Brexit: Some thoughts on the implications for the EU and for Ireland

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The decision by the United Kingdom to leave the European Union represents a profound shock and crisis point for the European integration project. Since its creation with the Treaty of Paris of 1951 and the Treaties of Rome in 1957, the EU has been inspired by the idea that member states committed to a process of "ever closer Union." Historical developments seemed to vindicate that view: in 60 years, EU membership had widened from 6 to 28 member states, and EU competences have deepened, increasingly absorbing hallmarks of state sovereignty. The EU gradually tied member states and their citizens closer together and succeeded in transforming a continent of warring states into a community of nations. Although integration has over-time increasingly accommodated differentiation among member states, the idea that all countries of the EU proceeded in the same direction has remained a defining assumption in the Union. Brexit shattered that illusory idea: the UK departure from the EU revealed the deep flaws that cut through the EU constitutional fabric, and challenged consolidated understandings of the European project itself.

Having endured a chaotic, overwrought and deeply divisive referendum last June the British decision to leave the EU has left the European continent in turmoil and the Irish state in deep uncertainty. The EU - an organization originally established to ensure peace, harmony and economic development out of the carnage of World War II - is now in grave danger of sundering itself as nationalist movements across Europe clamber to be allowed have their say on EU membership. For reasons that were entirely tied up with internecine conflict within the Conservative party the British now find themselves having to negotiate their way out of the EU while the EU itself has to figure out how to hold itself together and we here in the Irish state are caught in an increasingly befuddled middle.

If we can say one thing clearly about Britain's exit from the EU it is that nationalism is still a potent force in British politics and indeed European politics more generally. All the symbolism around the leave campaign was bound up in a yearning for the glory days of Empire. The imagery of hail Britannia, the pound, the Queen was as potent as the root belief of many Brexiteers that withdrawing from the EU was not just about immigration but the idea that the Britain could do better outside of the EU. The same phenomenon is at the heart of the Scottish National Party's call for a second Scottish independence referendum and Sinn Féin's call for a border poll and ultimate referendum on Irish unity in the light of their success in the recent Northern assembly elections.

Nevertheless, the decision by the UK to leave the EU may also represent a timely window of opportunity for the EU to seriously re-think its foundations. Even the most ardent pro-Europeans would not deny that today, the state of the EU is not strong. During the last decade, the EU has bumped from one crisis to the next – at the very risk of its own survival. Since 2009 the euro-crisis has challenged the stability of Europe's Economic & Monetary Union while the migration-crisis beginning in 2015 has put the Schengen free-movement zone under pressure. And additional challenges, from internal security to external defense, trade and changing transatlantic relations have put the EU under pressure on other fronts as well. These challenges have dramatically exposed the limits of the current EU constitutional set-up. In fact, in recent years major policy-makers at national and EU level have increasingly called for reforming the EU powers and institutional architecture, with the aim of strengthening the Union and relaunching the integration project. By catalyzing the centrifugal dynamics at play in the EU, Brexit represents a dramatic wake-up call, but simultaneously perhaps a welcome chance to restructure the EU's legal and institutional foundations.

This is important in that Britain's exit from the EU cannot simply be laid at the feet of the little Englanders with their Union Jacks. The EU itself and its member governments must shoulder a considerable amount of the blame. Post the 2008 economic crash a militant, ideological austerity has been imposed on ordinary citizens across Europe which has brought deep economic and social distress to millions of Europeans. Yet there has been very little consequence for the individuals and groups who were largely responsible for the crash. The same holds true in Ireland. Banks and the reckless speculators sit serenely by as misery stalks the European landscape and the increasing consolidation of wealth in the hands of a small elite has fomented a rise in both right and left wing alternatives all deeply hostile to the way the EU has developed. In that context no one can seriously contend that the EU itself does not need significant institutional and political reform and there has long been a curious anti-democratic twinge within the elites of the EU towards its citizens.

