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Brexit and its discontents

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In the weeks following June 23rd, the day of the historic Brexit vote, it seemed as if the United Kingdom was on the brink of dissolution. Exasperated by the prospect of Scotland being dragged out of the European Union against the clearly expressed will of its population (62 percent voted “remain”), Scottish First Minister and leader of the Scottish National Party Nicola Sturgeon announced the preparation of a second independence referendum, which – if successful – would sever Scotland’s ties with the UK, and keep it in the EU. Emboldened by SNP’s move, Sinn Fein’s deputy First Minister of Northern Ireland Martin McGuinness called for a border poll on the unification of Ireland. His line of reasoning was the same as Sturgeon’s: the majority of voters in Northern Ireland voted “remain” (56 percent) and would not be forced out of the EU by English and Welsh “leave” voters. Less than two years after the original Scottish independence

referendum Downing Street was faced with a new wave of secessionism and separatism.

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It was generally accepted that the surprising result of the plebiscite on UK’s EU membership might persuade a portion of the “no” voters from the September 2014 Scottish independence referendum to change their minds and tip the scales in favour of secession. Namely, a considerable number of Scottish

“no” voters in 2014 opted for the continuation of the union with England precisely out of fear that an independent Scotland would have to exit the EU and renegotiate its admission into the club. SNP’s rationale after June 23rd was that these people would now naturally join the pro-independence camp and help it pass the 50 percent hurdle. However, polling conducted by YouGov during the summer showed that 50 percent of Scots opposed a new referendum on independence, while only 37 percent supported it. If a new referendum was to be held nevertheless, 54 percent would vote against independence and 46 percent in favour – a shift of only one percent point compared to the original referendum which ended with the result 55 percent to 45 percent.

“National Conversation” on independence

Faced with these numbers, Scotland’s First Minister announced at the beginning of September the start of a 3-month long “National Conversation” on independence, conceived as a listening exercise in order to ascertain the prevailing doubts and fears concerning possible Scottish statehood. Sturgeon said: “The UK that Scotland voted to stay part of in 2014 has changed – and so too have the arguments. That’s why I believe it is right that our party does now lead a new debate on independence. We must not assume that people’s views – yes or no – are the same today as they were in 2014. Instead we must engage the arguments with a fresh eye and an open mind. And before we start talking we must listen ... We want to understand in detail how people feel now about Europe, Brexit and independence. We want to know the concerns

that people have and the questions they want answered. We want to build, if we can, a consensus on the way ahead”. The national survey will be conducted in a face to face manner by SNP activists, who are supposed to speak to five people per month for three months, and by the party’s parliamentarians who are given the assignment to hold town hall meetings across Scotland.

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The launch of a listening exercise instead of a new “Yes” campaign was interpreted by the Tory and Labour opposition in Scotland – both explicitly against Scottish independence – as a roll back from any real intentions by the SNP to hold a second independence referendum any time soon. Indeed, a few days into the “National Conversation”, the Scottish First Minister once again softened her stance by saying her party would not insist on a new independence referendum in the case of a “soft Brexit”, i.e. should the UK remain in the European Single Market upon leaving the EU. Thusly, the earlier demand of Scotland’s continued membership in the EU was now replaced by its access to the single market. On September 7th the party published its official statement on the matter: “The SNP is clear that the best outcome, not just for Scotland but for the whole UK, is to remain a member of the single market ... For businesses in

Scotland, being in the single market means being able to sell goods and services to 500 million people, without paying any tariffs and without having to adhere to completely different rules in each country ... Every sensible economic commentator recognises that leaving the EU will weaken our economy. This would be compounded if the Tories took us out of the single market as well".

The trouble with the European Single Market (28 EU member states plus four EFTA member states – Iceland, Liechtenstein, Norway and Switzerland), however, is that it implies the free movement of goods, services, capital and people; the latter being the principal concern for many “leave” voters during Brexit discussions. From their point of view, leaving the EU wouldn’t make very much sense if workers from Central and Eastern Europe continued to have open access to the British labour market. In addition, a “soft Brexit” would mean that the UK is obliged to keep implementing EU laws relating to the single market, without having a say in drawing them up – an even more extreme departure from the principle of national sovereignty. Therefore, it’s not at all clear whether Theresa May’s Conservative government will pursue a “soft” exit strategy from the EU, even under the threat of a repeated independence referendum in Scotland.

Alternative solutions

So far we have discussed two possible outcomes that receive the biggest media attention: Scotland and Northern Ireland leaving the UK and remaining in the EU (Scotland through independence and Northern

Ireland through reunification with the rest of Ireland), and Scotland and Northern Ireland remaining in the UK due to its continued inclusion in the single market. Yet there exist several alternative solutions that deserve closer attention, even though their implementation would require thinking (and acting) outside the box.

