HOUSE OF LORDS

Select Committee on the European Union

Financial Affairs Sub-Committee

Corrected oral evidence: Brexit: EU Budget

Wednesday 25 January 2017

2.05 pm

Members present: Baroness Falkner of Margravine (The Chairman); Lord Butler of Brockwell; Lord Desai; Lord Haskins; Baroness Liddell of Coatdyke; Lord Shutt of Greetland; Lord Skidelsky.

Evidence Session No. 7 Heard in Public Questions 61 - 67

Witness

I: Jens Geier MEP, Vice-Chair, Budget Committee.

Examination of Witness

Jens Geier MEP.

Q61 **The Chairman:** Mr Geier, it is a real pleasure to have you here with us today on the House of Lords EU Sub-Committee's inquiry into the impact of Brexit on the EU budget. This session is on the record, and we will take a verbatim transcript of proceedings, which will be published in due course. You will of course have the opportunity to correct any minor errors or misunderstandings. I should also say, at this point, that we of course understand that you are speaking in a personal capacity and not on behalf of the whole of the European Parliament. We are very grateful for you indeed for agreeing to see us today. Mr Geier, you previously said that, as a result of the depreciation of the pound, Brexit is already having an effect, because we can see what it looks like. How do you see resolving that problem? How do you expect it to be negotiated? I have a couple of follow-ups to that.

***Jens Geier*:** Thank you very much indeed. We are facing a minor but important problem with the EU budget, because of the decline of the pound sterling versus the euro. I think you are quite aware that the regulation is that 31 December 2015 was set as the date for the exchange rate of pounds sterling to euro for the budget of 2016. This morning, we had the first real working meeting on the issue in the budget committee. We got a very short report from the Commission saying that the estimated minus in the budget might not be as serious as presumed, because the pound sterling, at the end of December, increased in the exchange rate against the euro. We are waiting for the exact figures, and I would expect that we would cover a possible delta of income in the budget and payments in the budget by the so-called assigned revenues. That means that fines that have been collected by the EU, which normally at the end of the financial year would go back to the national treasuries, will remain in order to prevent a minus in the budget. That is the situation.

The political problem is that, until it stops being a member of the European Union, Great Britain has to fulfil its obligations as any other member state. That means the negotiated share has to come in. If the value of the pound compared to the euro drops, we will be lacking money, because we should get more pounds in order to finance the same amount of euros. The British position would, quite understandably, be to say, "Okay, we have fulfilled our duties on the terms of 31 December 2015". That is okay, because it is according to the rules, but it does not prevent us from having a potential minus inside the budget.

Then the question, which is a political one, comes up of who is to cover it. Given the political situation in Great Britain, I understand that the British Government and the British people will not be keen to be held to account for bringing in extra money, but nor are the other member states. It seems to be something like political ping-pong between the UK on the one side and the other member states on the other, as to who is to cover the costs. Having said that, the wisest idea would indeed be to take the fines. The result would be revenues would produce less money in the national treasuries but, compared to the other possibilities we have, this seems to be the wisest decision.

Lord Skidelsky: Could I ask a supplementary? Thank you, Chairman. That is a new position. That is just an inevitable result of not being in the single currency. What are you really saying there? It could go up or it could go down. Are you saying that it should always be adjusted in some way to fluctuations in the currency?

***Jens Geier*:** If the UK remained inside the European Union, we would find a way to cope with that problem. Given the fact that normally the exchange rate between the pound sterling and the euro is very stable, this seems not to be a problem. The markets are facing a situation in which the British economy is struck by Brexit, so the pound sterling goes down. I am afraid that we will have to cope with this ongoing problem in the years to come and that might cause a situation where, in starting the negotiations, the Commission might bring up this point and either not have a fixed date on 31 December of the year before, but more closely—let us say every three months or half-year—so that we avoid the struggle that, over a long period of time, the exchange rate changes considerably. That is what I am saying for the time we foresee. As you rightly say, this is the situation and what is now the case.

The other question, if I understand you correctly, is pointing at what will happen with the EU budget after the UK has left. Is that correct? Well, this is a point of view where I have a bit of a split position, being a European parliamentarian with some responsibility for the budget and being a German citizen.

