

Monitoring Group on the Withdrawal of the United Kingdom and the Rebuilding of the European Union

15 October 2019

BREXIT: NO WINNER

With just a few days to go before the date set for the UK's withdrawal from the European Union on 31 October 2019, a great deal of confusion still reigns. All options remain on the table: a deal, a no-deal exit, or a further delay.

Over the course of three years of work and six information reports, the Senate's Monitoring Group has observed that Brexit will have wealth-destroying effects and that the British decision will entail shared costs for the EU. It notes that on the British side, posturing and identity politics have taken precedence over rational arguments. **The report concludes unequivocally that Brexit is a "disaster" with a no-win outcome and warns against the consequences of a no-deal exit.**

Although it will remain very difficult to assess the full extent of this disaster as long as the exact arrangements are still unknown, the report makes several observations:

1. **The "Backstop", a Gordian knot:** much remains to be done! Though the British government's proposals dated 2 October 2019 have got things moving in the right direction again, the Monitoring Group believes that further work might be necessary, with an examination of the possibility of a common regulatory and customs area between the European Union and Northern Ireland. This would involve an examination of the first proposal for a "backstop" arrangement made by the EU in 2017. This solution does not exclude the possibility of examining "creative and imaginative" solutions, to be refined over time in light of technological progress, for the inspections that will need be carried out in the Irish Sea.
2. **A genuine risk of "tax and labour dumping":** The prospect of regulatory divergence between the UK and the EU in the case of a hard Brexit, or in the context of the latest UK proposals, carries a major risk: that of tax, labour and regulatory "dumping" on the doorstep of Europe. In his 27 July 2019 speech on economic priorities, Boris Johnson described Brexit as "a massive economic opportunity". For some "Brexiters" indeed, the very purpose of Brexit is to escape the constraints imposed by Brussels so as to enhance the attractiveness of the United Kingdom. This risk must be assessed and considered in the negotiations.
3. **4.5 million citizens held hostage:** Brexit above all constitutes a major trauma for European citizens. The withdrawal agreement of November 2018 provided guarantees that remain uncertain today. Nearly 4.5 million citizens are unsure about their future in their country of residence: over three million EU27 citizens in the United Kingdom (a figure subject to

varying estimates) and 1.2 million Britons residing in other Member States. The Monitoring Group calls for particular attention to be given to persons in precarious situations.

4. An economic shock yet to come: **Brexit will cause an unprecedented economic shock.** Since 2016, the UK's growth has been systematically lower than that of the EU. The latest OECD forecasts predict that this trend will continue in 2019 (1.2% for the United Kingdom compared to 1.4% for the EU) and in 2020 (1% compared to 1.4%).

Sooner or later, there is a risk that the consequences of the 2016 referendum will blight the British economy: in late November 2018, the British Treasury and the Bank of England presented very negative forecasts in case of a no-deal Brexit.

The former forecast an 8% drop in GDP by 2024, and the latter a 10% drop over the next 15 years, compared to what it would have been had the United Kingdom remained within the European Union. In economic terms, a no-deal Brexit would be twice as damaging as an orderly exit.

5. **A severe impact for France:** France is one of the countries in the EU bound to face the biggest losses because of Brexit, along with Ireland. If no deal is reached, it is estimated that France would suffer economic losses of €7.7 billion per year. For the EU as a whole, those losses would amount to €40 billion per year. There may be a devastating effect on certain sectors. The French fishing industry, for instance, depends upon the United Kingdom for a quarter of its production. In some regions (Hauts-de-France, Normandie, Bretagne), between 40 and 50 % of the fishing catch depends upon access to British waters. As for French agriculture, it could suffer the double penalty of a rapid loss of outlets in the United Kingdom - France is its second-largest supplier of agricultural products - and a reorientation of commercial flows, also leading to a loss of outlets in external markets.

6. **A potential break-up of the United Kingdom?** The United Kingdom is deeply divided, and pulled apart by powerful centrifugal forces that are likely to increase in the coming months. Scotland, like Northern Ireland, voted to remain in the Union. The Irish dilemma, which is at the heart of the negotiations, could revive tensions between communities. Beyond that, the issue of the Scottish Independence may be brought up once again, with a break-up of the United Kingdom in its wake; this would have multiple consequences, including a significant strategic dimension, since Scotland hosts the UK's nuclear deterrence force. In a context of mounting threats and the return of autarchic States, a break-up of the United Kingdom would be a geostrategic absurdity.

