was always considered that its realisation would necessitate a stronger political union and deeper integration – something that would be achieved through the Treaty of Maastricht.[30]

The signing of the Treaty of Maastricht showed how opposed the UK was to further integration.[31] During the negotiations regarding the Economic and Monetary Union, the United Kingdom expressed its

[25] For more information regarding Romania's accession to the EU and the Treaty concerning the accession of the Republic of Bulgaria and Romania to the European Union in particular, see Augustin Fuerea, *op. cit.*, Chapter VII.

[26] David Gowland, Arthur Turner, Alex Wright, *Britain and European Integration Since 1945: On the Sidelines*, Routledge, 2010, p. 102.

[27] David Gowland, Arthur Turner, Alex Wright, *op. cit.*, p. 103.

[28] *Idem*.

[29] A presentation of the convergence criteria can be found on the European Commission's website: https://ec.europa.eu/info/business-economy-euro/euro-area/enlargement-euro-area/convergence-criteria-joining_en.

[30] David Gowland, Arthur Turner, Alex Wright, *op. cit.*, p. 120.

[31] Augustin Fuerea, *BREXIT – trecut, prezent, viitor*, Curierul judiciar, no. 12/2016, C.H.Beck, Bucharest, p. 631.

desire to be excluded from the obligation to adopt the Euro, asking for an opt-out.[32] Most Member States disagreed with this request, but after extended debates it was decided that the UK would be exempt from participating in the final stage of the EMU, on the condition that it would not hamper the other Member States in furthering integration in this area.[33] Considering the fact that the Treaties do not, at present, provide for a legal procedure of opting out of the Monetary Union, it is widely considered that adopting the Euro is a legal obligation for all Member States who fulfil the convergence criteria, especially considering the fact that "for candidate countries, adherence to the aims of economic and monetary union constitutes one of the prerequisites for accession to the EU."[34]

British opposition to the adoption of a single currency had first been expressed by Margaret Thatcher.[35] Her successor, John Major, shared her interest in creating a strong single market and her reticence toward further integration and transfer of national sovereignty, opposing the idea of a single currency.[36] Their position was partially motivated by recent international events that had had a serious impact on the UK's economy: "That Britain joined the EC when the latter was going through one of its periodic bouts of radical change scarcely facilitated a smooth entry. […] The collapse of the Bretton Woods fixed exchange system in 1971, followed by a fourfold increase in international oil prices during 1973-74, triggered off a new phase of monetary instability and sluggish economic activity. So far as Britain was concerned, the situation was aggravated by the impact of the 1974 miners' strike and the major sterling crisis that blew up in 1976. […] All the available evidence conclusively showed that Britain's economic performance was significantly worse than it had been in the years immediately before entry to the EC. It also remained inferior to that of most other Member States."[37]

According to Romania's Accession Treaty, upon joining the European Union, the state became a member of the Economic and Monetary Union, with a derogation from the obligation to adopt the Euro until it would fulfil the convergence criteria. As of 2019, Romania has yet to be considered as having satisfied said criteria and, unlike the case of its participation in the Schengen Area, the arguments against its adopting the euro are of a technical, rather than political, nature.

[32] The United Kingdom also obtained an opt-out regarding the Social Chapter of the Treaty of Maastricht, but eventually decided to integrate the *acquis* on this issue. For more on this subject, see Andrew Duff, John Pinder, Roy Pryce (eds.), *Maastricht and Beyond. Building the European Union*, Routledge, 1994.

[33] Roy Price, "The Treaty Negotiations", *Maastricht and Beyond. Building the European Union*, Andrew Duff, John Pinder, Roy Pryce (eds.), Routledge, 1994, p. 50. A similar Protocol was agreed on regarding Denmark.

[34] Niamh Nic Shuibhne, Laurence W. Gormley, *From Single Market to Economic Union. Essays in Memory of John A Usher*, Oxford University Press, 2012, p. 23. Sweden presents an interesting case: while satisfying the other convergence criteria, the state has yet to comply with the formal requirement of participating in the Exchange Rate Mechanism, effectively barring itself from joining the Euro area.

[35] Lee McGowan, *Preparing for Brexit. Actors, Negotiations and Consequences*, Palgrave Macmillan, 2018, p. 19. Margaret Thatcher was Prime Minister of the United Kingdom from May 1979 to November 1990. She was succeeded by John Major, who occupied the office until May 1997. The UK – England, specifically – under Margaret Thatcher has been called "the most centralized state in Europe" and was the state "against which most legal action had been filed at the European Court of Human Rights". See Paul J. J. Welfens, *op. cit.*, p. 142.

