

H WITHDRAWAL FROM INTERNATIONAL AGREEMENTS UNDER INTERNATIONAL LAW: LESSONS FROM THE PARIS AGREEMENT AND THE EUROPEAN UNION

(ULUSLARARASI HUKUK KAPSAMINDA ULUSLARARASI
ANDLAŞMALARDAN ÇEKİLME: PARİS ANLAŞMASI VE AVRUPA
BİRLİĞİNDEN DERSLER)

Dr. Öğr. Üyesi Hatice Kübra ECEMİŞ YILMAZ **

ABSTRACT

This article examines the legal framework and consequences of withdrawal from international agreements, concentrating on the Paris Agreement and European Union. The analysis focuses on the similarities and differences between the withdrawal procedures, context, and outcomes of these two cases and draws lessons for the design and implementation of future international agreements. Incorporating flexibility and adaptability into international agreements, addressing the concerns of sovereign states, and enhancing enforcement mechanisms are crucial recommendations. In addition, the article suggests possible future research directions, such as expanding comparative analysis, investigating the influence of withdrawal on international relations, and examining the legal frameworks governing withdrawal. This article contributes to the ongoing discussion on the development and reform of public international law in the context of withdrawal from international agreements by elaborating on these insights and recommendations.

Keywords: *international agreements, withdrawal, Paris Agreement, European Union, public international law.*

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* Doktor Öğretim Üyesi, Ankara Yıldırım Beyazıt Üniversitesi Hukuk Fakültesi, Milletlerarası Hukuk Anabilim Dalı.

** Yazarın ORCID belirleyicisi: 0000-0001-9438-0291.

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ÖZ

Bu makale, uluslararası andlaşmalardan çekilmenin hukuki çerçevesini ve sonuçlarını, Paris Anlaşması ve Avrupa Birliği üzerinde yoğunlaşarak incelemektedir. Analiz, bu iki vakanın geri çekilme prosedürleri, bağlamı ve sonuçları arasındaki benzerliklere ve farklılıklara odaklanır ve gelecekteki uluslararası Andlaşmaların tasarımı ve uygulanması için dersler çıkarır. Esnekliği ve uyarlanabilirliği uluslararası Andlaşmalara dahil etmek, egemen devletlerin endişelerini ele almak ve uygulama mekanizmalarını geliştirmek önemle tavsiye edilmiştir. Buna ek olarak, makale, karşılaştırmalı analizi genişletmek, geri çekilmenin uluslararası ilişkiler üzerindeki etkisini araştırmak ve geri çekilmeyi düzenleyen yasal çerçeveleri incelemek gibi gelecekteki olası araştırma yönlerini önermektedir. Bu makale, uluslararası Andlaşmalardan çekilme bağlamında uluslararası kamu hukukunun gelişimi ve reformu üzerine süregelen tartışmaya, ilgili tavsiyeleri detaylandırarak katkıda bulunmaktadır.

Anahtar Kelimeler: uluslararası Andlaşmalar, çekilme, Paris Anlaşması, Avrupa Birliği, uluslararası kamu hukuku.

INTRODUCTION

International agreements, comprising of treaties, conventions, and other instruments, are essential in promoting shared interests and facilitating cooperation among states. The most significant source of international law is international treaties.¹ Agreements have two aspects: they generate rights and obligations between the parties, and while they are similar to private law contracts in this regard, they also fulfill the function of law for the parties.² Throughout history, these agreements have evolved in response to global challenges and the increasing complexity of international relations.³ The withdrawal process from international agreements must be understood in accordance with the key principles governing such agreements, including *pacta sunt servanda*, *consent of states*, and *rebus sic stantibus*. These

¹ TÜTÜNCÜ, Ayşe Nur/ ARIKOĞLU, Enver/ AKÜN, Verda Neslihan/ BAŞKARACAĞLU, Elif, Toluner Milletlerarası Hukuk (Giriş, Kaynaklar) Prof. Dr. Sevin TOLUNER'in Ders Notlarından, İstanbul, 2017, p. 65; SUR, Melda, Uluslararası Hukukun Esasları, İstanbul, 2022, p. 21.

² SUR, p. 21.

³ SUR, p. 21.

principles emphasize the significance of adhering to agreements, obtaining the consent of states, and recognizing fundamental changes in circumstances.

