

## **Moving Towards a Dissolved or Strengthened Union?**

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### **Introduction**

The Scottish National Party (SNP) stated in its manifesto for the May 2016 Scottish Parliament election that it would consider holding a second independence referendum if there was a material change of circumstances, such as the UK leaving the EU. A slight majority (51.9 per cent) voted in favor of leaving the European Union (EU) but in Scotland a clear majority (62.0 per cent) wants to remain in the EU. Since then there is an intensive political debate and negotiation about the relations between Scotland and the rest of the United Kingdom and the European Union. What is the likely outcome of this debate? Is Scotland wandering on the path of secession?

In contrast to what many people would think, I will argue that a strengthened Union is a more likely scenario than a dissolved Union. Such a counterintuitive conclusion is based on an assessment of the causal drivers of devolution in the UK. Therefore, I will explore whether external (European integration) or internal (nationalist parties) pressures are driving Scottish nationalism. I will put Scotland's autonomy arrangement in a comparative perspective to see if further decentralisation would be possible and how decentralisation reforms could look like. It appears that Scotland has many self-rule powers but shared rule with England and the other devolved administrations is underdeveloped. My analysis suggests that Scottish independence is unlikely to happen. Rather, more devolution, involve a development of shared rule, will strengthen the 'Union' with England.

### **European integration and regionalism**

European integration is often portrayed as a story of Member States pooling their authority to collaboratively decide and implement policy. But there is another story to European integration: a widening and deepening Europe coincides with a trend of increasing regionalism. This was already observed in the early 1990s by Gary Marks (1992), who studied the reforms of the European Community's structural funds policy in the course of the Maastricht Treaty. A state-level approach could neither satisfactorily explain why there had been fundamental innovations in the administration of structural funds nor account for the considerable growth of funding.

Subnational governments had become increasingly important for implementing EU policy most notably cohesion policy and structural funds (Marks 1993, 392). The involvement of regions in European structural policy went along with calls for more regional authority (Jones and Keating 1995; Jeffery 1997), and with the creation of the Single European Market regions became less economically reliant on domestic markets. Some scholars postulated a vision of a 'Europe of the regions', or more modestly, a 'Europe with the regions' in which power was devolved upwards to the European level or downwards to the regional tier (Piattoni, 2009).

What is the nature of European integration and regionalism in the UK? To what extent can devolution in the UK be related to the process of European integration?

The Regional Authority Index (RAI) (Hooghe et al. 2016) allows me to systematically trace trends in decentralisation of government authority across countries and time. The RAI breaks down regional authority into two dimensions. *Self-rule* is the power exercised by a regional government over citizens within its territory. For example, the German *Länder* have the competences to shape policy with regard to culture, education, universities and the police. *Shared rule* is the authority of a regional government co-exercised in the country as a whole. In Germany, shared rule takes two forms. The executive governments of the *Länder* appoint representatives in the *Bundesrat*, which is an upper chamber of parliament with veto powers over many federal laws. The *Länder* can also shape national policy and coordinate policies through *Ministerkonferenzen* in which ministers of the *Länder* meet with federal ministers.

The RAI provides autonomy scores for regional governments in 81 countries between 1950 and 2010. Figure 1 displays average RAI scores for four groups of countries showing that regional authority has increased over time. In the EU, in *west old democracies* (i.e. Belgium, France, Germany, Netherlands) average regional authority increased from a bit more than ten in 1950 to almost sixteen in 2010. Regional authority also increased in countries which democratized (e.g. Greece, Portugal, Spain) and in countries anticipating EU membership (e.g. Hungary, Poland, Romania).