It’s rarely mentioned that the three Crown dependencies of the UK – the Isle of Man, Guernsey and Jersey – and thirteen out of fourteen British Overseas Territories are not part of the EU (Gibraltar being the only exception). This means that already today parts of UK territory belong to the EU and parts of it don’t. Hence, the democratic conundrum concerning Scotland and Northern Ireland – two constituent countries of the UK being dragged out of the EU against the wish of their voters – could be resolved by allowing them to remain within the EU, even though the UK as a whole is bound to leave. Irish political scientist Brendan O’Leary explains that Scotland and Northern Ireland could retain their representatives in the European Parliament and share a single commissioner in the European Commission, whereas they would not be able to fill the posts in the European Council and the Council of the European Union. They’d have to keep the Pound sterling instead of adopting the Euro and wouldn’t be able to join the Schengen Area. That way, Scotland and Northern Ireland would be able to remain in both the EU and the UK (O’Leary doesn’t elaborate whether the same could apply to Gibraltar, where an overwhelming 96 percent voted “remain” on June 23rd).

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Another solution, at least for Northern Ireland and Gibraltar, would be the establishment of two condominiums. By sharing sovereignty over Northern Ireland with the Republic of Ireland and over Gibraltar with the Kingdom of Spain the UK would maintain control over these territories and still allow them to remain in the EU. In 2002, Gibraltarians rejected almost unanimously the idea of a British-Spanish condominium (99 percent voted against), but in light of Brexit and Gibraltar's strong pro-EU stance it is conceivable that the shared sovereignty solution might be reconsidered. The Good Friday Agreement of 1998 does not provide the basis for a British-Irish condominium over Northern Ireland. Instead, it sanctions the possibility of Irish reunification in the case that such an act is endorsed by majorities in both jurisdictions on the island. However, it should be stressed that the Agreement of 1998 has been reached in a completely different context, with all signatories belonging to the EU and depending heavily on its generous PEACE Programme for reconciliation in Northern Ireland. The new reality of the UK leaving the EU calls for a thorough reevaluation of the Agreement and perhaps the introduction of shared sovereignty as a possible solution. Obviously, the condominium mechanism doesn't apply to Scotland.

The last solution to be mentioned here is the three-state union proposed by Fintan O'Toole in The Irish Times. O'Toole argues that after the Brexit vote it has become apparent that three out of five parts of the Atlantic archipelago (Scotland, Northern Ireland and the Republic of Ireland) see themselves as belonging to the European family of states, while two of them (England and Wales) don't. Consequently, the three parts that wish to remain in the EU need to reconsider the way they relate to each other. In O'Toole's view "leaving the European Union is not a detail of policy – it is a seismic and historic shift in political identity. The people of Scotland and Northern Ireland do not and will not consent to that shift. And the people of the Republic were not, of course, asked to consent to changes that affect them so profoundly". Therefore, a three-state union including Scotland, Northern Ireland and the Republic of Ireland should be brought into existence. This union would keep Scotland in the EU, preserve Northern Irish double identity and neutralize the threat of a restored division of the island.

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Conclusion

In this paper we have established five possible outcomes of the Brexit quagmire:

1. Scotland votes for independence in a new independence referendum and Northern Ireland decides to reunite with the Republic of Ireland in a border poll; both former countries of the UK remain in the EU.
2. The UK stays in the European Single Market after leaving the EU; Scotland and Northern Ireland are satisfied and nationalist parties in both countries abandon their secessionist/separatist agendas.
3. Based on the results of the Scottish independence referendum (2014) and the results of the UK EU membership referendum in Scotland and Northern Ireland (2016), both countries are given the option to remain in both the UK and the EU.
4. The UK agrees with the Republic of Ireland and the Kingdom of Spain on shared sovereignty over Northern Ireland and Gibraltar, allowing these territories to remain in the EU.

5. Scotland and Northern Ireland leave the UK and form a new three-state union with the Republic of Ireland, enabling the first two countries to remain in the EU.

Of course, there is yet another possible outcome, but it was intentionally left out from the list due to its complete disregard for the manifested aspirations of the people in Scotland, Northern Ireland and Gibraltar regarding EU membership. In this worst case scenario, they are forcibly dragged out of both the EU and the European Single Market by an uncompromising government in London that refuses to authorize referenda on Scottish independence and Irish unification. Clearly, such an outcome would foment a great deal of dissatisfaction, perhaps even triggering a new era of Troubles in Northern Ireland, and Theresa May's cabinet would be well advised to avoid playing a zero-sum game with explicit winners and losers. After all, the UK is a plurinational state and as such it must find solutions to critical issues that satisfy all of its constituent parts.

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