A study be conducted to analyze and compare the withdrawal cases of the United States from and subsequent rejoining of the Paris Agreement, and the United Kingdom (UK)' s Brexit process from the European Union (EU). The purpose of this study is to provide a thorough examination of these high-profile cases. The study shall examine these cases to draw lessons and policy recommendations for future international agreements. The understanding of the consequences of withdrawal for states and the international community, as well as the implications for the effectiveness of international law, is of utmost importance.

It is hereby declared that this study shall primarily concentrate on the legal aspects of withdrawal from international agreements. The international law framework shall be thoroughly examined and the withdrawal processes in the selected cases shall be analyzed. The study's focus is solely on the legal aspects of withdrawal, although the political, economic, and social factors surrounding each case are recognized as relevant and impactful. The caution must be exercised in drawing general conclusions from the withdrawal processes of the Paris Agreement and the EU, given their differences in nature and objectives, as well as their unique circumstances and consequences.

I. INTERNATIONAL LAW FRAMEWORK FOR WITHDRAWAL FROM INTERNATIONAL AGREEMENTS

The Vienna Convention on the Law of Treaties (VCLT) and customary international law are the main sources of international law that govern the process of withdrawing from international agreements. It is hereby declared that this article shall examine the relevant provisions and principles under both sources of international law, shedding light on the legal aspects of withdrawal from international agreements.

A. VCLT

The VCLT is a legally binding agreement that entered into force in 1980.⁴ It serves as a complete systematization of the customary international

⁴ GÜNDÜZ, Aslan, *Milletlerarası Hukuk*, Ankara, 2018, p. 57.

law that regulates treaties.⁵ The VCLT is a legally binding agreement that governs the process of creating, interpreting, implementing, and terminating treaties. Its purpose is to establish a framework for states to understand their responsibilities and entitlements with respect to treaties.

According to VCLT Article 2(1)(a), “‘treaty’ means an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation”.⁶ Consent is expressed by signing the treaty's text, and then it becomes legally binding by being approved by the entity designated by the constitution (such as the parliament, senate, etc.).⁷ The procedures leading to the termination, or withdrawal of a party are set down by customary international law from the formulation of international treaties until their ratification. The International Law Commission is responsible for codifying international customs.⁸ Due to its reflection of common law, the 1969 VCLT is a unique agreement that has established worldwide binding. In other words, it has legal force for both the signing states that are parties to it and the states that are not.⁹ The 'treaty' only applies to between States., according to Article 1 of the VCLT.¹⁰ Additionally, it is taken into account to be legitimate within the parameters of the agreements established in terms of its scope, unless the parties are prohibited by other laws or expressly indicated otherwise.¹¹

Withdrawal Provisions

⁵ AKSAR, Yusuf, *Teoride ve Uygulamada Uluslararası Hukuk- I*, Ankara, 2021, p.116.

⁶ “Vienna Convention on the Law of Treaties” (VCLT) (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331, article 2(1)(a).

⁷ VCLT, article 2(1); BAYAR, Tuğba, “Uluslararası Anlaşmalardan Tek Taraflı Çekilme: Uluslararası Antlaşmalar Hukuku Bağlamında Eleştirel Bir inceleme”, *Uluslararası Hukukta Güncel Sorunlar Kongresi*, Editör, TÜTÜNCÜ, Ayşe Nur/ KARAGÖZ, Hava/ CİVELEK, Çakıl Su/ UYSAL Cem, İstanbul, 2020, p. 47.

⁸ BAYAR, p. 47. For example, the draft Convention prepared by the UN International Law Commission was adopted by the UN General Assembly on 9 December 1948 as the Convention on the Prevention and Punishment of the Crime of Genocide, with resolution 260 (A) III, and the Convention entered into force on 12 January 1951. https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.1_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf (L. a. d. 13 May 2023).

⁹ BAYAR, p. 47.

¹⁰ VCLT, article 1.

¹¹ BAYAR, p. 47.

It is hereby established by law that the withdrawal from treaties shall be governed by several provisions as set forth in the VCLT. Article 54 of the law states that a treaty may be withdrawn under the following conditions: a) as per the treaty's provisions, which may outline specific withdrawal procedures¹²; b) with the agreement of all parties to the treaty at any time.¹³

Article 56 of the law states that a state is prohibited from withdrawing from a treaty that does not have any provisions for withdrawal, except in cases where it is proven that the parties intended to allow for withdrawal or if the nature of the treaty implies a right of withdrawal. In addition that after a certain period of time, withdrawal clauses become legally binding.¹⁴ Article 56 also stipulates that declarations regarding withdrawal from the treaty must be notified at least 12 months in advance.¹⁵

It is hereby mandated that states shall have the authority to withdraw from treaties as needed, while upholding the rights and interests of all other parties involved.

