

Brexit: Time to Rethink the Key Issues

Summer 2017



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Introduction

The European Union is on the cusp of enormous change. At stake is the continued existence of a coherent EU modelled on the principles of a social market economy and respect for human rights and freedoms. Along with other trade union confederations across Europe, the Irish Congress of Trade Unions supports a fundamental change in the direction of EU fiscal, monetary and social policy to avert future disasters. Although the people of the United Kingdom and the Republic of Ireland stand to lose the most from Brexit, we believe that Brexit threatens tens of thousands of jobs across Europe where the rise in far-right populism undermines the very basis of the European Union. A strong Europe is possible if it is a social and a democratic one that protects and advances the interests of workers and citizens. It is urgent that all concerned act together to pull Europe back from the brink of extremism, conservative, ruthless fiscal policy and social dumping in terms of the wages and conditions of working people. Ireland must take its place in rejecting a Fortress Europe. The best response to Brexit is to rebuild the European Social Model.

The political situation in the UK remains volatile. The new government has no mandate to push through a hard Brexit. Moreover, the question of a hard border on the island of Ireland is now to the fore in political considerations, both in the UK and at EU level. Given the complexity of negotiating a future EU-UK relationship, it is possible that any implementation periods or transitional arrangements could be in place for a number of years. Negotiating the precise arrangements for this period would therefore be as important as the negotiations for a future EU-UK relationship as they could set precedents for the latter. The negotiations on the EU-Canada agreement took over 12 years from start to finish.

Whilst a majority of UK voters, in 2016, decided to leave the EU, we are mindful that the majority of voters in Northern Ireland did not.

The principle of consent underpins political and community life in Northern Ireland and governs relations between both parts of the island, as enshrined in the Belfast Agreement (known, also, as the Good Friday Agreement). Congress believes that the structures of the Belfast Agreement provide the best mechanism to manage the challenges that lie ahead for the island of Ireland and ensure that the principle of consent is upheld.

Whilst it is obvious that the relationship between the EU and the UK will change, Congress believes that any attempt to 'punish' the UK for Brexit would be deeply damaging for both the UK and the EU. Such an approach would inevitably result in even more job losses, reduced living standards and alienation.

We are determined to ensure that working people across the island do not become collateral damage in this process. Migrant workers in the UK must have the right to remain and the same should apply for UK citizens across the EU.

We would urge both sides in this negotiation to aim for an agreement that protects jobs and trade, and recognises the human rights and protections that underpin the constitutional settlement on the island of Ireland. We would also urge the administrations in both parts of the island to work together and with the trade union movement and wider civil society to ensure that the democratic will of the people on the island is upheld.

Congress will support the policies outlined in this document across the island of Ireland.

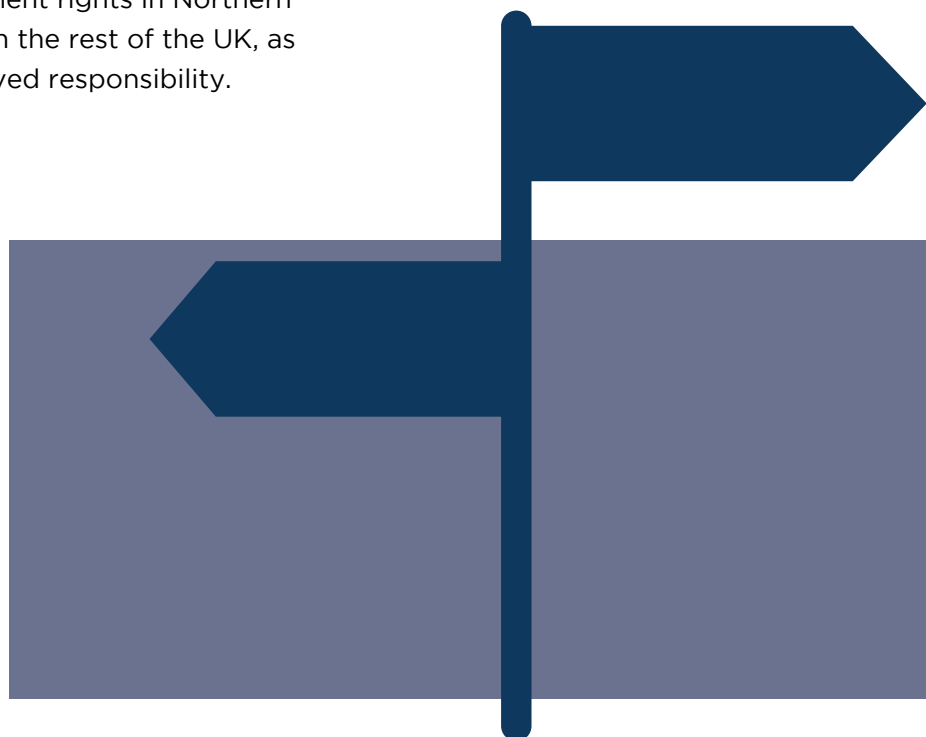
1. Protecting and advancing workers' rights

