



# Scotland's Decision – the implications for Europe

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## Policy Recommendations

1. The UK should review its international role to see if it is punching above its weight at the expense of social policies.
2. It should enable greater decentralisation not just to Scotland but to other regions and develop a new political culture to counter the diminishing trust in politics.
3. The EU should develop a common approach to work out greater powers for the regions to meet increasing aspirations for local autonomy.

## Abstract

The Scottish independence referendum on September 18, 2014 is a regional vote with potentially wide reaching consequences both for the United Kingdom and the future of Europe. A “Yes” to independence could set off a volcanic eruption in political terms on the northern periphery of the EU and amount to a further downsizing of a former World imperial power. A “No” could provide some relief to Prime Minister (PM) David

Cameron's coalition government but the genie is out of the bottle. With the likelihood of a close finish, Cameron has promised further decentralisation “soon”<sup>1</sup>. London could forge part of a new European architecture based on a creative model of multi-level governance. In turn the EU will face the challenge of managing greater decentralisation to its regions. A coordinated approach is vital to avoid fragmentation and conflict.



## Scotland's Decision – the implications for Europe

### The Thatcher Factor

For hundreds of years Scotland has been part of the United Kingdom with its own Church and education system. It has Scottish MPs in the parliament in Westminster (London), with a special committee and even cabinet Minister for Scottish affairs. Since 1999 there has been a Scottish parliament in Edinburgh with its own powers on health, education, police and housing, set up under Tony Blair himself born in the Scottish capital<sup>2</sup>.

Over the last decades the feeling of “being together” has been strained. The game changer was, as so often, oil.<sup>3</sup> With the slogan of “its Scotland's oil” the Nationalists galvanised anti-London feeling. Insult was added to injury under Prime Minister Margaret Thatcher (1979-90) a figure detested in Scotland for her austerity package hitting the working class. Scotland never benefited from the “yuppy” “get rich quick” cult of southern England.

The last straw for the Scots was the community “poll tax” introduced first in Scotland because the Conservatives thought it would be popular replacing an old system that was seen to be unfair. The tactic backfired and Scots rallied in protest on the streets angry at being treated as “guinea pigs”. Scottish nationalism was now unstoppable<sup>4</sup>.

1) BBC interview, „Cameron promises more powers for Scotland “soon”, 28.8. 2014.

2) See Melanie Sully, „Is British devolution a step toward federalism?”, Forum of Federations, Canada, 1/3 2001.

3) See The Economist, “Don't leave us this way”, 12.7. 2014.

4) See also Melanie Sully, The New Politics of Tony Blair”, USA, 2000.

### Scotland's Dream

The pro-independence movement includes intellectuals as well as manual workers. All dream of a prosperous Scotland based on social solidarity and free from weapons of mass destruction. The Scottish parliament showed that a new political culture can indeed develop. Unlike Westminster the devolved parliament is shaped in a horseshoe to underline consensus rather than confrontational politics. It has an election system inspired by the German model of proportional representation and returns a higher percentage of female Members of Parliament (MPs) than the UK parliament<sup>5</sup>. The vision of a new political culture is based on the rejection of the old party machines associated with the politics of southern England.

A further boost came with the Scottish National Party (SNP) win in the local parliamentary election in 2011. The party had promised a referendum on independence but technically Scotland had no constitutional powers to call for separation. To avoid complications an agreement was reached between the UK and Scottish governments to recognise the outcome of any vote and negotiate in good faith<sup>6</sup>. The question is a simple Yes/No to “should Scotland be an independent country?”

For most of the time opinion polls showed a steady two thirds majority against independence but in the last stages of the campaign that lead has whittled away. A vibrant civil society became enga-

5) Meryl Kenny, Gender and Political Recruitment, Palgrave, 2013 and research by the author based on parliamentary websites.

6) The Edinburgh Agreement, October 2012, between the UK Government and the Scottish Government.



ged in the question which could change the lives of over five million Scots.

### Post Referendum: the consequences

If there is a “yes” to independence most experts consider that the rest of the UK (rUK) will be the continuing state retaining its current membership in the EU, UN and NATO. There is also a precedent for this in the departure of the Irish Free State from the then UK in the early 1920s. Scotland would therefore be the “successor” state, a new state having to negotiate treaties and membership in international organisations<sup>7</sup>.

The Scottish government says both independence and entry to the EU will be complete by March 2016 but there is no legal obligation for either London or Brussels to follow this tight timetable. Elections are due to the Scottish parliament in May 2016 which could produce a backlash on independence if the negotiation package proved difficult. The loss of a pro-independence majority before negotiations were complete could lead to a costly delay. In addition there are parliamentary elections in May 2015 in the United Kingdom (including Scotland). Before the election the UK government will be reluctant to take big decisions on an independence package and afterwards any coalition negotiations could further add to delays.

Scottish MPs would still be entitled to sit in the Westminster parliament having the right to vote on the negotiations and whether the terms are acceptable to London. An agreement on the status of these MPs would have to be worked out to avoid a conflict of interest. The SNP has promised a written constitution for Scotland based on civic consultation which might prompt another referendum on its content.

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7) For more on the legal aspects see, Andreas Zimmermann, “State Succession in Treaties”, Max Planck Public Law, 2006.

### Implications for Europe

Several stumbling blocks could dog Scotland’s independence and membership of the EU.