Limitations and Exceptions

The VCLT establishes limitations and exceptions to safeguard the interests of the parties and preserve the stability of the international legal system, in addition to providing a general framework for withdrawal from treaties. Article 60 of the VCLT states that if one party materially breaches a treaty, the other parties may use the breach as a reason to terminate or suspend the treaty's operation.¹⁶ However, this is only allowed if the treaty is bilateral or if the breach is related to a provision that is crucial to achieving the treaty's objective or purpose.

¹² AKSAR, p. 174.

¹³ ACER, Yücel / KAYA, İbrahim, Uluslararası Hukuk Temel Ders Kitabı, Ankara, 2021, p.104.

¹⁴ HELFER, Laurance R., "Exiting custom: analogies to treaty withdrawals", Duke J. Comp.and Int. Law 21, 2010, p. 67.

¹⁵ AKSAR, p. 175; YÜKSEL, Cüneyt/ ERDOĞAN, Kaan, "Uluslararası Hukuk Bağlamında Amerika Birleşik Devletleri Başkanı'nın Dış Politika ve Savaş Yetkileri", Public and Private International Law Bulletin, Volume: 42, No:1, p. 18.

¹⁶ AYBAY, Rona/ORAL, Elif, Kamusal Uluslararası Hukuk, İstanbul, 2016, p. 114; also check PİRİM, Ceren Zeynep, "Andlaşmalar Hukuku ve Uluslararası Sorumluluk Hukukunun Kesişim Noktasında Exceptio Inadimplenti Non Est Adimplendum", Milletlerarası Hukuk ve Milletlerarası Özel Hukuk Bülteni, Volume: 41, No: 2, 2021, p. 983.

Article 62¹⁷ of the VCLT embodies the principle of *rebus sic stantibus*, which permits the termination or withdrawal of a treaty as a result of a fundamental change of circumstances.¹⁸ The principle that allows for a treaty to be modified due to unforeseen circumstances is only applicable if certain conditions are met. These conditions include the unforeseen nature of the change and the fact that the circumstances at the time of the treaty's creation were essential to the parties' agreement.

B. Customary International Law

Customary international law is defined as the general practices that are accepted as law by states. It is derived from their consistent and general behavior, and the belief that such behavior is legally required (known as *opinio juris*).¹⁹ Withdrawal from international agreements must consider customary international law, which can offer guidance or fill gaps in cases²⁰ where the VCLT is unclear or silent.²¹

Withdrawal from international agreements shall be considered in relation to its relevance.

It is hereby decreed that customary international law shall be deemed essential in dealing with the matter of withdrawal from international agreements in cases where the VCLT does not offer clear instructions. It is hereby declared that certain treaties exist prior to the VCLT or are exempt from it as a result of particular provisions or reservations made by the

¹⁷ VCLT, article 62.

¹⁸ BOZKURT, Enver/POYRAZ, Yasin/ ERDAL, Selcen, Devletler Hukuku, Ankara 2018, p. 66. See for more information on the *rebus sic stantibus* principle, PİRİM, Ceren Zeynep, "Uluslararası Andlaşmalar Hukukunda Değişim, İstikrar ve Değişim Yoluyla İstikrar: Rebus Ric Stantibus", Türkiye Adalet Akademisi Dergisi, Temmuz, Volume: 13, No: 51, 2022, pp. 47-76.

¹⁹ BRADLEY, Curtis A./ GULATI, Mitu, "Customary International Law and Withdrawal Rights in an Age of Treaties", Duke Journal of Comparative & International Law, Volume: 21, No: 1, 2010, pp. 3-4.

²⁰ BRADLEY/ GULATI, p. 22.

²¹ For the relationship between Custom and VCLT, see; VILLIGER, Mark Eugen, Commentary on the 1969 Vienna Convention on the Law of Treaties, Netherlands, 2009; SCHMALENBACH, Kirsten, "Article 27: Internal law and observance of treaties", Vienna Convention on the Law of Treaties: A commentary, 2018, pp. 493-504; WOOLAVER, Hannah, "From joining to leaving: Domestic law's role in the international legal validity of treaty withdrawal", European Journal of International Law, Volume: 30, No: 1, 2019, pp. 73-104; PİRİM, Ceren Zeynep, "The Legal Effects of the New Presidential System on Turkey's Treaty-Making Practice", European Journal of International Law, Volume: 33, No:2, 2022, pp. 579-606.

parties involved. In cases of withdrawal, the legal framework may be provided by customary international law.

