Northern Ireland: Is Brexit a Threat to the Peace Process and the Soft Irish Border?

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Introduction

In Northern Ireland, the debate on the EU Referendum gave rise to specific issues. Some arguments were similar to those heard in the other nations of the UK. Thus, the Leave side claimed that Brexit would enable Northern Ireland to control immigration or to prosper outside an increasingly unaccountable EU while the Remain side insisted a lot on the economic benefits of EU membership or of the EU single market – economic factors were especially important among border communities owing to the trade ties between Ireland and the UK. Nevertheless, two specific issues related to the political stability of the province and the Irish border were also raised, particularly as far as the Remainers were concerned.

On the one hand, it was feared that leaving the EU would threaten the peace process since it would undermine the devolution settlement which had been signed in April 1998 (Good Friday/Belfast Agreement). Such statements were repeatedly made by nationalists during the campaign. The risk Brexit could pose for the stability and peace of Northern Ireland was also highlighted by former US President Bill Clinton, former Prime Ministers John Major and Tony Blair, and former Taoiseach Bertie Ahern, who had worked together during the peace process. John Major made it quite clear, stressing that Brexit could destabilize “the complicated and multi-layered constitutional settlement that underpin[ned] the present stability in Northern Ireland.”
On the other hand, the issue of the Irish border raised much uncertainty in the case of Brexit. Several politicians, Prime Minister David Cameron among others, insisted that border checks would be implemented since Northern Ireland, which was the only nation of the UK to have a land border with another EU member, would become a non-EU country while the Republic of Ireland would remain part of it. This was an unwelcome prospect for the Northern Irish insofar as it would revive memories of the Troubles and weaken the peace process. The two issues were intertwined.

Would Brexit really threaten Northern Ireland’s stability? In order to answer this question and assess the role played by EU membership in this debate, this paper will first focus on the specificities of the political and constitutional context of Northern Ireland. Even if Northern Ireland shares commonalities with the rest of the UK, this paper will highlight “the special status” of the province. It will then analyse to what extent the European issue is divisive amongst the Northern Irish population and the main political parties, namely the Ulster Unionist Party (UUP), the Democratic Unionist Party (DUP), the Social Democratic and Labour Party (SDLP) as well as Sinn Féin, before touching on their attitudes towards the EU. The concerns linked to the issues of the peace process and the Irish border during the EU referendum debate will also be examined. Finally, this work will try to assess whether these fears were justified.

Northern Ireland had no separate and binding vote in the EU referendum although all nationalist parties (in Scotland, Wales and the province) did try to ensure that no nation of the UK could be taken out of the EU against its will. In June 2015, Scottish National Party (SNP) MP Alex Salmond, the former SNP leader, tabled an amendment to the EU referendum bill in the House of Commons for that purpose. Nevertheless, the amendment was only approved by the SNP MPs, the three Plaid Cymru MPs, and the two SDLP MPs, and eventually was rejected 338 to 59.

The general context: a fragile political stability

Several reasons related to Northern Ireland’s specific context can explain why fears about its political stability appeared in the debate on the EU referendum. First, Northern Ireland is a nation still very divided along community lines, with unionists and nationalists holding on to their own national identity:

> the nationalist community looks to the Republic of Ireland as ‘the mother land’ whereas the unionist community looks to Britain as their patron state. While nationalists aspire to a United Ireland, unionists hope to maintain Northern Ireland as part of the United Kingdom.

