

## BEYOND BREXIT-HOW COULD CIVIL SOCIETY RESPOND?

### 1. Introduction

At the time of writing, it is impossible to know whether the UK will leave the EU on 31 October 2019 without a deal, which appears the most likely option, with a deal or if there will be a further postponement. Continued uncertainty over the last three years has made it impossible for individuals directly affected to plan their lives and for associations involved in European activity in the UK or in EU-27 to plan their medium-term future. In this essay it is suggested that it is possible at any rate for civil society organisations not to be taken hostage by the short-term twists and turns of Brexit and to plan future priorities. The **five priorities** suggested here are adaptable to whatever the outcome of the current crisis in EU/ UK relations. The aim is to encourage thinking beyond Brexit and for each civil society organisation to develop its own vision of the future relationship between the EU and the UK.

There is a widespread and understandable wish on both sides of the channel simply to see the divorce resolved so that other issues can be addressed. This could lead to widespread tacit acceptance of a UK drifting away from Europe. Civil society should resist this simplistic approach and on the contrary build bridges between the EU and the UK for at least three reasons:

- The **political Europe of the Institutions** is one thing, **sociological Europe** another. For example, 65 million people may well be stripped automatically of their EU citizenship status overnight, whilst paradoxically EU citizenship has never been so popular in the UK and identified with so strongly especially by young people. Increased turnout in the 2019 European elections showed that. According to the latest Eurobarometer survey a record 71% of people see themselves as European citizens in some way. Even in the UK the figure is over 50%. Brexit is an opportunity to introduce a European dimension to **citizenship education**. The lesson of Brexit is not just to accept the loss, but that EU citizenship should no longer be taken for granted.
- In the case of a “no deal” there could be an **end to freedom of movement** between the EU and the UK and even under an agreement it may only continue for a transitional period. After that EU citizens may not be treated as any different from immigrants from the rest of the world by the UK whilst UK citizens in the EU would no longer have freedom of movement rights whilst other rights would be the responsibility of each member state. There are some 3.7 million EU citizens in the UK and 1.3 UK citizens in the EU. The 5 million represent about one quarter of all those living and working in another Member State – too large a population simply to be taken out of the equation. There is a real danger that if Brexit is just accepted, it would lead to further restrictions on freedom of movement.
- **Civil society organisations** are influenced by relations between states in their own cross-border links, but they can also rebel against them. For the most part European associations have extended their membership Europe-wide going beyond the EU. The extent to which this will be possible in the case of the **UK** will depend on whether the government encourages such links and contributes to EU funding programmes. Keeping a UK out of the EU institutions engaged on equal terms in European civil society is in the general interest. It is also in the interests of civil society where the UK is often in the lead with imaginative new ways of tackling intractable problems, running single issue campaigns and being more pro-active in EU affairs than successive UK governments. Organisations in EU-27 will have to show understanding for the difficult situation their UK counterparts find themselves in. The country is so divided over Europe that for many civil society organisations it is very difficult without protests from many of their members to adopt an overtly “remain” position.

The vision being put forward here is one of a hard or no deal official Brexit at the institutional level and a full participation in another Europe by UK citizens and associations at the grass roots level.

## 2. PRIORITIES FOR CIVIL SOCIETY BEYOND BREXIT

### i) Introduce a civic education programme for Europe.

The 2016 referendum in the UK revealed the extent to which public opinion is divided about Europe, a situation which is by no means unique. Eurobarometer and other opinion polls reveal the links between euro-scepticism, geographical and socio-economic factors in all countries with some sections of the population having Europeanised their networks and others experiencing a sense of exclusion. **Citizenship education** should be tackling the inequalities in access to the advantages Europe has to offer whilst extending these advantages beyond those who are well educated and have the necessary resources and language skills. The evidence from the EU's own research projects is that where there is any European citizenship education it tends to present the EU as a distant set of Institutions remote from daily life. Brexit and the rise of nationalism more generally present opportunities for adding a **European dimension** to citizenship education and creating more active European citizens. The new President of the Commission is committed to trebling the budget for Erasmus, which is a step in the right direction.

**Citizenship** and **identity** are common threads running through the succession of crises that the EU has faced over the last 12 years from financial turbulence to austerity, migration and security threats testing the extent of solidarity. Brexit also raises questions about citizenship through its disruptive effects and is grist to the mill of citizenship education. As UK citizens attempt to retain their European citizenship and secure their European future and that of their children by applying for the citizenship of another EU member state light is shed on the history of our own citizenship by comparison with that of our neighbours. Why is it easier for some Latin Americans to acquire Spanish citizenship than fellow Europeans? Why could Commonwealth but not EU citizens vote in the 2016 referendum in the UK? Why are some countries much more tolerant than others of dual citizenship and why are conditions such as length of period of residence before you can apply so different, ranging from 5 to 10 years? Brexit reveals much about our own nationalities and different citizenship regimes.