Customary international law shall supplement the VCLT by clarifying ambiguous provisions or providing guidance on questions that the VCLT does not directly address. Article 60 of the VCLT requires that customary international law be used to determine whether a specific treaty provision is necessary for the accomplishment of the treaty's object or purpose.

The withdrawal from international agreements is subject to various key principles and examples of customary international law. These principles shall serve to clarify or expand upon the provisions laid out in the VCLT.

a) The obligation to act in good faith is a foundational principle of customary international law. *Pacta sunt servanda*, enshrined in Article 26 of the VCLT, stipulates that agreements must be carried out in good faith. This principle requires parties to adhere by their treaty obligations and to interpret withdrawal clauses in accordance with the parties' intentions. The principle of good faith emphasizes the significance of states adhering to their commitments and maintaining the stability of international agreements, while also permitting withdrawal under certain conditions. States shall perform their treaty obligations with honesty and sincerity, and shall not engage in deceitful or arbitrary actions that undermine the purpose of the treaty. In the context of withdrawal, it is required by law for states to engage in meaningful consultations with other parties and provide sufficient notice and justification for their decision to withdraw.

According to the principle of estoppel, a state is prohibited from making a claim or asserting a right that contradicts its prior actions or representations.²² It is not uncommon for estoppel to be discussed in the context of good faith as a specialized manifestation of the broader principle, as evidenced by the increasing frequency with which estoppel-based arguments are employed in international relations.²³ In the context of withdrawal from international agreements, it is hereby declared that a state shall not be allowed to invoke certain grounds for withdrawal if it has previously acted in a manner that is inconsistent with those grounds or has implicitly recognized the continued validity of the treaty.

According to customary international law, states have the right to take countermeasures in response to an internationally wrongful act committed

²² AKSAR, p. 92.

²³ MACGIBBON, Iain C., "Estoppel in International Law", *International and Comparative Law Quarterly*, Volume: 7, No: 3, 1958, p. 471.

by another state, as long as specific conditions are fulfilled.²⁴ In the event of a withdrawal from international agreements, other parties may take countermeasures as a response to the wrongful withdrawal. However, these countermeasures must be proportional and intended to encourage the responsible state to comply with its international obligations.

Unilateral acts made by a state in relation to a treaty can have legal effects under customary international law. Unilateral acts may impact the interpretation of treaty provisions or create new obligations that affect the withdrawal process in the context of withdrawing from international agreements. Upon ratifying a treaty, a state shall have the authority to make a declaration to clarify its understanding of certain provisions or set out conditions for its continued participation in the treaty. In the event of a withdrawal, legal consequences may arise from these unilateral acts.

It is hereby declared that the VCLT and customary international law govern the international law framework for withdrawal from international agreements. The procedures, limitations, and exceptions related to withdrawal are guided by both sources of law. States are allowed to withdraw from treaties when necessary, while also respecting the rights and interests of other parties. It is required for states and the international community to comprehend the legal aspects of withdrawing from international agreements in order to effectively handle the challenges and implications that may arise from such withdrawals.

II. WITHDRAWAL FROM THE PARIS AGREEMENT

A. Overview of the Paris Agreement

The Paris Agreement, which was adopted on 12 December 2015, and entered into force on 4 November 2016²⁵, is a significant global climate agreement under the United Nations Framework Convention on Climate Change (UNFCCC). The Agreement's main objective is to restrict the increase in global average temperature to a maximum of 2 degrees Celsius

²⁴ AKSAR, Yusuf, Teoride ve Uygulamada Uluslararası Hukuk- II, Ankara, 2017. p. 211, "Responsibility of States for Internationally Wrongful Acts 2001", adopted by the Commission at its fifty-third session, in 2001, General Assembly resolution 56/83 of 12 December 2001, and corrected by document A/56/49(Vol. I)/Corr.4. https://legal.un.org/ilc/texts/instruments/english/draft_articles/9_6_2001.pdf (L. a.d. 14 May 2023)

²⁵ United Nations Framework Convention on Climate Change, Paris Agreement (UNFCCC, PA), 2015, UNTS Volume Number 3156, Retrieved from <https://unfccc.int/process-and-meetings/the-paris-agreement/the-paris-agreement> (L.a.d. 2 April 2023)

above pre-industrial levels, with a focus on limiting the rise to 1.5 degrees Celsius.²⁶ The Paris Agreement mandates the enhancement of UNFCCC implementation through the use of nationally determined contributions (NDCs), financial aid, and technology transfer.²⁷ The Agreement shall enhance worldwide ability to withstand the effects of climate change and encourage the advancement of low greenhouse gas emission growth.

