The 'De-Europeanisation' of Border Conflicts: The Brexit effect on UK territorial borders

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I. Introduction

II. What is 'de-europeanisation'?

'Europeanisation in the field of secessionist conflict settlement and resolution should be understood as a process which is activated and encouraged by European institutions, primarily the European Union, by linking the final outcome of the conflict to a certain degree of integration of the parties involved in it into European structures.'

Bruno Coppieters et al. (eds.), *Europeanization and Conflict Resolution: Case Studies from the European Periphery* (2004), 2.

II. What is 'de-europeanisation'?

- The 'catalytic effect' thesis supports that the closer the form of association with the EU, the stronger the potential to achieve the respective conflict resolution goal.

- If that is correct, the logical extension of this argument would be that the withdrawal of a MS from the EU would create tensions to the fragile environment of its border disputes.

- This is particularly important with regard to Brexit. The reason being that three territorial borders of the UK are linked with border disputes: Irish border; Gibraltar; Cyprus.

III. Tensions created by 'de-europeanisation'

Two kinds of tensions could be foreseen as a result of 'de-europeanisation':

- The withdrawal of a MS signals the return to harder notions of sovereignty. By definition, this creates tensions given that sharing sovereignty is of critical importance in resolving border disputes.

- The return to 'hard borders'.

IV. Absorbing tensions

The EU legal order does have the required degree of flexibility to absorb those tensions. In particular, we could find the necessary 'inspiration' in two areas of the EU legal toolbox:

- The legal instruments that have been used in order the EU to have contractual and/or trade relationships with entities of contested Statehood might allow us to deal with the return to harder notions of sovereignty e.g. northern Cyprus.

- The instruments that have been used in order to create regimes of territorial differentiation could be used in order to create softer borders.

V. Conclusion

However, all the aforementioned arrangements depend on political willingness. It remains to be seen whether the UK government is willing to even entertain such 'imaginative solutions'.

VI. References

1. 'Territorial Differentiation in EU law: Can Scotland and Northern Ireland Remain in the EU and/or the Single Market?', 19 *Cambridge Yearbook of European Legal Studies* (2017) (*forthcoming*).

2. '<u>The Paradox of the Europeanisation of Intra-State Conflicts</u>', 59 *German Yearbook of International law* (2016).

3. '<u>From Britain and Ireland to Cyprus: Accommodating 'Divided Islands' in the EU Political and Legal Order</u>' EUI Working Paper AEL 2016/02.