

Helgard Fröhlich*, 15th July 2016

Britain has voted!

The European Union at a Crossroads: Reform or Further Disintegration?

Great Britain has voted: 51.9 per cent voted for leaving the EU, while 48.1 per cent were for staying; the voter turnout was 72.2 per cent.¹ The result is clear, even if the majority is not overwhelming, and the Brexit opponents are collecting signatures for a second referendum. Just like the Scottish plebiscite for Scottish independence from the United Kingdom (September 2014), a vote has been made, but none of the underlying problems have been resolved. On the contrary, the situation is more difficult than it was before, and EU reforms are more unavoidable 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 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 23rd 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. How will future cooperation with the remaining Member States take shape? Which regulations for the future will be found in the negotiations according to TEU Article 50? Possible scenarios - Norwegian, Swiss or other models - exist², but the fact is that neither the UK nor the European Commission had a plan B. Facing the overall situation that led to the vote and the Brexit crisis, and despite the package of concessions³ 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. In the debate on the referendum, the *quo vadis*, and, in turn, a positive prospect for Europe was not 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 steady turmoil due to the financial crisis. The frequent answer, “More Europe”, 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 fields do we need more Europe? In which fields less? How much differentiation does the EU need and how much can it bear?

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

Furthermore - and this was true prior to the plebiscite; it remains important afterwards - despite its being an island, the United Kingdom has grown to be an organic part of our European community. It is the motherland of democracy and our shared values. It had a key role in the Second World War, in which it fought fiercely for our shared values of *Freedom* and *Liberty*, thus laying the foundation for our peaceful development and European integration. Quite rightly, Angela Merkel 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, amongst others, manifest discord on the institutional rules of the game to be played within the EU framework, 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.⁵ This is common sense in the most literal British meaning, and it should be the foundation for all future procedures.

Reconsidering the British Question in 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 Union⁶ and the Heads of State 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.”⁷ One need not be clairvoyant to predict that the negotiations will be difficult, and not only those between the UK and the EU 27. The negotiating positions of the remaining EU 27, too, will be rigorously contended before “the European Council will adopt guidelines for the negotiations of an agreement with the UK”.⁸ The possibility of turbulence is a distinct possibility and disagreements have already emerged: Should the 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 coming weeks will reveal the guidelines to be developed. There is a need to contemplate and reflect on the issues to be included in the meeting’s agenda?

- The fundamental, long-standing problem of **consent of British and European citizens’ consent** in regard to European integration was made clear by the Brexit crisis and can no longer be ignored by the political elite. However, to analyse the citizens’ reaction does not merely mean to identify 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 shortfall of legitimacy must be overcome.

- The question of a **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 continues to be important, but facing the new shock to the EU caused by the Brexit vote, it seems to be urgent for the remaining members to forcefully promote the long-announced reform of the EU. Some argue for a relaunch⁹, 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; multi-paced integration; core Europe? How profound 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 differentiated to avoid further turmoil and a revival of populist-nationalist sentiments within the EU 27. There should be a courageous approach despite the fear that needed changes to the contract could open 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. It seems, however, that all the parties involved were 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 comfort the Euro-sceptic voices in Cameron’s own party and give British citizens the impression that EU-UK relations had indeed been renegotiated and regulated on a new basis.¹⁰ The EU 28, including Cameron, were hoping that they would, yet again, be able to “muddle through.” Next to commitments to the four fundamental freedoms of the domestic 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 unity in regard to distribution quotas, which are still inadequately regulated, would have probably made a more tangible contribution to a successful joint action.

- The British debate on the Brexit and the vote will remain an issue of domestic politics for a long time. 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 outside the EU. The Conservatives have not been able to keep their promise to reduce net immigration to under 100,000 per year.¹¹ In this context, the question of social welfare benefits for EU migrants – despite the temporary reductions in these benefits conceded by the EU in the February 2016 “emergency brake” – became one of the dominant topics of the Brexit supporters. Beyond this, the discussion was defined by emotions (‘I want my country back’) and tabloid hostility¹², 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 plebiscite. 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. Topics like EU labour migrants and, of course, the refugee flows also remain on other European countries’ agendas after the referendum. 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.¹³

