

Scotland, Brexit and Spain: A special deal for Scotland is unlikely

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Scotland's First Minister, Nicola Sturgeon, has indicated that she may call a second independence referendum if the UK government pursues a 'hard' Brexit. [Paul Anderson](#) writes on the options for Scotland, and the role Spain could play as it seeks to deal with its own secession issue in Catalonia. He states that it is unlikely a special deal for Scotland will be possible during the Brexit negotiations, but that Theresa May would be wise to avoid making the same mistakes in dealing with Scotland that the Spanish government has made in Catalonia.



Catalonian and Scottish flags intertwined using coloured glass and candles, Edinburgh, September 2014. Credits: [byronv2](#) (CC BY-NC 2.0)

The threat of secession looms large in the [United Kingdom and Spain](#). In Scotland, despite the vote to reject independence in September 2014, the constitutional issue is far from settled. The result of the 2016 referendum on membership of the European Union (EU), which saw a majority of Scots (62 per cent) vote in favour of remain against a state-wide majority (52 per cent) in favour of leave, has ensured the issue of Scotland's constitutional future remains on the political agenda.

In the aftermath of the Brexit vote, several opinion polls recorded a majority vote in favour of independence, but [more recent polls](#) show that support for EU membership does not necessarily translate into support for independence. Support for holding another independence referendum (38.5 per cent) or for independence itself (45.5 per cent) falls short of the 50 per cent mark.

The Scottish National Party's (SNP) minority government has committed itself to exploring a range of options in the aftermath of the Brexit vote, including continued membership of the single market, bespoke arrangements for

Scotland, and of course, the option of holding another independence referendum. In October of last year, the SNP launched a [consultation project](#) on a draft referendum bill. This was followed in December with the publication of [Scotland's Place in Europe](#). This document is the first plan put forward by any government in the UK on Brexit and sets out certain options for Scotland's future: The UK retaining single market membership, special arrangements for Scotland, and further devolution for the Scottish parliament.

In Spain, the prohibition of holding a referendum on Catalan independence, as stipulated in Article 2 of the Spanish Constitution which refers to the 'indissoluble unity of the Spanish nation', has served to galvanise rather than thwart the efforts of pro-secessionists in Catalonia. In a similar vein to Scotland, support for independence has grown in recent years, but has yet to remain steady above 50 per cent ([it currently stands at 44.9 per cent](#)). The Spanish political establishment has sought to impede the secessionist process unfolding in Catalonia through a series of legal bulwarks, yet the incumbent Catalan coalition government is committed to holding a referendum on independence with or without the support of the Spanish government.

Given the growing strength and resolve of the secessionist movement in Catalonia, the Spanish government continues to keep a close eye on developments in Scotland, particularly in the aftermath of the Brexit vote. I have [previously argued](#) that Spain is unlikely to block the membership of an independent Scotland joining the EU. This, I think, remains true as long as the process through which independence is gained has the approval of the UK government (i.e. as laid out, for instance, in the 2012 [Edinburgh Agreement](#)).

This is also key for any special arrangement for Scotland in the event of a hard Brexit. Should the UK negotiate a deal on behalf of the Scottish government, Spain would be unlikely to veto this deal. However, should Scotland seek to secure a deal against the wishes of the UK government – an unlikely but not impossible endeavour – the Spanish government would unequivocally seek to block this going ahead. This would set a 'dangerous' precedent for Catalonia; a scenario that the Spanish government will most certainly not entertain.

The Scottish dilemma

In the immediate aftermath of the Brexit vote, Nicola Sturgeon made the position of the Scottish government clear. It respected the wishes of those in England and Wales to leave the EU, but was committed to ensuring a fair deal for Scotland and the 62 per cent of voters who voted to remain. South of the border, however, it has been a different story. While the UK government has refused to provide a ['running commentary'](#) on its negotiating position, it has hitherto been reluctant to share any official position on a number of issues, including whether the government supports a 'hard' or 'soft' withdrawal.