The Chairman: Why do you not give us both views?

***Jens Geier*:** I was just going to say I will be completely honest with you. First of all, I am not a fan of the rebates at all. I do not like them and I do not support them. I know that the German rebate is linked to the British rebate, so Germany gets a rebate because of the British rebate, which is an issue for my Ministry of Finance in Germany. I have to tell you that I very much look forward to the situation when these rebates are gone completely.

You have a rebate. The UK is paying much less than it should give to the European budget, considering its economic strength and the resources situation that we have at the moment. There are two possibilities. One is that we go on like before, then somebody else has to cover the money that is gone due to the fact that Britain is not a member of the EU anymore. For obvious reasons that is not a position that makes Germany happy. That would mean that we have to cover the biggest part of that which is left by the UK, which is not a very popular or politically charming position for my country.

The other possibility is what is now proposed by the German Minister of Finance. I know that Mr Oettinger and his services are checking whether this is feasible, given the situation in the treaty. We would have had to negotiate a new multiannual financial framework beginning 2018, so we are expecting the new proposal from the Commission at the end of this year. This MFF should be in place and working from 1 January 2021.

Now, when Britain is leaving, what we normally would have is, at the very moment when the UK is out, the German proposal is that we would have a new MFF. That would make it necessary to start negotiating a new MFF in 2018, which will be in place at the moment the UK stops its payments. Then, we can put every issue that the EU normally pays for on the negotiation table again. It is not necessary that we support agriculture in the way we are doing today. It is not necessary that we do structural money in the way we do it today. That would be fair for the 27 member states left: that we renegotiate the finance streams and the negotiations given the fact that payments from the UK are lacking. Then we redistribute payments between the member states. That would be wise, but the question is whether the legal situation will allow us to take that way. Otherwise, we have to cope with the MFF as it is until it is finished on 31 December 2020. That would be the more uncomfortable situation for the 27 member states left.

Let me just add that, if I understood Prime Minister May correctly, which is a little difficult from time to time, Britain is interested in keeping its context with the EU in common research politics. That would mean that the EU will get a contribution from the UK on that, because it is impossible to expect the universities of Great Britain, which are of the highest quality, to get money for research from the EU when the UK does not contribute to the research budget. There will be some money coming in from the UK. That is what I would expect. Of course, there will be a lack of resources anyway.

Lord Shutt of Greetland: There is just one point I wanted to clarify. When you talked about 31 December 2015 and the pound/euro exchange rate then, it was not a rebasing, was it? That is something that happens every 31 December. It is getting worse at the moment then.

***Jens Geier*:** Lord Shutt, you are absolutely right; this has nothing to do with rebates. It is the rule that the EU provides for all the countries that are not inside the Eurozone. It is also due for Poland, Hungary and some other states. We have to fix a date as the reference for payments in Hungarian forints, Polish zloty and British pounds sterling in the budget.

Q62 **Lord Shutt of Greetland:** A further point is whether you have a view of how ongoing commitments could be affected by the work of the High-level Group on Own Resources.

***Jens Geier*:** Thank you again, Lord Shutt, for this important question, because this might solve a lot of our problems. Why? When you look inside the history of the EU, own resources paid from the national budgets via the instrument of the gross domestic product were never planned to have such volumes as they have today. The idea was that the EU has what we call in the European Parliament real own resources, which are customs and other instruments. This GDP instrument is only the top-up to cover the delta between own resources and the agreed needs of the EU. Customs have gone down in the EU and will go down further with every free trade agreement that we make. Other instruments have become weaker and weaker, and the instrument of GDP has risen in significance for the budget. That was never meant.

The member states did not play such a nice role here, because all the time they declined the EU's right to have additional own resources. I have to say that Britain played the leading role. I have had a close look at this with my own financial minister because, the last time I discussed that with him, he went, "I am very sympathetic to the idea of the own resources, but as long we have the UK, what can I do?" That was more or less a quote from Mr Schäuble. Now as the UK is leaving there is a new momentum behind the own resources, so it will be very interesting for me to see whether Mr Schäuble has only hidden behind the back of the British, to use a German expression, or if he is really a promoter of the own resources idea. What is meant?