The Paris Agreement includes several crucial provisions. According to Article 4 of the Agreement, every party must submit and frequently update their NDCs²⁸ that demonstrate their utmost efforts to decrease greenhouse gas emissions and cope with climate change. The Agreement shall establish a reporting system that is transparent in nature, which shall enable the parties to monitor and keep track of their progress towards achieving their NDCs.

According to Article 14 of the Paris Agreement, there shall be a regular global stocktake to evaluate the joint advancement towards the long-term objectives of the Agreement.²⁹ A stocktake shall be conducted every five years³⁰ to inform parties in updating and enhancing their NDCs.

According to the Paris Agreement, developed countries are legally bound to provide financial assistance and technology transfer to developing countries for their climate change mitigation and adaptation efforts.³¹ Cooperation on technology development and transfer is required to achieve the goals of the Agreement.³²

B. United States' Withdrawal and Rejoining

On 1 June 2017, the United States officially declared its intention to withdraw from the Paris Agreement.³³ As per Article 28 of the Agreement, a party may withdraw by providing written notice to the Depository after three

²⁶ UNFCCC, PA, article 2(1)(a).

²⁷ UNFCCC, PA, article 9, 10; BODANSKY, Daniel, "The Paris climate change agreement: a new hope?", *American Journal of International Law* Volume: 110, No: 2, 2016, p. 289.

²⁸ BODANSKY, p. 304.

²⁹ Paris Agreement, article 14. [chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://unfccc.int/sites/default/files/english_paris_agreement.pdf](https://unfccc.int/sites/default/files/english_paris_agreement.pdf) (L.a.d. 3 April 2023)

³⁰ Paris Agreement, article 14.

³¹ UNFCCC, PA, article 9, 10.

³² UNFCCC, PA, article 16.

³³ MOHAPATRA, Archita, "The United States' Withdrawal from the Paris Agreement and Its Implications", *Columbia Undergraduate Law Review*, Volume: 14, No: 1, 2017, p. 106.

years from the date of entry into force.³⁴ The withdrawal of any party shall be valid only after one year from the date of the Depository's receipt of the notification of withdrawal, or on a later date as specified in the notification.³⁵ On 4 November 2019, the United States officially submitted its withdrawal notification.³⁶ The withdrawal shall take effect one year later, on 4 November 2020.

On 20 January 2021, the United States, declared its intention to rejoin the Paris Agreement.³⁷ On 19 February 2021, the rejoining process was completed when the United States submitted its instrument of acceptance to the Depository.³⁸

The United States' withdrawal from the Paris Agreement, as the largest historical greenhouse gas emitter and a significant participant in international climate negotiations, may weaken the agreement and global climate action. The withdrawal has led to subnational actors, businesses, and civil society in the United States increasing their climate commitments and actions.

The United States' rejoining has been recognized by the international community as a renewed commitment to climate action and multilateralism. It is hereby declared that the United States shall reduce greenhouse gas emissions by 30% below 2005 levels by 2030³⁹, as per the new NDC.

C. Lessons and Implications for International Law

International agreements must have clear and effective withdrawal provisions, as demonstrated by the withdrawal and subsequent rejoining of the United States from the Paris Agreement. The Paris Agreement, in Article 28, has established a clear and expeditious procedure for withdrawal and rejoining, which permits the United States to alter its position on the Agreement in response to changing domestic priorities and leadership.

³⁴ MOHAPATRA, p. 106.

³⁵ Paris Agreement, article 28, paragraph 2.

³⁶ The United States Constitution is full of uncertainties about withdrawing from treaties. BRADLEY, Curtis, A./ HELFER, Laurance R., "Treaty Exit in the United States: Insights United Kingdom or South Africa?", *AJIL Unbound* Volume: 111, 2017, p 428.

³⁷ WEISS, Caroline, "America and the Paris Agreement: Withdrawal, Recommitment, and Future Implications", <https://www.climatecenter.pitt.edu/news/america-and-paris-agreement-withdrawal-recommitment-and-future-implications> (L.a.d. 8 April 2023).

³⁸ WEISS.