Theresa May has [recently commented](#) that leaving the EU means the UK cannot hang on to 'bits' of its previous membership. For many, this signals the decision to pursue a hard Brexit, although this has not – unsurprisingly – been confirmed by the government. With regards to Scotland, this is a key factor, since a hard Brexit is likely to be the trigger for a second referendum on independence. Indeed, the Scottish First Minister has made it clear that a soft Brexit approach would lead to the Scottish government, at least for the time being, [putting aside its separatist aspirations](#).

Sturgeon's offer to forego a second independence referendum in return for soft Brexit means the ball is firmly in Theresa May's court. Theresa May has promised to ['look seriously'](#) at the proposals produced by the Scottish government, but the rhetoric emanating from Westminster does not fit comfortably with the version of Brexit endorsed by Sturgeon. The likelihood of the Scottish government's proposals translating into official government policy look very slim.

The future of Scotland, it seems, is destined to be outside one of the two unions of which it is currently a member. On the one hand, a soft Brexit would satisfy some of the concerns of the Scottish government and thus make it more difficult for the SNP to justify a second independence referendum. A hard Brexit, on the other hand, would indisputably be the catalyst for the SNP to call for a second referendum. What is not certain, however, is whether the

reality of a hard Brexit will be enough to tip opinion polls in the SNP's favour.

In pursuing a hard Brexit, Theresa May risks the constitutional future of the UK. Yet, while the stakes are high for the prime minister, for Sturgeon, they may be even higher. Calling a second referendum on independence is likely to be the most important decision of the first minister's leadership; if her timing is off, she will surely kill the nationalist dream and be remembered as the first minister who got it spectacularly wrong. If her timing is right, however, Theresa May will secure her place in the history books as the prime minister who destroyed the Union. Both leaders will be cautiously weighing up their options.

The Spanish dilemma

Not long after the vote to leave the EU on 23 June 2016, Nicola Sturgeon began to court the support of other EU member states for Scotland's continued membership of the EU. Despite receiving a warm welcome from EU officials, particularly in Germany, both the [French President and Spanish Prime Minister](#) rejected any move towards negotiating with Scotland.

The dismissal of any future special deal for Scotland by the Spanish government will be very much influenced by the internal politics of the Spanish state. After two general elections and ten months of a caretaker government, Rajoy retained his place as Spanish premier, albeit as head of a minority government. The Catalan problem continues to be a thorny issue for the Spanish government and its approach of 'oppose and ignore' has overwhelmingly failed to stifle the independence movement.

Pro-secessionists argue that the attitude of the Spanish government is not only unfair, but undermines democracy, a worrying claim in a country that just over 40 years ago was under dictatorial rule. Raül Romeva, the Catalan Minister for Foreign Affairs, has recently [accused Madrid](#) of politicising the judiciary, alluding to a number of arrests of Catalan politicians accused of flouting Spanish law. [Carme Forcadell](#), the current president of the Catalan parliament, is the latest high-profile politician to appear in court. The pro-independence politician faces charges of contempt of court and neglect of duty for allowing pro-independence parties to debate the independence issue in the Catalan parliament. This, alongside a number of other arrests and court appearances, including former president [Artur Mas](#) and several [municipal politicians](#), is considered as lucid proof by many Catalans of the draconian and unjust position taken by the Spanish government.

The tactics used so far by the Spanish government have failed to quench the thirst for a referendum in Catalonia. While there is no majority in favour of independence, a growing number of Catalans are in favour of voting on the constitutional issue (according to [a poll](#) in December 2016, support for holding a referendum was 85%). Rajoy has appointed his deputy Soraya Sáenz de Santamaría to deal with the Catalan issue, but the political deadlock that has plagued the relationship between Barcelona and Madrid looks set to continue. The Catalan government has made clear that while it is open to negotiations over timing and details, it is committed to holding a referendum. The Catalan people, it argues, are entitled to have their say.

