



Independence and the European Union, Case Study: Scotland

Name: Rieneke Beeftink

Student number: 09003401

Class: ES4

Supervisor: Mr. P.G. Nixon

Academy of European Studies & Communication Management

The Hague University of Applied Sciences

The Hague, the Netherlands

18th of February 2014

EXECUTIVE SUMMARY

The main purpose of this bachelor dissertation is to examine the possible future consequences for the European Union (EU), if Scotland would become independent after the referendum in 2014. This year, a Scottish referendum on this issue will be held with the intention to leave the United Kingdom (UK). As a newly-independent state separated from the UK, Scotland would need to determine its position in the EU.

Theoretically, Scots are EU citizens and the current independent Scottish legal system is fully compliant with the EU's *Acquis Communautaire*. However, based on basic assessments, it shows that there is no provision for successor states in the EU Treaties such as the Treaty of the European Union (TEU). Additionally, secession of a nation from within an existing EU Member State, in this case the UK, is an unprecedented event.

Following Scottish history and the current position of Scotland in the EU, three EU accession possibilities for an independent Scotland are examined: 1) Scotland as successor EU Member State; 2) Scotland as candidate country for EU accession; 3) Scotland as an independent state outside the EU. Looking at the political discussions on the issue, scenario 2 seems to be the most reasonable. The Scottish Government presumes that an independent Scotland would join the EU by fast-track application procedure as the country already meets a vast majority of the conditions for EU accession. So, if an independent Scotland would apply to join the EU, either through the formal or fast-track process, this will have consequences for the EU itself. These consequences are: Enlargement of the EU, institutional provisions, the shift of political powers, a 'Scottish' Precedent for European regions, and changes of accession criteria in EU Treaties.

TABLE OF CONTENTS

Executive Summary	ii
Acknowledgements	iv
List of Abbreviations	v
Introduction	1
1. Scottish Independence	3
1.1 Introduction	3
1.2 Historical context	3
1.3 Scottish Independence Referendum 2014	6
1.4 Reasons for independence	7
1.5 Conclusion	7
2. Scotland and the EU	8
2.1 Introduction	8
2.2 Representation of Scotland in the EU	8
2.3 Current position of Scotland in the EU	10
2.4 Conclusion	10
3. Future independent Scotland and the EU	12
3.1 Introduction	12
3.2 Possibilities for Scotland in the EU	12
3.2.1 Scotland as successor EU Member State	12
3.2.2 Scotland as candidate country for EU accession	13
3.2.3 Scotland as independent state outside the EU	14
3.3 Consequences	14
3.4 Views of political actors	15
3.5 Conclusion	16
4. Conclusion	18
5. References	19
6. Appendices	24
6.1 Appendix I: Key Stages of the Accession Process	24
6.2 Appendix II: Transcripts of Interviews	25

ACKNOWLEDGEMENTS

As part of the last year of European Studies, the Hague University of Applied Sciences carries out a final project which includes writing a bachelor dissertation about a European-related issue relevant to the study programme. My thesis research generally focuses on examining the future consequences for the European Union, if Scotland would become independent after the referendum this year. While writing this dissertation, I used the knowledge and experience gained during the last five years of European Studies covering a wide range of theory and skills such as academic writing and foreign languages. Moreover, it gave me a better understanding in the process of becoming a European Professional on both professional and personal development as a student. I enjoyed learning how the EU is functioning during the courses of Intergovernmental Organisations and the Political Dimension of Europe. The specialisation, politics in a practical application, and several projects i.e. Europe 21, involved working in a multicultural context as well as developing communication, writing, and research skills. Besides all this, I learned and developed modern foreign languages: English, French and Spanish. Therefore, this general and international-oriented degree shaped a solid base for (pre-) masters specialised in European affairs and may be a future career in this field.

This bachelor dissertation would not have been possible to write without the help and support of some people in particular. First of all, thank you to the Final Project Committee for approving the subject about Scottish Independence and the EU, and my supervisor, Mr. P.G. Nixon, for giving me the opportunity to research this recent political issue. Above all, I would like to thank Ian Swanson, journalist at the Edinburgh Evening News, for the help, advice and suggestions about Scotland, the Scots and their views on independence during the research in the last six months. In addition, I am very grateful to have the support from some good friends who motivated me to write this dissertation and encouraged me to continue and finish European Studies: Anita Cisse, Tess Kirby, Sabine Risselada, Bo van der Wolf, Charlene van Heiningen and others. At last, I would like to thank my parents, my sister and Joost Gabriëls for the patience, support and critical views on the research.

Enjoy reading.

Rieneke Beeftink, 09003401, ES4

LIST OF ABBREVIATIONS

CAP	Common Agricultural Policy
CFP	Common Fisheries Policy
CON	Conservatives
COR	Committee of the Regions
EC	European Community
EEA	European Economic Area
EEC	European Economic Community
EFTA	European Free Trade Organisation
EU	European Union
EP	European Parliament
JMC	Joint Ministerial Committee
LAB	Labour
LD	Liberal Democrats
MEPs	Members of the European Parliament
MoU	Memorandum of Understanding
NATO	North Atlantic Treaty Organisation
ORP	Ordinary Revision Procedure
rUK	Rest of the United Kingdom
SNP	Scottish National Party
SGEUO	Scottish Government European Union Office
TEU	Treaty on the European Union
UN	United Nations
UK	United Kingdom
UKrep	United Kingdom Permanent Representation in Brussels

INTRODUCTION

The main purpose of this bachelor dissertation is to examine the possible future consequences for the European Union (EU), if Scotland would become independent after the referendum in 2014. This year, a Scottish referendum on this issue will be held with the intention to leave the United Kingdom (UK). As a newly-independent state separated from the UK, Scotland would need to determine its position in the EU. The Scottish Government suggests that negotiations could be completed within a timeframe of eighteen months between a positive outcome of the referendum on 18 September this year and the day of independence on 24th of March 2016 (Scottish Government, 2013b).

Theoretically, Scots are EU citizens and the current independent Scottish legal system is fully compliant with the EU's *Acquis Communautaire*. However, based on basic assessments, it shows that there is no provision for successor states in the EU Treaties such as the Treaty of the European Union (TEU). Additionally, secession of a nation from within an existing EU Member State, in this case the UK, is an unprecedented event which raises three main problems in a European context:

- What would the relationship between the 'newly-independent' Scotland and the EU be?
- What would the consequences for the EU be?
- Would other European countries with secessionist movements, such as Spain and Belgium (e.g. Catalonia and Flanders), follow after a Scottish EU Membership?

Through theoretical analysis of academic articles and official documents as well as in-depth interviewing, the dissertation aims to both define and explain the main implications in contemporary European integration with particular regard to Scottish independence. In order to answer the research question, the paper is divided into three chapters. Chapter 1 provides a brief historical background on early Scottish independence. Throughout history the rivalry of the Anglo-Scottish union has been a significant point in becoming independent. Reasons cannot only be found as a profound cultural division between Scottishness and Britishness, but also in the developments of Scotland as a political community (University of Aberdeen, 2007). In the past decades, this was encouraged by the establishment of devolution in the late 1800s, and recently, the desire for

independence. *Devolution* is the transfer of powers by a central Government to regional or local administrations in particular areas. In order to understand this process, the chapter explains the relations between Scotland and the UK which led to the Scottish referendum on independence in 2014. Finally, it looks at the reasons and the willingness to become independent focusing on Scottish identity.