³⁹ USTYNOSKI, Anne, "Life Becoming Hazy: The Withdrawal of the United States from the Paris Agreement and How the Youth of America Are Challenging It", *Catholic University Journal of Law and Technology*, Volume: 28, No: 1, 2019, p. 117.

The case emphasizes the challenges and uncertainties that come with withdrawal provisions in international agreements. The withdrawal and rejoining of an agreement by a party in a short span of time may raise apprehensions regarding the stability and predictability of the international legal framework. The withdrawal of a major party from an agreement may raise questions about the agreement's efficacy in achieving its objectives.

International cooperation and commitment are critical in addressing global challenges such as climate change, as demonstrated by the United States' withdrawal and rejoining of the Paris Agreement. The withdrawal of the United States from the Paris Agreement is considered a setback for global climate action. However, other parties, subnational actors, businesses, and civil society within the United States have shown a strong commitment to the Paris Agreement and its goals.

It is hereby declared that the rejoining of the United States has reinforced the need for robust international cooperation and the importance of maintaining strong and consistent commitments to addressing climate change. The United States' renewed engagement in the Paris Agreement has invigorated global climate action, contributing to a more ambitious and collaborative approach to meeting the Agreement's objectives.

The Paris Agreement was created with the involvement of the principle of good faith. The Vienna Convention on the Law of Treaties has enshrined the maxim that every treaty is binding for its signatory parties and must be performed in good faith. The United States is bound to the good faith obligation by signing the Paris Agreement.⁴⁰ Although article 28 of the agreement has a withdrawal clause and the state party expressing the reason for withdrawal in this section is not required to justify, it is politically vital to justify. Presenting the justification will be an element that will damage the principle of goodfaith, which is the basis of international relations.⁴¹ Because when the reason for withdrawal is put forward by the withdrawing state, it will be important for the confidence of other states in the process of taking part in future multilateral treaties.⁴² Therefore, the withdrawal from the Agreement is considered a breach of this obligation from the perspective of the international community.⁴³ The withdrawal of the United States from the Agreement holds great significance as it reveals that the principles that

⁴⁰ MOHAPATRA, p.110.

⁴¹ BAYAR, p. 54.

⁴² BAYAR, p. 54.

⁴³ MOHAPATRA, p.110.

form the basis of international agreements are seldom enforceable in practical terms.⁴⁴

It is hereby stated that the withdrawal and subsequent rejoining of the United States from the Paris Agreement offer valuable lessons and implications for international law. Effective withdrawal provisions in international agreements are mandatory. The case raises concerns about the stability and predictability of the international legal framework. Furthermore, it is hereby established that international cooperation and commitment are crucial in addressing global challenges, particularly in tackling climate change. This highlights the necessity for sustained collaboration and ambition in this regard. Policymakers and legal scholars must draw on these lessons to comprehend the intricacies of withdrawing from international agreements and enhance the international legal framework for tackling global challenges.

III. WITHDRAWAL FROM THE EU

A. Overview of the EU

It is hereby declared that the EU is a political and economic union comprising of 27 European countries, which has its roots in the aftermath of World War II. The European Coal and Steel Community was established in 1951, and the European Economic Community was created in 1957. The Treaty of Maastricht, signed in 1992, legally established the EU. Its goals are to promote economic and social progress, assert Europe's identity on the international stage, and foster European citizenship.⁴⁵

Article 50 of the Treaty on European Union (TEU) stipulates the procedure for a member state to withdraw.⁴⁶ According to the Treaty, a member state must notify the European Council of its intention to withdraw from the EU.⁴⁷ After this notification, negotiations for a withdrawal agreement can begin. It is required by law that the withdrawal agreement must establish the procedures for the departing state's departure and delineate its forthcoming association with the EU.

B. The Brexit Case

⁴⁴ MOHAPATRA, p.110

⁴⁵ ROSAMOND, Ben, Theories of European integration, Palgrave Macmillan, 2000.

⁴⁶ European Union, Consolidated version of the Treaty on European Union. Official Journal of the European Union, C 202,2016, pp. 1-388, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12016ME/TXT&from=EN> (L.a.d. 9 April 2023)

⁴⁷ European Union, Consolidated version of the Treaty on European Union. Official Journal of the European Union, C 202, article 50.