### ii) Champion freedom of movement

Opposition to freedom of movement was a key plank in the campaign to leave the EU in the run-up to the referendum. Hostility towards EU citizens erupted immediately after the result and many left the country feeling that they were no longer welcome. They have been leaving too because of the decline in the value of the pound and improved situations back home. The argument in favour of freedom of movement has not though been entirely lost in the UK since the debate can swing the other way at the prospect of shortages for example in the health service. The dominant issue during the referendum campaign is no longer high on the agenda. However, when David Cameron extracted from the EU an agreement to restrict freedom of movement and make it easier to limit access to social benefits the dangers of such an approach were apparent, as other governments sought restrictions of their own. Despite the impact of Brexit, it should be noted that migration towards the UK remains relatively stable with the fall in EU long term arrivals compensated by an increase in non-EU immigration. Whilst the EU and UK negotiators promised that there would be no loss of acquired

European rights, UK citizens stand to lose their free movement rights in the EU under the current withdrawal agreement or if there is “no deal”. The negotiators had identified this issue as one to be settled later, but how likely is that now given the worsening climate of relations?

Over the last decade there has been an increase in **transnational civil society activism** which to an extent could be a counterweight to those voting for the reinstatement of borders not only in the UK but also in the Schengen zone. Eurobarometer opinion polls consistently single out freedom of movement as the EU’s most outstanding achievement and the number of EU citizens permanently resident in another EU country has doubled over the last ten years from some 8 to 16 million. The importance attached to freedom of movement has yet to translate into an effective lobby and demand for a voice in the decision-making process. As a result, freedom of movement remains a fragile achievement vulnerable to appeals to xenophobia especially when confused with adversarial debates about migration. Stakeholders in freedom of movement are a heterogeneous group of professionals, economic and civil society operators who should be brought together to form an effective coalition and voice against the erosion of this first right of the European citizen.

### **iii) Secure life-long guarantees for the European rights of EU citizens in the UK and British citizens in the EU.**

From the outset after the referendum organisations such as New Europeans, the 3 million and the British in Europe have campaigned for freezing existing European rights and for this issue to be taken out of the negotiations. This position had some support in the British House of Commons, but unfortunately has not been taken up by the EU which is against “mini-deals”. With the failure of the Withdrawal agreement so far and the continued uncertainty blighting the lives of the 5 million, this must be seen in retrospect as an issue where civil society was right and the politicians were wrong. Despite protests that “I’m not a bargaining chip” this situation is set to continue and will be more precarious if there is no deal than if there is a deal, which would at least offer the protection of EU law over a transitional period. Politicians have failed to live up to a civilised standard of behaviour where care is taken to ensure that changes in territory or citizenship cause the least possible disruption of private and family life. Even with the best will in the world they overlooked the risk of disruption caused by long and failed negotiations.

The option of simply guaranteeing existing European rights and the enforcement mechanisms should be kept on the table. This is a less burdensome approach for both citizens and the administration. For example when it seemed that the UK would leave the EU on 31 March 2019, 660,000 EU citizens applied for and got “settled status” but the scheme is far from transparent and numbers have since fallen off with the likelihood that all the 3.7 million and their families will never be reached. Similarly, UK citizens in the EU face 27 different declaratory or more onerous registration schemes and in the case of “no deal” periods of grace ranging from 6 to 24 months. Most EU governments have a policy of keeping the status quo until end 2020 clearly signalling their concern for reciprocity and how their own nationals will be treated by the UK before committing themselves to more lasting solutions. Some have reciprocity conditions in their legislation. There is no prospect that all the five million will be reached especially taking into account those not connected to sources of information on the internet or living in rural areas. Would it not be better to recognise that they should keep their rights and qualify for permanent residence after 5 years? In any case law centres and associations providing active help to European citizens on the move will have a massive increase in workload.

