



Jean Monnet Centre of Excellence – Tensions at the Fringes of the EU

After the Referendum - What Next for the EU and the UK?

In the immediate aftermath of the UK referendum on continued EU membership, Queen's University Belfast's Jean Monnet Centre of Excellence "Tensions at the Fringes of the European Union" ([TREUP](#)), in association with [QPol](#) policy engagement, offered view-points by a panel of academic experts and a debate on the future consequences and opportunities following the referendum.



Panel members from left to right: Dr Billy Melo Araujo, Prof Yvonne Galligan, Dr Brian Jack, Dr Mary Dobbs, Dr Julia Paul, Prof John Morison, Prof David Phinnemore, Prof Dagmar Schiek. The panel was composed of academics collaborating in TREUP, its Principal Investigator (D Schiek), two of its collaborators (M Dobbs and B Jack) and all Co-Investigators, plus the moderator (J Paul).

The debate attracted huge interest from various audiences including: academics; students; members of civil society; politicians; journalists and bloggers. The conversation was chaired by [Julia Paul](#), Lecturer in broadcasting in the School of English at Queen's University and former BBC journalist..

Speakers participating in the discussion included high-ranking scholars from Queen's University working on different aspects of the European Union integration process. The panel openly expressed their concerns regarding the 'leave' vote and touched on a number of important questions such as:

- Does EU law still apply to the UK? If so, what does that mean as regards the right to free movement of workers and what is actually happening on the ground?
- What kind of new relation will there be between the UK and the EU?
- Is there a possibility to override the referendum result?
- Who voted 'leave' and is populism spreading across other European countries?
- What are the environmental and agricultural consequences for Northern Ireland after the UK leaves the EU?
- How should gender equality, democracy and modern government develop after the UK leaves the EU?
- What does the UK's decision to leave the EU mean for the country's external trade agreements?

Summary of Panel initial Contributions

[Dagmar Schiek](#) is Professor of Law at Queen's University and a Jean Monnet ad personam Chair in EU Law and Policy. She leads the "TREUP" project.

Professor Schiek focused on the question "what next for the EU after the referendum?", stressing that while focusing on what the UK will do with the referendum results would prevent the EU from tackling the resulting crisis proactively. Certainly it is the UK's prerogative to decide whether and when to declare under Article 50 TEU that the country wishes to withdraw from the EU. However, the EU institutions can react constructively to the referendum result. The institutions should insist that the UK continues to apply European Union law, in particular in the field of free movement of EU citizens. Should the recent surge in hate crime against EU citizens not be addressed adequately by the UK institutions, the EU Commission should certainly assert the rights of EU citizens in the UK by adequate legal action. Similarly, the EU institutions must insist that the UK government proactively informs employers that dismissing EU citizens on the grounds of the referendum results is not an option, and enforce the rights of EU migrants in all fields.

The European Union itself can do more to address concerns, which are not unique to UK citizens. Many EU citizens fear being socially excluded, and translate this into a rejection of free movement of people under EU law. The EU can take specific actions to revive the original value of free movement rights: these are based on the principle of equal treatment abroad, which eliminates the abuse of free movement rights for lowering social standards. Unfortunately, persons who move to work in another country are not always treated equally in fact, and if they move as posted workers EU law presently allows their unequal treatment. Accordingly, citizens' fears The Juncker Commission has started such action by tabling a mobility package, which improves the [rights of posted workers](#). Finally, the EU can demonstrate that it remains a capable actor, by addressing concerns of citizens related to underinvestment in social services especially in regions which receive a high proportion of EU citizens, through best practice comparison and other coordinating activities. The EU social funds could also be used to support regions with low levels of investment due to poverty, which can also ease perceived negative effects of mobility. Also in the field of asylum protection and the refugee

crisis, the EU is only barred by political division from acting. In all these fields, the EU can legislate without the vote of the UK, demonstrating that the EU is capable of acting without it.

[David Phinnemore](#) is Professor of European Politics and Jean Monnet Chair in European Political Science in the School of Politics, International Studies and Philosophy at Queen's University.

Professor Phinnemore spoke of different types of agreements which might form the basis of future UK–EU relations. After being notified by the UK government of its intention to withdraw the UK from the Union, the European Council will adopt guidelines for the negotiations of UK departure and in time a new relationship. One option is for the UK to join the [European Economic Area](#). As noted by Professor Phinnemore, this would include free movement of goods, services, capital and workers, acceptance of current and future EU legislation and no participation in decision-making in Brussels.

Another option is the Swiss model of bilateral agreements. This is a complex model and the EU has been pushing for Switzerland to move away from it, in effect into the EEA. Other types of agreements that might be on the table include arrangements akin to the customs union with Turkey or the free trade agreement with Canada. Whatever UK-EU agreement is reached, negotiations and ratification could take 5-7 years. There are three important questions in this respect. The first question is: what does the UK want? There is no clarity here. The second question is: what doesn't the UK want (e.g. free movement of workers)? Answers to this question are conflicting! Finally: what is on offer? There will be no cherry-picking; instead any agreement must be based on a balance of rights and obligations.