The euro-crisis has exposed the weaknesses of the EMU, and states, notably in the South of Europe (but also here in Ireland), have suffered from a constitutional regime that prioritizes fiscal stability at the price of growth and employment. The migration-crisis has revealed the deficiencies of the EU in the field of justice and immigration, displeasing states particularly in the North of Europe which have had to shoulder a greater burden in the management of asylum claims. At the same time, states especially in Central and Eastern Europe have been concerned that the current EU is not able to sufficiently protect them from external military threats, particularly in the face of a resurgent Russia and a US administration which appears only mildly if at all concerned with EU defense. In sum, the current EU set-up is being criticized by member states across the EU, albeit for different reasons in different places and it clearly needs reform after Brexit becomes a reality.

A two tier EU of the rich and the poor needs to be avoided but the idea of a multi-speed Europe where different member states progress at different paces does remain on the table. This is all the more apposite in case the efforts to reform the constitutional architecture of the EU after Brexit falter for idiosyncratic national reasons. The idea of a multi-speed Europe is nothing new and has existed for 25 years. Since the Maastricht Treaty of 1992, EU law has introduced opt-outs, exempting some member states from participating in some EU projects. And since the

Amsterdam Treaty of 1996, EU law has also created the enhanced cooperation procedure, allowing those member states that are willing to move forward to do so within the EU legal order. As a result of that, Europe has developed at different speeds. Two countries (the UK and Denmark) have a derogation from adopting the common currency; two countries (the UK and Ireland) have an opt-out from the Schengen free-movement zone; and three countries (the UK, Poland, and the Czech Republic) have obtained a protocol that seeks to exempt them from the application of the EU Charter of Fundamental Rights. Moreover, 25 member states have embarked on the process of enhanced cooperation to set up a Unitary Patent court, and 10 Eurozone countries are discussing the introduction of a financial transaction tax.

Europe and the Union itself is clearly weakened by Britain leaving the EU. Britain's contribution to the EU's foreign policy after Brexit is going to be even more diminished and limited than in recent years in which Britain has been to all intents and purposes disengaged from the EU's Common Foreign and Security Policy and external action programs. Brexit will also deal a significant blow to the European defence architecture as the EU's biggest army leaves the EU's structures and the important link that Britain plays between the United States of American and European pillars of the transatlantic security community ends.

Ireland needs to be at the heart of ensuring changes to the EU's architecture are appropriate because the potential consequences of Brexit for Ireland are stark. Our own commitment to the European project, the fact trade with Britain is such an essential part of the Irish economy, and the doubts about what exactly will happen to the border between North and South have remained constant questions of conjecture since last June's vote but we are no wiser as to their answers. The difficulties Brexit poses for Ireland's relationship with Northern Ireland and Northern Ireland's relationship with the EU are significant. The Northern Ireland Peace Process is premised on:
- All-island cooperation and integration
- Open border
- Explicit EU mentions & European Convention of Human Rights supranational protections
- Open end point and dynamic change

Brexit (potentially)
- Disrupts North-South integration
- Turns Northern Ireland towards United Kingdom and slows dynamic change
- Weakens human rights protections
- Offers a powerful physical and symbolic target for anti-peace process dissidents to label the process as a failure

For Northern Ireland a "hard" land border is the worst possible outcome in that it would bring economic disruption to a weak economy, run the risk of fortifying security infrastructure which would almost inevitably be attacked by dissidents and then be reinforced. It would be a powerful symbol of reversal and failure and ultimately bring disruption to the premise of the peace process. It would also conflict with other dynamics in that in 2017 we saw the first ever Northern Ireland Assembly/Parliament where traditional unionists are in a minority and where there is a clear majority for remaining in the EU. In that context it is imperative that Ireland remains a driving force at EU level in providing a calm voice within the 27 when the terms of Brexit are

being agreed. As the Minister for Foreign Affairs Charles Flanagan outlined in a keynote address at a recent conference in Dublin City University on the law and politics of Brexit this is not a time for the EU to punish Britain. Rather we in Ireland should be seeking to ensure that Britain continues to play a role in Europe's economic and foreign policy architecture. We can do this through our negotiating team at EU level but we also need to do it in our bilateral negotiations with the British themselves.