#### **iv) Defend the right to vote and stand in elections for EU citizens and third country nationals.**

Demands to strengthen political rights are surfacing in the wake of Brexit. The sense of powerlessness to defend European rights brought about when these are caught up in a broader negotiation is aggravated by being deprived of political rights at the same time. The vast majority of EU citizens resident in the UK were deprived of the right to vote in the 2016 referendum and the general election of 2017 which focussed on the mandate to deliver Brexit, whilst 60% of UK citizens in the EU could not vote either because they had been resident outside the country for more than 15 years. The demands are not only about extending political rights but applying existing rights. A very significant number of EU citizens were deprived of the right to vote in the 2019 European elections in the UK, because they were not made aware of a form to be filled in to avoid double voting in both their new country of residence and back home. This scandal is leading to litigation by the “3 million” and demands for a public inquiry. A survey by the on-line magazine Europe Street received a response from 3000 EU and UK citizens. The majority complained that they did not feel properly represented in politics and the media and were deprived of voting rights. The sense of not being properly represented and the difficulties of applying the existing rights for EU citizens to vote and stand in local and EU elections in a country other than their own are not confined to the UK. **Extending these rights to regional, national elections and referenda is also a European issue.**

ECIT will be presenting new proposals for a **European citizens’ initiative** to gather 1 million signatures for full political rights for EU citizens. Since the Maastricht Treaty introduced the first political rights for EU citizens in 1993, regions have become more important. The Commission should be able to propose **extending the right to vote** and **stand** in local to regional elections for European citizens, as a measure necessary to bring the legislation up to date. The power of the Commission to persuade governments that it is high time we had universal suffrage in Europe is however more limited when it comes to the holding of national elections and referenda. Nevertheless, an ECI bringing together and supporting the national campaigns to extend voting rights can help put the issue to political parties and governments. If Brexit goes ahead for UK citizens and 20 million third country nationals resident in the EU extending the political rights of EU citizens would not go far enough and should be accompanied by measures to extend political rights to all immigrants.

#### **v) Put the issue of who is a European citizen on the agenda for EU reforms and Treaty revision.**

As already pointed out, the difficulties facing many among the 5 million in securing a longer term future has encouraged applications for citizenship of another Member state, which from a low level have increased dramatically in the case of Ireland, the UK and Germany even though actual numbers are in thousands rather than tens of thousands. . If there is a no deal Brexit, **a new wave of applications** will undoubtedly occur. In theory this is the way to keep EU citizenship and also gain voting rights in the elections which really count, by first becoming a citizen. The problem is that this is not really a fair solution for any group of immigrants or former EU citizens, who face a national post code lottery. For example, a UK citizen who happens to have Irish ancestry can claim Irish citizenship without being resident in the country whilst when periods of residence are required which is the general rule, they can vary from 5 to 8 and even 10 years. Naturalisation is relatively quick and easy in some countries but it can take up to 2-3 years in others. UK citizens who have never lived long enough in another EU country and do not have marital or family connections feel particularly strongly about the loss of EU citizenship. **The sense of unfairness** is not helped by “**golden passport**” schemes

which in 12 EU countries allow the super-rich to buy their way into the advantages of EU citizenship. One way to make this access route to EU citizenship easier and fairer would be to convince all governments to remove any ban on dual citizenship within the EU and neighbouring countries and to consider lowering the residence threshold. Assistance not only to protect European rights but also with naturalisation procedures is needed.

Since the 2016 referendum a number of writers and civil society activists have claimed that there is nothing in the Treaties which should prevent people from keeping EU citizenship once it has been acquired. An **ECI for permanent European citizenship** achieved 112,000 signatures, which is a victory for an opinion contrary to the established view that the status is automatically lost on leaving the EU. There have been discussions in the British Parliament, petitions in the European Parliament, a court case in the Netherlands and an appeal to the European ombudsman. There is a significant body of opinion against the automatic loss of EU citizenship. Such an unprecedented mass loss should not be possible if this **first modern transnational citizenship** is really a fundamental status as described by the Court of Justice of the European Union. Even though none of the attempts to gain acceptance of this view succeeded it was important to show that many find being deprived of EU citizenship unacceptable.

The battle may be lost but the fight should go on for an expanding rather than a shrinking EU citizenship. Ever since EU citizenship was added to the Maastricht Treaty human rights organisations and other civil society organisations, for example in 2013 in the framework of [The European Year of Citizens Alliance](#) have demanded that access to EU citizenship should be based not only on nationality of a Member State but also on residence. There is also the issue of whether a form of European citizenship could exist beyond the borders of the EU in applicant and neighbouring countries. At the next summer university in 2020 ECIT plans to raise the issues of access and loss of EU citizenship under the title “**European citizenship in a wider Europe**”.

## CONCLUSION

In this short essay we have argued that the temptation to put Brexit to one side and accept the divorce with the UK should be resisted. Civil society can be the bridge between the EU and the UK when and if the latter leaves the Institutions. This requires not so much working on a UK-centric agenda, but one which is valid for the whole EU. Most priorities outlined here are valid with or without Brexit.

The space run by **SECO (Salon for European civic organisations)** occupied by ECIT and close to the European Parliament can become a refuge from Brexit for UK civil society organisations which want to continue their European activity.

After the discussion at the summer university on 2 September this paper should be revised and further developed.