

The EU should prepare for all UK post-election scenarios

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BACKGROUND

With the UK preparing to hold a general election on 12 December, the EU might be tempted to consider that since no progress on Brexit is likely to be made until then, it can temporarily turn its attention away from the UK to focus on other pressing matters. However, given the potential of a political shift in the UK, a reversal of their position on Brexit and another Scottish independence referendum, the EU should not take their eyes off the ball. It would be unwise for the EU not to use the coming weeks to prepare for the possible outcomes of the elections.

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STATE OF PLAY – PREPARING FOR DIFFERENT SCENARIOS

In terms of the overall election result, the EU should consider three scenarios: a Conservative victory, a Labour victory and a hung Parliament.

Scenario 1: Conservative victory

Victory for Prime Minister (PM) Boris Johnson's Conservatives would be the most predictable scenario, at least in the short term. Johnson sought the early election to win a majority in Parliament and push through the Brexit deal he renegotiated with the EU. Success at the polls would indicate the public's approval of his deal and give him a strong mandate to leave the EU and "get Brexit done" by 31 January 2020.¹ However, this pledge disregards the fact that reaching a consensus on the Withdrawal Agreement is only the first step. The next

phase, in which the UK's future relationship with the EU will be negotiated, will almost certainly be even more difficult as these negotiations will far exceed the previous ones in terms of scope and complexity.

Under this scenario, the Withdrawal Agreement would very likely be passed by Parliament, and the UK would be on track to leave the EU on 31 January 2020, with no further extension necessary. Many moderate Conservative Members of Parliament's (MPs) decisions to not stand again for election – including prominent figures such as former Home Secretary Amber Rudd, Culture Secretary Nicky Morgan, former de facto deputy PM David Lidington and Ken Clarke, the longest continuously sitting MP – points to the possibility of a more right-wing parliamentary party that is less likely to frustrate Johnson's plans. Moreover, post-election, the public may have little patience for Conservative MPs who refused to support Johnson in 'getting Brexit done'.

This means short-term predictability for the EU. Brussels will have achieved its main objectives: ensuring an orderly withdrawal, protecting peace in Northern Ireland by avoiding a hard border, agreeing on the financial settlement and protecting the rights of EU citizens living in the UK.

New major challenges ahead

However, in this scenario, new major challenges await – namely, concerning the UK's transition and future relationship with the EU. The transition period, which effectively preserves the status quo besides from the fact that the UK will no longer be represented in the EU's institutions or have voting rights, will begin once the UK leaves the EU and is due to last until December 2020. Its purpose is to provide both sides the time to negotiate their future relationship. According to the Withdrawal Agreement, the EU and UK "may, before 1 July 2020, adopt a single decision extending the transition period for up to 1 or 2 years."²

There is little hope that a trade agreement between the EU and UK can be reached and ratified between February and December 2020, so an extension will probably be necessary if the UK is not to fall off the cliff edge and end the transition period with no agreement about the future relationship in place. The timing of a request could be tricky. While the EU will need the UK to decide on an extension quickly, Johnson might prefer to delay it, to avoid having to admit shortly after winning the premiership on a promise to 'get Brexit done' that the UK would actually need to continue to abide by EU rules for longer and pay more into the Union's budget than planned.

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For the EU, a major concern will be budgetary issues.³ The planned end of transition coincides with the end of the Union's current budgetary period (2014-20). If the transition period is extended, the UK will continue to contribute to and participate in EU programmes. This would need to be taken into account in the planning of the upcoming 2021-27 Multiannual Financial Framework (MFF), which the EU hopes to finalise in the first half of 2020. An extension request at the end of June could therefore leave the EU scrambling to adjust its plans, so it is in Brussels' interest to prepare for this scenario.

The EU should also prepare for the trade negotiations and their possible outcomes. The UK is likely to be a difficult negotiating partner: it clearly has less leverage than the EU but may still struggle to recognise and accept this. Its negotiating position will be further weakened by three factors. First, the UK lacks experienced trade negotiators, as the EU is responsible for reaching trade agreements with third countries on behalf of its member states. Second, recognising the complexities of the negotiations and the trade-offs required, including on the level playing field, would mean admitting that Brexiteers' bold statements – such as former International Trade Secretary Liam Fox's claim that a trade deal with the EU should be "one of the easiest in human history"⁴ – were misleading. Moreover, accepting the EU's demands on level playing field issues would restrict London's ability to ease regulations after Brexit.⁵ However, not preparing the citizens of the UK for the need to make hard choices means that it might be difficult to garner enough support for any eventual deal – as is the case with the Withdrawal Agreement. Third, the UK will be under intense time pressure to agree on a trade deal as quickly as possible.

