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POLSKI INSTYTUT SPRAW MIĘDZYNARODOWYCH
THE POLISH INSTITUTE OF INTERNATIONAL AFFAIRS

POLICY PAPER

NO. 17 (203), JULY 2021 © PISM

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The Crisis of the Northern Ireland Political System and EU-UK Relations

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Two no-confidence votes in a month for successive leaders of the Democratic Unionist Party (DUP) herald a political crisis in Northern Ireland (NI) and increase the likelihood of snap NI Assembly elections before the ones scheduled for May 2022. In any case, the campaign will be dominated by the NI border issue, the EU-UK trade dispute, post-pandemic economic problems, and the centenary of the division of the island of Ireland. Unionists contesting the post-Brexit border arrangements can prevent close cooperation between the EU and the UK; therefore, it seems necessary to intensify the dialogue between the EU and this camp and replace the current solutions with a “smart border”.

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Arlene Foster, who had been NI first minister since 2017, was forced to resign by her party's parliamentarians on 28 April. They were motivated by the fear of losing voters to more radical loyalist parties because of Foster's readiness to accept NI's post-Brexit maritime border with Great Britain (GB). Her successor, Edwin Poots, only stayed in the post for about five weeks, though, due to his readiness to accept the Republican Sinn Féin's demand to grant the Gaelic language official status. On 22 June, he was replaced by Jeffrey Donaldson, who is undertaking to consolidate the unionist camp by rejecting the [current EU-UK border agreement](#).

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The upcoming elections are turning into a plebiscite on NI's post-Brexit constitutional order and more broadly on the peace process. This perspective may be further intensified by snap elections, which would take place during the period of loyalist Orange Order marches. Should the leading Republican party, Sinn Féin, win the elections, the unionists will likely refuse to form a government with them, which would result in the suspension of devolved authorities. At present, therefore, the

EU is faced with a difficult choice between the narrowly defined protection of its single market and the fulfilment of its new obligations regarding the co-guarantying of stability in NI, as adopted in the agreement on the UK's withdrawal from the EU; hence, the necessity for the EU to develop a dialogue with unionists, whose participation in key decisions regarding NI is compulsory.

Threat to the NI Political System

The effects of Brexit pose a serious threat to the stability of the NI political system. In the years 1921-1972, NI autonomy was based on UK domestic law and privileged the unionist and loyalist community (i.e., advocating NI continue belonging to the UK) at the expense of the nationalists and republicans (i.e., supporters of unification with the Republic of Ireland). The contemporary model of NI [devolution](#) was shaped by the experience of civil conflict (The Troubles of 1968-1998) and is based on the obligatory participation in power of both communities. Its basis is treaty-level—1998 Good Friday Agreement. All NI authorities must have the support of both camps or they are suspended. UK central authorities retain the right to intervene in the most controversial issues in NI (e.g., legalisation of abortion in 2019, or the recently announced change to the status of the Gaelic language to be enacted by the UK parliament). People born in NI can use a British or Irish passport, or both. The 1998 agreement makes the change of the NI's constitutional status, including its unification with the Republic of Ireland, conditional on the democratic consent of NI's people as expressed in a referendum.

Currently, the NI party system is based on the DUP, the Ulster Unionists Party (UUP), and the Traditional Unionists Vote (TUV) on the unionist and loyalist side, and Sinn Féin and Social Democratic Labour Party (SDLP) on the nationalist and republican side. The Alliance Party (APNI) and Northern Ireland Greens (GNI) cut across both camps. Since 1998, the power-sharing has been a constant source of tension in NI due to inevitable difficult compromises (e.g., the need for victims to cooperate with former terrorists). As a result, in 2001 the UUP and SDLP were marginalised in both camps, respectively, as the parties responsible for the conclusion of the Good Friday Agreement. The DUP and Sinn Féin, respectively, were the parties questioning the compromise. Although DUP and Sinn Féin have been cooperating pragmatically on NI governance since 2006, devolution was suspended on a few occasions because of tensions between the camps, most recently in 2017-2020.

Brexit additionally complicated the political and economic reality. NI voted to stay in the EU (55.8% of votes), which resulted from strong EU support for the peace process and devolution (e.g., PEACE programmes), among others. The EU's actions were appreciated by nationalist and moderate

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unionists but Euroscepticism strengthened among the loyalists, prompting the DUP and TUV to support Brexit. However, because of Brexit, the loyalists expect closer ties with the UK at the expense of British cooperation with the EU. Moreover, NI is economically dependent on the UK. In 2019, the contribution of UK government grants to the NI budget was 34%, while 66% of NI exports went to the British market. In 2020, 235,000 jobs in NI (which has 1.8 million inhabitants) have been subsidised by the UK authorities.