Much of current EU law would cease to be enforceable if the UK were to leave the Single European Market. While most of EU legislation has been transposed into UK law, there is a danger, in such a scenario, that key rights and obligations, derived from EU directives, could be removed. These relate to: employment rights, equality, health and safety laws, part-time workers, agency workers, working time, product standards and the regulation of markets. Changes to employment rights in the UK could place downward pressure on employment protections across the island of Ireland. This in turn could endanger job security, threaten key industries and effectively lead to a 'race to the bottom' across the island.

Both during any transitional arrangements or implementation periods and under any future EU-UK agreement, the UK must keep pace with the evolution of EU social legislation and policies in order to avoid social dumping between the UK and the EU. In those areas where employment rights applicable to workers in Northern Ireland are currently more advanced than in the Republic of Ireland these should be applied in the latter. It should be noted that in many respects employment rights in Northern Ireland are better than in the rest of the UK, as these rights are a devolved responsibility.

Congress Position

Brexit must not be used as a pretext to dismantle hard won rights and protections or to drive down employment standards generally. Congress calls on both governments to make a public declaration that no existing rights or protections will be lost or eroded as a result of Brexit and that all such rights will be maintained, in the event of a UK exit. Congress will work to ensure that any new rights gained under the European Pillar of Social Rights will apply across the island.



2. The Belfast Agreement

The Belfast Agreement is an international treaty signed by both the British and Irish governments and registered at the United Nations. The Agreement makes specific reference to European institutions such as the EU and the European Convention on Human Rights.

Strand two of the Agreement provides for the North-South Ministerial Council “to consider the European Union dimension of relevant matters, including the implementation of EU policies and programmes and proposals under consideration in the EU framework.”

Furthermore, it mandates the Council for “arrangements to be made to ensure that the views of the Council are taken into account and represented appropriately at relevant EU meetings.” These obligations are in no way negated by the Brexit process.

Membership of the European Convention on Human Rights (ECHR) is mandatory for EU membership. Some UK politicians want the UK to withdraw from the ECHR on sovereignty grounds. To date, EU membership has prevented this. In addition, the Belfast Agreement obliged the UK government to enshrine the ECHR into UK law and to implement a comprehensive Bill of Rights for Northern Ireland.

Critically, the passage of the Belfast Agreement ensures that the principle of consent is now central to political and institutional life in Northern Ireland and across the island, something which has clear implications for the status of Northern Ireland in any post-Brexit scenario.

Equally, the agreement itself is predicated on Ireland, Northern Ireland and the UK all being members of the European Union.

Congress Position

Congress believes that the Belfast Agreement already provides the best structure for dealing with Brexit on the island of Ireland and the agreement must not be viewed as an impediment to the negotiation but, rather, as a resource for it. The agreement places an obligation on the governments of the Republic of Ireland, the UK and Northern Ireland to act and make decisions in the best interests of all the people on the island of Ireland, both economically and socially. These inter-governmental structures already exist and should be utilised during the Brexit process to ensure that decisions taken to not cause manifest harm to workers on any part of the Island. The EU itself has an obligation to ensure that all member states - present and past - live up to their obligations as set out in the agreement.