7. **Preventing European recovery:** Further delay would come at a significant cost to the EU by further extending an uncertainty that has had considerable human, political and economic costs. Such a postponement would imply the appointment of a British commissioner, and the retention of the UK's representatives at the European Parliament, a real political error at a time when the new Commission has a huge task to accomplish in the coming months to revive Europe's momentum.

Is there no hope for the call for a revival of EU integration that was put out in particular by the Senate Monitoring Group in the wake of the shock caused by the British referendum? The European Union Summit held at Sibiu in May 2019 was unfortunately a non-event. It remains imperative (although not at all costs) that the Brexit transition be made, and that we break out of what might be referred to as our "European inertia."

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**THE HUMAN COST:
THE CITIZENS - THE FIRST VICTIMS OF BREXIT**

The change in the UK's status from Member State to Third State entails **costly uncertainty concerning the legal situation of about 4.5 million persons held "hostage" by Brexit**. European residents living on British soil and British citizens settled in the territory of the other 27 Member States will be the first to be impacted by the "leap into the unknown" of Brexit. Identified by the Monitoring Group from the outset as crucial, the issues of freedom of movement and citizens' rights remain unclear. Three years after the referendum held on 23 June 2016, these fears have still not been dispelled, although they have been overshadowed in public discourse by issues of the "backstop" and the economic consequences of a possible "no-deal" exit.

Today, it is estimated that **3 to 3.8 million non-British European citizens reside and work in the United Kingdom**. Conversely, nearly **1.2 million Britons live and work in the territory of other Member States of the European Union**.

The exit agreement of November 2018 provided for the maintenance of residence and social security rights and guaranteed freedom of movement during a 21-month transition period until 31 December 2020. **If a no-deal exit occurs on 31 October 2019, Brexit would create an unprecedented dangerous and costly legal vacuum.**

In the United Kingdom, as in several European countries, **steps have been taken to at least temporarily strengthen the rights of these expatriate nationals.**

1. The fate of European citizens in the United Kingdom

European citizens residing in the United Kingdom have until 31 December 2020 to apply for "**settled status**" or, for those who have been established there for less than five years, **pre-settled status**. For the latter, a new application for permanent status must be submitted once the threshold of five years' uninterrupted residence has been reached. Without this residence permit, EU citizens will find themselves in a situation of illegality, and will for example find it difficult to apply for a job or receive social security benefits (NHS). The free registration procedure, available via an online portal, requires applicants to provide their identification, indicate the intended length of their stay in the United Kingdom and report any criminal record they may have.

For **European citizens wishing to settle in the UK after October 31st, 2019**, the UK government has announced that if no deal is reached, a three-year **temporary immigrant status** would be offered until the end of 2020. The British Home Secretary has announced that a new "Australian-style" point-based visa system, based on skills, is to be introduced in 2021. European nationals will thus be treated as third-country citizens.

2. The fate of British citizens in France

It is estimated that **400,000 British citizens reside in France**. If no deal is reached, British citizens will lose the rights attached to European citizenship and become "**third-country nationals**" (TCN); a much more restricted status, subject to the immigration policies of each country of residence.

It would be up to the Member States, not the EU, to decide on the rules and conditions for granting residence permits to British citizens residing in their country.

In France, the authorities are trying to make the transition as painless as possible. **Ordinance No. 2019-76 of 6 February 2019** provides for a **special arrangement as an exception to the general laws on the status of non-nationals**, which would apply in case of a no-deal Brexit, and would give special favour to British citizens in regard to entry, residence, social security rights, and the professional activity of individual persons. British nationals residing regularly in France prior to the date of the United Kingdom's exit would then have one year from the date of withdrawal to obtain a permit, following a simplified procedure. During this period, their rights in terms of residence, professional activity, and all social security rights will be maintained.