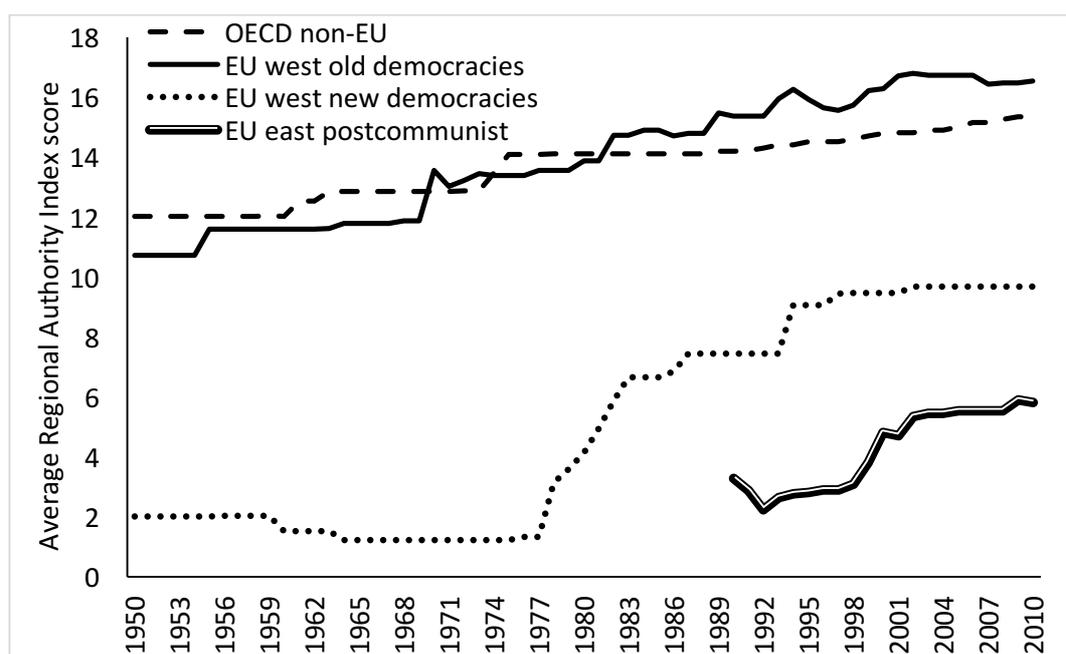


Figure 1: Average regional authority index scores for four groups of countries between 1950 and 2010.

The rise of regional authority in EU countries suggests a causal link between European integration and decentralisation processes. However, regional authority has also increased in countries outside the EU. The average RAI score for OECD non-EU countries (e.g. Australia, Canada, New Zealand, US) increased from twelve points in 1950 to 15 points in 2010. This indicates a global rather than a European-specific decentralisation trend and raises the question for other causes of regionalism. The next section, therefore, looks into nationalist parties as drivers for decentralisation. What is the role of the SNP in Scotland and Plaid Cymru (PC) in Wales for devolution in the UK?

### Regionalist parties and regionalism

Alongside a coinciding trend of European integration and decentralisation reforms, scholars have also noted a rise in nationalist (often also referred to as regionalist) parties, especially since the 1970s (De Winter et al. 2006; Matthias 2006). The electoral development of regionalist parties – defined as parties which prioritise autonomy claims – is displayed in Figure 2. Clearly, these parties are on the rise in national and regional elections.