[36] David Gowland, Arthur Turner, Alex Wright, *op. cit.*, p. 105.

[37] *Ibidem*, p. 79.

4. The Area of Freedom, Security and Justice

The Treaty of Amsterdam spoke of the importance of creating an Area of Freedom, Security and Justice (AFSJ) comprised of the policy on visas, asylum, emigration and other provisions regarding the free movement of people, as well as the Schengen *acquis*. Following the reforms brought about by the Treaty of Lisbon,[38] the AFSJ forms the subject of Title V of the Treaty on the Functioning of the European Union and has been expanded to include not only the policy on border controls, asylum and immigration, but also police and judicial cooperation in criminal and civil matters.

When signing the Treaty of Amsterdam, the United Kingdom and the Republic of Ireland negotiated another Protocol, distinct from the one that contained the opt-out regarding the Schengen *acquis*. According to this second Protocol, the two Member States were not bound by the provisions concerning the AFSJ, but "could choose whether or not to opt in to proposed measures in this area", in a three-month term. If they did not express an option, they would be considered as having opted-out.[39] The Treaty of Lisbon preserved the Protocol[40] and extended it to the entirety of the ASFJ, in its expanded form, providing that it also applies to "amendments to measures in relation to which those states have previously opted in", which could, if put into practice, render those measures inapplicable and lead to certain complications.[41] As before, the two Member States can decide to opt-in at any time.

Contrary to the UK, Romania is a relatively eager participant in the Area of Freedom Security and Justice, being one of the Member States who agreed, in 2017, to establish the European Public Prosecutor's Office as a form of enhanced cooperation.[42]

5. The Charter of Fundamental Rights of the European Union

The decision to draw up a Charter of Fundamental Rights was taken in June 1999, during the European Council in Köln, with further details regarding its elaboration being agreed upon a few months later, during the European Council in Tampere.[43] The Charter was drawn up in less than a year, was proclaimed by the European Parliament, the Council and the Commission and was unanimously approved by the European Council in Biarritz, in October 2000. Following the adoption of the Treaty of Lisbon, the Charter of Fundamental Rights gained the same legal status as the Treaties, taking precedence over secondary EU law and all national legislation.[44] Despite the fact that the drawing up and the approval of the Charter did not encounter any hurdles, when the time came to integrate its provisions through the Treaty of Lisbon two Member States, the United Kingdom and Poland[45], negotiated a Protocol meant to

[38] The Treaty of Lisbon was signed in 2007 and came into force in 2009.

[39] Paul Craig, Gráinne de Búrca, *op. cit.*, p. 978.

[40] Lisbon Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice.

[41] Paul Craig, Gráinne de Búrca, *op. cit.*, p. 978.

[42] See Article 86 TFEU and Council Regulation (EU) 2017/1939 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO').

[43] Augustin Fuerea, *Manualul Uniunii Europene*, p. 91.

[44] Paul Craig, Gráinne de Búrca, *op. cit.*, p. 394.

[45] In October 2009, the provisions of the Protocol were extended to the Czech Republic, at its request.

limit the legal effects of the Charter.[46] While this Protocol has been considered an opt-out, it has been debated whether its effect is anything more than declaratory. The Court of Justice of the European Union answered the question by ruling that "Protocol No 30 does not call into question the applicability of the Charter in the United Kingdom or in Poland, a position which is confirmed by the recitals in the preamble to that protocol."[47] Said Preamble states that the purpose of the Protocol is that "of clarifying the application of the Charter in relation to the laws and administrative action of Poland and of the United Kingdom and of its justiciability within Poland and within the United Kingdom." This, correlated with the fact that a Member State could not opt-out of the values enshrined in Article 2 of the Treaty on European Union, made the CJEU's ruling unavoidable. [48]

6. The safeguard clauses provided by the Treaty of Accession of the Republic of Bulgaria and Romania

Bulgaria and Romania's Treaty of Accession included three safeguard clauses intended to solve certain issues arising from the states' joining of the EU: a general safeguard clause, an internal market safeguard clause, and a justice and home affairs safeguard clause.[49]

In addition to these three provisions, which can also be found in the Treaty of Accession of the ten Member States who joined the organisation in 2004, a special safeguard clause, specific to Bulgaria and Romania, was introduced. According to this clause, the accession of either of the two states could have been postponed by one year, to 1 January 2008, if there had been clear evidence of them "being manifestly unprepared to meet the requirements of membership by the date of accession of 1 January 2007 in a number of important areas". Furthermore, Romania's accession could have also been postponed if "serious shortcomings" had been observed in its fulfilment of "one or more of the commitments and requirements" regarding the area of justice and home affairs and that of competition.