The negotiations will be further complicated by the fact that regardless of how well the deal is negotiated, the resulting situation will be worse than the status quo. Unlike most trade deals, there will be no gains from improved market access or the removal of trade barriers; instead, negotiators will have to decide how to

allocate the costs caused by disintegration.⁶ Moreover, the member states will be defending their individual interests, which will complicate even further the prospects of striking a deal.

The EU should also prepare for the possible outcomes of the trade negotiations, which are outlined in an EPC infographic.⁷ Under a Conservative government led by Johnson, the most likely scenario would be a 'Canada plus'-style free trade agreement that covers goods but only has limited provisions on services. This would be consistent with the UK's stated redlines but also come at a high cost for the largely service-based economy. For example, it is unlikely that the EU would grant the UK's financial sector passporting rights, and thus hinder its ability to provide its services across the Union, which would affect London in particular. A 'Canada plus'-style arrangement would also raise other issues (e.g. Gibraltar would need streamlined border arrangements).

Throughout the process, the EU will have to decide how to communicate to its various audiences in Brussels, the member states and the UK. If Johnson's government struggles to recognise and outline the trade-offs, should the EU correct it publicly? And if yes, then how – by, communicating to disappointed Remainers, who may have hoped for greater EU intervention throughout the Brexit process? How should Brussels address the situations in Northern Ireland and Scotland? These decision cannot go unanswered.

Scenario 2: Labour victory

A victory by Jeremy Corbyn's Labour Party, although unlikely, would lead to a very different scenario. Labour's current position is that it would attempt to renegotiate the Brexit deal within three months of being elected and allow the public to vote on it in another referendum within six.

The renegotiated withdrawal agreement would probably end up being fairly close to former PM Theresa May's deal, as there was little in the previous Agreement that Labour disagreed with in substance. The most significant changes would be in the legally non-binding political declaration. Labour seeks a closer trading relationship with the Union than what is currently envisaged, which could translate into a commitment to stay inside the EU's customs union. Beyond this, Labour has provided few details of its plans.

It is not clear whether Labour would remain neutral in a second referendum or openly advocate for Remain. Corbyn has said that this decision would be taken after the general election. In any case, the EU would need to grant another extension of the Article 50 period.

A difficult Remain vote?

In the event of another referendum, the EU would need to prepare for both outcomes. Even though most opinion polls indicate a small majority for Remain, the public is still deeply split and a second Leave vote is feasible if turnout among Remain supporters is low (e.g. if many

decide to abstain because they believe that the 2016 referendum result should be respected).

In any case, a Remain vote would certainly have several benefits for the EU. The disruptive Brexit process would be stopped, the UK would continue to contribute to the EU's capabilities in security and defence policy, the EU's geopolitical weight would not be diminished and London would remain one of the EU's global financial centres.

However, with the exception of a convincing victory with a large margin, the impact of a Remain vote would arguably not be universally positive.⁸ Indeed, the UK would probably become a rather difficult and unconstructive member state. Given the salience and divisiveness of the EU-UK relationship, the UK government would struggle to agree to any EU reforms that might deepen integration (e.g. the Conference on the Future of Europe) or find a way to frame financial commitments (e.g. in the context of the MFF). Even technical decisions at the EU level could be politicised in the UK. The result would be obstruction. This problem would be exacerbated by Corbyn's Eurosceptic leanings, assuming he takes the premiership. Moreover, such an outcome would not result in a stable equilibrium. Next general election, the Conservatives and the Brexit Party will likely campaign on the premise of taking the UK out of the EU come what may. The EU would have to respond to this instability, which would further divert scarce time and resources from other pressing matters.

The UK remaining in the EU would also have implications for the overall future of European integration. Reaching an agreement on any substantial treaty amendments would be unimaginable in the foreseeable future. To prevent stagnation, integration could be increasingly driven by variable coalitions of the willing, as is the case with the EU's Permanent Structured Cooperation (PESCO) whereby 25 member states agreed to pursue higher levels of defence cooperation. The centre of power would probably still shift to Germany and France as well as the euro area, as it is hard to imagine a UK willing to reassume its leadership role in the EU and become a constructive and strong advocate for the interests of non-euro countries.

