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# Hurricane Brexit

Brexit update

## RaboResearch

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## Summary

- The decision to prorogue Parliament caused outrage and proved to be a uniting force behind an uncontrollable rebellion. The judiciary is now added into the unfortunate mix as well
- The mutiny led to a law that requires the Prime Minister to ask EU leaders for another 3-month delay to Brexit, if no deal is being reached by October 19
- Making matters worse, the opposition effectively barred PM Johnson from holding a general election on October 15, yet an election before the end of the year still looks inevitable
- The odds remain against a quick deal with the EU, but talks will be centred around a Northern Ireland-only solution to the backstop

*In the eye of a hurricane there is quiet for a just a moment. It allows to check for the damage done, and to strengthen the barricades wherever possible. But the calm is deceptive. The eye is surrounded by an eyewall, a ring of towering storms in which the most severe weather occurs. This eyewall will hit the UK sooner than later.*

## A costly miscalculation

A lot has happened since we've published our previous Brexit [outlook](#). The clash between Government and Parliament was entirely expected, but eventually culminated into an unprecedented series of dramatic events. In particular the decision to prorogue Parliament caused outrage and proved to be a uniting force behind an uncontrollable rebellion. **The mutiny led to a law that requires the Prime Minister to ask EU leaders for another 3-month delay to Brexit, in case Parliament has not passed a Brexit deal or voted in favour of no-deal by October 19.**

While the decision to silence MP's therefore appears to be **one of the biggest own goals in recent political history**, we surmised that PM Johnson recognized as well that this move would backfire massively. While it could still be that we expect a bit too much of the political savviness of the Prime Minister and his political adviser, **we still regard the decision to shut down Parliament as a deliberate effort to re-shape the Conservatives' definition of Brexit before the next general election.** Because if the Prime Minister was really so keen on a no-deal Brexit on October 31, he would have had a much better shot by *a)* running down the clock and at least pretend that the negotiations with the EU were bearing some fruit, or by *b)* not allowing Parliament any time to plot against him (e.g. why go for five and not seven weeks? – the moral and legal problems would have been the same!). **It's as if the Joker gave Batman a heads-up of all his cunning plans.**

**That's not to say there weren't some significant and costly miscalculations.** His predecessors already experienced firsthand that Brexit is a hurricane that destroys everything in its path. It now looks to be too fierce for Prime Minister Johnson as well. He has suffered six parliamentary losses in just one week and is now two dozen MP's short of a working majority (fig. 1). The emergency debates have clearly shown that he is not in control of parliamentary business, whilst his worn-out body language already seemed to indicate as much. Making matters worse, the opposition decided to hang him out to dry and effectively barred him from holding a general election on October 15. **It is a price he apparently has to pay after playing fast and loose with the law.**

## The rule of law?

About that... On September 11, Scotland's highest civil court ruled that the decision to prorogue parliament has been unlawful. The three judges were unanimous in their belief that Prime Minister Johnson's move was motivated by an "improper purpose of stymying Parliament". It is a powerful statement: **the Prime Minister has been found by a court to have knowingly misled the Queen.**

Nothing is certain in the topsy-turvy world of Brexit, but Parliament will remain suspended unless the Prime Minister decides to re-open the doors. Note that the court has not given a direct order to lift the suspension. We should also keep in mind that three English judges had declared in a similar case that the five-week suspension of Parliament was a political matter that shouldn't be reviewed by the courts. **The diametrically opposing conclusions of these two courts are due to be resolved in a series of hearings at the UK Supreme Court. These will start on September 17; a verdict is expected on September 23.**

It is unsure whether the Supreme Court will uphold the Scottish decision, as it is able to take a different view on the legality of prorogation. But if they do, **the pressure on Johnson to lift the suspension of Parliament and to resign will intensify.** It will also mean that MPs can start sitting again after September 23. This could potentially be very awkward: the MPs will have to decide whether to still call a 'regular' September recess, during which the Liberal Democrat, Labour and Conservative party conferences are held and donor money is being pulled in ahead of the inevitable election, or to keep Parliament open for business in these extraordinary times.

## But what do we know?

While the odds of a no-deal Brexit on October 31 have slimmed considerably, the outlook remains ever so murky. **But we can draw a few conclusions:**

1. The country is in uncharted waters. There is no script and nobody knows where the show is going. **Brexit is a huge clash between reality and deception, with no easy way out.**
2. An October election remains highly unlikely as long as Johnson remains Prime Minister and the opposition doesn't trust him to act in good faith. **But an election –which Johnson could still win!– remains inevitable.**
3. The government has about a month to negotiate an alternative deal with EU leaders. Assuming that the law will be tested but followed, **the government will talk without a no-deal Brexit on October 31 on the negotiating table.**
4. If no deal is being reached before October 19, **the Prime Minister will be forced to ask for an extension of Article 50.** If the Prime Minister doesn't intend to comply with the law, a political, constitutional or a legal crisis may eventually force his resignation.
5. Despite mutterings in French, **the EU27 will grant yet another delay if it is clear that the UK is heading towards an election.** There will be intense discussions about the length of the extension, however. Are three months *really* enough for the UK to get its act together?

## What's next?

While the battle between Parliament and the Government goes on, with the judiciary now added into the unfortunate mix as well, the Government is expected to focus on the negotiations with EU leaders ahead of the October 17-18 European Council. Up until now, progress has been minimal. After her resignation earlier this week, the ex-work and pensions secretary Amber Rudd said that the government was having no "formal negotiations" with the EU about a new deal and that "80-90% of government time" went into preparing for a no-deal Brexit. But with a no-deal Brexit on October 31 being virtually ruled out, is there still another way forward?