Upon Bulgaria and Romania's accession, the safeguard clause regarding the area of justice and home affairs was invoked and a Cooperation and Verification Mechanism was created by the Commission, in order to monitor the progress of the two states and to ensure that they fulfilled their obligations. While the Accession Treaty states that such measures should be taken in a period of up to three years after the

[46] Protocol (No) 30 on the application of the Charter of Fundamental Rights of the European Union to Poland and to the United Kingdom. The Protocol contains two articles. The first states that "The Charter does not extend the ability of the Court of Justice of the European Union, or any court or tribunal of Poland or of the United Kingdom, to find that the laws, regulations or administrative provisions, practices or action of Poland or of the United Kingdom are inconsistent with the fundamental rights, freedoms and principles that it reaffirms" and that "nothing in Title IV of the Charter creates justiciable rights applicable to Poland or the United Kingdom except in so far as Poland or the United Kingdom has provided for such rights in its national law." Article 2 provides that "To the extent that a provision of the Charter refers to national laws and practices, it shall only apply to Poland or the United Kingdom to the extent that the rights or principles that it contains are recognised in the law or practices of Poland or of the United Kingdom." For more on these Protocols, see Augustina Dumitrașcu, *Dreptul Uniunii Europene și specificitatea acestuia*, Second Edition, Universul Juridic, 2015.

[47] Paul Craig, Gráinne de Búrca, *op. cit.*, p. 395. See also Massimo Condinanzi, Allessandra Lang, Bruno Nascimbene, *op. cit.*, p. 248.

[48] Niamh Nic Shuibhne, Laurence W. Gormley, *op. cit.*, p. 349.

[49] For more on these safeguard clauses, see Augustin Fuerea, *op. cit.*, p. 304, and European Commission MEMO/05/396, available at http://europa.eu/rapid/press-release_MEMO-05-396_en.htm.

accession and should "be maintained no longer than strictly necessary", it also allows for them to be applied "beyond the period specified in the first paragraph as long as these shortcomings persist". As of 2019, twelve years after the two states joined the EU, the Cooperation and Verification Mechanism is still in effect.

On the whole, it is noticeable that in the case of Romania (and Bulgaria), the other Member States have provided the possibility of stricter measures being taken with regard to the fulfilment of obligations and the adoption of the *acquis communautaire*.

Conclusions

For the UK, every step taken towards further integration has meant the necessity of finding a balance between national interests (which have been considered as diverging from those of the EU), the traditional preference of many British politicians for a less-involved participation, and the interests and well-being of the European Union[50]. While trying to slow down the process of deepening integration in certain areas, like that of social policy or the elimination of internal borders, [51] the UK has been an active supporter of the development of the single market and of the liberalisation of trade.[52] This duality of interests has resulted in the UK being the Member State with most opt-outs. The EU's willingness to allow this can partially be explained by its desire to keep the UK as a Member State, due to its important role on the international stage, its economic power and its shared history and values with the other European states. Yet, following the Brexit referendum, it has become clear that these opt-outs were less effective than hoped for: the UK's desire to maintain greater control over certain areas of competence was apparently not satisfied to a sufficient degree and, at the same time, the integration process between the other Member States was unnecessarily slowed down.

The process has been further hampered by the fact that newer members of the EU have not been able to join the Schengen Area and the Monetary Union, either due to a failure to fulfil the required criteria or, in certain cases, to political circumstances. The idea of a "multi-speed" Europe is not a new one – it was debated as early as the Fontainebleau European Council, in June 1984, when the Member States of the EEC, France in particular, suggested that the states who were prepared to integrate further should be allowed to do so, with the rest joining them at a later date.[53] However, the evolution of the UK's relationship with the EU suggests that, in the future, in order to avoid the fracturing of the European Union, a deeper integration should be prioritised for all Member States, in order to ensure that they do not feel either overlooked by, or disconnected from the rest of European Union

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[50] David Gowland, Arthur Turner, Alex Wright, *op. cit*, p. 79.
[51] Paul J. J. Welfens, *op. cit.*, p. 266.
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