The next chapter describes the current position of Scotland in the EU. As a political region of the UK, Scotland has a subordinate role within the EU. This means that EU regulations involved in the policy-making process are directly accountable for implementing EU law into Scottish law. European affairs are considered to be an aspect of reserved matters that are consequently controlled by the UK Government. In other words, Scotland can only act in the EU in cooperation with Westminster. Moreover, chapter 2 gives an overview of how Scotland is represented in the official EU institutions and other political bodies such as the Council of Ministers, European Parliament (EP), UK Permanent Representative in Brussels (UKrep) and the Scottish Government European Union Office (SGEUO).

The last chapter focuses on the possibilities for Scotland within the EU, if the country would become independent after the referendum. As already explained above, there is no precedent in the EU treaties which lays down that a succession state would automatically remain a EU Member State. Therefore, it is unclear whether an independent Scotland would need to reapply for EU accession. Chapter 3 analyses three possible scenarios: 1) Scotland as a successor state; 2) Scotland as a candidate country; and 3) Scotland as an independent nation outside the EU. Because of the fundamental importance of the process about Scotland's future in the EU, the different views of some involved political actors are discussed. At last, this chapter examines the future consequences for the EU on legal, political and institutional aspects.

1. SCOTTISH INDEPENDENCE

1.1 Introduction

Independence with regard to nations or states refers to 'the freedom from being governed or ruled by another country' (Cambridge Dictionary, 2013). The term devolution can be described as the partly-controlled nature of independence which provides a well-established governmental model that subsequently transfers and shares powers between a central government and regional or local authorities. In case of the UK, the multi-national state has decentralised governments linked to its different geographical parts including, Wales, Northern Ireland and Scotland. A system such as devolution in Scottish perspective can be seen as a sort of independence, but not full sovereignty. However, Scotland is not an independent state, it has various forms of political autonomy like the Scottish Government and Scottish Parliament which were established in 1999. Through the devolution of powers, these institutions enjoy primary legislative powers in particular domestic policy areas (e.g. health, education and taxes), apart from reserved matters such as foreign affairs and European relations that are controlled by the Westminster Government. As a result of this process, it strengthens the role of sub-national authorities in both national and European decision-making process (Carrell, 2013).

1.2 Historical Context

The Kingdom of Scotland was an independent state during the early Middle Ages (since 843). This changed with the Wars of Independence between 1286 and 1328. Then, Scotland fought a series of battles against England after King Edward I, known as the Hammer of the Scots, invaded and disposed the Scottish King, John I. Led by patriotic heroes, such as William Wallace and Robert the Bruce, Scottish resistance against British rule and its victorious successes were the first ever separation from England in Scottish history. In 1314, Robert the Bruce defeated King Edward II of England in the battle of Bannockburn to secure *de facto* independence for Scotland. Eventually, the Declaration of Arbroath (1320) stopped the battles and bloodshed of the wars by confirming Scotland's status as a sovereign state on behalf of Pope John XXII (Falkus & Gillingham, 1987).

After several cross-border disputes, a Union of the crowns was created, when King James IV of Scotland (I of England) succeeded Elizabeth of England in 1603. Although two Kingdoms were united, both countries kept their own parliaments and legal systems until 1707. That year, Scotland was forced to sign the Act of Union as a result of financial incentives and its colonial failure in Panama, known as the Darien adventure. Initially, the

Kingdom of Great Britain was a basis for the development of two different states under one rule which was mainly considered to be economic. Scotland needed economic security to maintain welfare and trade while England wanted political safeguards against the French attacks (Falkus & Gillingham, 1987). Moreover, a political unity was created resulting in a formation of a single parliament of Great Britain in Westminster. At the highest level, Scottish politics were simply abolished with the absorption into the English Parliament and the peculiar political tradition of the Scottish Parliament vanished. Scotland, however, kept its independence with respect to the legal and religious system. Scottish nationalists claimed that 'Scotland was bought and sold for English gold; such a parcel of rogues in a nation following a poet of Robert Burns' ("Scottish Independence: a history", 2012). These dramatic changes led to uprisings of rebellion in Scotland by the Jacobite minority.

During the Industrial Revolution in the late 18th and early 19th centuries, Scotland was transformed in a modern and capitalist economy supplying the needs of the British Empire with heavy manufacturing such as shipbuilding and mining. At the same time, there were several debates in the UK about the so-called Home Rule. In Scotland, there were calls for separated institutions to be given political recognition and greater administrative support (UK Government, 2013). This led to the establishment of the Secretary of State for Scotland and Scottish Office in 1885, focusing on the shift of powers in public affairs to a significantly decentralised apparatus of government in Scotland. Following the debate on administrative reforms, there were Scottish nationalist movements demanding greater democratic devolution, as well as more control over their own affairs. This trend was reflected in an increase of support for the Scottish National Party (SNP). The SNP was founded in 1934, uniting the left-winged pro-independence National Party of Scotland and the Scottish Party, a group of former Conservatives preferring Home Rule. Under the conservative government of 'Iron Lady', Margaret Thatcher, a referendum on devolution was held on proposals by the UK Government to create a Scottish Assembly (1979). Because there was no majority of the electorate, it could not be implemented (Politics.co.uk, 2013).

In 1989, a Scottish Constitutional Convention was formed that brought together political parties, local authorities and interest groups. This association of Scottish representatives published a detailed blueprint proposing a directly elected Scottish Parliament and a wide range of policy-making and legal powers, but dependent on a direct grant from London. Consequently, the report shaped the base for the successful campaign in 1997 when the Labour Government of Tony Blair took over power in the same year and introduced a new

set of proposals. In case of Scotland, it was offered a parliament that would have the ability to pass legislation into domestic policy and set some of its own taxation rates. In the same year, a second referendum on the settlement of devolution was held and overwhelmingly welcomed with 74.3% in favour of a Scottish Parliament (Politics.co.uk, 2013). After the Scotland Act 1998 came into force, the domestic matters were devolved to Scottish ministers and the Scottish Parliament and the ever first parliamentary elections were held in 1999.

With the third Scottish parliamentary elections in 2007, the SNP surprisingly won victory giving the nationalists an overall control of the Scottish parliament at Holyrood. It was the first time the SNP won power in the elections. Despite the formation of a minority government, Scottish First minister, Alex Salmond, intended to propose a referendum on independence before the end of its term. According to a journalist of the Edinburgh Evening News, many voters had become disillusioned with Labour and the Liberal Democrats who had been in government together since the start of the Scottish Parliament in 1999. 'A crucial aspect was that the success of the SNP had little to do with Scots wanting independence. The SNP had made clear that it proposed a referendum on the issue, which meant people who did not support independence, could still vote SNP, knowing there would be another vote before anything happened about that. Thus, it could be argued the SNP only got into power because they excluded the idea of independence from their campaign' (I. Swanson, personal communication, February 8, 2014).

Furthermore, the SNP has always campaigned for more devolved powers from Westminster to Holyrood. The political party argued that devolution was a great stepping stone towards a referendum on independence. The referendum on Scottish independence resulted in a conflict with Westminster Government. In autumn 2012, David Cameron and Alex Salmond, leaders from the British and Scottish Government respectively, signed the Edinburgh Agreement. This act gives Scotland temporarily legislative powers to hold a referendum on independence, which will be set for 18th of September 2014. The referendum was made lawful on 15 October 2012. Salmond hoped that a partnership of civil and business leaders could build a coalition to fund and campaign for a second question on greater devolution (devomax or devo-plus) in the referendum. Those efforts, however, ended in failure after refusal of the UK Government limiting it to one single question: in or out of the UK (Politics.co.uk, 2013).