3. Unresolved issues

While many questions remain unanswered today, the uncertainty surrounding the issue of living expenses has particularly attracted the monitoring group's attention. On 4 April 2019, the European Parliament approved a **visa waiver** for UK citizens for **short stays in the European Union post-Brexit, with or without a deal**, subject to reciprocity. Although the British government has indicated its intention to apply the same treatment to European nationals for stays of less than 3 months, nothing has been formally established.

The Monitoring Group **furthermore calls for particular attention to be given to persons in precarious situations**. They may indeed have difficulties in asserting their rights.



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**POWERFUL CENTRIFUGAL FORCES:
THE EXAMPLE OF SCOTLAND**

Even more so than Northern Ireland (55.8%), Scotland voted (62%) in favour of staying in the European Union in the 2016 referendum. As soon as the result was announced, the Scottish Government announced that it was urging a **differentiated solution** that would guarantee a special status allowing Scotland to remain in the Single Market. **Today, the future of Scotland within the United Kingdom appears very uncertain.**

For a long time, and even more so since the devolution Act of 1998, Scotland has regarded the United Kingdom as a kind of confederation ("*a partnership of equal nations*") -an interpretation that London does not share. It is in this context that the Scottish Parliament rejected the European Union Withdrawal Act, finding that it would impugn the prerogatives granted to Scotland under the provisions of the Scotland Act of 1998. While the vote has no legal effect at this stage, it illustrates the high degree of mistrust characterizing the current state of relations between Scotland and the United Kingdom.

Thus, **Brexit could provide a means for Scotland to gain independence**, which 55.3% of the electorate rejected in the previous referendum held in 2014. The Scottish National Party (SNP), the pro-European party now in power in Edinburgh, is calling for a new referendum on independence. On the one hand, the SNP asserts that the triumph of the "no" vote in 2014 can be attributed above all to the prospect of a withdrawal from the European Union as a direct result of Scottish independence from the UK. On the other, the SNP has justified the holding of a new referendum consultation by pointing out that such a commitment is consistent with the mandate given to the SNP by the Scottish people at the time of their victory in the 2016 Scottish Parliament election.

By potentially precipitating a new referendum amongst the Scottish people on their membership in the United Kingdom, **Brexit could therefore undermine the territorial integrity of the United Kingdom.** There are three scenarios: firstly, it could remain within the United Kingdom, acquiring greater autonomy and perhaps obtaining a special status with regard to the European Union. It could gain independence and return to the European Union; or, finally, independence without reinstatement in the European Union. The likelihood of these scenarios depends on the type of Brexit that will ultimately take place, on how the exit agreement negotiations unfold, and on the new trade relationship established between the United Kingdom and the European Union.

If Scotland does take an uncompromising path toward independence, it may be appropriate to consider the possibility of an independent Scotland joining the European Union. It appears, however, **that such accession to membership is likely to take quite a long while.** Considering the precedent set by the accession of Croatia, it is no exaggeration to consider that at least ten years would likely be necessary for the integration of Scotland as a Member State of the European Union.

In addition to the difficulties of this agenda, Scotland would then also face a number of practical challenges, such as the establishment of a physical border (**in which case the issue of a "backstop" would arise again in a different way**, with the Scottish border constituting another border between the United Kingdom and the European Union); this would in turn impede the free movement of Scots within the United Kingdom, which now seems unthinkable. In addition, Scotland, as an independent nation, would be forced to renegotiate all the agreements to which it was party via the United Kingdom. That would be a colossal project, and would need to be complete before it could join the European Union.

Brexit, by offering Scotland an opportunity to gain independence, thus poses a threat to the territorial integrity of the United Kingdom, and indirectly to its military might.

The monitoring group also wishes to draw attention to the **strategic dimension of the Scottish question**, since the United Kingdom's nuclear deterrent is based there, at HMNB Clyde, located near Glasgow. The Faslane naval base is home to the fleet of four Vanguard-class nuclear-powered ballistic missile submarines (SSBN) as well as the new generation of Nuclear-Powered Attack Submarines (SSN). The Coulport site, located a few kilometres away from Faslane, is the Trident program's nuclear warhead storage and loading facility. Polls indicate that the Scots would be reluctant to maintain the nuclear fleet in the event of independence, and a relocation of the British nuclear submarine fleet would be very expensive for the UK. The cost, which widely varying estimates peg anywhere between £3 billion and £50 billion, and the difficulties of ensuring the local population's acceptance of such relocation, particularly in regard to nuclear warheads, might give new impetus to debates in Britain on the interest of maintaining a nuclear deterrent. As a consequence, there is a risk that yet another pillar of British power would be challenged.