- Scotland does not intend to join the **Euro** and seeks instead a currency union with the rUK something rejected by all three main political parties in London. Cabinet minister Danny Alexander (Liberal), has argued that if Scotland continued to use the currency of another country outside a currency union, it would pose problems for EU membership<sup>8</sup>. A pledge to adopt the Euro one day might be necessary in the negotiations with Brussels.
- Scotland wants to retain the Common Travel Area within the UK and Ireland and is opposed to joining **Schengen**. Again this could be another item on the EU’s negotiation list which Edinburgh might have to give way on. For the rUK a Scotland in Schengen poses a risk of increased immigration through the backdoor. The SNP has made it clear it wants a more liberal immigration policy than currently being followed by the UK. A Scotland in Schengen could lead to passport controls along the border with England.
- Scotland seeks EU membership with all **opt outs** and the **rebate** that it enjoys within the UK. London insists that not only would the Scots not benefit from a rebate but they would even have to contribute to it. If Scotland seeks special treatment from the EU, reminiscent of the British stance which has alienated so many, it could lose friends fast. Should negotiations be successfully completed with the EU then the people of Scotland may want a say in a referendum on whether the terms are acceptable.

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8) Lecture, Chatham House, London, 2.9. 2014.



- The Scots aim to become a new member of the EU via article 48 of the **Treaty on European Union (TEU)** which relates to treaty amendments. The SNP considers that since Scotland has in effect been within the EU for over 40 years, it does not need to jump through all the hoops necessary for applicants. However this would mean that a part of an existing member state would be applying for membership in the EU, a move which could set off alarm bells in other countries fearful of their own separatist movements. Opening the Pandora box of treaty changes could also provide the Conservatives with the tool they need for reforming the EU but in turn give other EU members the chance to get rid of the British rebate. Lengthy and complicated negotiations raise the prospect of the Scottish case getting snarled up in a set of other unrelated topics.

The usual way for a country to apply for EU membership is via Article 49<sup>9</sup> but in this case the applicant would already have to be an independent country outside the EU. During the ratification process Scotland would risk being stranded having left the UK but outside the EU. Whilst accession of a new member state to the EU does not automatically mean a referendum in the UK, it could be treaty changes stemming from the negotiations would require by law a popular vote<sup>10</sup>. Since unanimity is necessary in the EU for a new member, the process could be long and difficult.

- Although once opposed to **NATO** the SNP has now indicated it would seek to join the Alliance but would only support milita-

ry intervention with the agreement of the Scottish parliament and with a UN mandate. Further it is determined to evict the UK Trident nuclear submarines and the Royal Navy base on the West coast. With the prospect of a new Cold War, the Alliance might not look too favourably on a country impairing the nuclear capacity of one of its key European players. Possible alternative sites for the atomic submarines could prove unpopular with local residents apart from the costs involved in relocation. Possibly the Scots could be persuaded to extend the timeline for Trident maybe leasing out the base in exchange for joining a currency union. This kind of horse trading though might smell too much of sordid deals and disillusion on those attracted to a new political culture.

- Whichever way negotiations pan out the UK would suffer a loss of image.<sup>11</sup> It would have to rethink its position in Europe and the World amidst growing demands for more expenditure on social and educational reforms and less on defence. But with a population approaching the 60 million mark, it could conceivably keep its voting strength in the European Council; however there would be some readjustment to the **Members of the European Parliament**. Currently Scotland sends six MEPs to Strasbourg but would probably be entitled to double this number.
- A “Yes” vote could disturb the delicate balance in **Northern Ireland** where ties with Scotland are especially strong. It would also mean a rUK consisting largely of England and in effect two mini regions of Wales and Northern Ireland. Some experts have warned this could lead to demands for a vote in Northern Ireland on its future status catapult-

9) See written evidence, Prof Kenneth Armstrong, University of Cambridge, presented to European External Relations Committee, Scottish Parliament, January, 2014.

10) See explanatory notes to the European Union Act 2011.

11) “Damage to UK’s Reputation ‘inevitable’ say MPs”, BBC, 1.5. 2013.



ting the vexed Irish question so much steeped in blood back on the table for London<sup>12</sup>.

## Outlook

With a “Yes” vote Cameron’s leadership and Conservative policies will be called into question. In any post-mortem the UK might take a new look at its role in the modern World. Severe problems in the inner cities need tackling or else Scotland will not be the only loss for the government in London.

At the same time a “Yes” vote poses a problem for the SNP which has to harness the euphoria through long and difficult negotiations. If it fails disillusionment in the political system will be even more widespread.

A “No” for the independence camp would be a bitter blow and the SNP has said it would accept

that the issue is dead for at least a generation. The fault line that has opened up along the border though will remain and could surface in any future “Brexit” referendum in which voters in Scotland may well decide to stay in the EU whilst the rest of the UK opted to leave<sup>13</sup>.

London plans further decentralisation not just for Scotland but for other regions. A distribution of powers at the appropriate level whether local, regional, national or European would be a chance to draw up a new multi-layered system of modern governance closer to the people to win back trust in politics. This in turn would necessitate a coordinated response from the EU to meet similar demands in other member states.

Scotland’s decision, whatever the outcome, will have a major impact on the United Kingdom and its European partners.

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12) See “Scottish Independence: Yes vote could spark unionist crisis in NI”, in [www.newsletter.co.uk](http://www.newsletter.co.uk) Belfast, 20.8. 2014.

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13) See Melanie Sully, „Britain and Europe: opt outs, U-Turns and exit scenarios“, ÖGfE Policy Brief, Vienna, 14/2014



## Further Reading

J. Gallagher/I. McLean on Scottish Independence, *Politics in Spires*, University of Cambridge, University of Oxford Department of Politics 6.8. 2014.

“Melanie Sully: Anhaltender Groll über die Thatcher-Jahre”, APA, Edinburgh/Vienna 31.8. 2014.

*Scotland's Future*, Scottish Government, November 2013.



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