[John Morison](#) is Professor of Jurisprudence and a former Head of the School of Law at Queen's University.

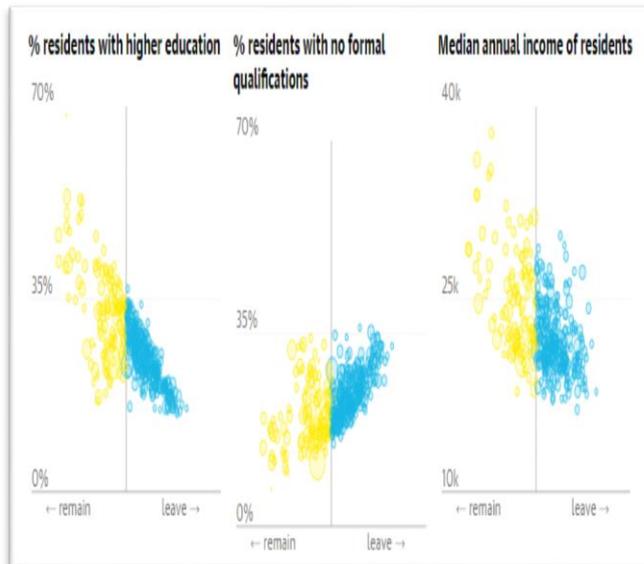
Professor Morison discussed the effect of the referendum on the devolved countries and the various possibilities for not enforcing the referendum result from a constitutional law perspective. First of all, the SNP Government in Scotland has a mandate from its last election to seek independence and may decide to use the Brexit vote to initiate a second referendum for independence of the country. The same is not true in Northern Ireland where the conditions for a border poll (within Schedule 1 of the [Belfast Agreement](#)) have not been met. Having said that, Professor Morison admitted that the UK would be a different place without Scotland – and any new rUK (remainder of the United Kingdom) might very well be a place which did not easily see Northern Ireland within its remit.

In terms of avoiding or delaying the referendum result, Professor Morison noted the highly flexible nature of the UK Constitution and the difficulties of “constitutional experts” predicting the political reality. From a legal perspective, the UK Parliament is sovereign and the referendum is of a consultative nature rather than being legally binding. There are complex issues about who triggers [Article 50](#) and whether this is a job for Parliament or the Prime Minister under prerogative powers. Scotland may use the [Sewel convention](#) not to give consent to Westminster to legislate on areas of European law in Scotland that are within the competence of the Scottish Parliament, and so obstruct the Brexit process, but Westminster remains sovereign and can override this convention. A General Election is possible but the [Fixed Term Parliaments Act 2011](#) makes this more difficult, while a second referendum is democratically problematic.

[Dr Lee McGowan](#) is a Senior Lecturer in European Studies in the School of Politics, International Studies and Philosophy at Queen's University.

Dr McGowan discussed the way people had voted across the United Kingdom and illustrated how the 'Leave' group had carried the vote in England, where strong support was forthcoming in areas such as the East of England, the Midlands and the South West. Statistics indicated that support for leave was strongest among those people with fewer or no qualifications (C/D/E social groups) and an older cohort of voters, whereas those in professional jobs (A/Bs) were more inclined towards 'remain' as

were those aged under 30.



Dr McGowan highlighted that the win for leave reflected fears about immigration and the desire for 'bringing control back'. The referendum defeat for the British government can be explained by the real levels of anger and frustration felt by sections of society towards the political establishment post the 2009 economic crisis. A changing world left many people feeling isolated and receptive to populist arguments. Europe has witnessed the rise of political populism across Europe and the 'Brexit' fall-out is certain to lead other

parties in other EU member states to call for a referendum across Europe. With presidential elections due to take place in France in 2017, [Marine Le Pen's](#) Front National is already demanding a 'Frexit' and with elections in Germany in 2017, it is to be expected that the [Alternative for Germany](#) party will attract further support.

[Dr Mary Dobbs](#) is a Lecturer in Environmental Law in the School of Law at Queen's University and her research focuses on EU environmental and constitutional law.

Dr Dobbs discussed three central weaknesses of being outside the EU from an environmental perspective. She explained that Northern Ireland policy and legislation in this field largely developed because of the EU. However, if the UK leaves the EU entirely, then gaps would ensue as some aspects are for instance currently only provided for by EU Regulations, Treaties and CJEU judgments, without the need to be incorporated within national law. Furthermore, national law also currently refers to EU procedures and processes for authorisations, withdrawals, monitoring and so forth. Added to this, Northern Ireland and the UK would lose out on direct access to innumerable resources in the form of agencies, networks, information and expertise, e.g. the [European Environment Agency](#) and the [European Food Safety Authority](#). Finally, since the [Maastricht Treaty](#), the threat of substantial fines being imposed by the CJEU plays a significant role in encouraging national compliance with EU environmental obligations. Although international law will still apply, it lacks the same force as EU law.

