The future of the EU after Brexit: Reform or Further Disintegration?

Helgard Fröhlich

Great Britain has voted: 51.9 per cent voted to leave the EU, while 48.1 per cent were in favour of staying; the voter turnout was 72.2 per cent.\(^1\)

The result is clear, even if the majority is not overwhelming. As with the Scottish Referendum regarding independence from the United Kingdom (September 2014), a vote has been cast, but none of the underlying problems have been resolved. On the contrary, the situation is more difficult than before, and EU reform is more necessary than ever! Just as the asymmetric and incomplete devolution of Scotland (and other regions) since 2014 has caused problems and intensified centrifugal forces within the UK, the Brexit referendum has also once again brought deep contradictions to the political surface with full force.

In these turbulent days, one reads that this is a turning point in the history of European integration. If the 23\(^{\text{rd}}\) of June 2016 is to become a turning point - and does not lead to the disintegration of Europe - an honest and thorough analysis has to follow. Not only is Great Britain in a difficult situation, but the EU as a whole. The United Kingdom is deeply divided over the European question. Still technically a member state, how will a future working relationship with Great Britain take shape? Which new measures will be found according to TEU Article 50? Possible scenarios – Norwegian, Swiss or other models – exist,\(^2\) but the fact is that neither the UK nor the European Commission had a plan B. With regard to the overall situation that led to the referendum and the Brexit crisis, and despite the

\(^1\) EU referendum. Results in full http://www.bbc.com/news/politics/eu_referendum/results (last access 29.6.2016).

package of concessions\(^3\) arranged in February 2016 between Cameron and the EU (which will now not become valid), the basic question on the future of the European Union, the “*quo vadis Europe?*”, remains unanswered. During the referendum debate I, the “*quo vadis*” question, and, in turn, a positive vision for Europe was never addressed by either the Leave or the *Remain* supporters. Nevertheless, this question has existed for a long time, especially since the EU has found itself in a state of continuous turmoil due to the financial crisis. The frequent answer, “More Europe”, has not only failed to convince the British. It has also failed to persuade other Europeans, as has a series of other questions: Which Europe? (What should it look like?) In which areas do we need more Europe? In which do we need less? How much differentiation can the EU stand/manage and how much does it need?

Despite the current discontent, Great Britain has been and remains an important European partner. It has the second largest national economy in the EU and as such has been an important net contributor. If a continued access to the domestic market is negotiated with the EU, Great Britain – like Norway – will probably have to continue to pay contributions. However, even though the circumstances will have changed, as a nuclear power with a permanent chair on the UN Security Council and as a founding member of NATO, Great Britain will hold its weight within NATO and therefore still exert influence over the EU’s Common Foreign and Security Policy in one way or another.

Moreover, the United Kingdom, albeit an island nation, has grown to be an organic part of our European community. In the Second World War it played a key role in fighting for our shared values of *Freedom* and *Liberty*, thus laying the foundation for a peaceful development and European integration. As Angela Merkel quite rightly emphasised in her 2014 speech to the British Parliament, “Yes, it is true and cannot be repeated often enough: the United Kingdom has no need to furnish proof of its commitment to Europe and its basic values.”\(^4\) In the current situation, this, too, must be remembered.

We still share those common values, even if we demonstrate a lack of unity in terms of following the rules of the institutional game within the


EU framework or in relation to the goals and areas of joint action. And the point that David Cameron made in his Bloomberg speech in 2013 is indeed still valid: This framework must be measured according to the degree it serves its citizens - with or without the UK. This is common sense in the most literal British meaning, and it should be the foundation for all future procedures.

A Reconsideration of the British Question in the Context of EU Reform: First reflections

Article 50 of the TEU states that the United Kingdom must officially declare its desire to leave the EU, but it does not set a time frame. The institutions of the European Union followed by the Heads of State and government have expressed their regrets at the British decision and their wish to start the negotiations soon saying, “There is a need to organise the withdrawal of the UK from the EU in an orderly fashion.” One need not be clairvoyant to predict that the negotiations will be difficult, and not only between the UK and the EU 27. There will also be strong disagreement between the EU 27 themselves before a common negotiating position is reached. “The European Council will adopt guidelines for the negotiations of an agreement with the UK.” It is likely to be a turbulent process. There is already disagreement. Should negotiations be hard fought and quick or rather sober-minded and reflective, without excessive time pressure? Both positions reflect varying interests.