1.3 Scottish Independence Referendum 2014

This year, the referendum on Scottish independence will take place on 18th September whether Scotland would leave the UK and become an independent state. A majority in favour of independence could end the Act of Union of 1707 after more than 300 years. The historic decision would give Scotland total control over all devolved affairs and reserved matters, while keeping the Pound Sterling and the Queen (Carrell, 2013). Its main question covers significant substantive issues regarding the economic strength of Scotland, defence arrangements and the continued relations with international organisations such as the United Nations (UN) and the Northern Atlantic Treaty Organisation (NATO). In a European perspective, the gatekeeper's role of Britain regarding EU policy would be removed for a more constructive and potential engagement within the EU.

The referendum will ask a six word question: Should Scotland be an independent country? It should deliver 'a fair test and a decisive expression of the views of people in Scotland and a result that the citizens will respect' (Scottish Government, 2012, p. 1). All Scottish citizens resident in Scotland are able to vote in the referendum, including Brits who are living there. The Scottish Government argues that the decision on independence should be taken by those who are directly affected. Recent opinion polls show a majority against - by about 60% to 40% - because Scotland would be more secure within the UK, however many endeavour that the Scottish parliament would stand to gain greater financial and legal powers and that has been a consistent pattern for a long time. More than a third of Scotland's 4 million voters believes that Scotland should be out of the UK and become independent, ending the 307year-old political union with England. Additionally, Scots believe Scotland's economy, its social policies and its creativity would flourish if it had much greater autonomy. The pro-independence campaign indicates that a lot of the Scots have still not decided but are open-minded and could be persuaded to vote 'yes'. It claims 'Scottish citizens would not make up their minds until much nearer that referendum date' (I. Swanson, personal communication, February 8, 2014).

Upon the referendum on Scottish independence, arrangements are made that realise the standards of the Edinburgh Agreement. The Scottish Government has already published a bill which set out the requirements of the franchise and the procedural rules of the referendum such as campaigning. Next to this, the Scottish Government presented a White Paper on the 'prospectus for Scottish independence' and the future vision of the SNP for an independent Scotland (Scottish Government, 2013b). Yet, the Scottish referendum will be overseen by a UK Electoral Commission. Currently, the Scottish

parliament is also researching the proposals of the Scottish Government if youngsters of 16 and 17 years-old are allowed to vote in the referendum on independence. This would be the first time in a running major ballot in the UK.

1.4 Reasons for Independence

The willingness of becoming independent is essentially based on the relations between Scotland and England in the last centuries. In a historical context, the Wars of Independence were an influential point in Scottish history which developed an iconic status in Scotland related to the ideas of freedom, bravery, perseverance and triumphs. Apparently, Scots are proud of their national identity and their history as an independent state before the Union with England in 1707. While Scotland has its own distinct culture and language, Scottish anti-English sentiments are very similar to the Irish cultural insights. Both have a strong feeling they have been oppressed by England. Apart from that, Scotland and Ireland share Celtic traditions which for Scots include haggis, kilts and whiskey. Likewise, the relatively high degree of autonomy and self-determination is also reflected in different areas of Scottish society such as soccer and other sports that ensure a Scottish identity (Flamini, 2013).

1.5 Conclusion

This chapter highlighted the historical background on Scottish independence through the development of devolution. In a historical context, the relations between the UK and Scotland have always been difficult. The desire to become independent started with victories of Scotland against the English in a series of battles during the Wars of Independence. Because of these successes, it created a stronger feeling of national identity in order to determine that freedom. However an Act of Union was signed between England and Scotland in 1707 which established a political unity, the development of devolution can be seen as a significant way to independence. As a result of the Home Rule and more recently the referendum of 1997, the devolved political system of the UK allows Scotland to exercise self-government by transferring limited powers from the central government located in London to regional and local assemblies in Edinburgh. Following Scottish politics and the successes of the SNP in the last governmental elections, the independence debate returned to the political agenda. Despite the fact the issue was not a central topic in their campaign, the SNP proposed a referendum on independence asking Scottish citizens whether Scotland would become an independent state separated from the UK, which will be held on 18th of September 2014. Therefore, a positive outcome of the independence referendum would give Scotland total control over its own affairs which also includes reserved matters such as European affairs.

2. SCOTLAND AND THE EU

2.1 Introduction

As a region of the UK, Scotland has been part of the EU since the first enlargement from the original six Member States on 1st of January 1973. Over the past 41 years of EU Membership, the UK created an unique and strategic position as well as an extensive presence in Brussels. In terms of EU engagement, the country has an active role in policy-making areas like competitive and economic growth and environmental issues. On the other hand, the UK is not fully integrated in certain areas. The secured reservations, called opt-outs, set out legislation giving EU Member States the exemption not to participate in specific EU policies. The UK, for instance, refused to join the Eurozone and to enter the Schengen area. As one of the largest EU Member States in its size of population, British interests are explicitly represented in the policy-making process of the official EU institutions. This is reflected in the two legislative bodies of the EU. In fact, the UK has the highest number of votes in the Council (29) and the third largest delegation of Members in the European Parliament (73) (UK government, 2014b). This however, has a distinctive effect on the current position of Scotland in the EU which will be explained in the next section.

2.2 Representation of Scotland in the EU

Currently as a devolved and geographical part of the UK, Scotland has a subordinate role in the EU. As seen in the previous chapter, European relations are reserved matters which are controlled by the Westminster Government. Once regulations, decisions or directives are agreed on EU level, they are directly applicable for transposing it into the domestic law of the EU Member State. In case of Scots law, the implementation of EU law and obligations in devolved policy areas are the responsibility of the Scottish Government. Under the constitutional settlement, Scotland can only act in close cooperation with the UK Government in the EU. The Memorandum of Understanding (MoU) is a non-statutory document which provides the practical agreements underpinning the relations between the UK Government and its devolved administrations. For international purposes, the Concordat on Coordination of European Union Policy Issues covers the principles related to involvement in the EU. It specifically allows Scotland to formulate and develop the UK's position in the EU which stresses devolved responsibilities. Such representation grants Scottish ministers to attend i.e. summits of the Council of ministers on issues like agriculture and fisheries while contributing to the UK's policy line (Shaw, 2012). In order to secure that Scottish interests are not weakened in the decision-making process, a Joint

Ministerial Committee (JMC) regularly monitors the consultations of the Scottish and the UK Government on matters of mutual interest in EU dossiers.

At European level, Scotland is represented by the UK in the official institutions. The Council of ministers (or the Council) is one of the main legislators in the EU which consists of a representative of each EU Member State at ministerial level (Storey & Turner, 2011). As already explained above, the Scottish ministers are represented in the Council by the UK Government on specific legislative and policy proposals. Presently, Scottish ministers and officials could ask and speak to attend meetings of the Council when (devolved) relevant areas of importance are discussed. Furthermore, Scottish interests are reflected in the other legislative body that has a significant role in the EU decision-making process to make laws, the European Parliament (EP). Under the current composition of the EP, Scotland has a number of six seats as part of the UK delegation (2 LAB, 2 SNP, 1 CON, and 1 LD). Additionally, Scotland is of course part of The Committee of the Regions (CoR) in which Scotland has four permanent members. This is an advisory body which represents regional and local authorities in the EU such as the Spanish regions and the German Länder. Both European Commission and the Council are required to consult the CoR in the policy-making process whenever new proposals for EU legislation may have effect on regional or local level (Scottish Government, 2013b).

The Scottish Government European Office (SGEUO) also maintains a European antennae in Brussels. The office promotes Scotland's interests in the EU institutions and strengthens the bilateral relationships with other EU Member States, cooperating with the UK Permanent Representation to the EU (UKrep). Another institution that represents Scottish interests is the European and External Relations Committee. This committee works together with Scottish Government to advise and report on matters related to the EU (Scottish Government, 2014). Moreover, the Scottish Parliament plays a key role in the development of the UK policy line. According to its legislative powers, the Scottish Parliament decides on how EU legislation is implemented in devolved matters and may scrutinise them.