The Monti report is agreed on anonymously by the representative named from the Council side. They agreed to this proposal. It means that we identify new financial sources for the EU, which would mean we have to see two things in close connection to that. First, nobody wants the man on the street to pay more. Secondly, the more own resources we have, the less money we need from the national treasuries. What could that be? Just imagine I go shopping in Germany and do my weekend shopping in the supermarket. I have a receipt with 19% VAT, which is of course the law over there. What would change if this invoice said not 19% VAT to the national German budget, but 18% to the national German budget and 1% to the EU? It would change nothing for me as a customer, but it would bring the EU a direct own resource. The more of this I have, the less we have to negotiate in the Council about net payers and net receivers, and this really painful debate would stop to a large extent. Nobody is interested in taking more money from taxpayers' pockets. There may be very minor indirect effects, but it would not even really be a problem for low-income people and the EU could rely on less money.

My personal theory is that the member states have one reason to deny that and that is a lack of control. As long as you have a situation that you put on the tab with the money or close down the tab with the money, you can have a direct influence on what the EU is doing or not. If we agree on a set of politics so that it is paid via the European budget that will be clear for seven years. The more we have direct own resources, the less we would have to address the national treasuries. To me, own resources would be a solution, as well as to the question of what happens to the UK contribution.

The Chairman: Thank you very much. That is an interesting debate and I think you will be rather pleased that Britain will not be there to obstruct it when it happens.

Q63 **Baroness Liddell of Coatdyke:** This issue of whether a member state is committed to all its obligations under the MFF for the full seven years has been one of the most controversial. We have had conflicting legal advice from lawyers, on the one hand saying yes, as you put it, the negotiated share has to be paid; on the other side, Britain can walk away on Brexit day and pay absolutely nothing. If that conflict comes to a reality, how would the issue be decided? If we assume that, on Brexit day, Britain is no longer covered by the European Court of Justice, who arbitrates in that kind of situation? A further point would be the provision within the MFF for it to be amended for a new member state. The phrase "unforeseen circumstances" is in there. Could you envisage that unforeseen circumstances framework being used for the United Kingdom?

***Jens Geier*:** That is a very tricky question, Baroness. Normally, we only have the case of a candidate state, so the EU becomes larger and everybody can prepare for it. Every state could have its own accounting on what that means financially. When Croatia entered the European Union, which was the last state to do so, we knew in advance exactly what it would contribute and what it would get. We just said that the other states would contribute to the European budget according to the same mathematics as before. Does this mean a little more money for the net payers? Yes, but this has already been decided at the very moment when everybody said yes to Croatia entering the EU. Now it is the other way round and we have no experience of that. I also asked the legal service of the European Parliament and it came up with the same answer. It said, "We simply don't know".

There are two possibilities. Possibility one is that we lower the MFF by the amount normally paid by Great Britain. What will that mean to the other member states? To use another German expression, we call that night of haggling when the MFF is finally negotiated between the heads of state the night of the long knives. At the end of the night of the long knives, every country goes home with what we call a national envelope, so every state knows exactly what it has to contribute for the next seven years and what it will get. These national envelopes are still in place, in that they are still part of the legal obligations and mechanism. Of course, the net payers will say, "Okay, we can just lower the MFF by the British contribution", and the net receivers will say, "Sorry, we have a national envelope, which sets what we have to get until 2020". It does not say that this is under the condition that we are 28 members. There is no clause for that and we are expecting the money.

It will be a political solution and my feeling is that Mr Barnier will enter the negotiation saying, "This is an obligation that the UK signed when making the MFF. Whether you are leaving or not, our expectation is that you make a proposal for how you want to fulfil your obligation". That would be my negotiating position at the beginning, then it will be interesting where the negotiating partners meet. There seems not to be a legally clear answer. Yes, we have Article 50, but there are only a few sentences inside and there are no further regulations behind that. My feeling is that the Commission will take the position that, with the MFF, the UK has signed an obligation until 2020.

Baroness Liddell of Coatdyke: What if Britain says, "No, Article 50 is supreme over the MFF, so we are off. Goodbye. We are not paying"? Who adjudicates if the European Court of Justice is no longer relevant?