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IRELAND AND THE GORDIAN KNOT OF THE "BACKSTOP"

Underestimated by the British but also, to a certain extent, by the Europeans during the referendum campaign of 2016 and the beginning of the negotiations, **the Irish question remains the most difficult problem posed by Brexit and even today remains the primary stumbling block in negotiations.** Indeed, an exit from the customs union and the single market implies the return of an effective border between Northern Ireland, an integral part of the United Kingdom, and Ireland, a member State of the European Union. The Good Friday agreement was signed 20 years ago and **it is imperative to preserve an open border and the fragile balance of peace in Northern Ireland.**

It is therefore necessary to find a solution that guarantees **the free circulation of goods on the island of Ireland**, which would seem inconsistent with the United Kingdom's desire to take back control of its borders. Initially, and pending a long-term solution, the European Union has proposed the adoption of a safety net, or "backstop," allowing Northern Ireland and Ireland to remain united in a common regulatory and customs area. Deemed a threat to the territorial integrity of the United Kingdom, this solution was rejected by the May government. However, unable to come up with any credible and feasible alternative solutions, the British government later proposed that the customs union be extended to the whole of the United Kingdom. Such was the arrangement proposed in the November 2018 agreement. The British Parliament has now rejected this solution three times.

Coming to power in July 2019 after the resignation of Theresa May, Boris Johnson has declared himself ready to assume the consequences of a possible "no-deal," which according to him would be preferable to an exit including an agreement for a "backstop."

The Monitoring Group has concluded that a **"mini-backstop" would probably be the most appropriate solution.** The notion of a "mini-backstop" refers to the initial proposal for a safety net covering Northern Ireland only. It would create a common trade area between Northern Ireland and the Republic of Ireland, and thus with the whole of the European Union.

Specifically, **inspections would be carried out on products crossing the Irish Sea**, between Northern Ireland and the rest of the United Kingdom, which would ensure that there would be no need for inspections at the land border between the two Irelands. Northern Ireland would then become a special economic zone, both in the United Kingdom and in the EU. Checks would be conducted upon arrival and departure of goods, far from the border.

The United Kingdom remains a vital economic partner for Ireland, which will bear the brunt of its neighbour's withdrawal from the European Union. The Irish government has chosen to base its 2020 budget on a "no-deal" scenario. One study has estimated that in the long run (ten years), the level of real GDP in Ireland will be significantly lower than what it would have been had the UK remained in the EU. The value of the impact in ten years time is estimated at approximately around 2.6% of GDP in case of a deal, 4.8% with no deal, and 5% in the case of a long-term "no deal." Brexit is an external macroeconomic shock with negative effects on the entire Irish economy: households, the labour market, businesses and public finances will all be affected.

It is vital for the European Union to **protect its internal market** and to **remain united and principled regarding the red line of restoring a physical border in Ireland.** Solidarity between Member-States is at stake and Ireland will be the first to suffer the cost of Brexit in political, social, economic and security terms.

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MIGHT A SOLUTION BE FOUND IN THE BALLOT BOX?

1. Could early elections bring about a change in the situation?

If no deal is reached in Brussels or if a delay is granted or if a snap general election is held, the Conservatives, standing crestfallen at this failure, will probably campaign on a manifesto including a "hard Brexit" with no compromises, while declaring that the situation is entirely the result of the hostility of Brussels and obstruction by the House of Commons. They will seek to win over the Brexit Party. If the Brexit Party, promoting the same program of a no-deal exit, gains a few seats, it will mean a few more votes for the government if it wins the election, with or without an absolute majority. That is scenario no. 1.

For now, the Conservatives are expected to come out on top: however, we can also imagine a second scenario in which the Labour Party is in front, though without an absolute majority, relying on the Liberal Democrats and the SNP to govern.

It is highly unlikely that the Labour Party can achieve an absolute majority on its own (scenario no. 3).

