



Preliminary Findings Report – Brexit and the Peace Process

What is the theme?

As in Scotland, the majority of people (56%) in Northern Ireland voted to remain in the EU in the 2016 referendum. Given the fact that the Belfast/Good Friday Agreement 1998 (GFA 1998) was plainly based on the presumption of common membership of the EU, there are serious concerns about the impact of Brexit on the peace process. Although the EU-UK negotiations are in their early stages, the referendum result has already proved destabilising and it contributed to the collapse of the political institutions in January 2017.

The divisions apparent within the referendum result are a complicating factor. The vote was partially split along ethno-national lines: 85% of those who identified as ‘Catholics’ voted ‘Remain’ compared to 40% of those who identified as ‘Protestant’. The two major political parties (DUP and Sinn Féin) were also on opposite sides in this debate – although ‘liberal unionists’, including most of the UUP and the Alliance Party, were ‘Remain’ supporters (the UUP has since then ‘accepted’ the result of the referendum).

Leaving the EU will throw into sharp relief some of the political and social tensions hitherto mediated by EU membership. It has already re-opened the fractures concerning sovereignty in Northern Ireland and enlivened discussions on the possibility of a United Ireland across the island of Ireland. Brexit is clearly having an impact on the peace process.

What are the main issues?

The withdrawal of the UK from the EU will have a profound effect on the legal and constitutional underpinnings of the present arrangements in Northern Ireland, its relationship with the Irish state and UK-Ireland bilateral relations. In particular, Brexit will negatively impact the peace agreement in the following ways:

- The referendum and the decision to leave the EU neglected the all-island character of the peace agreement and the fact that its endorsement was an exercise of self-determination by the people of Ireland
- UK and Ireland’s common membership of the EU was evidently an assumed background to the GFA 1998
- EU law provides a limit on the competence of the devolved institutions
- The equal rights of Irish and British citizens (a principle of the Agreement) is assisted by both having EU citizenship
- Lack of significant border regulation, and therefore free movement across the island of Ireland, is largely due to common membership of the EU
- Many equality and anti-discrimination provisions in Northern Ireland are informed by EU law



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What problems have been identified and what solutions have been proposed?

In order to protect the integrity of the GFA 1998, and the principles that have underpinned the peace process thus far, we make the following preliminary suggestions:

- Amend the EU (Withdrawal) Bill to make the British-Irish Treaty underpinning the Agreement legally enforceable
- Amend the EU (Withdrawal) Bill to retain the EU Charter of Fundamental Rights as enforceable in UK law
- Ensure that future intergovernmental relationships within the UK fully respect the constitutional fundamentals of the Northern Ireland peace process and the principles embedded in its founding Agreements
- Recognise that Northern Ireland is already supposed to enjoy a special constitutional status within the UK and on the island of Ireland and work to ensure that this status is respected and protected in the EU-UK (and Ireland-UK) negotiations and in their legal and political outcomes
- Make a reciprocal agreement with the EU to maintain all the existing rights of EU citizens in Northern Ireland in return for all those born in the North, whether British or Irish citizens, having the rights of EU citizenship
- Impose a legal duty on the UK Government to guarantee equality of rights of Irish and British citizens
- Expressly prohibit in law immigration controls on the border
- Guarantee equivalence of rights on either side of the border
- In the longer term, enact a Bill of Rights for Northern Ireland that will guarantee a rights-based society and regulate the fair operation of the devolved institutions as well as a Charter of Rights for the island of Ireland that would help to underline the fundamental importance of human rights and equality in both jurisdictions.