3. Trade

The government of the United Kingdom, in its White Paper on Exiting the European Union, was not explicit on what the future UK-EU trading relationship would look like. We note the joint letter of First Minister, Arlene Foster, and the late Deputy First Minister Martin McGuinness of 10 August, 2016 to Prime Minister May, in which the principle of open borders enabling the free movement of people, goods and services is strongly endorsed.

The Customs Union has significant implications for free and unhindered trade in goods, while the Single European Market concerns a wide range of regulations, standards and movement of persons, goods and services. Both the Single Market and Customs Union are very important to trade between the Republic of Ireland and the UK. Furthermore, the Customs Union has a unique significance for the island of Ireland in the absence of which some form of border controls on trade in goods would have to be put in place. For Northern Ireland, 83% of all exports are goods and 36% of those goods exports go to the Republic of Ireland, with a further 20% going to the rest of the EU. For the Republic of Ireland, the UK is the largest market for its goods with Great Britain accounting for 40% of all food and live animal exports.

Outside of the Customs Union, trade within the island of Ireland and trade with Great Britain could be subject to tariffs of up to 40%. However, even a zero-tariff agreement between the EU and the UK will not avert the need for a border on the island of Ireland. Trade would be still be subject to checks to determine the origin of goods as the UK would be outside the EU's common external tariff. This would necessitate a customs frontier or border which would be of significant harm to businesses and communities on the island of Ireland. It is Congress' firm belief that this scenario must be avoided.

Congress Position

Congress believes that the best outcome, in the event of a Brexit, would be that the UK as a whole remains in both the Customs Union and the Single Market. Congress believes that the EU should ensure that a zero-tariff agreement is reached between the UK and the EU. Furthermore, we believe that the UK should commit to maintain the Common External Tariff for the medium term and during any transitional arrangements or implementation periods should these arise. This would have the benefit of ensuring less disruption to all-island trade. Congress believes that this arrangement would be in the best interests of all concerned.



4. Jobs and Employment

The implications for employment and the labour market generally will hinge on the form of trading relationship that is finally agreed between the UK and the EU. However, there are a number of areas where the two governments should seek to take pre-emptive steps and areas where they should seek to work together.

The Irish Government should:

1. Bring together trade unions and employers to identify companies and sectors at particular risk from Brexit. A *Retraining Fund* and *Income Protection Fund* should be established to enable workers facing redundancy in vulnerable sectors and enterprises to transition to new employment. A dedicated Brexit impact *funding line* (see *European Regional Adjustment Fund below*) should be established to provide government investment and equity to bolster indigenous industry in order to meet the challenges of Brexit. This may require the government to seek exemptions from State Aid rules and the EU should recognise the unique circumstances that would necessitate this.
2. The Republic of Ireland was in need of a significant increase in *public capital investment* before the challenges of Brexit emerged and that need has only grown since then. There is an urgent requirement for investment in infrastructure in relation to transport, energy and housing and challenges posed by Brexit mean that these issues cannot be ignored any longer. This should require an end to the straightjacket of fiscal rules that, effectively, discriminates against public investment. Congress believes that, in light of Brexit, the government and European Commission should abandon an overly restrictive interpretation of the fiscal rules where capital investment is concerned.

The Northern Ireland Executive should:

1. Establish a dedicated Brexit impact *funding line* (see *European Regional Adjustment Fund below*) to provide support to firms especially in the manufacturing sector to boost productivity and exports to the EU and beyond. This should be one part of a plan to radically overhaul the current *industrial strategy* and focus on supporting investment and innovation within existing firms operating in Northern Ireland.
2. Embed and enhance existing *workers' rights and protections*. Uniquely among the devolved administration of the UK, Northern Ireland has full competency in the areas of industrial relations, trade union and employment law. A new Executive should seek to improve existing legislation.

The Northern Ireland Executive and the Irish Government together should:

1. Safeguard the Single Electricity Market on the island of Ireland. This market is significant for both investment and security of supply in the energy market North and South.
2. Work with the UK government to ensure that Brexit is not used as a pretext to significantly reduce workers' rights and protections in Great Britain.
3. Establish a *European Regional Adjustment Fund* with support from the European Investment Bank and elsewhere to direct significant additional investment to specific sectors and regions severely affected by Brexit, on the island of Ireland.