***Jens Geier*:** I do not have an answer to that, sorry.

Baroness Liddell of Coatdyke: What about the unforeseen circumstances clause? Is that of any relevance to the UK's situation?

***Jens Geier*:** I am not aware of this clause, so I really cannot say something witty about it, I am afraid.

The Chairman: For your information and for the record, it appears to be Article 17 of the MFF regulation.

Q64 **Lord Haskins:** Just putting some flesh on to the funds affected by this, we have been given various outstanding potential obligations that the UK might have, forgetting the legal side and bearing in mind its commitment to the annual budget and MFF, of between a figure of €20 billion and €50 billion. I would be interested to know how much of that is incurred in the critical year between 2019 and 2020 and how much of it is afterwards. We have been told that there are theoretical commitments after 2020 even, as I think Mr Schäuble has said, right up to 2030, but most of that liability is in that first year. Is that not right?

***Jens Geier*:** I only have some theoretical thought about that. I read in a memo from the Bundestag, and I am trying to investigate, the figure that British obligations to the EU might sum up to €50 billion to €60 billion. Today, I only have some theories about what makes up this sum, but please follow me on one theory. Let us imagine that, outside there, is a faithful British civil servant to the EU, who will go into his retirement in 2019, at the very moment when the UK leaves the EU. This gentleman might happily live for 30 years and his pensions will have to be paid by the EU budget, without any contributions from the UK, but in favour of a UK citizen. Would that be fair? I do not know.

My personal feelings are that the United Kingdom might have a certain responsibility to at least contribute to the pensions of UK citizens who have been in EU services. That could be one of the issues that might be a point of negotiation between the EU and UK, even after the current MFF is finished. That would be one of the obligations that I would see first-hand.

Lord Haskins: Lord Butler is going to get into this in detail. Aside from that, it is a relatively small figure, we understand, although it is a very emotive figure. It is a relatively small figure out of the €50 billion that we talked about. Is most of that not related to the final year of the MFF, the financial year 2019-20?

***Jens Geier*:** This is of course a fact. If I know the correct figures until the end of the MFF, if we keep it all as it is today, the EU would normally expect something around €40 billion.

Lord Haskins: Is that from the UK in that last year altogether?

***Jens Geier*:** No, altogether from now on, so 2017, 2018 and 2019. Let us just imagine that the UK leaves some time in 2019. That means we have one year and a half until the current MFF is finished. If I recall the figures correctly, the UK net contribution including the rebate is about €10 billion to €11 billion. That means you end with €50 billion.

Q65 **Lord Butler of Brockwell:** May I pursue the question of pensions? You talked about a UK national retiring on 30 April 2019 and their pension being paid. Should the UK not have some obligation to contribute to that pension? Of course, there might be an American employee of the institution who retires on 30 April 2019. The Americans have never made any contribution to the EU or helping with the pension. Why should the UK have a greater obligation than the American Government for the pension of that employee?

***Jens Geier*:** I am afraid there is no American employee in the EU, besides somebody on very special terms, like being a national expert employed for only two years, let us say. Normally, you can be a civil servant inside EU services only when you are a citizen of one of the EU membership states. Yes, we invite national experts from third countries to serve inside EU services for quite a while. It is possible, but it is not the rule. The rule is that to become a civil servant in EU services you have to be a citizen of the EU.

Lord Butler of Brockwell: Thank you, but the point remains that the pensions liability is a liability of the EU, not of the member states. It is a liability that is paid by the member state, year by year, in the budget. Why do you think that the UK would have a continuing liability, even after we have left the EU?

***Jens Geier*:** You have all the services that the EU provides. "Taken" is the wrong word, but I do not know any better in English. They have been taken by the EU, so you get something out of the EU. To give you an example, there have been some studies done in this house on what we call "the cost of non-Europe". Think of the work of an EU agency. If you are an entrepreneur and you have a new product, in order to bring it to the European market legally, it has to be checked. Instead of doing 27 checks with countries where you want to export your product, you just go to one EU agency. If they say, "This pharmaceutical", for example, "is legal in the European market", the enterprise can sell this medicine in 28 countries, at the moment. For this enterprise, this is a really positive issue, because it saves money compared to a situation where it has to license this product in 28 countries individually.