In practice, EU policy-making only deals with the UK as a Member State, thus not Scotland. The Scotland-UK-EU structure has impact on the representation of Scottish interests in the EU. It has been argued that Scottish matters are not always satisfactorily represented by the UK (Rainsbury, 2010). Therefore, the Scottish Government aims to find the most effective ways to ensure Scottish engagement with European issues.

2.3 Current Position of Scotland in the EU

In recent decades, Scottish economy and society has become an integral part of the EU in which Scotland has benefited from the strong voice of the UK in a wide range of EU policy areas. The establishments of free trade arrangements under the European Economic Area (EEA) and the European Free Trade Association (EFTA) gives Scotland's businesses access to the Single market to promote their interests by investing and sharing expertise in diverse areas (Scottish Government, 2009). Following the example of the Common Fisheries Policy (CFP), Scotland receives almost 40% of the current UK's subsidies from the European Fisheries Fund (€55 million out of €138 million) (UK Government, 2014b). As approximately 70% of the fishing in the UK comes from Scottish waters, the Scottish Government plays a significant role in negotiations on quotas and structural funding at EU level. On behalf of the UK, Scotland not only manages to represent its own interests, but also shapes UK policy priorities in the EU Fisheries Council. Eventually, this resulted in successful discussions and reforms which provide the economic benefits that Scotland needs in this particular field.

In contrast to the benefits of Scotland in fisheries, the UK Government has deprived Scottish farmers regarding the national allocations of EU subsidies between the four devolved administrations. Looking at the agreement of the European Commission, the Common Agricultural Policy (CAP) budget for the UK includes convergence uplift. This mechanism offers additional EU payments to the European regions with the lower-than-average per hectare rate (Scottish Government, 2013a). In case of the UK, the EU Member State only profits from this device because Scottish farmers have the lowest payment rates in the kingdom. The Westminster Government, however, decided to divide the EU payments on a pro rata basis in which Scotland would receive less funding in the future. According to a member of the SNP, farming is a good example where the UK does not rightfully represent the interests of Scotland in the EU. 'Scotland is known for its green landscapes and agriculture is the third largest sector in the country, so we need these subsidies while the central government proposes substantial cuts in the funding from Brussels. He argues that 'a blind eye from Westminster to Edinburgh is the main problem in this particular issue because of the very arrogant approach of the UK towards negotiating with its neighbours' (T. Giugliano, personal communication, May 4, 2013).

2.4 Conclusion

Chapter 2 focused on the current representation of Scotland within the EU. As a political region of the UK, Scotland has been a constituent part of the EU since its accession in 1973. European affairs are considered as reserved matters under the current devolution

arrangement which means Scotland is dependent on the UK's representation in the EU. However the constructive relation between Holyrood and Westminster, Scottish interests are not always adequately represented by the UK Government on EU matters. While the UK retains responsibility for the relations with EU institutions, the MoU and its associated Concordat for Scotland allows Scottish ministers to participate in EU discussions. Moreover, Scotland benefits from the strong position of the UK in the EU legislative and policy-making process. In particular areas, such as fisheries management, Scotland is involved in EU negotiations from its position in the UK.

3. FUTURE INDEPENDENT SCOTLAND AND THE EU

3.1 INTRODUCTION

After a vote in favour of independence, Scotland would have to determine its position in the EU. According to the recently published White Paper on Scotland's future, the newly independent state will reapply to join the EU (Scottish Government, 2013c, p. 216).

Moreover, it is unclear what would happen to the status of an independent Scotland in the EU because there is no precedent giving the legal certainty for succession of separating EU states. If all EU Members agree on the terms of accession, the newly independent state would continue as a member of the EU. On the other hand, EU Member States with their own domestic concerns about independence such as Spain (Catalonia) and Belgium (Flanders) might argue to veto Scottish application which means that Scotland could lose its membership. Therefore, three possibilities are envisaged in the independence debate with regard to EU Membership:

- Scotland would automatically remain a EU Member State after gaining independence;
- Scotland would have to reapply and go through the procedure for accession to the EU again;
- Scotland would find itself outside of the EU;

3.2 POSSIBILITIES FOR AN INDEPENDENT SCOTLAND IN THE EU

3.2.1 SCOTLAND AS A SUCCESSOR STATE IN THE EU

At an early stage of the 'Independence in Europe' issue, Scotland emphasised it would automatically remain a Member State of the EU in case of independence. This option could be based on the Vienna Convention on State Succession in Respect of Treaties (1978). Article 34, Succession of States in case of separation of parts of a State, lays down that: 'any treaty in force at the date of the succession of States in respect of the entire territory of the predecessor state continues in force in respect of each successor State so formed' (United Nations, 2005, p. 18). In a European context, this means that the EU Treaties would continue to be binding in both independent Scotland (successor state) and the rest of the UK (predecessor state).

However, researchers have argued that there are implications that the Vienna Convention would apply to the EU Treaties. The EU is a treaty-based organisation with its own legal basis and all legislation needs to be signed and ratified by all EU Member States.

Besides, it has been discussed that Vienna Convention could not overrule the Treaty of Rome (1957) following Article 34 (2) which implies that:

2. 'Paragraph 1 does not apply if:

- (a) The States concerned otherwise agree; or
- (b) It appears from the treaty or is otherwise established that the application of the treaty in respect of the Successor State would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation'(United Nations, 2005, p. 18).

In other words, an independent Scotland needs to apply to join the EU (scenario2) as automatic Membership of Scotland would be incompatible with the requirements for enlargement. In the past, the EU has enlarged without the formal application procedures to entry the EU. This happened in 1990 when former East and West Germany were unified after the fall of the Berlin Wall. East Germany became part of the former European Community (EC) through a process of absorption (House of Commons Library, 2011).

3.2.2 SCOTLAND AS A CANDIDATE COUNTRY FOR EU ACCESSION

The second scenario includes that an independent Scotland would apply to join the EU through the normal accession procedure. This possibility is likely to be the most obvious one. A state that expresses the desire to become part of the EU should respect the democratic values of the EU. The legal basis for accession is laid down in Article 49 of the Treaty on the European Union (TEU) which sets out that 'states need to apply for Membership, obtain unanimous support of the European Council for this request and have Membership approved through an Accession Treaty, ratified in accordance with the constitutional requirement of each Member State' (Ooik & Vandamme, 2010, p. 26). Next to this, a candidate country should accomplish the criteria for accession as first defined in the Treaty of Maastricht in 1993 when the European Council created the following Copenhagen Criteria (European Union, 2010):

- Stable institutions guaranteeing democracy, rule of law, human rights and the respect for and protection of minorities;
- A functioning market economy as well as the capacity to cope with competitive pressure and the market forces within the Union;
- Ability to take on the obligations of the Membership, including adherence to the aims of political, economic and monetary union;
- The EU's capacity to absorb new Members, while maintaining the on-going process of European integration;
- The adoption of the *Acquis Communautaire*;

The framework of EU enlargement covers three overlapping key phases: 1) association agreements; 2) pre-accession preparations and 3) accession negotiations which can be found in Appendix I (Sedelmeier, 2010).

Scotland is a constituent part of the EU since the UK became a Member State in 1973. As part of a EU Member State, the Scots are acquired to the rights of EU citizenship. Besides, the devolved region already meets the conditions for EU accession and the Scottish legal system is fully compliant with the EU's *Acquis Communautaire*. Apart from the terms of the UK's opt-outs such as the Schengen agreement, it is predictable that the accession procedure for an independent Scotland would be relatively straightforward (UK Government, 2014b).