Community tensions in Northern Ireland do not reflect religious tensions even though the religious identity of the two communities coincides with their national identity: most unionists are Protestant and most nationalists are Catholic – even if this generalization is subject to some qualifications. These tensions are ethno-national – they refer to two groups, each having a specific identity based on common descent, language, culture or religion, and “with allegiances to two different national communities, Britain and Ireland”. This also means that in Northern Ireland, these divisions involve external actors, namely the British State and the Republic of Ireland, which partly explains why the Republic reacted strongly to the danger of Brexit in the EU referendum debate.
The second reason is linked to the ethno-national divide. The peace process has led to a “*complicated and multi-layered constitutional settlement*” which was signed after years of negotiations and the involvement of numerous actors, including the main political parties of Northern Ireland, the British and Irish governments, as well as, the US government. The three strands of the 1998 Belfast Agreement testify to this complexity: the relations between the two communities in Northern Ireland (Strand One); the cooperation between Northern Ireland and the Republic and the creation of several North-South institutions such as the North/South Ministerial Council (Strand Two); and the relationship between the Republic of Ireland and the UK, with the creation of East-West political bodies (Strand Three). The key components to the Belfast Agreement include: (1) power-sharing, including a shared Northern Ireland Executive and a shared Assembly in Stormont aimed at guaranteeing fair representation in political debates for both communities; (2) the principle of consent which affirms the legitimacy of the aspiration to a United Ireland while recognizing the current desire of the majority in Northern Ireland to remain part of the United Kingdom; (3) the removal from the Irish constitution of a territorial claim to Northern Ireland; (4) the reform of the justice and security systems and a series of equality and human rights measures.\(^9\)

The Good Friday Agreement thus succeeded in putting an end to the Troubles but problems still persist. On the one hand, it has not always been easy to implement devolution, as exemplified by several temporary suspensions of Northern Ireland institutions between 2000 and 2007.\(^10\) Devolution in Northern Ireland is based on the will of each community to work together, as mentioned by Valérie Peyronel:

> In Northern Ireland, devolution requests the stakeholders, as well as the citizens, to abide by the very condition of showing their capacity to live and work peacefully together, despite vitally different political aspirations.\(^11\)

On the other hand, there is still sporadic violence in Northern Ireland. As made clear by the British Home Office in May 2016, after several attacks in Northern Ireland by dissident Republicans, there is a “*continuing threat from dissident republican activity*” – particularly as the IRA splinter groups still consider that Sinn Féin betrayed the republican ideal by signing the Good Friday Agreement. The latter still desire to forcibly remove the British from the region.\(^12\) In 2015 and 2016, more than ten deaths related to the conflict were thus reported in Northern Ireland involving the Real IRA, as well as, loyalist paramilitaries.\(^13\)

**Does EU membership undermine the ethno-national divide?**

Political stability was all the more fragile in the context of the EU referendum debate as the EU is, and remains, a divisive issue in Northern Ireland. Concerning the Northern Irish population, they have been more likely to support the EU than British citizens over the past decades. In 2015, this was exemplified by a poll, which showed higher support for EU membership (58%) than in Great Britain (45%) – particularly because the province has benefited significantly from EU funding.\(^14\)

However, attitudes to the EU seem to be based on religious/community affiliation: unionists tend to criticize the EU while nationalists are more likely to support it.\(^15\) This was confirmed by several polls carried out during the EU referendum campaign, such as one published by the *Belfast Telegraph* in February 2016: a strong majority of the nationalist community (74%) was against Brexit while the unionist community (63.6%)
was in favour of leaving the EU. The unionists’ opposition to the EU was mostly based on the refusal to be part of an unaccountable EU super-state, the wish to regain control of the UK’s borders, and the need to save money (since the UK was a net contributor to the EU). Yet, the long-term constitutional status preferred by unionists for Northern Ireland certainly also played a part. Brexit was a way for Northern Ireland to distance itself politically from the Republic and to make it more likely to remain one of the nations of the UK. Nationalists, however, backed remaining in the EU because Northern Ireland profited from EU membership including the EU single market, as well as, EU funding – Northern Ireland was a net beneficiary of the EU (viewing the UK’s contribution to the EU budget differently from unionists). The preferred long-term constitutional status of nationalists for Northern Ireland also played a part in this attitude. A United Ireland, the nationalists’ main objective, would be made easier if both parts of Ireland were part of the EU.