The holding of a referendum in Catalonia seems inevitable, but this will be utterly opposed by the Spanish government. The territorial crisis, therefore, looks set to continue. Despite widespread appetite for some form of territorial reform, there is no serious discussion on [reorganising the territorial model](#) of the Spanish state. The Spanish government would do well to take notice of this support for reform, but it is unlikely that any constitutional reform would be enough to satisfy the demands of pro-secessionists in Catalonia. There will no doubt be serious repercussions should the Catalan government hold a referendum in contravention of Spanish law or rulings from the Spanish Constitutional Court. But, as may be the case for the Scottish independence movement in the event of a hard Brexit, this will probably embolden rather than discourage the secessionist movement.

What next for Scotland, the UK and Spain?

Secessionist movements abound throughout the modern world and present intractable challenges for all states.

Both the UK and Spain have taken centre stage in debates on secession in recent years and despite efforts on the parts of both states to accommodate their sub-national minorities and appease their secessionist aspirations, independence remains at the forefront of political agendas.

There is an evident interest in Spain closely observing the events unfolding in Scotland and the UK after the vote to leave the EU. Had Scotland voted for independence in 2014, it would have been very unlikely that Spain would have vetoed the future membership of Scotland in the EU. At first glance, it seems fair to conclude that Spain would seek to wield a veto over any special deal granted to Scotland in the wake of a hard Brexit. It is important to note, however, that should this deal be amicably agreed between the Scottish and UK governments – the UK government, for instance, would have to negotiate on Scotland's behalf – then Spain would probably think twice about blocking this deal. The Spanish government would once again go to lengths to point out the dissimilarities between the Scottish and Catalan cases, but charges of hypocrisy emanating from the Catalan camp will surely ensue.

The future of Scotland in Europe is not in Scotland's hands. Theresa May appears willing to listen to, meet with and negotiate on issues with the devolved administrations, but whether such discussions influence the UK government's Brexit strategy remains to be seen. It seems likely that the UK government will pursue a hard Brexit strategy, much to the chagrin of the Scottish, Northern Irish and Welsh governments. There is, however, [very little support](#) in the upper echelons of the UK government in securing a separate deal for any of the devolved nations. The UK government would need to negotiate on Scotland's behalf, thus it seems fair to conclude that there will be no special arrangement for Scotland.

The Spanish government's reaction to the Catalan independence movement, or more correctly inaction, provides significant lessons for Theresa May. While content with being the prime minister who presides over the UK's withdrawal of the EU, May will not wish to be remembered as the premier who caused the disintegration of the state. In Spain, the refusal of the Spanish government to engage in discussions with Catalonia has strengthened the resolve of the Catalan government and a significant number of Catalans. Despite failing to steadily surpass the 50 per cent mark, independence is now the most popular constitutional option among Catalans. Theresa May will be unlikely to grant the Scottish Parliament the power to hold another independence referendum, but should she adopt the inflexible Spanish approach, support for independence in Scotland will likely increase.

The Spanish government, however, may also become a major stakeholder in deciding the constitutional future of Scotland. The use of a Spanish veto in any hypothetical special arrangement for Scotland in the EU, would be a significant blow to Scottish pro-Europeans. It would, nevertheless, strengthen the SNP's position in pushing for another independence referendum. This will no doubt encounter significant opposition from the UK government, but Theresa May would do well to avoid the same mistakes as her Spanish counterpart.

As the Brexit saga continues to develop over the coming months, the eyes of the devolved nations, Spain and wider Europe will be on the UK government and Theresa May's next move. The significance of pursuing an agreed approach that has the support of all devolved nations cannot be understated. The imposition of a Brexit strategy opposed by the devolved administrations would be an irresponsible and reckless move by the UK government and an enduring constitutional crisis will surely ensue. The Scottish government will no doubt seek to hold a second referendum on independence and this will likely be opposed by the UK government.

It may well be, then, that the ongoing Catalan independence process will provide important lessons for Scotland rather than vice-versa. However, even if a majority of Scots vote for independence in an unofficial Indyref2, the path towards EU membership will be more difficult. Spain may very well wield its veto in this instance, but this will also be dependent on the internal politics of the Spanish state. The UK's future relationship with the EU as well as the constitutional ramifications of this decision remain uncertain. The stakes, however, have never been higher.

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Note: This article gives the views of the author, and not the position of EUROPP – European Politics and Policy, nor of the London School of Economics.

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