A major question, which tends to be neglected by Remainers, is whether the UK would be content with remaining in the EU under the current terms, which involve accepting the freedom of movement and contributing to the MFF. If the UK votes to remain, Brussels should prepare to reject attempts to negotiate further opt-outs and concessions to avoid setting a precedent for other member states that may follow.

Scenario 3: Hung Parliament

Finally, the election could deliver yet another hung Parliament, with no majority for any party or stable coalition. Such an outcome would prolong the current chaos. Whether the Withdrawal Agreement could be passed or not would be uncertain. If not, the EU would have to grant further extensions of the Article 50 period – and increasingly strain the patience of the

member states – to prevent a no-deal outcome on 31 January. Moreover, the absence of many moderate Conservative and Labour figures is likely to lead to a more polarised Parliament, which would complicate policymaking and the search for common ground further. Such a situation would probably be unsustainable in the medium term, and another snap election would become likely.

A lose-lose situation

None of the three scenarios offers any reason for optimism. A Conservative victory would mean short-term predictability and an orderly exit but looser EU-UK ties in the long term, which would come at a political and economic cost for both sides. A Labour victory would prolong the current state of uncertainty but offer the prospect of a closer relationship in the long term. A hung Parliament could mean the worst of both worlds.

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The Scottish dimension

The election outcome could also affect the prospects of the Scottish independence movement. If the Scottish National Party (SNP) offers any parliamentary support to a Labour government, it will most likely demand the endorsement of a second Scottish independence referendum in return through a Section 30 order from Downing Street. In fact, regardless of whether the new government needs SNP support or not, the political pressure on London to endorse a second independence vote is likely to grow rapidly.

Though many claimed that the independence question would be settled for a generation after 55% of voters rejected the prospect in 2014, it reemerged when Scotland strongly opposed Brexit two years later, with 62% of Scots voting to remain in the EU. The outcome of a second independence vote would be uncertain. In a recent Panelbase survey for *The Sunday Times*, 50% of respondents supported Scottish independence, which is the highest value measured in more than seven years.⁹ It is conceivable that support will continue to grow, depending on how the Brexit process unfolds.

The EU should prepare for the possibility of Scottish independence and a membership bid.¹⁰ Assuming that Scotland holds a second referendum and obtains independence in a legally recognised way, this would be a positive scenario for the EU. From a symbolic perspective, it would reinforce the idea that despite Brexit and the success of Eurosceptic parties across the continent, EU membership is still valued and aspired by many people. While this is also the case in the Western Balkans, the Scottish case is unique as the latter already knows what membership actually entails and would

make its decision on this basis. It would also contribute to a positive narrative of the EU, strengthening its soft power and improving its international image. Moreover, Scotland would be a constructive and committed member state that is willing to support more EU integration. Reversely, if the EU rejected this aspiring member state that shared the values of and had proven its commitment to the former, this would reflect poorly on them. Finally, Scotland could potentially serve as a bridge to the rest of the UK.

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Scottish EU membership would also have practical benefits for the EU. Scottish companies and institutions are leading in areas such as renewable energy, academic research, computer games, and food and drink. The EU would benefit from their inclusion in the Single Market. Moreover, Scotland would most likely be a net contributor to the EU budget.

Scotland would have to go through the regular EU accession process, though it has the advantage of already being subject to EU rules. This is not to say that it would be without complications, however. Scotland would have to accept 'normal' membership, with the full rights and obligations. It is unlikely that the EU would grant it substantial opt-outs or budget rebates. However, there is currently no indication that Scotland would seek special status or object to these conditions, assuming that the SNP is still leading the government.

PROSPECTS

None of the possible outcomes of the upcoming general election is ideal for the EU. If the Conservatives win a majority, the Withdrawal Agreement will probably be passed, providing short-term predictability and certainty. However, any longer-term deal would be much worse than the status quo. A Labour victory would mean the opposite: further short-term uncertainty until the new government has renegotiated the deal and held a second referendum, but a closer long-term relationship (assuming the Leave vote is confirmed). A hung Parliament would bring the worst of both worlds. The EU should, therefore, use the current respite in the Brexit process to prepare itself for all of the possible post-election scenarios.

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