3.2.3 SCOTLAND AS AN INDEPENDENT STATE OUTSIDE THE EU

The last possibility would be that an independent Scotland finds itself outside the EU. As there is no legal provision to exclude a (successor) state from an existing EU Member State, Scotland itself would consider leaving the EU. This is provided in Article 50 of the TEU which states that 'any Member State may decide to withdraw from the Union according to a state's own constitutional requirements' (Ooik & Vandamme, 2010, p. 26-27). A good example of exit from the EU is Greenland that joined the Union as part of Denmark in 1973. Later in 1982, a referendum was held with the intention to leave the former European Community (EC). Eventually, after lengthy negotiations, Greenland left the EC while Denmark remained a Member State of the EC (Eutopialaw, 2012). However, the Scottish Government does not see this as an option. Alternatively, Scotland would become a member of the European Free Trade Association (EFTA) following other countries such as Norway and Switzerland. In this case, an independent Scotland would have full access to the to the European Single market without being a EU Member State.

3.3 CONSEQUENCES

Following the scenarios which are described in the previous section, three main possible future consequences for the EU can be identified:

- *Enlargement of the EU*

The EU will continue to expand its Membership in the future. Recently, Croatia became the 28th Member State in the Union, meeting the criteria for EU accession. As Scotland would join the EU, there would be an increase in number of EU Member States.

Enlargement of the EU is an important subject on the political agenda. Debates generally focus on the manageability of the EU and security issues (i.e. terrorism).

- *Institutional provisions and shift in political powers*

The administrative structure and composition of the EU institutions will change if Scotland and the rest of the UK (rUK) both will be Member States of the EU. Because the size of population changes, this might result in a review of the voting weights in the Council and the quotation of the MEPs. For the rUK this means that it would lose powers in comparison to other great Member States such as Germany and France. On the other hand, Scotland would gain representation. For example, at the moment the UK delegation has 73 seats in the European Parliament (EP). With a population of 5.3 million, 'an independent Scotland would be allocated with a number of 13 representatives in the EP' (Rainsbury, 2010). Thus, the number of EU Member States increases while the size of population and territorial area remain similar to the current situation of the EU.

- *A 'Scottish' Precedent for European regions and change in EU Treaties*

When an independent Scotland becomes a EU Member State through the traditional application procedure, this could be a simplified accession process. Because Scotland is currently part of the EU as part of the UK, it meets most of the application criteria with the exemption of the opt-outs in the Eurozone and Schengen Agreements. Moreover, the EU could agree to reconsider the conditions of accession for succession states from existing EU states (Scotland becomes independent from the UK). In case of precedent of a fast-track accession procedure in the EU, all EU Member States would need to sign and ratify these changes in the EU treaties (i.e. accession criteria). This also means parliamentary approval in all countries, and sometimes involve a referendum on the issue. As a result of a Scottish precedent, this could create a contagion effect for other European regions such as Catalonia, Basque Country and Flanders that have similar domestic concerns about independence (Orr, 2014).

3.4 VIEWS OF POLITICAL ACTORS

Of course, there are widely different views in the debate on Scottish independence and EU accession. In the next section, the most recent opinions of involved political actors are given. The European Commission points out that an independent Scotland would have to apply to join the EU following the formal requirements. Jose Manuel Barroso, President of the European Commission argues that this process would be 'extremely difficult, if not impossible' for the reason Scotland would need unanimous approval by all the EU Member States ("Scottish Independence: Barroso", 2014). This has been emphasised by the gentle remarks of Herman van Rompuy, President of the European Council. He states that: 'a newly independent state, breaking away from an existing EU Member, would be

classed as a third country and would have to apply using the known accession procedures' (Gardham, 2013). Furthermore, the views of the EU countries with their own domestic concerns about secession i.e. Spain and Belgium have to be taken in account as well. For example, the Spanish Prime Minister, Mariano Rajoy, surprisingly commented that 'he would not block Scotland from joining nor use Spain's veto, as an EU Member State' (Hamilos, 2013).

In addition, the political vision of 'the country-left-behind' is important in the independence debate. Prime Minister David Cameron recently did an emotional call to the people of Wales, England and Northern Ireland. He said 'we would be deeply diminished without Scotland' and 'we come as a brand, a powerful brand, if we lost Scotland, if the UK changed, we would rip the rug from under our own reputation; the plain fact is we matter more in the world together' (UK Government, 2014a).

The Scottish Government is very optimistic in their campaign for independence. The White Paper on Scotland's future indicates that an independent Scotland will continue as a Member of the EU. About EU accession: 'We will immediately seek discussions with the Westminster Government, with Member States and with the institutions of the EU to agree the process whereby a smooth transition to independent EU Membership can take place on the day Scotland becomes an independent country' (Scottish Government, 2013c, p.13). According to the Scottish Government, the 'seamless' transition will take place within a timeframe of 18 months in which Scotland is still part of the UK, and thus part of the EU (Scottish Government, 2013c). In relation to the fast-track accession to the EU, the Scottish Government discussed that they would use the ordinary revision procedure (ORP) (laid down in Article 48 of the TEU), instead of Article 49. The ORP is a mechanism which gives EU Member States the right to amend EU Treaties (Cusick, 2013).

3.5 Conclusion

The last chapter analysed the scenarios for an independent Scotland towards EU accession. In case of Scottish independence there are various paths to EU Membership: 1) Scotland as successor EU Member State; 2) Scotland as candidate country for EU accession; 3) Scotland as an independent state outside the EU. Because option two is likely to be the most obvious one as seen in the opinions of the political actors, an independent Scotland would need to apply to join the EU. This would have future consequences for the EU such as enlargement of the EU, institutional provisions and the

shift of political powers, and 'Scottish' Precedent for European regions and change in EU Treaties.

4. CONCLUSION

In conclusion, this dissertation outlined the consequences for the EU in case of Scottish independence. The desire of Scotland to become independent is deeply rooted in history. Although, the Act of Union was signed with the UK in 1707, Scotland kept its strong feeling of national identity. In the last centuries, the process of devolution could be seen as a significant way to independence i.e. the establishment of a Scottish Parliament in 1997. Recently, this led to the referendum on Scottish independence which will be held on 18th of September 2014.

In case of a vote in favour of independence, Scotland would become an independent state separated from the UK. This also affects the position of Scotland in the EU. Scotland has been a constituent part of the EU since the UK's accession in 1973. European affairs are considered as reserved matters under the current devolution arrangement which means Scotland is dependent on the UK's representation in the EU. Scottish interests are not always satisfactorily represented by the Westminster Government. As an independent Scotland, the country would be able to create its own strong voice in the EU.

According to the White Paper on Scotland's future, the newly independent country would join the EU. Because there is no provision for a succession state to become a Member of the EU, there are different scenarios: 1) Scotland as successor EU Member State; 2) Scotland as candidate country for EU accession; 3) Scotland as an independent state outside the EU. Focusing on the political discussions regarding the issue, scenario 2 seems to be the most reasonable. The Scottish Government presumes that an independent Scotland would join the EU by fast-track application procedure as the country already meets a vast majority of the conditions for EU accession. So, if an independent Scotland would apply to join the EU, either through the formal or fast-track process, this will have consequences for the EU itself. These consequences are: Enlargement of the EU, institutional provisions, the shift of political powers, a 'Scottish' Precedent for European regions, and changes of accession criteria in EU Treaties.