The EU 27 have announced that an informal meeting of the heads of state and governments will be held in Bratislava in September, 2016. The

8 Ibid.
coming weeks will reveal the guidelines to be developed. There is a need for serious contemplation. Which issues need to be considered?

- The Brexit crisis has brought into focus a long-standing problem which can no longer be ignored by the political elite: that of the consent of the British and European populations with regard to European integration. However, analysing the reaction of the people is not simply a matter of identifying anti-EU positions, but also to acknowledge the diversity and diffuseness of the fears: social decline, globalisation and the sense of the loss of homeland. A better explanation of Europe will probably not console the individual citizen. The community’s lack of legitimacy must be overcome.

- The question of EU reform remains virulent, indicating that there was already an urgent need for reform before the referendum. The question of a mutual “where to” for the future of the EU 27 not only remains important, but in the light of the latest shock to the EU with the Brexit vote, it is now even more urgent for the remaining members to forcefully promote the long-announced reform of the EU. Some argue for a complete relaunch, others for further reforms. The most sensible approach would be to discuss the “where to” and “how to go on” with the Britons as well. What does an “ever closer union” mean and how is this objective to be defined after Britain’s decision to leave? Which differentiations in the European integration process are needed and useful in order to secure lasting and sustainable wealth in a peaceful and sustainable environment for our peoples: gradual integration?; multipaced integration?; a core Europe? How fundamental should and must the reform be? For several years now, the EU has been in crisis mode. The debate over a reform of the EU must consider the EU crisis in different domains (the euro crisis, the refugee crisis, crisis in citizens’ support, and now the Brexit crisis). Again, the “we need more Europe” must urgently be clearly specified to avoid further turmoil and a revival of populist-nationalist sentiments within the EU 27. A courageous approach is needed, despite the fear that the necessary changes to the contract could open up a Pandora’s box.

• A self-critical view of the EU on the debate of the referendum is essential. The EU 27 have backed off from comments and statements in the last few months for fear this would be perceived as “intervention by Brussels” and counterproductive - and was therefore a correct decision. However, that all the parties involved were probably aware of the fact that the so-called “New Settlement” that resulted from the renegotiation between the EU and UK in February 2016 was, in the best case, something that would somehow soften the voices of the Euro-sceptics in Cameron’s own party and give British citizens the impression that EU-UK relations had indeed been completely renegotiated and regulated.\(^{10}\) The EU 28, including Cameron, were hoping that they would, be able to once more “muddle through”. Next to commitments to the four fundamental freedoms of the internal market as a matter of principle, one could read that other countries, too, might consider using the emergency brake and reduce social security benefits for EU migrants – one of the previous concessions – in case the agreements come into force. Is this going to strengthen the citizens’ trust in the EU? Probably not! A joint effort in allocating the refugees and an agreement on distribution quotas, which are still inadequately regulated, would have probably made a more tangible contribution to a successful joint action.

• The British Brexit debate will remain an issue in domestic politics for a long time to come. Never before has so much attention been paid to European issues. In Great Britain, the populist pro-Brexit campaign focused primarily on EU migrants rather than on refugee flows from outside the EU. The Conservatives were not able to keep their election promise to limit net immigration to under 100,000 per year.\(^{11}\) In this context, the question of social welfare benefits for EU migrants – despite the “emergency brake” measure conceded by the EU in February 2016 to temporarily reduce these benefits – became one of the dominant topics of the Brexit supporters. Beyond this, the discussion was


