



Jean Monnet Centre of Excellence – Tensions at the Fringes of the EU Stream 3: Variegated Geometry, Differentiated Integration and Transnational Governance

Academic discussion: A New Relationship? Brexit, Ireland and Northern Ireland

6 May 2016, Royal Irish Academy, 10:30, Academy House, 19 Dawson Street, Dublin 2
(Summary report)

The TREUP project convened a constitutional conversation on Friday 6 May 2016 in collaboration with the Royal Irish Academy and Mason Hayes & Curran. The conversation was attended by high-ranking scholars, policymakers and government officials who deliberated on a range of the key issues at stake in the upcoming UK referendum, on 23 June 2016, relating to its continued membership of the EU.



Presentation of Prof Sioanaidh Douglas-Scott
at the 1st part of the conversation, with Gavin Barret (left, the
second speaker) and John Morison (middle)

The first part of the conversation concentrated on envisaging alternative futures for the UK and Ireland in the event of a decision by the UK to leave the EU. Various possibilities were explored, including the likelihood of other member states following the UK's example; the potential for regional territories to negotiate unique relationships with the EU despite national withdrawal; and the prospect of devolved regions in the UK seeking independence and re-entry to the EU.

The complexity of the parallel negotiations for new agreements between the EU and the

UK, inter alia, required in the event of Brexit raised concerns about the capacity of the relevant officials likely to be engaged in the process to manage it effectively within the strict two-year negotiation period. Discussants did not consider it likely that an extension of this time period could be secured given that it would require unanimous support from all EU member states.

The second part of the conversation focused on the likely effects on human rights protections in the event of Brexit. Some discussants believed that the UK's obligations under the British-Irish Agreement in international law would be unaffected by Brexit, while others perceived a negative contingent connection between Brexit and proposals to repeal the Human Rights Act 1998 in the UK. The role of the Court of Justice of the EU in protecting human rights also proved to be a divisive topic, with some discussants criticising the quality of its human rights judgements while others characterised it as a positive complement to the European Court of Human Rights. Those against Brexit highlighted the risks inherent in protecting certain values outside the EU's framework. For example, it was suggested that socio-economic rights were likely to succumb to the demands of independent trade agreements sought by a politically weaker and needy post-Brexit UK. Moreover, discussants highlighted the limitations of both common law constitutionalism and unincorporated international human rights treaty provisions in relation to their ability to uphold UK human rights standards in the event of Brexit.



From left to right: Prof Chris McCrudden (speaker at the 2nd part); Prof Imelda Maher (chair of the 2nd part); Prof John Morison (introductory speech); GA John Larkin (speaker at the 2nd part); Prof Sioanaidh Douglas-Scott (speaker at the 1st part)



Prof Eleanor Spaventa, speaker at the 3rd part of the conversation

During the third part of the conversation (chaired by Dagmar Schiek), discussants considered the implications of Brexit on citizenship and free-movement between the UK and Ireland. The importance of revisiting whether the common travel area could continue to apply between Ireland as a member state and the UK as a non-member state was discussed with reference to EU principles of non-discrimination. Moreover, the prospect of reinstating border controls on the island of Ireland was highlighted as being an issue requiring particularly sensitive consideration. Another important question raised related to the terms of the EU Council agreement negotiated by David Cameron in the event of a vote to remain. Its provisions relating to welfare benefits were viewed as a threat to the principle of free movement given that their effect would be to create a subset of European citizens based on their earning power.



Dr Rory Montgomery, speaker at the 3rd part of the conversation

The importance of avoiding complacency as regards the effective oversight of policing across the UK and Ireland, together with the fragile legitimacy of policing services that an external guarantor like the EU helps to maintain, was emphasised during the fourth and



From left to right: Prof David Phinnemore (chair of the 4th part); GSOC Commissioner, Kieran FitzGerald (speaker at the 4th part); Co-Director at SEI and Research Fellow at the Institute of Commonwealth Studies, Georgina Sinclair (speaker at the 4th part); Deputy Departmental Solicitor for Northern Ireland, Claire Archbold (speaker at the 4th part)

final part of the conversation. It was noted that views about Brexit among police officers in the UK and Ireland were mixed. Some officers were reported as having confidence in their organisation's ability to cope with the prospect one way or another, while others were said to have deep concerns rooted in doubts about the potential impact of Brexit on cross-border citizen safety and security. Some discussants reflected on the added value of formal and informal police networks, including Europol, made possible by the EU. These were praised for being meaningful, funded forums for the sharing of best practices that would be a regrettable loss to the UK in the event of Brexit. Others expressed concerns about the UK's expected loss of access

to various intelligence databases and the related impact this could have on police effectiveness in dealing with international crimes.

The issues raised during the conversation will be revisited at a follow-up event to be held at Queen's University Belfast on 15 September 2016.

More information and full report of the event are available [here](#).