**The odds remain against a quick deal with the EU, but the talk of the week is about a Northern Ireland-only solution to the backstop.** There are growing indications that the Prime Minister

senses that a solution in this direction might well be the only deal that has any chance of being approved by Parliament before the October 31 deadline.

It might also check out with Ireland and the other EU Member States, as it fits neatly with their strategic goals as described in the previous [outlook](#). It has been clear from the onset that **a deal must respect the integrity of the Single Market** while it should also provide guarantees about a fully open Irish border, strong economic integration between Ireland and Northern Ireland and close north-south cooperation in the spirit of the Good Friday Agreement.

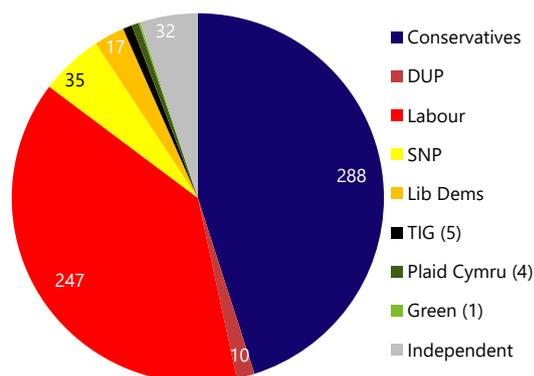
**A Northern Ireland-only backstop, which –simply put– leaves Northern Ireland in the Single Market and in the Customs Union, ticks all the boxes.** It is the only way that “delivers Brexit” while keeping the border on the Irish island as it is today. For that reason, it was being proposed by the EU in the early months of 2018. Cold water was then poured on the idea quickly, however. **An important concern of the UK was –and still is– that Northern Ireland would eventually be much closer aligned with Ireland than with the rest of the United Kingdom, even if the regulatory border in the Irish Sea would be a relatively soft one.**

A government that explicitly relied on the support of the Democratic Unionist Party could never accept such an outcome. But after having suffered multiple defeats, Prime Minister Johnson has already lost its majority. **The DUP votes may come in handy, but aren't as crucial anymore.**

**If Johnson wants to get a deal over the line before the next election, he needs to find one that can command broad support in the House of Commons.** We can safely assume that the DUP would be against any deal that separates Northern Ireland with the rest of the UK. Not too many of the European Research Group would be keen on such a backstop-solution either, while we should also keep in mind that it isn't called the Conservative and Unionist Party without a reason. And what about Labour? They voted against Theresa May's deal; why would they help Boris Johnson's hard Brexit, especially after all that has happened in the last couple of weeks? And the SNP? They would like to acquire such a special treatment as well! **In other words, Johnson doesn't have the numbers and looks to be just as stuck as May, unless he manages to extract some significant concessions from the EU in the next few weeks.**

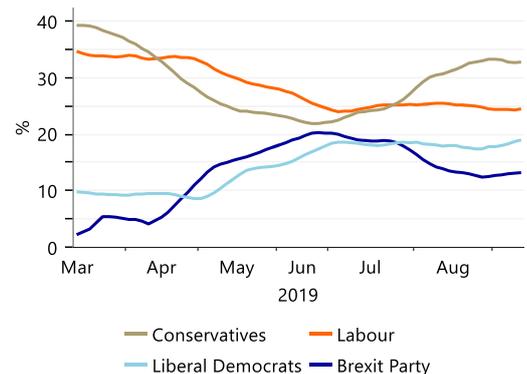
**This looks unlikely. The UK and the EU are still miles apart.** After the fiasco of May's three Meaningful Votes, the EU will be particularly reluctant to offer concessions if they're uncertain that the UK PM would get a deal through Parliament. And during a “People's PMQs”, Prime Minister Johnson said the UK won't accept a Northern Ireland-only backstop. However, he did open the negotiations by offering an ‘all-Ireland agri-food zone’, which implies that Northern Ireland would follow the EU on plant and animal product regulations. **We could interpret this as a first step towards further Northern Ireland-only arrangements,** but as long as PM Johnson insists that the UK won't allow Northern Ireland to remain in the EU customs territory, it's very hard to see the EU and the UK come to an agreement. **Any movement on customs that goes further than just ‘promises’ and ‘intentions’ would be significant, though, so watch this space.**

Figure 1: No majority in Parliament anymore...



Source: Rabobank

Figure 2: ... and the country remains divided



Source: Macrobond, Britain Elects

## A hung parliament?

As we said previously, the polling averages perfectly illustrate the stark divisions within the UK. Figure 2 shows that the electorate remains split into four different groups. If we add two and two together, we continue to see the Conservatives and the Brexit Party ("Leave!!") polling at a combined 44-45% on average, whereas Labour and the Liberal Democrats ("Remain?!") could win around 43-44% of the seats. But whoever replaces Prime Minister Johnson would potentially run into difficulties too, unless he/she is able to command a majority on a clearly defined type of Brexit. But the curious strategy of Labour (win an election, renegotiate a deal with a EU, hold a referendum... and then campaign against that deal), shows that we're a long way from that still. Meanwhile, the Scottish National Party (not in figure 2, but "Remain!") is expected to reassert its dominance and to win all but a few of the 59 Scottish seats, **making it very likely that the election will yield a hung parliament if there is no cross-party cooperation.**

Earlier this week, we saw the Conservatives shoot down the Brexit Party's offer of an electoral pact, regarding its leader Farage as not a 'fit and proper person' for government. Whilst many will breathe a huge sigh of relief on that front, we've also seen no strong signals of cooperation between Labour and the Liberal Democrats. The party conference season could bring some changes to this, **but a hung parliament is the last thing that is needed at a time of national crisis – as it only extends the suffocating uncertainty further and further.**

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