



Securing designated Special Status for the North within the EU





On 23rd June 2016 the people of the North voted to remain in the EU. They did so because it is in their best interests politically and economically. Since that time Sinn Féin has argued that the only credible approach is for the north to be designated a special status within the EU and for the whole island of Ireland to remain within the EU together. There is widespread support for such a position.

In February the Dáil voted in favour of designated Special Status for the North within the EU. In March the Joint Oireachtas Committee on Jobs, Enterprise and Innovation's recommended that as part of the Brexit negotiations, the North should be given special status within the European Union, a view supported at hearings held by the Oireachtas Committee on Regional and Rural Development. It is also a position supported by the majority of parties in the North and the many organisations who participated in the all-island Civic Dialogue on Brexit.

The Irish government should now adopt this as their position and use its strength in the forthcoming negotiations to make it happen.

It is now crunch time. A British government which has no "strategic or economic interest" in the north of Ireland and which has little regard for the consequences of their decision for people on this island has triggered Article 50 and now called an election to strengthen their hand in the negotiations.

It is clear that we are on a path towards a hard Brexit, which will have detrimental impact on the Good Friday Agreement and the principles of the peace process as well as devastating consequences for the economy across Ireland.

There are two ways in which we can prevent a hard Brexit on our island.

- Designated special status for the North within the EU delivered within current constitutional arrangements
- A United Ireland - reliant on the holding of a referendum on Irish Unity.

IRELAND'S PRIORITIES IN THE NEGOTIATIONS

To achieve designated special status for the North within the EU. This will:

- Protect the Peace Process and enable the full implementation of the Good Friday Agreement and subsequent agreements.
- Ensure that the European Convention on Human Rights is maintained as a core component of the Good Friday Agreement. Any attempt to repeal its legislative basis, the Human Rights Act, or to derogate from the ECHR would have serious consequences for our governance, policing and parading dispensations and has the potential to undermine the Good Friday Agreement and the St Andrews Agreement.
- Protect the rights of all Irish citizens - The Good Friday Agreement gives a right for those born on the island of Ireland to Irish citizenship, and by virtue of that right, citizenship of the European Union as well – the rights and responsibilities associated with EU citizenship must be upheld;
- Retain the freedom of movement of goods, people and services.
- Maintain EU funding streams, as well as access to the European Investment Bank.
- Maintain access to the Customs Union, the Single Market and the jurisdiction of the European Court of Justice, Protect access to EU rights and services – employment, workers, social security and healthcare.
- Retain the Common Travel Area.
- Maintain the north of Ireland's trading relationship with the rest of Ireland and the EU – particularly in relation to business, agriculture and agri-foods.

HOW CAN SPECIAL DESIGNATED STATUS BE ACHIEVED?

There is a long-standing recognition at EU level of the special circumstances that exist on the island of Ireland and support for the peace process and we believe it is possible to extend this to achieve designated special status for the North within the EU.

Since the Good Friday Agreement in 1998 and the restoration of power sharing in 2007 the European Union has been a critical partner for peace providing substantial political and financial aid. The NI Task-force was established in 2007 – the first of its kind where the European Commission has worked so closely with a single region within the EU.

The EU has shown itself to be flexible in dealing with different forms of integration and different forms of relationships for member states and non-member states.*

PROPOSALS

- That we seek a political declaration from the European Council in its negotiation guidelines in relation to securing designated special status for the North within the EU. Such a declaration should seek to address the Single Market, Common Travel Area, EU funding streams, rights of Irish citizens in the north of Ireland and protection of rights, maintain access to EU institutions.
- Given that the Good Friday Agreement is a bilateral treaty, between the Irish and British governments and binding in international law, after Britain leaves the Union, no agreement between the EU and the British government may apply to the north of Ireland without agreement of both governments.
- In this context, the European Union should also recognise existing bilateral agreements and arrangements between Ireland and Britain which are compatible with EU law.
- Political representation: Ministers from the Six County Executive occasionally attend EU Council of Ministers meetings, as provided for under the Good Friday Agreement. This should continue and be formalised, in cooperation with the Irish government, in line with Articles 9 and 10 of the Treaty on European Union. **
- The north of Ireland should continue to have political representation with the precise mechanism and level of representation remaining to be agreed.***
- Additional seats should be sought in the Committee of the Regions and the European Economic and Social Committee. Other institutions such as ECB, ECJ, have a single person from each member state - the Irish representatives should have an all Ireland remit under the new arrangements.
- Special provisions should be sought to allow the North to seamlessly resume full status within the EU in the aftermath of a successful Irish Unity referendum.
- Transitional agreements should be put in place until Britain's relationship with the EU can be agreed.

REFERENCES

* Special arrangements between EU and third countries

- In 1985 Greenland, a Danish dependent territory with limited devolution, voted to leave the EU while Denmark as the Member State remained. Greenland was then transferred to Overseas Countries and Territories status. A trilateral declaration agreement has existed between Denmark, Greenland and the EU, which was updated in 2015. OCTs benefit from access to the single market and other entitlements negotiated between the member state/OCT and EU. Such arrangements come via a member state.
- EFTA - The European Free Trade Association (EFTA) - The EEA gives three EFTA states (Iceland, Liechtenstein and Norway) access to the European Single Market.
- The EU has separate Customs Unions with Turkey, Andorra and San Marino.
- EU recognition that the occupied zone of Cyprus is de jure part of the EU, by virtue of the international recognition of the Republic of Cyprus.

** Articles 9 and 10 of the Treaty on European Union

Article 9 of the TEU says that:

*"In all its activities, the Union shall observe the principle of the **equality of its citizens, who shall receive equal attention from its institutions, bodies, offices and agencies.** Every national of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to national citizenship and shall not replace it."*

Article 10 says:

"1. The functioning of the Union shall be founded on representative democracy.

*"2. **Citizens are directly represented at Union level in the European Parliament.***

Member States are represented in the European Council by their Heads of State or Government and in the Council by their governments, themselves democratically accountable either to their national Parliaments, or to their citizens.

"3. Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen."

Therefore the people of the north of Ireland have a right to a voice on the EU level. In addition to the Irish government articulating these views in Council it places an obligation on the Commission to engage in dialogue with EU citizens in the north. It also places an obligation on the EU to ensure that the people in the north of Ireland are represented in the European Parliament (the precise mechanism and level of representation remaining to be decided).

In respect of Article 10.3, it would not be unreasonable for the Leinster House to grant speaking rights for 6C representatives on issues relating to the EU.

*** Political representation

An EU Council decision adopted in 2004 set the number of EU elected representatives in Cyprus at six. While elections are not held in the northern part of the island almost 80,000 Turkish Cypriots, who have acquired the identity card of the Republic of Cyprus are eligible to register as voters, have also the right to be included on the special electoral list for the European Parliamentary elections.