On 23 June 2016, a referendum was held in the UK to determine its membership in the EU.⁴⁸ The majority of the voters favored leaving the EU. As per the referendum, the UK has officially initiated the withdrawal process by triggering Article 50 TEU on 29 March 2017.⁴⁹

The negotiations concerning Brexit were intricate and disputed, encompassing topics such as the privileges of EU citizens in the UK and vice versa, the monetary agreement, and the Irish border. The Withdrawal Agreement between the UK and the EU was ratified by both parties and became effective on 31 January 2020, following several extensions and domestic political unrest. As per the law, the UK entered into a transition period, which concluded on 31 December 2020⁵⁰, following which the UK lawfully departed from the EU's single market and customs union.

The political, economic, and legal implications of Brexit are significant for both the EU and the UK. As a result of Brexit, the EU has lost one of its largest member states and discussions on the future direction and integration of the bloc have been initiated. The EU shall adapt its institutional framework by reallocating the UK's seats in the European Parliament and reassigning the UK's European Commissioner portfolio.⁵¹

The UK is required by law to disentangle itself from EU law and institutions due to Brexit, while also legally negotiating new trade agreements and international partnerships. The decision to leave the EU through Brexit has brought to light significant internal consequences, revealing stark divides within the UK and prompting inquiries regarding its alliance with Scotland and Northern Ireland.

C. Lessons and Implications for International Law

It is hereby recognized that the Brexit case exemplifies the intricacies involved in separating from extensively interconnected multilateral agreements, such as the EU. The UK faced several legal, economic, and political challenges during the withdrawal process from the EU. Examples

⁴⁸ ARMSTRONG, Kenneth A., *Brexit time: leaving the EU-why, how and when?*, UK, 2017, p. 45.

⁴⁹ LARIK, Joris, "Brexit, the EU-UK Withdrawal Agreement, and Global Treaty (Re-)Negotiations", *American Journal of International Law*, Volume: 114, No: 3, 2020, p. 446.

⁵⁰ LARIK, p. 457.

⁵¹ KAUR, Prabh Simran/ KHATANA, Rohan, "Brexit and the Nature Treaty Negotiations and Withdrawal in International Law", *International Journal of Law Management & Humanities*, Volume: 1, No: 4, 2018, pp.109-110.

of challenges to be solved which statutory procedure has the potential to be adopted or ought to be adopted to ensure the goal? After Brexit, what role will the courts play in interpreting EU law?⁵² It is hereby declared that withdrawal from international agreements must be carefully considered, and well-defined procedures and legal frameworks must be in place to manage such processes.

International agreements must take into consideration and address domestic concerns and issues, as exemplified by Brexit.⁵³ The decision to exit the EU was based on concerns regarding sovereignty, immigration, and economic inequality within the UK. International agreements are necessary, as demonstrated by the Brexit experience.

IV. COMPARISON OF THE TWO CASES

A. Similarities in Withdrawal Procedures

International agreements must have well-defined mechanisms to manage potential disengagements, as demonstrated by the clear provisions outlining the procedures for withdrawal in both the Paris Agreement and the EU treaties.

The withdrawal process must be initiated by the respective parties through a formal notification. As per Article 28 of the Paris Agreement, it is mandatory for a party to provide a written notification to the Depositary. Similarly, Article 50 TEU mandates a member state to notify the European Council of its intention to withdraw.

A waiting period must be included before a withdrawal becomes effective, as per the withdrawal procedures. As per the Paris Agreement, a waiting period of one year is mandatory after the submission of the withdrawal notification. The EU treaties state that a two-year period must be observed after the notification, unless an earlier withdrawal agreement is reached or the European Council unanimously decides to extend the deadline.⁵⁴

⁵² QC, Richard Gordon/ MOFFATT, Rowena, Brexit: The immediate legal consequences, UK, 2016, p. 20.

⁵³ CHATTERJEE, Charles, "What lessons may one draw from Brexit?", *Amicus Curiae*, Volume: 104, 2015, p. 27.

⁵⁴ Official Journal of the European Union, C 306, 17 December 2007, article 49 A. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C:2007:306:TOC> (L. a. d. 26 March 2023).

B. Differences in the Context and Consequences

The withdrawal from the Paris Agreement and the EU has notable differences in context and consequences, despite procedural similarities.

According to the law, the level of integration among member states in the EU is significantly deeper than that of the Paris Agreement. The EU is a political and economic union that has a wide range of laws and institutions that affect various aspects of its member states' governance. The Paris Agreement is an international agreement that specifically addresses the global challenge of climate change. The disentanglement process in the Brexit case shall be deemed as more intricate and time-consuming than the US withdrawal from the Paris Agreement.