5. Free Movement of People

Free movement of people is of critical importance as the Republic is the only EU member state to share a land border with the UK. An estimated 20,000 people regularly commute across the border for work or study.

a. EU Citizens in the UK & UK Citizens in the EU:

Any EU-UK agreement must settle the position of EU and UK citizens currently living in opposing jurisdictions. It is imperative that both continue to enjoy residency and other rights including those secured under bilateral social security agreements in respective jurisdictions.

b. Right to Travel vs Right to Work:

Currently, all EU 28 citizens have right to travel and work in the UK and the Republic of Ireland.

If the UK allows EU citizens the right to travel in the UK there would be no need for passport control between Northern Ireland and the Republic of Ireland. The UK could limit the right of EU nationals to work but such arrangements would have to involve an exemption for citizens of the Republic – if a borderless all-Island economy was to be maintained. The UK government may be agreeable to this arrangement but EU authorities could have a difficulty with the citizens of one member state (Ireland) enjoying a right to work not available to other member states. It should be noted that both the private and public sectors in Northern Ireland are heavily dependent upon migrant labour.

Congress Position

Congress calls on both governments to support continued free movement of people on the island. A 'hard border' can be avoided if the UK maintains the right to travel for all EU citizens. It is also imperative that mutual recognition of professional qualifications – as provided for by EU Directive 2005/36/EC and its subsequent amendments – continues to operate on the island, post-Brexit. Congress calls for the administrations in Belfast and Dublin to publicly commit to these principles.

6. The Role of EU Funding

Northern Ireland received €330m in fishery and agricultural funding in 2016 alone. The UK may envisage Brexit boosting trade in these sectors, but transitional funding arrangements will be required to avoid a collapse of the industry in the short term.

Northern Ireland also received €160m in structural and investment funds in 2016, which supported jobs in the community and voluntary sector and through investments in infrastructure. Universities and private companies benefit from R&D grants. Any disruption could be economically damaging. The EU provides €270 million in funding under Peace IV to assist in the process of peace and reconciliation, on a cross community basis.

In addition, Northern Ireland's allocated funding under the EU's 2014-2020 Budget comprising:

- CAP Funding (€714million);
- ESF for skills training (€205million);
- ERDF for infrastructure (€308million);
- Interreg, in relation to links to Scotland and other EU regions (€283million).

Congress Position

In the event that EU funding is withdrawn this should be done over an extended period so that funding is guaranteed for least 20 years after the date of the UK's formal exit from the European Union. Congress calls on both governments to support the introduction of the funding guarantee.



7. Role for the Trade Union Movement in Brexit Negotiations

As the largest civil society body on the island, with some 800,000 members working in all sectors of the economy, north and south, Congress has a crucial role to play in any negotiations or formal discussions on Brexit, given that it has and will have major consequences for the people we represent.

The European Social model, which was the benchmark for the rest of the world, now weakened and jeopardised and in some countries dismantled, must be reinforced. We must change the mainstream narrative which considers it an obstacle to economic growth. It must be recognised that countries with higher wages, strong social dialogue and collective bargaining, sound social protection systems are the best economic performers. The social dimension of the European Union must achieve the same relevance as economic governance and we must make sure that the Pillar of Social Rights is not a set of empty promises. Workers and citizens need concrete measures that can make a difference to their daily lives improving their living and working conditions.

The forthcoming Brexit negotiations should be utilised as an opportunity to set up a Convention with the involvement of social partners and civil society, to profoundly transform the Fiscal Compact into a tool to support sustainable and fair growth as well as to reform the Stability and Growth Pact and introduce a Social Progress Protocol together with a Social Semester European Pillar of Social Rights, into the EU Treaties.

Congress calls on both governments to bring unions and employers together to develop 'an early warning system' that would identify at risk sectors and enterprises and establish appropriate retraining resources and systems.

Congress calls for the establishment of High-Level Brexit Advisory Councils in Northern Ireland and in the Republic of Ireland with a joint Council on matters of North-South interest.

Both governments must make a public declaration to the effect that no existing rights or protections will be lost or eroded as a result of Brexit. The principle of consent must be upheld across the island and the democratic wishes of the people of the island adhered to, on this critical matter.