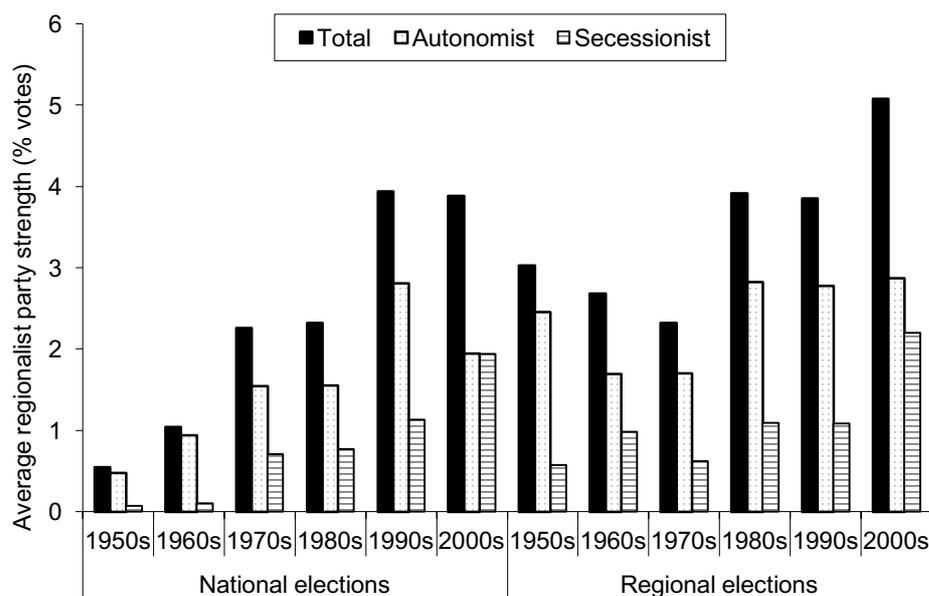


Figure 2: Average regionalist party strength in national and regional elections.

Notes: Average regionalist party strength is derived by dividing the sum of regional vote shares for all regionalist parties by the total number of elections for each decade and the average includes elections where regionalist parties did not participate.

Decentralisation is not only promoted by European integration but also by regionalist parties, like in the UK. This raises the question how European integration, decentralisation and regionalist parties are connected to each other.

Regionalist parties can be distinguished between parties that challenge the unity of the state and want to become an independent country (secessionist parties) and those who do not

challenge the unity of state but seek more autonomy (autonomist parties). Both types of parties have seen their average vote share increasing but especially secessionist parties have been on the rise in the 2000s (figure 2). Not only have regionalist parties become electorally stronger but also more radical. Previous research has shown that decentralisation reforms foster a radicalisation of regionalist parties. A change in RAI score from 1 to 20 increases the probability that a regionalist party is a secessionist party from 10 per cent to 60 per cent (Masseti and Schakel 2013). Hence, it appears that European integration alone is not a likely driver for devolution in the UK but that electorally growing and ideologically radicalising regionalist parties are a more likely cause.

### **European integration, regionalist parties and a dissolving United Kingdom**

In order to gain insight on the question whether European integration and/or regionalist parties are driving devolution, I look at regional variation in voting during the Brexit referendum and I track the electoral developments of the main regionalist parties in Scotland (SNP) and Wales (PC). In Wales, 52.5 per cent of the voters opted for Leave which is very close to the result in England (53.4 per cent). In Scotland, however, 62.0 per cent of the voters wanted to remain in the EU. This result indicates that Scotland is far more Europhile than the rest of the UK (in Northern Ireland 55.8 per cent of the voters want to remain in the EU).

The stark contrast in the referendum result has led to a discussion whether there should be a second referendum on Scottish independence. Public opinion towards the EU is used by the SNP as a legitimisation to have a second independence referendum and in this way European integration may be indirectly furthering devolution in the UK. But it is clear that the impact of European integration is mediated by regionalist parties. This point is further illustrated by having a look at Wales where a clear majority of voters want to leave the EU. This is a surprising result considering that at a very conservative estimate Wales enjoys an annual net benefit of £245 million from the UK's relationship with the EU. Richard Wyn Jones ascribes this remarkable result to a failure of Welsh politicians to inform voters about the benefits of EU membership (Wyn Jones 2016).

Richard Wyn Jones' explanation hints that the impact of European integration on devolution in the UK is most likely an indirect one and is mediated by regionalist party which can use public opinion towards the EU as a legitimisation for further decentralisation reforms. The extent to which regionalist parties do so will depend on whether they think they will electorally benefit from 'exploiting' the EU. This is far more likely for the SNP than for the PC because in Wales voters tend to be more Eurosceptic. The SNP can benefit from emphasizing European issues whereas PC cannot.