\(^{11}\) The 2010 campaign promise to reduce net immigration (immigration minus emigration) to under 100,000 per year heated up the Brexit debate fiercely and became one of the UKIP’s main points of argumentation. See: Alan Travis, Net migration to UK soars by 39% to 243,000, The Guardian, 28.8.2014 https://www.theguardian.com/uk-news/2014/aug/28/uk-net-migration-soars-to-243000-theresa-may (last access 4.7.2016).
defined by emotions (‘I want my country back’) and tabloid hostility, and both sides linked the consequences of remaining or leaving to horror scenarios devoid of any positive prospects. The flimsiness of the promises and scenarios was made apparent in the days after the referendum. Examples include the repudiation of the promise that all EU contributions could thenceforth be invested in the Public Health Service and Nigel Farage’s resignation as head of the UKIP on July 4th. The atmosphere was and remains heated, reaching a negative climax with the murder of the pro-European House of Commons member Jo Cox on June 16th. Ongoing demonstrations after the Brexit vote demonstrate the dissatisfaction of British EU supporters. Subjects like EU labour migrants and, of course, the refugee flows remain on the agenda after the referendum, also in other European countries. At the summit held on June 28-29 - after the Brexit vote - the Heads of State had no choice but to appreciate that the flow of refugees in the central Mediterranean area had not decreased.

- How much weight does this referendum hold? Unlike referenda in other European countries, the Brexit poll was only consultative and not binding. According to British constitutional understanding, this was the only option owing to the basic principle of the “undivided sovereignty” of parliament. Since the vote to leave, doubts regarding the usefulness of referenda in general have been expressed all over Europe. But it is not referenda that are to blame! For a meaningful analysis of the situation we should examine the responsibility of those politicians and elites who exploited the Brexit poll to play political power games. The 2011 European Union Act was a reaction to the ratification of the Treaty of Lisbon under a Labour government. In the 2010 election

---

campaign, David Cameron promised to make further amendments to the European treaties (‘power transfer to Brussels’) contingent upon a referendum. Later Cameron tried to appease the critics in his own party, who – facing the success of the UKIP party in regional and European elections – demanded a more Euro-critical position from the Conservative Party leadership. In the end, UKIP and the damaging quarrels within the party, were to be kept in check and contained by the pseudo-concession, “We will renegotiate, and then the people will decide in a referendum”. The European Union Referendum Act of 2015 foresaw an in-out referendum by 2017 at the latest. So what was actually voted on? Renegotiate and referendum was the promise Cameron made to the British in the Bloomberg speech on January 13, 2013. In reality, time constraints alone rendered renegotiation of the EU treaties unrealistic. During the European Council on the 18th and 19th of February 2016, the Heads of State accepted “A new settlement for the UK in the EU.” This compromise addressed some aspects of the issues of EU–UK relations, but in no way encompassed (or could possibly have encompassed) all the questions, problems and implications in the sense of a possible realignment. It was, as the British say, “too little, too late” to stem the anti-EU attitude. Nonetheless, the “New Settlement” gave Cameron a basis on which to hold the promised vote as announced. Cameron’s tactics- and those of the Conservative Party leadership, were reckless and failed. The Labour Party’s drawn-out tactical manoeuvring also proved indecisive and divided Corbyn’s commitment to the “Remain and Reform” position in mid-April 2016 came too late and stemmed from a weak opposition. The Liberals had already been punished for their pro-European position in the 2015 elections with a massive drop in votes. The battle over the Brexit was fiercely fought

and divided both British society and the political parties. Some of the Conservative party’s own ministers and around half of its parliamentary members in the House of Commons supported the Brexit, taking a position against their own Prime Minister.\textsuperscript{20} After the vote and Cameron’s decision not to re-contest the Party’s leadership, Theresa May, Michael Gove, and three other Conservative delegates officially sought to succeed Cameron as PM. Gove advocated a \textit{reform of capitalism} and the Australian immigration system\textsuperscript{21} but was defeated by May and Andrea Leadom in the preliminary internal poll. The last word about who will succeed Cameron has not yet been spoken, but the EU-UK negotiations, which will most likely begin in autumn 2016, require one thing more than anything else: reliable, level-headed partners on both sides!