5. REFERENCES

- Business for New Europe. (2012, March). *Scottish Independence and EU Accession*. London: Furby, D. Retrieved on November 18, 2013, from http://www.bnegroup.org/images/uploads/publications/files/In_Depth_-_Scottish_Independence_and_EU_Accession_-_BNE_March_2012_1.pdf
- Cambridge Dictionary. (2013). *Cambridge Dictionaries Online*. Retrieved on October 31, 2013, from <http://dictionary.cambridge.org/dictionary/british/independence>
- Carrell, S. (2013, April 23). Scottish Independence: The Essential Guide. *The Guardian*. Retrieved on June 6, 2013, from <http://www.theguardian.com/politics/scottish-independence-essential-guide>
- Cusick, J. (2013, December 26). Exclusive: Alex Salmond 'Hid Legal Reality of an Independent Scotland's EU Status'. *The Independent*. Retrieved on January 6, 2014, from <http://www.independent.co.uk/news/uk/politics/exclusive-alex-salmond-hid-legal-reality-of-an-independent-scotlands-eu-status-9026325.html>
- Economic & Social Research Council, Scottish Centre on Constitutional Change. (2013, November 22). *Scotland and the EU after Independence*. Swindon: Keating, M. Retrieved on November 20, 2013, from http://www.futureukandscotland.ac.uk/sites/default/files/papers/Keating_EU_briefing.pdf
- European Union. (2010). *Europe in 12 lessons*. Luxembourg: Fontaine, P.
- European Union. (2013). *Member countries: United Kingdom*. Retrieved on November 18, 2013, from http://europa.eu/about-eu/countries/member-countries/unitedkingdom/index_en.htm

- Eutopialaw (2012, December 12). *Scotland, Independence and the EU: Barroso Intervention*. London: O'Neill, A. Retrieved on January 9, 2014, from <http://eutopialaw.com/2012/12/12/scotland-independence-and-the-eu-the-barroso-intervention/>
- Falkus, M., & Gillingham, J. (1987). *Historical Atlas of Britain* (1st ed.). London: Granada Publishing Limited.
- Flamini, R. (2013). Scotland's Independence Bid: History, Prospects, Challenges. *World Affairs Journal*, May/June 2013. Retrieved on November 21, 2013, from <http://www.worldaffairsjournal.org/article/scotland%E2%80%99s-independence-bid-history-prospects-challenges>
- Foley, B. (2012). *Scotland and the United Kingdom*. Conference report for the British Academy Policy Centre & The Royal Society of Edinburgh, London & Edinburgh. Retrieved on November 20, 2013, from http://www.royalsoced.org.uk/cms/files/advice-papers/2012/scotland_in_the_uk.pdf
- Gardham, M. (2013, December 14). Van Rompuy torpedoed SNP claims on EU membership. *Herald Scotland*. Retrieved on January 6, 2014, from <http://www.heraldsotland.com/politics/referendum-news/van-rompuy-torpedoed-snp-claims-on-eu-membership.22950437>
- Hamilos, P. (2013, December 8). Independent Scotland would be ejected from EU, says Spanish prime minister. *The Guardian*. Retrieved on January 6, 2014, from <http://www.theguardian.com/politics/2013/dec/08/independent-scotland-would-be-ejected-from-eu-mariano-rajoy>
- House of Commons Library. (2011, November 8). *Scotland, independence and the EU*. London: Thorp, A., & Thompson, G. Retrieved on October 10, 2013, from <http://www.parliament.uk/business/publications/research/briefing-papers/SN06110/scotland-independence-and-the-eu>
- Ooik, van, R.H., & Vandamme, T.A.J.A. (2010). *European Basic Treaties* (1st ed.). Deventer: Kluwer.

Orr, K. (2014, January 23) *The Scottish Government Proposals for an Independent Scotland: Membership of the European Union*. Public paper presented at European External Relations Committee Meeting, Edinburgh. Retrieved on February 10, 2014, from http://www.scottish.parliament.uk/S4_EuropeanandExternalRelationsCommittee/Meeting%20Papers/Public_papers_23_Jan_2014.pdf

Politics.co.uk (2013). *Scottish Independence*. Retrieved on December 10, 2013, from <http://www.politics.co.uk/reference/scottish-independence>

Rainsbury, A. (2010). Scottish Independence and the European Union. *Diffusion, University of Central Lancashire, Volume 5, Issue 2*. Retrieved on November 29, 2013, from <http://atp.uclan.ac.uk/buddypress/diffusion/?p=1220>

Sawka, R., & Stevens A. (2006). *Contemporary Europe* (2nd ed.). Basingstoke: Palgrave Macmillan.

Scottish Government . (2009, September) . *Europe and Foreign Affairs: Taking forward our National Conversation*. Edinburgh: Author. Retrieved on January 21, 2014, from <http://www.scotland.gov.uk/Resource/Doc/283886/0086022.pdf>

Scottish Government. (2012) *Agreement between the United Kingdom Government and the Scottish Government on a Referendum on Independence for Scotland*. Edinburgh: Author. Retrieved on September 7, 2013 from <http://www.scotland.gov.uk/Resource/0040/00404789.pdf>

Scottish Government. (2013a). Farm Deal 'a bitter blow' to Scottish Farmers. *Scottish Government News*. Retrieved on December 24, 2013, from <http://news.scotland.gov.uk/News/Farm-deal-a-bitter-blow-to-Scottish-farmers-7cd.aspx>

Scottish Government. (2013b) . *Scotland in the European Union*. Edinburgh: Author. Retrieved on November 29, 2013, from <http://www.scotland.gov.uk/Resource/0043/00439166.pdf>

- Scottish Government. (2013c). *Scotland's Future: Your Guide to an Independent Scotland*. Edinburgh: Author. Retrieved on November 29, 2013, from <http://www.scotland.gov.uk/Resource/0043/00439021.pdf>
- Scottish Government. (2014). *Scotland in the European Union*. Retrieved on January 6, 2014, from <http://www.scotland.gov.uk/Topics/International/Europe/About/Scotland-in-EU>
- Scottish Independence: a History of Anglo-Scottish Rivalry. (2012, January 11). *The Telegraph*. Retrieved on October 18, 2013, from <http://www.telegraph.co.uk/news/uknews/scotland/scottish-politics/9007120/Scottish-independence-a-history-of-Anglo-Scottish-rivalry.html>
- Scottish independence: Barroso says joining EU would be 'difficult'. (2014, February 16). *BBC*. Retrieved from <http://www.bbc.co.uk/news/uk-scotland-scotland-politics-26215963>
- Sedelmeier, U. (2010). Enlargement: From Rules for Accession to a Policy Towards Europe. In: Wallace, H., Pollack, M., & Young, A. (Eds.), *Policymaking in the European Union* (pp. 401-427). Oxford: Oxford University Press.
- Shaw, J. (2012). Scotland: 40 Years of EU Membership. *Journal of Contemporary Research, Volume 8, Issue 4*. Retrieved on December 3, 2014, from <http://www.jcer.net/index.php/jcer/article/view/540>
- Storey, T., & Turner, C. (2011). *Unlocking EU Law* (3rd ed.). London: Hodder Education.
- UK Government. (2013, February). *Scottish Analysis: Devolution and the Implications of Scottish Independence*. Presented to Parliament by the Secretary of State for Scotland, by Command of Her Majesty, London. Retrieved on February 4, 2014, from https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/79417/Scotland_analysis_Devolution_and_the_implications_of_Scottish_Independan..._1_.pdf