From Table 1 one can observe that the electoral results for PC are quite stable over time no matter whether PC is in regional government or not. In Scotland, however, the SNP has been on the rise and since 2011, when it formed a single-party government, it is the dominant party in Scotland. Thanks to a recent referendum on Scottish independence in 2014 and further helped by Brexit, decentralization demands have intensified far more in Scotland than in Wales. However, in the case when the SNP manages to extract more authority from London my argument is that a strengthened union is more likely than a dissolved union.

Table 1. Electoral results for the Scottish National Party and Plaid Cymru.

| Scotland: Scottish National Party |              |              |             |              |              | Wales: Plaid Cymru |              |              |             |              |             |
|-----------------------------------|--------------|--------------|-------------|--------------|--------------|--------------------|--------------|--------------|-------------|--------------|-------------|
| Holyrood                          |              |              | Westminster |              |              | Cardiff            |              |              | Westminster |              |             |
| Year                              | Votes        | Seats        | Year        | Votes        | Seats        | Year               | Votes        | Seats        | Year        | Votes        | Seats       |
| 1999                              | 28.1%        | 27.1%        | 1997        | 22.1%        | 8.3%         | 1999               | 29.5%        | 28.3%        | 1997        | 10.0%        | 10.0%       |
| 2003                              | 22.3%        | 20.9%        | 2001        | 20.1%        | 6.9%         | 2003               | 20.4%        | 20.0%        | 2001        | 14.3%        | 10.0%       |
| 2007                              | 32.0%        | 36.4%        | 2005        | 17.7%        | 10.2%        | <b>2007</b>        | <b>22.0%</b> | <b>25.0%</b> | 2005        | 12.6%        | 7.5%        |
| <b>2011</b>                       | <b>44.7%</b> | <b>53.5%</b> | 2010        | 19.9%        | 10.2%        | <b>2011</b>        | <b>18.6%</b> | <b>18.3%</b> | <b>2010</b> | <b>11.3%</b> | <b>7.5%</b> |
| <b>2016</b>                       | <b>44.1%</b> | <b>48.8%</b> | <b>2015</b> | <b>50.0%</b> | <b>94.9%</b> | 2016               | 21.2%        | 20.0%        | 2015        | 12.1%        | 7.5%        |

Notes: Shown are the electoral results for PC and SNP in Holyrood (Scottish Parliament), Cardiff (Welsh Assembly) and Westminster (Parliament of the United Kingdom) elections. 129 seats are at stake in Holyrood elections and 59 (72 for 1997-2001) seats are at stake in Westminster elections. 60 seats are at stake in Cardiff elections and 40 seats are at stake in Westminster elections. Vote percentages for Westminster elections refer to the votes won in Scotland and Wales. Figures in bold indicate the elections when the regionalist party was forming regional executive government.

### Scotland's autonomy arrangement

In order to substantiate my argument, I will first discuss Scotland's autonomy arrangement in detail to identify the areas in which further devolution is likely. Three considerations are important for the question, whether the UK is moving towards a dissolved or strengthened Union. First, is a further decentralisation of authority possible for Scotland or does more devolution automatically entail secession? And if further decentralisation reforms are possible, in which areas? Second, devolution is essentially a bargaining process between regionalist and statewide parties and thereby the preferences of these parties are likely to inform possible decentralisation reforms. Third, once there is room for further decentralisation and the preferences of parties are favorable towards more devolution then the question pops-up how the new autonomy arrangement will look like?

Starting with the first consideration, we can usefully employ the Regional Authority Index again. Scotland's autonomy is far reaching (Table 2). The region has its own parliament which elects its own executive (representation) and which can make laws on a wide variety of policies except immigration (policy scope) without interference from central government (institutional depth). Further decentralisation on the self-rule dimension is conceivable, especially on the fiscal side. Scotland can set a rate on income tax (three pence in the pound) but has never used this power and when the region would like to borrow it can only do so through national government.