If you sum up these services altogether, the EU is a saving of €1 trillion to all member states together, when you count it up. Since Great Britain has had positive results from that, it is not unfair that you also continue to have the obligations from that. There might be British citizens still in service after you have left. This is an issue to be negotiated. All these things are on the positive side. I know that not everybody in Great Britain sees these positive sides or has the feeling that this is really an advantage to the British economy or British citizens. Nevertheless, they are there. Since you have enjoyed all these positive things, I do not think it is unfair that you take some burdens that result from being part of the club.

Lord Butler of Brockwell: I assure you I do see the benefits of that. Of course, while we have been a member we have had those benefits and we have been paying a contribution. It may be that one of the things that will be negotiated is that we will go on getting benefits of those sorts. Maybe it will be a matter for the negotiation if we should continue to pay a contribution to pensions or something else. Would you see it that way?

***Jens Geier*:** Yes I would, more or less.

The Chairman: If I could just pursue that point briefly, we took evidence from another witness, a legal expert, who told us that the bottom line is that Article 83 of the staff regulations expressly states that benefits paid out of the pension scheme are to be charged to the EU budget and that member states guarantee them jointly. If the other legal advice that we have received is correct, on ceasing to be a member, the United Kingdom ceases to have liabilities, because they are not stated in the Article 50 sub-clauses. In that case, we can see your point about fairness, although fairness is subjective, but do you know of any legal basis for the liability of pensions continuing? The employee is not recruited on the basis of being Irish or British or German; the employee is recruited on the basis of passing certain competitive tests, evaluations and interviews. They may be a citizen of the EU overall, but they are not recruited on a quota system attributable to member states.

***Jens Geier*:** Yes, there is no quota in the treaties. Everybody who works in this institution knows that, at the very moment when a new member state enters the EU, every service looks after citizens to be recruited to the service. When Croatia entered the EU and you applied for a job in the EU institutions, you could almost be sure you would be recruited right away. That is the one thing I have to say about that. The other issue is of course the EU institutions conduct these concours on a national base. When I was much younger than I am today, I participated in a concours for Germans and Austrians, which all go inside this famous blue book, when you pass the concours. The services draw out of this reserve people they might hire, where the skills are met. In every directorate-general, here or in the Commission, the commissioners or the directors-general have to look not at the representation, but that the balance of citizens from the different countries is not disproportional.

I have heard a lot of debates, and sometimes even the Germans come in saying, "When you distribute jobs here and there, please take care of the national balance". The citizens or the MEPs from eastern European countries are much keener on that than the citizens of member states that have been inside the EU for longer, for absolutely understandable reasons. There cannot be a director-general from Croatia today, because Croatian citizens started their career two years ago. Before that, they were not eligible to be civil servants of the EU. Normally, these people have a little faster a career than others.

Now, it is the other way around; we have very effective and faithful civil servants from the UK inside our services and they cannot be kicked at, at the very moment when the UK leaves the EU. That would be nonsense. There are individual solutions. A lot of them are seeking either Belgian or Irish citizenship in order to stay citizens of the EU, but we all have to take care about what happens to UK citizens inside the services. To just let them go would not be a solution.

The Chairman: We were just trying to get some legal clarity on it, thank you.

Q66 **Lord Desai:** You have already talked about whether the UK will continue to pay for things like research infrastructure. If not, could the UK universities that were promised money running beyond 2019 sue the EU for non-fulfilment of contract?

***Jens Geier*:** Lord Desai, let me ask in front of which court.

Lord Desai: Maybe it would be the European Court of Justice.

***Jens Geier*:** That is an interesting point, but the UK does not accept the rulings of the Court of Justice any more, but you are asking me whether the UK can sue the EU in front of that very court.

Lord Desai: Parts of the UK have a contractual promise from the EU.

Lord Butler of Brockwell: The point is that UK individuals could use the services of the European Court.

***Jens Geier*:** I have no idea. I am no legal expert.

Lord Butler of Brockwell: We have been advised that.

Lord Desai: You are flying the kite.

