



EUropean solutions for the island of Ireland

“Brexit” – 15 months on
Belfast 23 September 2017

 Queen's University Belfast
 School of Law
Professor Dagmar Schiek

Overview

- Island of Ireland and “Brexit”
 - Geography
 - A special relationship?
 - Peace agreements
- Relevance of EU integration (including legal frames)
- Positions of UK and EU institutions
- Building blocs for “flexible solutions”



 Queen's University Belfast
 School of Law
Professor Dagmar Schiek

2

Island of Ireland and “Brexit”

- Geography: a cut-off
- “special relationship?”
 - Socio-economic links to UK legacy of colonial past mitigated by EU membership
- Peace agreements
 - Institutional and societal dimension
 - Freestanding?



Role of common EU membership

- A space for political cooperation
- Legal frames for economic, social and civic integration
 - “market freedoms” as a wider basis for exchange
 - Citizenship rights and equality *acquis* go beyond this
 - Legally enforceable (supranational law, contrast to Belfast agreement)



Indicators of socio-economic normalisation through EU membership

- Increasing socio-economic integration on the island of Ireland
- Increasing relevance of trade with other EU countries than the UK
- Movement between Ireland and UK and from other MS
 - Northern Ireland: 38,000 Irish-born residents, 25,000 Poles, 25,000 Lithuanians and 28,000 residents who were born in other EU countries (recent report by Office of National Statistics, Guardian 21 September)



Positions of UK and EU in relation to “Brexit”

- UK position
 - Border to remain invisible, NI to leave customs union and internal market alongside Britain, CTA to be maintained
 - Sectoral approach (energy market, agrifood sector)
- EU institutions
 - Peace process demands avoiding “hard border”, continued recognition of bilateral agreements



EU Commission guiding principles Ireland/Northern Ireland (20/9/17)

- Issues unique to Ireland include the protection of the gains of the peace process and of the Good Friday Agreement ('Belfast Agreement')¹ in all its parts, the maintenance of existing bilateral agreements and arrangements between the United Kingdom and Ireland including the Common Travel Area, and specific issues arising from Ireland's unique geographic situation, including the aim of avoiding a hard border between Ireland and Northern Ireland. The invisible border on the island of Ireland is one of the major achievements and societal benefits of the Peace Process. Border issues are broader than economic questions. The physical border itself was a symbol of division and conflict.



EU Commission's 6 priority areas

- (1) political institutions encompassing the islands of Great Britain and Ireland,
- (2) avoidance of a hard border in keeping with Ireland's place within the Internal Market and Custom's Union,
- (3) North South Cooperation on the island of Ireland across all relevant sectors, offering specific provisions in the withdrawal agreement that might fill the gap left by the fact that EU law ceases to apply in the UK
- (4) equivalent standards of protection of rights, safeguards and equality of opportunity in Ireland
- (5) citizenship rights of those in Northern Ireland who assert their right to Irish citizenship
- (6) continuing financial support to the Peace Process and the Future of the Special European Programmes Body.



Some of those “imaginative solutions”

- Maintaining political cooperation in line with Good Friday Agreement
 - Not necessarily specific agreement needed
 - Though will be politically challenging
- Continuing financial support for the Peace Process
 - Continuing contributions of UK, not necessarily legally challenging



Maintaining an all-island perspective

- Socio-economic
- Civic
- In particular: equality acquis

The true challenge



Areas of specific concern

- Shared markets, free movement for employment and professional services
- Citizenship rights beyond economic integration
 - (higher) education
 - Health care
 - Civic cooperation
- Addressing socio-economic fallout of geographical “cut-off”



Five tentative building blocs

Internal Market Access

- Continuing validity of EU law

OR

- EEA option

Equality acquis & citizenship rights

- Free movers
- UK and Irish (CTA +?)
- Other EU citizens (EU acquis)
- Non discrimination directives

Truly avoiding hard border

NI to remain in customs' union


Legal enforcement

- ECJ +
- Court under EFTA model (CIEU president)

Addressing economic disadvantage

- Outer regions framework
- Continuing participation in funding streams





Thank you for your attention!
Please do not hesitate to
contact me for more
clarification
d.schiek@qub.ac.uk

Queen's University Belfast | School of Law | Professor Dagmar Schiek

References (my former blogs on this)

- “Hard Brexit” – solutions for the conundrum on the island of Ireland
 - <http://qpol.qub.ac.uk/hard-brexit-perspectives-island-ireland/>
- Northern Ireland – the EEA option (co-authored)
 - http://epc.eu/pub_details.php?cat_id=17&pub_id=7576
- Escaping the ECJ jurisdiction?
 - <http://qpol.qub.ac.uk/cjeu-court-justice/>
- The UK Government’s Position Paper on Northern Ireland after Brexit – some initial thoughts
 - <http://qpol.qub.ac.uk/position-paper-uk-government/>