The issue of the border remains the fundamental source of disputes. Republicans do not want Brexit to [result in a land border between NI and Ireland](#). Its creation would not only increase tensions but could provoke violence on the part of the republicans. In order to protect the “invisible” land border, the Withdrawal Agreement was supplemented by the [Ireland and Northern Ireland Protocol](#). Under it, NI became a common part of both the EU and UK customs territories: it remained in the EU single market for goods, and in the UK market for services. Consequently, since 31 January, EU-UK customs and regulatory controls have fallen not on the NI-Republic land border but on the NI-GB maritime border. They have been carried out by the British authorities on behalf of the EU.

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By partially solving one problem, another was created. As important as the “invisible” land border is for the republicans (which the EU currently defends), for the unionists it is the “invisible” NI-GB maritime border, as expressed by protesters and the April riots in Belfast over the lack of it. The full picture of mutual obligations between the EU and the UK was poorly explained in the public debate in the EU, in particular the EU’s commitment

to respect and protect the 1998 Agreement. However, the EU’s new role has consequences, including the obligation to respect the system of power-sharing in NI and not to change its constitutional status without a referendum (e.g., contradicting the statements of EU leaders at the G7 summit in Cornwall). From this perspective, unionists have legitimate reservations that the NI’s ties with Great Britain have weakened. The ruling of the NI High Court on 30 June confirmed that, without referendum, the Protocol changed NI’s constitutional status in reference to the rest of the UK. The unionists’ criticism of the Protocol is also indirectly confirmed by the fact that in October 2019 the UK and EU limited its validity to four years. In the absence of its extension by a decision of the NI Assembly in 2024, Northern Ireland will fully return to UK jurisdiction.

Local and European Dimension of the UK-EU Trade Dispute

The implementation of the post-Brexit maritime border causes tensions both within NI and in EU-UK relations. To ease the situation in the NI, the government of Boris Johnson recognised the need to postpone post-Brexit checks at the maritime border and declared on many occasions [the UK’s readiness to postpone them unilaterally](#) in the event of the EU’s lack of consent ([for the first time in September 2019](#)). In December 2019, the EU granted it, but rejected another application in March 2021. The UK then postponed the inspections unilaterally and the European Commission (EC) responded by initiating a law-infringement procedure before the Court of Justice of the EU. On 30 June, another deferral dispute ended with a temporary compromise and postponement to 30 September. During this dispute, however, the UK declared its readiness to suspend the Protocol in its entirety, while the EC and some Member States (e.g., France) launched sanctions.

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procedures is adversely affected by the problem's relationship to many other issues concerning the entirety of EU-UK relations. The EU's proposal to harmonise the British system of sanitary and phytosanitary regulations (SPS) with the EU system is in the foreground (notably, 80% of NI border controls concern SPS). Johnson rejected it as subordinating UK regulations to EU law and offered instead to recognise the equivalence of both systems. In the background there are, among others, disputes about the status of EU citizens in the UK, trade in financial services, and vaccines. On 30 June, the EU agreed to postpone border checks on the NI-Republic border in exchange for UK leniency in processing EU citizens' late applications for settled status in Britain. By 30 June, more than 6 million had been submitted on time (compared to the expected 3.5 million), and the number of delayed filings is estimated at 500,000 (including up to 100,000 by Polish citizens). Effects of this EC-allowed, short-lived restoration of the "hard" land border on the island of Ireland on 29 January included a block on the export of Pfizer vaccines from the Republic to the UK via NI and a reduction of unionist support for the Protocol to a few percent (with 91% supporting repeal). In addition, the EU used the border dispute in NI to justify fundamentally reducing the access of UK financial sector companies to the EU market.

Consequently, thanks to mutual concessions concerning important domestic political issues, the latest dispute between the EU and the UK over the NI border has been postponed. However, it remains open and related to other issues, like trade in financial services. A positive light on the actual intentions of the Johnson government is visible in the ongoing expansion of infrastructure on the NI maritime border. The UK government is reluctant to publicise it, however, due to threats by loyalist paramilitary groups against customs officials and the biggest riots in years in Belfast in April.