Table 2. Scotland's autonomy arrangement compared to maximum scores.

| Self-rule           | Max | Scotland | Shared rule           | Max | Scotland |
|---------------------|-----|----------|-----------------------|-----|----------|
| Institutional depth | 3   | 3        | Law making            | 2   | 1.5      |
| Policy scope        | 4   | 3        | Executive control     | 2   | 1        |
| Tax autonomy        | 4   | 3        | Fiscal control        | 2   | 0        |
| Borrowing autonomy  | 3   | 1        | Borrowing control     | 2   | 0        |
| Representation      | 4   | 4        | Constitutional reform | 4   | 4        |
| Total               | 18  | 15       | Total                 | 12  | 6.5      |

Space for further devolution can be especially found on the shared rule side of the autonomy arrangement. Whereas Scotland has the institutional means to voice its opinion with regard to UK legislation in the region (law making) and has, in practice, a veto on its own constitutional status through the Sewel convention, it lacks powers on executive and fiscal matters. Intergovernmental meetings between London and Edinburgh are restricted to non-binding bilateral and inter-departmental concordats and pacts, and Scotland has virtually no say or powers to alter the Barnett formula which regulates the unconditional fiscal grant from the UK to Scottish government. In sum, future decentralisation reforms are likely to include fiscal reforms and most 'gains' can be achieved with regard to shared rule.

The SNP realises that Scotland is lacking competences in raising taxes and in citizenship and immigration and states that it would like to have competences over these policies (SNP 2013). None of the three main statewide parties are in favor of an independent Scotland but they do support further devolution to Scotland in particular with regard to income tax and welfare (attendance allowances, housing benefits and supplements) (Conservatives 2014; Labour 2014; Liberal Democrats 2014). Given the convergence between the preferences of the SNP on one side and the three major statewide parties on the other side, it is not surprising that the Scotland Act 2016 gives Scotland the power to set income tax rates and bands and the right to receive half of the revenues of value added taxes raised in Scotland. In addition, the Scotland Act 2016 extends the powers over employment support and universal credit, and Scotland can now top-up cuts to tax credits specified in Westminster legislation. In other words, the space for increased autonomy on self-rule has been filled up with the latest Scotland Act of 2016 with the exception of immigration and citizenship. Hence, more self-rule is hardly conceivable unless Scotland, indeed, secedes.

And this is something the SNP does not want despite the fact that they use the word 'independence' constantly. In the document *Scotland's Future*, the SNP clearly outlines that it wants to keep five Unions. The party does not want to leave the EU, wants to remain in NATO, wants to keep the Pound Sterling and the monarchy, and wants to keep up a social union with the rest of the UK (SNP 2013). Clearly, what the SNP envisages as independence can be better described by 'full autonomy' or 'autonomy to the maximum' rather than secession because keeping the Pound, the monarchy and the welfare state of the UK necessarily implies remaining part of the 'Union'.

The need for intergovernmental meetings is acknowledged by the three statewide parties. The Conservatives would like to have a 'Committee of all the Parliaments and Assemblies of the United Kingdom' which 'should be created to consider the developing role of the United Kingdom, its Parliaments and Assemblies and their respective powers, representation and financing' (Conservatives 2014). This comes very close to what the Liberal Democrats (2014) suggest: 'The Secretary of State for Scotland should convene a meeting after the referendum, within thirty days, where parties and wider interests can meet. Its aim should be to secure a consensus for the further extension of powers to the Scottish Parliament'. More formalised intergovernmental meetings are proposed by the Labour Party (2014, 5) which envisages 'Partnership arrangements between Parliaments and Governments whose responsibilities will inevitably overlap should be established, so that they work together for the common good, safeguarding civil and political rights, and promoting social and economic rights such as welfare and full employment. *There is a strong case for giving partnership arrangements a*

*legal existence, in the form of statutory obligations on both administrations to co-operate in the public interest, or through the creation of a formal Intergovernmental Council or its equivalent with the duty to hold regular meetings'* (emphasis added).