In Scenario no. 1, the Conservative government would push ahead with a no-deal exit. In scenario 2, the Labour Party would likely accept a new referendum under the pressure of its allies. In scenario 3, the Labour Party would seek to negotiate a new agreement and submit it for a referendum to choose between accepting that agreement or staying in the Union.

None of these scenarios provide a satisfactory answer in the short term.

2. The second referendum solution: between fantasy and deterrence

If the Conservatives remain in power and are forced by their lack of a majority in Parliament to hold a referendum to break the deadlock, the only question in the referendum will be **whether to be a member of the European Union or not.**

If Labour gains the upper hand, then the question will become more complex, with three possibilities: a no-deal exit, remaining, or accepting a "soft Brexit" (with a deal). In the wake of the Labour Party's annual conference, the only choice left would seem to be to make an exit deal or to remain, but Jeremy Corbyn still refuses to let the Labour Party openly support remaining within the Union. The issue risks cutting him off from his base and even partly from his shadow cabinet, which has publicly denounced this strategy.

Several people interviewed by the Monitoring Group have said that **the polls would now seem to show a slight majority in favour of remaining in the European Union**, but this majority is not substantial, and shrinks depending on how the question is formulated. These polls have a large margin of error, and cannot be relied upon. The one thing that might tilt the scales would be a change in the demographic parameter, especially, some say, if the referendum law were to lower the voting age to 16. It is assumed that young voters would be more in favour of staying in the EU than older ones.

In the meantime, if the deadlock continues with no agreement reached between the government and Parliament, the exit might be delayed any number of times. Yet the European Union can only grant such delays if prospects for new elections or a new referendum become clearer.

Lastly, as for a possible new referendum, it must be kept in mind that a referendum act would be necessary to organize it, and that its adoption would provoke debates at least as long and as heated as they were in 2016.

Ultimately, **the idea of a new referendum appears politically difficult** with Parliament seeing it more than ever as an attack on its sovereignty. The idea is also not easy to defend at this stage - indeed the Liberal Democrats seem to have given up on it, and the Labour Party is still unclear about it - because many people would consider it an attempt to call into question the decision made in 2016. Finally it is an idea that stokes fear in both camps, because there is too much uncertainty about the results, and above all because the crux of the problem would remain unchanged regardless of the outcome. **This new referendum thus remains a fantasy for some and a weapon of deterrence for others.**



A FOREWARNING OF DISASTER

On Tuesday 15 October 2019, the French Senate Monitoring Group on the Exit of the United Kingdom and the Rebuilding of the European Union released its report, entitled "Brexit: no winner"

Chairs of the Monitoring Group:

Christian CAMBON, Chairman of the Foreign Affairs, Defence and Armed Forces Committee (Les Républicains)

Jean BIZET, Chairman of the European Affairs Committee (Les Républicains)

CITIZENS HELD HOSTAGE

4.5 million citizens residing in the United Kingdom or another Member State are unsure what the future will hold. The French Senate asks that special attention be given to persons in precarious situations.

ECONOMIC SHOCK IN THE UNITED KINGDOM

The economic shock is yet to come. Studies show that a no-deal Brexit would be twice as damaging to the UK economy as an orderly exit.

A HIGH COST FOR FRANCE

As the UK's only route to access the European continent, France is one of the countries that has the most to lose because of Brexit, along with Ireland. If no deal is reached, France would lose €7.7 billion per year, and the European Union €40 billion. French fishing and agriculture will bear the brunt of the impact, along with the regions of Hauts-de-France, Normandy and Brittany.

DUMPING

Risk of tax, regulatory and labour dumping along Europe's borders in case of a no-deal exit.

IRELAND

As for the backstop, the French Senate believes that we must maintain a common area, both in regulatory terms and in terms of customs, between the European Union and Northern Ireland.

SCOTLAND

A potential break-up of the United Kingdom? The French Senate believes that Brexit will revive the issue of Scottish independence.

THE EUROPEAN UNION PARALYZED?

The French Senate deplores the fact that the European Union's energy has for three years been absorbed by managing Brexit, preventing its vital recovery.

With just a few days to go before the date set for the UK's exit from the European Union, a great deal of confusion still reigns. All options remain on the table: a deal, a no-deal exit, or a new postponement.
The French Senate has issued these 7 warnings.

THE BREXIT DISASTER IN 7 POINTS