Pre-election Opening Balance

Currently, the NI parties have, respectively, the following support:

- DUP—16% (in 2017: 28 seats out of 90 in the NI Assembly and 28.1% of votes)
- UUP—14% (16 and 12.9%)
- TUV—11% (1 and 2.6%)
- Sinn Féin—25% (28 and 27.9%)
- SDLP—12% (12 and 11.9%)
- APNI—16% (8 and 9.1%), and
- GNI—2% (2 and 2.3%).

Unionists' fears of losing their dominant role in NI politics has led to their radicalisation. Along with that, the latest census forecasts a loss by this community of its absolute majority in NI. The domination of NI politics by the DUP under Foster's leadership has been questioned since the 2019 House of Commons elections, [when nationalist and republicans won a combined majority of NI seats for the first time](#). In December last year, the UUP and the moderate faction within the DUP were ready to cooperate in the creation of a post-Brexit maritime border at the price of "diluting" it, while the abolition of the Protocol by the UK was demanded only by the radical wing of the DUP and TUV. However, the unionist camp broke in favour of rejection of the Protocol because of the EC's decisions on the full implementation of the EU Customs Code on the maritime border, the temporary ban on the export of vaccines, and on the border-check postponement. As a result, in March-April, all unionist parties stood as one in uncompromising defence of NI's position as an integral part of the UK, and Foster was made to resign.

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As part of the factual election campaign, the DUP focuses on competition for the loyalist electorate (against TUV). The next step of the DUP under Donaldson’s leadership is to consolidate the camp at the expense of the main political rivals on the moderate wing (i.e., the UUP). Consequently, the DUP adopts an uncompromising attitude towards the republicans, the EU, and the UK government, which is trying to build up an agreement between the camps. Meanwhile, the position of Sinn Féin among republican voters remains strong due to their high probability of taking power in NI and calling a reunification referendum. In February 2020, Sinn Féin’s position in NI was strengthened by [its victory in the Dáil Éireann elections](#). As [the official opposition in the Republic](#), Sinn Féin offers effective and coordinated promotion of the referendum throughout the island.

Conclusions and Recommendations

“Hardening” the sea border at the request of the EU to protect the “invisible” land border is at odds with the new role of the European Union as co-guarantor of the Good Friday Agreement.

“Hardening” the sea border at the request of the EU to protect the “invisible” land border is at odds with the new role of the European Union as co-guarantor of the Good Friday Agreement. As a result, the EU became party to the political dispute, defending the agenda of the republicans. As long as the peace process continues, however, every important decision in NI must be made with the participation of unionists and cannot be made against them.

In practice, the continuation of the dispute between the EU and the unionists risks not extending the Protocol in 2024, which would lead to the necessity to restore the “hard” land border on the island or the establishment of an EU-Irish maritime border. The decisions of 30 June extended both the time for the unionists to elect new representation and for a five-way dialogue between the unionists, the republicans, the UK, the Republic and the EU.

The Protocol was intended to limit NI’s problems to its territory and protect the peace process, but in practice it has exacerbated the NI domestic conflict and undermines the entirety of UK-EU relations. Therefore, it is necessary to develop a “smart border” in NI based on innovative organisational and technical solutions (including artificial intelligence). It is crucial to base the border procedures on the island of Ireland on risk assessments of the illegal movement of goods rather than on the mechanical application of EU Customs Code. This risk could be reduced by introducing stronger legal sanctions on placing goods imported from the other area, respectively, to the EU and UK markets in violation of the rules by, for example, transferring part of the legal liability to exporters. It would also be crucial to implement controls through “trusted traders” whose IT systems ensure real-time control of goods distribution. Supermarket chains and manufacturing companies operating just-in-time chains are natural candidates. This solution would also make it possible to replace physical controls at the contested border by ones carried out in distribution centres. Importantly, solutions constituting the “smart border” would be useful at other places on the EU’s external borders, for example, with Ukraine.

It is in Poland’s interest to assist the EU in the stabilisation of the situation in NI. From the Polish perspective, the security of 25,000 of its citizens, constituting the largest group of EU immigrants in NI, is of key importance. The Polish community has been making the local economy more dynamic and has had a positive effect on the relations between the two dominant communities (e.g., by breaking the segregation of residential districts). An outbreak of violence in NI would not only fundamentally undermine UK-EU relations but also could

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have a negative impact on [the structure of British security and defence spending](#) at the expense of the UK's activities on NATO's Eastern Flank.

Polish social capital in NI and the importance of the UK as the third-largest export market for Poland also open the way to increasing Polish investments in NI. For this purpose, it is worth considering an information campaign aimed at Polish businesses interested in operating on both the EU and UK markets.