

Brexit and the Irish Border; what are the Rule of Law implications?

Professor Janice Morphet
The Bingham Centre, London
25th June 2018

j.morphet@ucl.ac.uk Twitter: @janicemorphet

What will remain the same after hard or soft Brexit?

- Environmental and climate change agreements which are agreed through **UN** treaties
- Competition and procurement rules – these are agreed through the **World Trade Organization**
- City regions and functional economic areas – agreed policy approach across and through **OECD**
- Other treaties such as the **Good Friday Agreement**

Westminster/Whitehall position on Northern Ireland before Brexit

- ‘out of sight, out of mind’
- Failure to appreciate both WTO and GFA implications
- Minimal and distant engagement with the British Irish Council and all three pillars of the GFA
- Failure to appreciate the strength and independence of Ireland within the EU

The Island of Ireland's response on Brexit

- **Taoiseach's preparation** – Enda Kenny concluded an agreement with the President Juncker of the EC in February 2017
- **Sinn Fein** soft agreements through all members of the European Parliament late 2016-early 2017
- Failure of the **DUP** to engage

Where are we now?

- Brexit will make land border on the island of Ireland the EU's external border – WTO rules
- GFA still in place
- Political agreement on backstop for Northern Ireland December 2017 still in place
- **EU Withdrawal Bill amendment 25** A new clause which explicitly preserves North-South co-operation after Brexit and prevents the establishment of physical infrastructure, including border posts, or checks and controls which did not exist before exit day, unless agreed between the UK Government and the EU .

Publications

- ‘Beyond Brexit’ 2017 Policy Press
- ‘Brexit, Devolution And The Future Of Northern Ireland’ Huffington Post 28th March 2017
https://www.huffingtonpost.co.uk/janice-morphet/northern-ireland_b_15537448.html
- LSE EUROPP blog Northern Ireland illustrates the threat Brexit poses for Uk political stability
<http://blogs.lse.ac.uk/europpblog/2017/03/08/northern-ireland-illustrates-threat-brexit/>
- Brexit and the island of Ireland April 2017
<https://www.centreonconstitutionalchange.ac.uk/blog/brexit-and-island-ireland>
- Wake up and smell the Brexino January 2018
<https://www.iaces.ie/blog/wake-up-and-smell-the-brexino>