- How much weight does this referendum have? Unlike referenda in other European countries, the Brexit poll was neither *consultative* nor *binding*. According to the sense of British constitutional principles, this was the only possibility due to the doctrine of “undivided sovereignty”¹⁴ of the parliament that is in force. 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! A meaningful analysis of the situation requires scrutiny of the responsibility of the politicians and elites who exploited the Brexit poll to play political power games. The 2011 European Union Act¹⁵ 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 plebiscite. Later Cameron tried to

comfort the critics in his own party, who facing the success of the UKIP in regional and European elections – demanded a more Euro-critical position from the Conservative Party leadership. In the end, UKIP and the quarrels within the party, which were dangerous for Cameron, 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 2015¹⁶ foresaw an in-out referendum by 2017 at the latest. So what was actually voted on? *Renegotiate and referendum*¹⁷ 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”.¹⁸ 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 Britons 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 - and the Conservative Party leadership’s - tactics were reckless and failed. The Labour Party, too, manoeuvred tactically for a long time, but was indecisive and disunited. Corbyn’s commitment to the “Remain and Reform” position¹⁹ in mid-April 2016 was too late and stemmed from a weak opposition. The Liberals had already been punished for their pro-European position in the 2015 elections in the form of enormous voter loss. The battle over the Brexit was fiercely fought and divided both British society and the political parties. Some of the Conservative party’s his own ministers and around half of its fraction in the House of Commons supported the Brexit, taking a position against their own Prime Minister²⁰. 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 *reform of capitalism* and the Australian immigration system²¹ but was defeated by May and Andrea Leadsom in the preliminary internal poll. The last word has not yet been spoken, but the EU-UK negotiations, which will probably begin in autumn 2016, require one thing more than anything else: reliable, level-headed partners on both sides!

- **The United Kingdom: anything but united!** The majority of voters in Scotland, Northern Ireland and London voted to remain in the EU. Can the UK withstand this test? 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 announced resistance to the Brexit and brought a second referendum for Scottish independence into play. According to the Scotland Act of 1998 and until this possible plebiscite, the foreign affairs of the UK, including Scotland’s relations with the EU, are regulated solely by the Westminster Parliament. Experts state that, theoretically, Scotland could refer to Article 29 of the Scotland Act, which regulates the implementation of EU laws to Scottish jurisdiction.²² It remains uncertain 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 controversial 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. Yet another uncertainty is the EU’s position. With a view toward other indications of intent 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. After the Brexit vote, 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 reerupt.

Reconsidering the British and European Question! Deeper reflections and reconsiderations

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 efforts toward renationalisation in the UK and elsewhere and in times of increasing global interdependency, a fundamental **positioning of nation states** in 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” demands greater precision.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 (re-)defined.²⁴

- How do political systems function in the “post-democratic “era?”²⁵ Confronted with the schism of European society(-ies), the discomfiture among elements of the population vis-à-vis the functionality of national systems, the European political system (particularly the European political system), and right-wing extremist alternatives must be taken more seriously! **Democratisation and further constitutionalisation** of the European Union have to be rediscussed.²⁶ The convention method needs to be revitalised. The EU’s executive federalism, which has got out of hand since the financial crisis, does not meet the needs of a world society based on democracy.²⁷

- **“Rediscover our common social model.** Europe is more than a market, a currency or a budget. It was built around a set of shared values.”²⁸ Only those with a personal perspective in Europe will advocate European integration. Social standards and active labour market policies - in a phrase, its “output legitimacy” - are the criteria by which European citizens’ evaluate the European project. Europe’s high youth-unemployment rates in particular are no longer acceptable! The EU 28 agreed upon the 2020 Strategy, but it has not yet been implemented. Proposals for the ‘rediscovery of our common social model’ have existed for a long time, and now - thanks to the Brexit - they have been reinvigorated.²⁹

- What could a **symmetric devolution** and the resulting federalisation of the United Kingdom that organises the coexistence of English, Scottish, Welsh and Northern Irish into a larger national state look like?³⁰ Just recently, Andrew Blick advocated “a dramatic change in the way the UK is governed”, with which he meant a consequent federalisation fixed in a “written constitution”.³¹ 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.³² Britain’s

specific and constructive contribution to European integration, for example its contribution to the development of the principle of subsidiarity, have received less attention. Only when taken together can a complete picture be assembled. According to an article 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 exit.”³³

The relationship among national characteristics within the framework of our common history needs further reflection and must constitute a 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.

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**Helgard Fröhlich has been Programme Director of CIFE since 2003. She has a degree in History and received her PhD and the “*facultas docendi*” from Humboldt University, Germany. She is specialised in European history and was Assistant Chairperson/Assistant Professor for Modern History at the Humboldt-University Berlin from 1980 to 1996. From 1997 onwards she worked for the European Movement Germany, since 1999 as its Deputy General Secretary. She teaches at the University of Vienna, Department of History.*

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