Consequently, Northern Ireland will need to think very carefully about how to respond if the UK leaves the EU entirely. As Northern Ireland holds the devolved powers in this field, it will have the opportunity to act with greater flexibility than it currently does. Expectations are not high, but there is potential to maintain and even improve the level of environmental protection if the political will is present.

[Dr Brian Jack](#) is a Lecturer in EU and Environmental Law within the School of Law at Queen's University.

Dr Jack emphasised that the UK is a part of the EU [common agricultural policy](#) and that farmers in Northern Ireland are due to receive €2.3 billion from the EU under the [Basic Payment](#) and [Greening Component Schemes](#) between 2014 until 2020. Farmers and rural projects in Northern Ireland also benefit under the EU's [Rural Development Policy](#), which is jointly funded by the Northern Ireland Executive. Leaving the EU would mean leaving both the common agricultural policy and the rural development policy. It has been suggested that future savings from the UK contribution to the EU budget could help pay for replacement schemes, however this money would be held by the UK Treasury, whilst agriculture and rural development are the responsibilities of the devolved administrations in Belfast, Cardiff and Edinburgh. It is not clear therefore whether any of this money would trickle down to the devolved administrations.

[Yvonne Galligan](#) is a Professor and acting Head of the School of Politics, International Studies and Philosophy at Queen's University. Her research focuses on gender and politics in national and European settings.

Discussing gender equality, Professor Galligan emphasised that the EU has been active in this field for 40 years and the progress made to date should not be lost. Professor Galligan opined that leaving the EU opens an opportunity to figure out how the UK defines and gives effect to citizenship, democracy and modern government and to further promote these concepts in the country. It is also an opportunity to make gender equality an essential task of the UK post-Brexit – holding on to the principles of equal opportunity and gender equality, gender mainstreaming as a process and positive action as a tool.

There have been 13 (now consolidated into six) directives which provide for gender equality, and the rights these confer on women need to be protected in the post-Brexit era. In addition, there are other directives, such as that on [Data Protection \(1995\)](#) and [Victims' Rights \(2012\)](#), which provide additional important protections for women that need to be maintained. Now that the UK has decided to leave the EU, there is a space to discuss this raft of gender equality issues and a unique chance to give full effect to women's equal status with men, incorporating and extending these basic rights.

[Dr Billy Melo Araujo](#) is a Lecturer on EU law at Queen's University, whose research interests include EU external trade relations and international economic law.

Dr Araujo discussed the UK's future trade relations, emphasising that the UK is still an EU member state and as such it cannot negotiate agreements on its own. As trade policy is an exclusive EU competence, only the EU can conduct external trade policy on behalf of the member states. This

includes the ability to negotiate and conclude free trade agreements. Also, in the context of the withdrawal negotiations with the EU (triggered by Article 50 TEU), the UK cannot, as a matter of law, negotiate trade agreements with third countries (non-EU) because it would be still subject to the EU Treaties.

Moreover, even in the scenario where the UK was to formally leave the EU, there are a number of legal obstacles that may undermine its ability to conclude free trade agreements with third countries. For example, the UK would have to establish its own external trade regime and renegotiate the terms of its membership in the [World Trade Organisation](#). In light of the above, the prospect of the UK being able to sign trade deals with third countries in the short to medium term is very remote.

Some aspects of the discussion

Panel members expressed further concerns while answering questions from members of the audience, many of whom were equally as concerned about the post-Brexit Northern Ireland. Topics under discussion included trade, the nature of the withdrawal negotiations with the EU and funding for Higher Education Institutions. However, as was the case in the run-up to the referendum, the answer to many of these question was “we simply don’t know!”

One member of the audience asked about the circumstances under which UK traders would be able to trade with third countries. Dr Melo Araujo replied that this was not decided at the moment and will have to be answered after the withdrawal agreement is concluded.

On the subject of the withdrawal negotiations, a member of the audience asked if relations between the UK and the EU would be based on friendship. The answer, given by Professor Galligan, again was that it is too early to say, although we can already see that the answer will depend on the style in which the UK manages the outcome of the referendum.

As regards Higher Education funding, the panel was asked what they felt the impact would be on the sector, in particular in relation to accessing research funding programmes such as Horizon 2020 and funding for student mobility such as Erasmus. Professor Schiek suggested that the situation with Swiss universities could provide a useful answer. Following a popular vote to reduce the free movement of people, Switzerland was excluded from both of the aforementioned funding streams, which therefore made cooperation with Swiss universities less attractive. The Swiss government softened the blow by investing in cooperative research, but this exclusion is still felt by universities.

Finally as regards Northern Ireland’s situation, the panel was asked if there could be individual negotiations between the UK and Ireland. The answer to this question by Professor Schiek and Professor Phinnemore was clear: only if the EU as a whole agrees to such negotiations, which would be unlikely given that the withdrawal process hasn’t even started.

Finally, the panel expressed its disappointment that there is no decisive move to make the specific interests of Northern Ireland heard in the withdrawal process.

There were many more questions, which will undoubtedly be discussed at future events.

Finally, watch coverage of the event by the Slugger O’Toole blog at:

<https://www.periscope.tv/w/1mrGmzZyPQLJy>