The need for cooperation between the UK governments is also acknowledged by the SNP but the party does use the 'lingo' normally reserved for international relations between countries:

With our immediate neighbours in the British Isles and Northern Europe, independence will create opportunities for co-operation, with future governments able to engage as equals in partnerships that enhance Scotland's position in relation to important policy areas including energy, tourism, security and culture. (SNP 2013, 212)

Independence will allow Scotland and the rest of the UK to work together on matters of common interest, *as nations do across the world*. This will include current cross-border arrangements on health treatments, combatting serious and organised crime and terrorism and administrative arrangements to deliver services to the people of Scotland and the rest of the UK when this makes sense (ibid., 216; emphasis added).

Scotland's most important *diplomatic relationships* will be with the rest of the UK and Ireland, reflecting cultural history and family ties, shared interests in trade, security and common travel. The current Scottish Government plans a substantial *diplomatic presence* in both London and Dublin and will be active participants in the British-Irish Council, the secretariat of which is already based in Edinburgh (ibid; emphasis added).

In sum, party preferences converge on the need for intergovernmental meetings to coordinate policy but they remain silent on how these intergovernmental relations should look like, which form it should take and which policies it should cover. The Scotland Act 2016 is almost exclusively concerned with self-rule powers whilst shared rule is not addressed. Any further devolution is, therefore, most likely to involve intergovernmental meetings. The discussion on self-rule already revealed that dissolution is not likely to happen because, in the end, the SNP wants to keep the monetary, monarchic, and social union with the rest of the UK. Further decentralisation is conceivable with regard to shared rule but will these kind of reforms strengthen or weaken the Union(s)?

### **Scenarios for Scotland's autonomy arrangement**

Scotland is an autonomous region which means that it has its own and unique autonomy arrangement within a country. This is quite common for regions with electorally strong regionalist parties. In Table 3, Scotland shared rule arrangement is compared to those of its peers, that is other special autonomous regions in Europe. Basque Country, Catalonia, Aland and Faroe Islands score low for law making and constitutional reform, while Scotland has comparatively high scores. In case of fiscal control Bolzano-Bozen and Valle d'Aosta (both in Italy) can also inform possible decentralisation reforms for Scotland. I will discuss each shared rule dimension in turn.

Table 3. Scotland’s autonomy arrangement (shared rule) compared to other autonomous regions in Europe.

| Autonomous region | Total      | Law making | Executive control | Fiscal control | Borrowing control | Constitutional reform |
|-------------------|------------|------------|-------------------|----------------|-------------------|-----------------------|
| Basque Country    | 10.5       | 0.5        | 2                 | 2              | 2                 | 4                     |
| Catalonia         | 9.5        | 0.5        | 2                 | 1              | 2                 | 4                     |
| Faroe Islands     | 8          | 1          | 1                 | 2              | 0                 | 4                     |
| Aland             | 8          | 1          | 1                 | 2              | 0                 | 4                     |
| <b>Scotland</b>   | <b>6.5</b> | <b>1.5</b> | <b>1</b>          | <b>0</b>       | <b>0</b>          | <b>4</b>              |
| Wales             | 6.5        | 1.5        | 1                 | 0              | 0                 | 4                     |
| Bolzano-Bozen     | 4          | 0          | 1                 | 1              | 0                 | 2                     |
| Valle d’Aosta     | 4          | 0          | 1                 | 1              | 0                 | 2                     |
| Corsica           | 2.5        | 0.5        | 0                 | 0              | 0                 | 2                     |
| Maximum           | 12         | 2          | 2                 | 2              | 2                 | 4                     |

With regard to national law making Scotland can veto Westminster laws through the Sewel convention which stipulates that the UK Parliament will not legislate with regard to devolved matters except with the agreement of the devolved legislature. According to the Sewel convention, three categories of provision are not enacted in primary legislation at Westminster unless the devolved assemblies give their consent: (1) provisions that would be within the legislative competence of the devolved executives; (2) provisions that would extend the executive competence of the devolved assemblies; and (3) provisions that would alter the legislative competence of the devolved assemblies. The Sewel convention effectively grants Scotland a veto on its own autonomy arrangement and this is the maximum which can be achieved.