- \textit{The United Kingdom: Now a Divided Kingdom}?! The majority of the electorate in Scotland, Northern Ireland and London voted to remain in the EU. Can the UK withstand this political rift? In Scotland 62 per cent of the voters chose to remain in the EU. Every single one of the 42 Scottish regions voted “remain”. Nicola Sturgeon declared her resistance to Brexit and brought a second referendum for Scottish independence into play. However, before any such referendum, the provisions of the Scotland Act of 1998 dictate that the foreign affairs of Great Britain, including Scotland’s relations with the EU, are regulated solely by the Westminster Parliament. Experts state that Scotland could theoretically refer to Article 29 of the Scotland Act, which regulates the implementation of EU laws to Scottish jurisdiction.\textsuperscript{22} It remains uncertain, however, whether Scotland could actually continue to implement EU law if the United Kingdom as a whole is no longer part of the EU, which is why Sturgeon vigorously expressed her desire to negotiate further membership with Brussels directly. It is also a matter of dispute as to whether it would be possible to derive a precedent from the

“Referendum Agreement” that would render London’s agreement to a second vote on independence unnecessary. Equally uncertain at the moment is the position of the EU itself. With regard to the previous moves to secede, the EU declared in 2014 that an independent Scotland would not automatically be an EU Member State but would have to apply for membership. The Northern Ireland “remain” vote is complicated as well. The Brexit vote will mean an external border of the EU will pass through the Irish island, and it is already feared that the conflicts pacified with such difficulty by the 1998 Good Friday agreement could erupt once more.

A review of the British and European Question: A Time for Deeper reflection

If an EU reform is to succeed and disintegration and further bursts of nationalist populism are to be prevented, a series of underlying reflections that will bring about long-term solutions need be discussed and put to rest:

• In view of growing aspirations toward renationalisation in the UK and elsewhere and in times of increasing global interdependency, a fundamental positioning of nation states with regard to the issue of sovereignty is necessary. The ‘semi-detachedness‘ from Europe of Great Britain was one of many factors that caused confusion among their citizens for a long time - perhaps even dating back to 1973 - regarding the “Brussels and us“ relationship. The term “shared sovereignty” needs to be more precisely defined.23 In Great Britain in particular, but also in other EU countries, the role of nation states in Europe and the broader changing world must be (re-) defined.24
• How do political systems function in the “post-democratic “era? Confronted with the division of European society(-ies),we must take more seriously the discomfiture among elements of the population – extend-

ing all the way to right-wing extremist alternatives - vis-à-vis the functionality of national systems, and in particular the European political system. *Democratisation and further constitutionalisation* of the European Union have to be rediscussed. The convention method needs to be revitalised. The EU’s executive federalism, which has escalated since the financial crisis, does not meet the needs of a world society based on democracy.


29 In a similar way, this question comes up for other countries as well. Among them are Spain, where Catalonia is seeking a referendum on independence.
ten constitution”. The “devolution” is as yet incomplete, but it will be essential for the survival of the United Kingdom.

- Great Britain’s political system and culture have evolved over centuries into a flexible tension between continuity and change of which the British are proud. A great deal has been written on the opt-outs and British exceptionalism. Less has been reported on Britain’s specific and constructive contribution to European integration, for example its contribution to the development of the subsidiarity principle. Only when taken together can a complete picture be assembled. According to an article in the Economist in February 2016, “Thanks partly to British political clout, the EU now has less wasteful agricultural and fisheries policies, a budget to which Britain is a middling net contributor, a liberal single market, a commitment to freer trade and 28 members. Like any club, it needs reform. But the worst way to effect change is to loiter by the exit.”

The relationship between national characteristics within the framework of our common history needs further reflection and must be given fundamental consideration in any debate on reform. Multiple identities will also be a constant feature of a reformed EU and of all its Member States! “United in diversity”—should remain a principle pillar of a reformed EU, regardless of how many members it has.

(published online early July 2016)

30 Andrew Blick, Federalism: the UK’s Future? The Federal Trust for education research, April 2016, p. 29.