***Jens Geier*:** Let me put my answer this way. There is a possibility—look at Norway—that you are out of the EU, but you make contributions to the budget. Norway has decided that it does not want to become part of the EU, but it wants full access to the common market. That means that, every year, it gives €550 million to the budget only for regional funding and research policies, because these are the only parts of the EU politics of which it is a part. The reason is that the EU regional fund was invented at the very moment that we started the common market. The weaker countries said, "Please give us the balance for not having the possibility any more to stop your goods and services by customs taxes, technical obstacles and so on", and because of that Norway is paying.

What does that mean for research policy? That means for research policy that, when the UK would like to stay inside a European area of research, which I would very much welcome, it will have to contribute to the costs of it. That means, if I have understood you correctly, Lord Desai, that it also of course applies to installations, like a town or whatever. What will be an interesting question to ask is what happens to the common research project in France, the nuclear fusion project. The EU is one member, plus Korea, plus Japan, plus India, plus Russia, plus some other countries. If the UK pulls out, the interesting question for example to JET, in the south of England, is if the UK will stay inside that project as an individual country or if it will pull out completely. You have very interesting legal points, because we have started so many common projects that I am afraid the UK will have to make up its mind on all of these long-running research projects about whether it wants to continue to stay in, on an individual basis and what that means for its contributions, or to pull out completely. I hope that answers your question.

Q67 **Lord Skidelsky:** When the UK leaves the EU, it will cease to be a shareholder of the European Investment Bank, I imagine. Is there any way it could go on receiving investments from the European Investment Bank without being a shareholder?

Jens Geier**:** Receiving, yes. I was a little afraid of this question, because you had it on the outline that you sent me. My assistant and I have tried to work on an answer and we could not find any. On the receiving side, yes it could. The EIB lends money to third countries that have certain statutes with the EU, for example Morocco. Why should that not be possible for the UK if you keep connected to the EU in any possible way? Receiving money is possible.

Lord Skidelsky: Of course, the UK would then lose control over the direction of the policy.

Jens Geier**:** Of course it would.

Lord Skidelsky: Investments would presumably be made on the basis that they are now, on whether they are commercially viable or some criteria of that kind.

Jens Geier**:** Of course, the EIB is the bank of the EU and it is owned by the member states. If the UK ceases to be an EU member state, you also have to pull out of the EIB and you will have no further control of the policy of the EIB for investments. That is for sure.

Lord Skidelsky: What would the pulling-out actually entail—selling your shares, and at what price?

Jens Geier**:** This is something I cannot answer at the moment, because I am afraid that has to be negotiated between our Finance Ministers. As far as I understand, the UK gives money to the EIB. I would presume that it has to get its money back. On the other hand, it will also lose control of the investments. What I said is that there is the possibility in theory, but it is due to the course that the UK takes, to stay a receiving country from the EIB. The precondition is that you stay connected to the EU, in any way. Morocco does not get this money because we like Morocco. Morocco gets the money because it is subject to the neighbourhood policy, so the EU has an interest to work on economic progress in Morocco. That is not necessary in the UK, because you are very much an economically progressed country. If you cut all the ties completely, besides research policy, which would limit EIB contributions and money to that sector, it would be possible.

The Chairman: Your fellow countryman, Werner Hoyer, has suggested in the media that it would be possible for the UK to retain membership of the EIB as a full member, post-Brexit, by changing the rules of the EIB. Do you foresee that as a practical possibility?

Jens Geier**:** That is a difficult question. It may be this is more practical than pulling out, only in terms of practicability. Nobody likes to see the UK leaving the club. That is for sure. If the impact on the other countries is a small one and everybody agrees that the ties via the EIB are to the benefit of all, I would answer why not. On top of that is saying that this is the bank of the EU and, if you are not a member of the EU, why would you like to stay a member of the EIB? If the UK decides to keep that as a negotiation option, it will be an interesting negotiation because every individual state of the 27 remainers will have to agree on that. It may be that some might feel uncomfortable about it.

The Chairman: Mr Geier, thank you very much for coming to speak to us today. We really appreciate that and it has been very valuable hearing your thoughts on Brexit.

Jens Geier**:** Thank you very much. You are very welcome.