



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. However, voting patterns were divided on ethno-national grounds. 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. Given such clear schisms, and the fact that the Belfast/Good Friday Agreement 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, contributing to the collapse of the political institutions in January 2017. Leaving the EU will throw into sharp relief some of the political and social tensions hitherto mediated by EU membership and 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 underpinning of the present arrangements in Northern Ireland, its relations 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 ignored 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 an assumption in the Belfast/Good Friday Agreement
- 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 Belfast/Good Friday Agreement and the principles that have underpinned the peace process thus far we make the following preliminary suggestions:

- Amend the Withdrawal Bill to make the British-Irish Treaty underpinning the Agreement legally enforceable
- Amend the 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 fundamentals of the Northern Ireland peace process and the principles embedded in its founding Agreements
- Recognise that Northern Ireland already has 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 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.