- UK Government. (2014a). *David Cameron: the importance of Scotland to the UK*. Retrieved on February 8, 2014, from <https://www.gov.uk/government/news/david-cameron-the-importance-of-scotland-to-the-uk>
- UK Government. (2014b). *Scotland Analysis: EU and International Issues*. Presented to Parliament by the Secretary of State for Foreign and Commonwealth Affairs, by Command of Her Majesty, London. Retrieved on February 4, 2014, from https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/271794/2901475_HMG_Scotland_EUandInternational_acc2.pdf
- United Nations. (2005). *Vienna Convention on the Succession of States in Respect of Treaties 1978* (Treaty Series vol. 1946, p. 3). Vienna: Author. Retrieved on February 11, 2014, from http://legal.un.org/ilc/texts/instruments/english/conventions/3_2_1978.pdf
- University of Aberdeen. (2007). *Scottish Independence*. Aberdeen: Keating, M. Retrieved on November 7, 2013, from <http://www.abdn.ac.uk/pir/notes06/Level3/PI3546/Keating%202007%20Scottish%20independence.doc>

6. APPENDICES

6.1 APPENDIX I: KEY STAGES OF THE ACCESSION PROCESS

TABLE 17.2 Key stages of the accession process

Key stages in the accession process in sequence	Country expresses desire to join the EU	Association agreement	Pre-accession alignment	Official application	Commission opinion	Accession negotiations	Ratification of accession treaty	Accession
Legal framework of relations	association agreements (Europe agreements, stabilization and association agreements)							
Policy framework	European partnership				accession partnership			
Aid	Phare, CARDS		IPA (ISPA, SAPARD)					
Conditional EU decisions	- granting/suspending aid	- opening negotiations - initialing agreement - signing agreement - implementation of Interim Agreement	granting potential candidate status			granting candidate status - opening negotiations - opening/closing negotiations on specific chapters - suspending/closing negotiations	confirmation/postponement of accession date	cooperation and verification mechanism: - suspension of aid - non-recognition of judicial decisions

TABLE 17.3 Formal decision rules for EU enlargement policy

Issue	Legal basis	Commission	Council	European Parliament	Other actors?
Association agreements	Art. 310 TEU	proposal	QMV	assent	national ratification by EU member states for 'mixed competence' agreements (non-trade-related aspects)
EU objectives for accession partnerships (European partnerships)	Council Reg. 622/98 (Council Reg. 533/04)	proposal	QMV	assent	
Opening accession negotiations	Art. 49 TEU	opinion (non-binding)	unanimity		
Conduct of accession negotiations	None. Precedent established in first accession negotiations	proposal for common position	unanimity (common position, opening/closing negotiation chapters); conduct of negotiations: Council presidency		
Agreement on accession treaty	Art. 49 TEU	recommendation	unanimity	assent	national ratification by accession country and member states (parliament ± referendum)

Source: Sedelmeier, U. (2010). *Enlargement: From Rules for Accession to a Policy Towards Europe*. In: Wallace, H., Pollack, M., & Young, A. (Eds.), *Policymaking in the European Union* (pp. 401-427). Oxford: Oxford University Press.

6.2 APPENDIX II: TRANSCRIPTIONS OF THE INTERVIEWS

I. Interview with Ian Swanson, journalist at the Edinburgh Evening News, February 8, 2014.

Q: Are there any deepening reasons why Scots would like to become independent such as national identity and political identity?

A: Opinion polls show a majority against independence - by about 60% to 40% - and that has been a consistent pattern for a long time. But the pro-independence campaign says a lot of people have still not decided but are open-minded and can be persuaded to vote yes. It claims many people will not make up their minds until much nearer that referendum date of 18 September 2014. I think the national identity issue is interesting. Scotland obviously has its own history as a nation before the Union with England in 1707 and also its own culture, but people can argue there is a lot of shared history, culture and identity - Scots played their part in the British Empire, there have been lots of Scots in senior posts in UK Government's over the years.

The 2012 London Olympics were seen as emphasising British identity. And next year, coinciding with the referendum, there will be a lot of events marking the 100th anniversary of the start of the First World War, which some people think will have the same effect. Lots of people in Scotland have family in England and the other way round. The anti-independence campaigners often argue that if Scotland does become independent it will mean these people will become "foreigners" - which I think is being a bit over-dramatic. Surveys usually ask people whether they feel "Scottish only" "more Scottish than British" "both Scottish and British" and so on and then relate that to how they feel about independence. There were results recently from the census which is carried out by the UK Government every ten years - and Professor John Curtice, who is the best-known Scottish expert on all this.

Q: What are the reasons that the Scottish National Party won the elections in 2011?

A: The question on why the SNP won in 2011 is interesting. The previous election in 2007 was very close, but the SNP emerged with one more seat than Labour. It was the first time the SNP had ever won power. I think many voters had become disillusioned with Labour and the Liberal Democrats who had been in government together since the start of the Scottish Parliament in 1999. But I think a crucial point is that the SNP victory had little to do with people wanting independence. They had made clear they proposed a referendum on the issue, which meant people who didn't support independence could still

vote SNP, knowing there would be another vote before anything happened about that. So, it could be argued the SNP only got into power (and re-elected in 2011) because they excluded the idea of independence from their campaign. After the 2007 election, the SNP was the biggest party but had no overall majority. None of the other parties wanted to go into coalition with them, so the SNP became a minority government. In theory, this meant the other parties could vote together and defeat the SNP on any issue they chose. But in reality, the opposition parties did not always agree, were also a bit disorganised, and so did not defeat the SNP very often.

The SNP was seen as doing a good job in governing the country. They had never been in power before, but quickly looked comfortable and competent. And they introduced popular policies - abolishing bridge tolls and student tuition fees, for example. Meanwhile, Labour - which had been the dominant party in Scottish politics for 50 years - did not adjust well to their defeat. They told themselves it was a one-off result and they would soon return to power. But instead, the SNP won again in 2011 - this time with an overall majority, more seats than all the other parties put together. This was a surprise to everyone, including the SNP. People thought the voting system would not allow any party to get an overall majority. But I think it was because people thought the SNP had been good in government and they were not impressed at all with Labour. Independence was, once again, put to one side as an issue which would be dealt with in a referendum.

Q: Are there differences in the way of governing in Scottish and English politics?

A: On differences in governing in England and Scotland, I suppose the system of administration is much the same, but a lot of policies have diverged since devolution in 1999 - for example, in health and education. Traditionally, Labour is strong in Scotland and now so is the SNP, while the Conservatives are unpopular. But academics often point out that surveys show people in Scotland have very similar attitudes on social issues as people in England.

Q: What is the attitude of the Scots towards the EU?

A: Scottish people are usually thought to be more in favour of the EU than people in England. There was a poll in February 2013 which found that if there was a referendum on EU membership, 53 per cent of Scots would vote to stay in and 36 per cent would vote to leave, while in England a poll in November 2012 found 50 per cent wanting to leave, 42 per cent to stay.

Q: What was the role of the Calman Commission in the Scottish devolution process?

The Calman Commission was set up by the opposition parties in Scotland (Labour, Conservative and Liberal Democrat) after the SNP won power as a minority government in 2007. Sir Kenneth Calman, a former was the independent chairman and the commission had representatives from each of the parties. It was given the task of looking at which new powers should be transferred from Westminster to Holyrood, but the idea of independence was ruled out from the start. I think it's fair to say it was a direct reaction to the SNP's victory - the opposition parties did not have much common ground on extending devolution, but they felt they had to produce some alternative to the SNP's call for independence. The Calman Commission eventually came up with a package of extra powers - control over speed limits, drink drive limits and airgun licensing, as well as some new tax powers (quite complicated, but most importantly some more responsibility for income tax). Almost all of the recommended powers were included in a new Scotland Bill, which both the UK and Scottish parliaments passed, becoming the Scotland Act. Some of the most important powers (including the income tax one) will not come into effect until 2016, so some people argue it has all been overtaken by the independence referendum - but on the other hand, if the result is No, it means there will still be some increase in powers anyway (though not very dramatic).