Most autonomous regions, including Scotland, do not have a say in national and regional borrowing except for the Basque Country and Catalonia. These two regions exercise borrowing control through a multilateral council on fiscal policy and finance (*Consejo de Política Fiscal y Financiera*). However, this mix multilateral and bilateral shared rule seems to be a Spanish exception. Borrowing control is conceivable for Scotland but in a multilateral than a bilateral format which would require that the UK government regularly meets with the devolved governments to take binding decisions on government borrowing.

All in all, it seems that most scope for further devolution is in *executive control* and *fiscal control*. What decentralisation reforms can be conceived in relation to executive control? This could involve upgrading to the Joint Ministerial Committees by regularly meetings where formal and binding decisions are taken on a wide range of policies, and, when desired because of diverging regional interests, the devolved governments can decide to participate in binding legislation or not.<sup>1</sup>

<sup>1</sup> After devolution a memorandum of understanding was signed in 1999 to set up a Joint Ministerial Committee which entitles the regional governments to consult with the UK government on legislation that impinges on them or to resolve disputes between regional and UK governments. With the exception of the EU affairs committee, the committee did not meet regularly until 2008 when it started to meet. However, consultations are non-binding and intergovernmental relations mainly take place through non-binding and inter-departmental concordats and pacts.

Scotland's fiscal control arrangement stands in stark contrast with those for other autonomous regions (Table 3). Scotland receives most of its income through an unconditional grant from the UK government determined by the Barnett formula which gives the devolved administrations a proportionate share of spending on comparable functions in England, given their populations compared to England. The Barnett formula falls under the complete purview of the Treasury. The devolved administrations are consulted on an *ad hoc* basis and in case of disagreement, the devolved administration, or Secretary of State can pursue the issue with the Treasury but the Treasury makes the decisions. Alternative fiscal control arrangements can be found in Bolzano-Bozen and Valle d'Aosta which are consulted on and in Aland and Faroe Islands which can negotiate the tax revenues allocated to their region. The Basque Country has a special fiscal agreement (*Concierto*) with the central government whereby the region administers and collects taxes and pays a contribution (*cupo*) to the central government for the services provided by central government in the region. In addition, fiscal matters are discussed in a multilateral fashion in the council on fiscal policy and finance.

## Conclusion

A comparative 'global' perspective, as well as a UK-focused 'local' study, strongly suggest that electorally strong and radicalising regionalist parties are a major cause for decentralisation reforms. European integration is at most an intermediating factor as regionalist parties may use 'Europe' or the 'European Union' as a legitimisation to further their autonomy demands. A dissolving UK is unlikely to happen because a closer look at how the SNP understands independence reveals that they would like Scotland to be in a monetary, monarchical, and social welfare union with the UK, as well as in a defense and international Union with NATO and the EU. The preferences of the SNP and the three statewide parties, that is Conservatives, Liberal Democrats and Labour, clearly converge on further devolution reforms, especially with regard to tax powers and welfare policy. In the aftermath of the referendum on Scottish independence this is exactly what happened with the adoption of the Scotland Act 2016. While it is highly likely that the Union will not dissolve, this still leaves open the possibility that the Union will become weaker.

A comparison of Scotland's autonomy arrangement to those of other autonomous regions illustrates that further decentralisation is conceivable with regard to shared rule, in particular regarding borrowing, executive and fiscal control. However, when devolution proceeds in those realms, it could actually mean that the Union will be strengthened because it would require regular and formal meetings between the devolved administrations and the UK governments to arrive at binding decisions on national and regional borrowing, UK legislation and fiscal transfers from Westminster to the regions.

The Brexit negotiations will involve intense and frequent negotiations between the UK government and the EU but will also involve the devolved administrations. In practice, the Joint Ministerial Committee on European Affairs is the only channel through which Scotland can try to negotiate a favorable position for itself after a Brexit. The upshot is that shared rule will increase and that the UK is bound to move towards a strengthened Union.

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