8. The Future of Europe

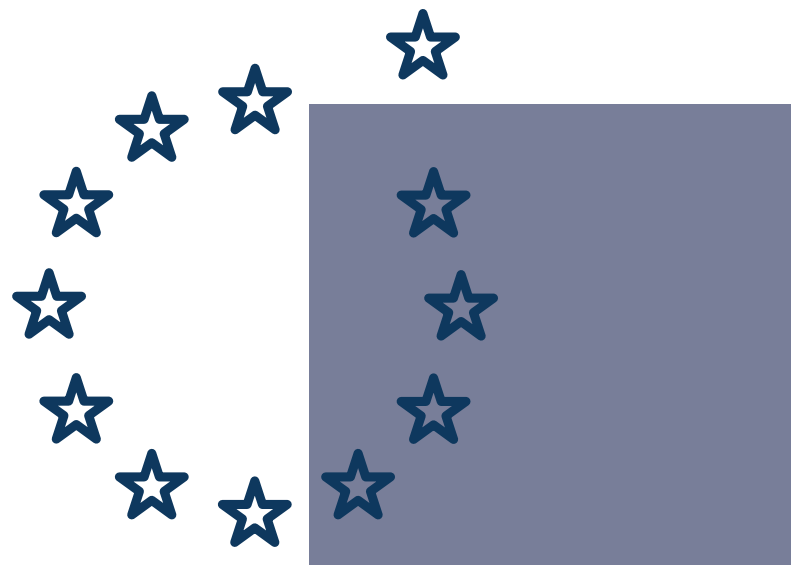
Our position on the European Union project is clear. We believe that the European Union is vital to living standards, wages, public services and workers' rights. However, the Union needs to change. Brexit is a disaster for Irish workers just as it is for workers in Britain and elsewhere across Europe. We can still pull the EU back from the brink by changing course. Otherwise, this will not be the last Brexit accident. Brexit is but the symptom of a larger malaise and not just the product of a narrow-minded national perspective.

In common with other member states, there has been a growing dissatisfaction with the way key players in the EU are handling the fragile European Social Model. Lack of accountability along with the pursuit of neo-liberal economic policies has opened up a space for those hostile to the European project. In the years from 2008 to 2013 Ireland along with certain other Member States suffered an unnecessarily severe and imbalanced fiscal adjustment. We must rebuild trust as well as advance the development of new social policies to protect workers and citizens.

Central to a new European strategy must be an end to the straightjacket of fiscal rules that, effectively, discriminate against public investment. This is imperative not only for Ireland which is likely to be the worst affected member state of the EU27 if Brexit happens, but for all states in the EU characterised by under-employment, lack of public investment, pressure on productivity and living standards, along with associated social crises.

The EU can once again be cherished by workers and citizens if it finds and provides concrete solutions to their problems through quality jobs and full employment, social protection personal security and well-being.

EU leaders must discard their main tools of adjustment to date, such as wage depression, the dismantlement of Collective Bargaining, labour market flexibility and the generation of precarious work models, cuts in public spending, unacceptable levels of unemployment and the resultant social exclusion.



Conclusion

In short, we need a Social Europe premised on a new deal for European citizens and workers. Looking to the future of the European Union we are urging both the Irish and UK governments to work with the 26 other member states to ensure that the existing arrangements and rights arising from the historic 1998 Belfast Agreement are maintained. Every effort must be made to avoid an outcome which sees a re-introduction of physical borders for trade in goods whether within the island of Ireland or between Ireland and Great Britain. In the first place, on the principle of 'Do no harm' to existing provisions in the complex triangle of relationships under the 1998 Agreement extreme care is needed in the details and timeline for negotiated outcomes. If necessary, a sufficiently long period of transition especially in relation to trading relationships must be envisaged. Moreover, the whole island of Ireland can and must become an important geo-political location facilitating close economic cooperation between the US and the EU and between the EU and the UK. The Irish Congress of Trade Unions is ready to work with others in identifying possible solutions and ways forward to ensure that economic and social rights are upheld across Europe and that to the greatest extent possible the negative impact of Brexit is contained. The stakes are high for all of Europe.

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