According to the law, the implications of the two cases differ significantly. Following the UK's withdrawal from the EU, it is mandatory to conduct a thorough examination and adjustment of its national legal framework, as it is necessary to separate from EU law and establishments. The US withdrawal from the Paris Agreement resulted in limited legal implications, as it mainly entailed discontinuing involvement in the agreement's mechanisms and obligations.

The impact of withdrawals on international agreements will result in consequences. The impact on the two international agreements will differ. The US withdrawal from the Paris Agreement shall not affect the accord's effectiveness, and it shall motivate other parties and non-state actors to enhance their climate commitments. Brexit has had significant implications for the EU, leading to internal discussions about the future direction of the bloc and requiring various institutional adaptations.

C. Implications for the Design and Implementation of International Agreements

It is vital to research the facts behind the withdrawals from the agreements, to identify the insufficient legal regulations, and to make proposals for removing the gaps in the international legal system. Moreover, it is important to explore the facts behind the withdrawals from the agreements. Due to this fact, it is essential to investigate the two cases that have received a lot of attention. All international agreements must have clear and effective withdrawal provisions to allow parties to modify their commitments in response to changing circumstances. International agreements must be carefully negotiated and drafted to consider the

implications of withdrawal provisions, as potential challenges and uncertainties may arise.

The international agreements must include flexibility and adaptability, as demonstrated by the Paris Agreement and the EU treaties, in order to effectively handle the potential withdrawal of parties and address any challenges that may arise during the disentanglement process.

The domestic concerns and issues must be addressed in the context of international agreements, as demonstrated by the Brexit case. International agreements must balance the interests of individual states with the collective goals of the agreement and must ensure that domestic issues are adequately addressed to foster long-term commitment and cooperation.

International cooperation is crucial in addressing global challenges. It is hereby declared that robust international collaboration is necessary and maintaining strong and consistent commitments to shared objectives is of utmost importance, as evidenced by the experiences of the US withdrawal from the Paris Agreement and the UK's exit from the EU. Policymakers and legal scholars shall utilize the aforementioned lessons to gain a deeper comprehension of the intricacies involved in withdrawing from international agreements. Furthermore, they shall strive to enhance the international legal framework for effectively tackling global challenges.

The examination of similarities and differences between withdrawal from the Paris Agreement and the EU is hereby mandated to contribute to a broader understanding of the dynamics and implications of disengagement from international agreements. The insights obtained from these cases shall be used to guide the conclusion and execution of future international agreements, and also to contribute to the ongoing discussions on the development and modification of public international law.

CONCLUSION

This article explores the topic of withdrawing from international agreements within the context of international law. Specifically, the Paris Agreement and Brexit are used as examples over part of the discussion. It is hereby declared that the analysis has uncovered both similarities and differences in the withdrawal procedures, context, and consequences of the aforementioned cases. Furthermore, it is acknowledged that there are lessons and implications for the design and implementation of international agreements.

It is hereby mandated that future international agreements shall be designed and implemented based on the policy recommendations derived

from analysis. International agreements must include provisions that enable flexibility and adaptability to changing circumstances, including the possibility of parties withdrawing. The provisions must be unambiguous and efficient, offering direction on the lawful processes and consequences of withdrawal while upholding the steadiness and foreseeability of the global legal structure. International agreements must strike a balance between the collective goals of the agreement and the interests of individual states, ensuring that domestic concerns and issues are adequately addressed. The aforementioned approach shall be implemented in order to promote enduring commitment and collaboration among states, thereby decreasing the probability of withdrawal and augmenting the agreement's efficacy in accomplishing its goals. International agreements must include robust enforcement mechanisms to ensure the compliance of all parties with their respective commitments and obligations. Provisions for dispute resolution, monitoring, and sanctions shall be included in the law to serve as deterrents against non-compliance and withdrawal.

The analysis presented in this article shall serve as a valuable foundation for further research on the topic of withdrawal from international agreements under international law. Future research must explore several directions, including expanding the comparative analysis to include additional cases of withdrawal from other international agreements, which will provide a more comprehensive understanding of the complexities and implications of withdrawal under international law. It is hereby mandated to investigate the impact of withdrawal from international agreements on the broader international relations landscape, providing insights into the political, economic, and strategic consequences of disengagement. The examination of legal frameworks governing withdrawal from international agreements, including the VCLT and customary international law, shall contribute to the development and refinement of the principles and norms governing withdrawal under international law. The research should build upon the insights and policy recommendations outlined in this article to enhance our understanding of the dynamics of withdrawal from international agreements. This shall contribute to ongoing debates on the development and reform of public international law.

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