Q: 16 and 17 year-olds are allowed to vote in the independence referendum. Would that make any difference in the outcome of the referendum?

A: Yes, 16 and 17 year-olds will have a vote in the referendum. It is difficult to be sure whether it will make much difference. Everyone thinks the SNP believed younger people were more likely to support independence and so giving them the vote would improve the chances of a Yes vote. But most opinion polls have suggested the opposite - younger people were more in favour of Scotland staying in the UK. However, the most recent poll (26 Jan) found a big jump in support for independence, particularly among younger voters - from 24 per cent to 57 per cent (though it was 16-24 year-olds not just 16-17 year-olds, so it's difficult to know!)

Q: What about Scots who are living for example in England or elsewhere in Europe, are they allowed to vote as well during the referendum?

A: Those who can vote in the referendum are people living in Scotland - so English (or EU) people living here can vote, but Scottish people living elsewhere cannot. Some people think this is unfair, but the government says the decision on independence should be taken by those directly affected.

Q: What is the role of the UK electoral commission in the referendum on Scottish independence?

A: The Electoral Commission is "overseeing" the referendum but there were some tensions at the start about how much influence it should have. The most important issue was probably the question to be asked in the referendum. The commission recommended that the SNP's original proposed question "Do you agree Scotland should be an independent country?" was biased because "Do you agree..." would encourage people to say yes. The SNP did not argue and changed the question to "Should Scotland be an independent country?"

Q: What are the views of the Scottish government/parliament on the representation of Scottish interests in the EU by the UK government?

A: The UK representing Scotland's interests at the EU is an interesting one. The SNP argues independence would give Scotland its own say in EU affairs, whereas at the moment we fall within the UK representation at meetings and negotiations, even though Scotland's interests might not be the same as the rest of the UK. I think there is meant to be an agreement that on some issues where Scotland has a particular interest (perhaps fishing) the Scottish minister will take the lead in discussions - but I'm not sure it works very well.

II. Interview with Toni Giugliano, Interest Groups Adviser at YES Scotland and SNP Euro 2014 Candidate, May 4, 2013.

Q: Why did Scotland decide to become independent?

A: First of all, I think that you need to begin by constitutional arrangements. Looking at other European countries, federalism or other forms of constitutions, the United Kingdom has a central government in London and signed with the Scottish government the Edinburgh Agreement which gives Scotland the legal rights to have its own control over its own affairs and I think the UK government recognises that this also includes the right of Scotland of becoming independent. So, that is a starting point. Why independence for Scotland, has become an integral part over the years, that Scotland underestimates the Kingdom are very different in politics what did not work for Scotland and that is why devolution became an issue. Over a decade, we have been a devolved Scottish Parliament with partial power over areas such as education and health. We have seen over the years what devolution will do for Scotland in the future. However this not satisfies our economy as well as the matters that are still in hands of the UK government. I am sure that the future is in our hearts instead of having a government 500miles away that

represent us. That is a bottom line if Scotland does not get the government to vote for, either Labour or SNP, we still end up with the UK government. That can be democratic at all what a nation that distinctly votes a certain way. So there is a huge democratic deficit and I argue that if Scotland not represented at all, by the people of UK.

Q: What is the position of Scotland in the EU?

A: The UK wants to pull out a bit in the so-called opt-outs on certain areas. I think it is great to take powers back from Brussels and that is a great opportunity for them but for us Scots, we want to make sure that issues like security are protected by the whole country. The UK argues that the system is too thin and decides not to use while Scots argue that why not to negotiate with the European Commission and other Member States to improve the parliamentary system. Because the UK is not good at negotiating with its neighbours and I think a very arrogant approach we are going to do without them. Farming is another example in which the UK does not represent Scottish interests the UK asked for a reduction of EU Budget for farming and in Scotland there is a lot of agriculture so we need that subsidies. Our national interests are not reflected by the UK government in Brussels. As for Cohesion Policy and its structural funds, a few weeks ago there was a problem in which another reduction for Scotland was absorbed for the reason that Scotland is a region of the UK. There are a number of fighting terms. Currently, we have the third largest angle in farming in Europe and with independence we become even more important. With Cohesion Policy, from the point of view of the SNP, on behalf of Scotland, regarding fishing policies, 70% of the catch in the UK comes from Scotland and yet again the blind eye of Westminster not to invest or subsidise in this particular area. Scotland is not able to represent ourselves, the UK as a whole does that at EU level for many years. However, taking the example of fisheries which is a huge number, figure, and the UK government decided to involve the Scottish Minister of Rural Affairs in 2010. In conclusion, Scotland has a distinct European politics underneath not represented not fully by Westminster.

Q: What are the consequences for Scotland in the EU, if it will become independent after the referendum held in 2014?

A: I have to be very carefully answering this question. Scotland is not the headache for the EU, but Catalonia is not a matter for discussion. Scotland is different in that domain. See, London is happy to accept the results of the Scottish independence referendum, so, Scotland would not be a problem for the EU. Let's look at the legal aspects of European accession. No EU Treaties lay down that a Member State should be expelled. The idea of EU Membership needs to be looked at. You require EU citizenship through membership

and the Member State; it is very difficult to remove that citizenship. There are number of European Court of Justices, cases that demonstrate to remove citizenship that is not acquired for the Member States. Since Scotland is part of the EU, we have the right to go to ECJ. I would argue from a citizenship perspective, it would be a supranational issue. The reason why countries need to go through a long process applying is that all their laws are implemented EU legislation and obligations. As Scotland is already a part of a Member State for over 40 years, this is already done. So, we don't have to wait seven years before we join the EU again. It would be then a decision for the European council, whether we can automatically remain or go through a fast-track accession procedure. From an economic perspective, Scotland has 90% of Europe's oil, huge fishery resources, and top universities in the world it is not an option for Scotland to find itself outside of the EU. You know, the EU is not all about strict rules. Greenland, for instance it took a long time to leave the EU and the option for Scotland from day one of independence outside the EU is impossible because you have economic, financial and budgetary features. Furthermore, Eastern Germany did not go through the normal accession process, it just joined the EU as one country. To conclude, the European Union will find a way for Scotland to be in the EU and it will be a political decision.

Q: If an independent Scotland would become a MS of the EU, do you think other regions such as Catalonia and Flanders will follow this contagion effect?

A: First of all it depends on their domestic circumstances. Apart from our concerns, we are having this referendum on independence because of our own means not what would happen in other countries. It is not a problem of Scotland. For Europe, they really need to interact engage with its citizens again. Next to this the economic crisis increases the Eurosceptic image towards the EU. This of course, also influences for the upcoming referendum independence. Interestingly, the view on Europe on this referendum has not really been about whether Europe is good or bad, whether Scotland will be in or out. After a yes vote, there will be two years of negotiation on a number of issues which also include EU Membership and the new relationship with England that become our new neighbours. Still, Britishness retains in our identity, we will continue watch Coronation Street on the television, we still can order fish and chips if you want to, but we have a Parliament here in Edinburgh to make political decisions for us and that is what independence means, the best for us Scots while we keep the queen, the common currency. We live in an interdependent world so a country could not be fully independent. Scotland has its own currency, own monarchy but cannot take key economic decisions at the because we don't have the power to do that. That is what we need. Either the crucial key powers, what

Scotland wants as an independent country in order to determine and to share with other countries. And yes, we would have a more constructive relationship with the EU.