The main Northern Irish political parties have been divided on this issue, but their attitudes to the EU have not really reflected the “ethnic dual political system” described by Paul Mitchell. Indeed, the position of some of these parties on the EU issue has significantly evolved over time, calling into question this divide: until the early 1990s the two main unionist parties (the Ulster Unionist Party – UUP – and the Democratic Unionist Party – DUP) were opposed to the EU – but the UUP has since evolved towards a more pragmatic attitude on the issue. Likewise, today the two nationalist parties (the SDLP and Sinn Féin) both support the EU, but Sinn Féin was anti-European in the 1970s. Furthermore, all the main Northern Ireland parties have tried to use European institutions to make their voices heard: they “have come to view Brussels as an important arena for realising and defending the interests of residents of Northern Ireland, not to mention those of the party itself”. The DUP is the only party which has always been Eurosceptic, considering the EU as the anti-Christ and part of a wider Roman Catholic plot to control the continent, as articulated by Ian Paisley in the 1980s. Setting aside these religious interpretations, the DUP is opposed to European integration insofar as this process is a threat to the national sovereignty of the UK and to British identity. As already mentioned, the UUP has shifted from opposition to the EU to a more pragmatic attitude in reaction to the evolution of the peace process and to new unionism during the 1990s. This change, which was mostly pioneered by UUP MEP Jim Nicholson, has gradually led the party to recognize the possible benefits of the EU for Northern Ireland and to use the EU as a tool to improve party fortunes. The UUP thus decided to back the Maastricht Treaty in 1993, even though it kept refusing those EU initiatives and policies that undermined the sovereignty and integrity of the UK.

Contrary to the DUP, the SDLP has always been pro-European. The SDLP has become increasingly enthusiastic about the EU even if it has always accepted European integration and seen the EU as a means towards Irish reunification. During his career as an MEP (1979-2004), John Hume tried to promote these ideas seeking “to use Europe – as a source of financial aid, political support, ideas and inspiration – to help resolve the Northern Ireland conflict”. He contributed in particular to changing the nature of the British-Irish quarrel by encouraging EU involvement and improving the relations between unionists and nationalists. For his efforts to finding a peaceful solution to the conflict, he was awarded the Nobel Peace Prize in 1998. The SDLP influence at the European level was illustrated by several official documents, such as the 1993 Downing Street Declaration,
the 1995 Framework Documents or the 1998 Belfast Agreement. 26 Contrary to the SDLP, Sinn Féin did not always favour the EU: indeed, the party “has moved from a position of outright opposition to European integration [in the 1970s] to one of ‘critical engagement’”.27 From the 1980s/1990s on, Sinn Féin gradually adopted a more pragmatic and cautious attitude to the EU. Its electoral fortunes at the European level have encouraged the party to elaborate a European policy of its own and to see the EU as an arena in which it could make its voice heard. In the late 1990s, the change was obvious: the party recognized the benefits it could gain from EU membership, particularly in its fight to unite Ireland, while still refusing a European super-state that would threaten national sovereignty. 28 Sinn Féin also acknowledged the EU’s contribution to the peace process and admitted that the EU could facilitate Irish unity. Their manifesto for the 2014 European elections illustrates this: “The EU has a role to play in peace building and supporting the implementation of the Good Friday Agreement [...] The EU should continue to play a role in supporting the peace process...”29

Consequently, the EU remains a divisive issue in Northern Ireland. Nevertheless, if attitudes to the EU seem to be mostly formed according to religious/community identification amongst the Northern Irish population, the ethno-national divide and the “ethnic dual party system” do not characterize the European policy of the main Northern Irish parties. Today most of the main Northern Irish parties are pro-European – only the DUP remains opposed to the EU. Because of these divisions, the EU Referendum could only raise tensions within the Northern Irish population and the political system. 30 This was illustrated by the Brexit campaign regarding two salient issues.

The Brexit campaign: fears linked to the constitutional status and political future of Northern Ireland

The peace process and the Irish border featured heavily in the EU referendum campaign. The divide among the main political parties reflected those mentioned earlier: three parties decided to campaign for Remain – the SDLP, Sinn Féin and the UUP – whereas the DUP recommended a vote to leave the EU.31 What arguments did each of these parties put forth?

Regarding the Remain camp, the SDLP and Sinn Féin highlighted political, constitutional, historical and economic factors to explain the impact Brexit could have on the peace process. They considered that Brexit would jeopardize the devolution settlement since Northern Ireland would no longer be part of the EU, contrary to the Republic of Ireland, and this would undermine the Belfast Agreement and make the work of North-South political institutions more difficult (Strand Two). The two nationalist parties thus stressed that Brexit would call into question all the official documents on which the peace process had been based, as the SDLP leader Colum Eastwood noted: “A Brexit would undermine and destabilise the fabric of successive Anglo-Irish Agreements”.32 The special relationship between Northern Ireland and the Republic, within the EU, was also brought to the fore since Brexit would “undermine all-Ireland co-operation” – a link which was of utmost importance to nationalists. 33 They even suggested that it could lead to a revival of violence from republican paramilitaries. Former SDLP leader Alasdair McDonnell highlighted such a prospect if Scotland decided to leave the UK:

A Brexit decision would trigger a 2nd Scottish independence referendum and a likely breakup of the UK as we know it. Northern Unionism would be strangled between loyalty to the Crown and their natural affinity with Scotland. Provo dissidents
would take much advantage of the instability.\textsuperscript{34} This seemed to them all the more likely as Northern Ireland would no longer be able to benefit from the EU’s Structural and Investment programmes, like Interreg or PEACE,\textsuperscript{35} which contributed to ensuring peace and stability in the province and “to normalise and stabilise relations between Britain and Ireland”.\textsuperscript{36}

Regarding the issue of the Irish border, the two nationalist parties stressed psychological, historical, political and economic reasons. First, a hard border would revive old memories linked to the 1921 partition of Ireland and the Troubles.\textsuperscript{37} Second, it would call into question the progress made on the issue of the border, the latter having become invisible since the Belfast Agreement, as referred to by Colum Eastwood: “The re-emergence of a physical border between north and south with customs checks would unravel the progress we have made on north/south partnership to a pre-Good Friday level”.\textsuperscript{38} Because of the Troubles the prospect of a hard border was totally unacceptable to Sinn Féin and the SDLP. This led Sinn Féin to claim that in the event of Brexit, it would “immediately demand a border poll as provided for under the Good Friday Agreement” – so as to reunify the island.\textsuperscript{39} The Belfast Agreement is indeed based on the principle of consent, which affirms the legitimacy of the aspiration to a United Ireland while recognizing the current wish of the majority in Northern Ireland to remain part of the United Kingdom. Yet, it states that the Secretary of State for Northern Ireland can organize such a poll “if at any time it appears likely to him that a majority of those voting would express a wish that Northern Ireland should […] form part of a united Ireland”.\textsuperscript{40} Such a poll would indeed have to be held in Northern Ireland and the Republic to receive the consent of the people North and South. Sinn Féin’s call for a border poll was not new, but the party used the threat of Brexit to revive this prospect.\textsuperscript{41}

As mentioned previously, the UUP also decided to be part of the Remain camp. In fact, it focused on the same arguments as the SDLP and Sinn Féin, but in a British context rather than in an all-Ireland one. Three key reasons were central to the UUP’s stance on the EU referendum: (1) Northern Ireland benefited from EU funds, Brexit would consequently threaten the economy; (2) withdrawing from the EU would reinstate a hard border or border checks, which was associated with the Troubles and thus unwelcome; (3) if the UK voted for Brexit (with Scotland voting to stay in the EU), a second Scottish independence referendum would be almost inevitable with serious consequences for Northern Ireland because of the breakup of the UK.\textsuperscript{42}

It had been difficult for the UUP to make a decision on the issue of EU referendum. Thus, the party only announced its official position in March 2016, following a meeting of the party executive. The UUP’s decision to oppose Brexit was based on pragmatic reasons, which reflected the evolution of the party’s stance on the EU since the 1990s: “Few of us are great fans of Brussels, but this decision is too important to be decided in a knee-jerk emotional reaction. We must use our heads, not our hearts”.\textsuperscript{43} The UUP first explained its cautious attitude by a willingness to examine the results of David Cameron’s negotiations on EU reform, but it was also a way to ease tensions on this issue within the party. This was justified by the UUP’s decision to give their members a free vote on Brexit – which was rather unusual: “The Party respects that individual members may vote for withdrawal on the 23rd of June”.\textsuperscript{44}

Contrary to the other three parties, the DUP, which campaigned for Brexit, focused neither on the peace process, nor on the border with the Republic of Ireland. Indeed, its main argument was that Brexit would enable the UK to control its future for the following reasons: the EU was undemocratic and unaccountable; the UK as a whole was a net
contributor to the EU; following Brexit, “powers and monies [would] flow back” to Northern Ireland. The peace process and the Irish border issue were only alluded to in the reply to the Remain camp. The DUP dismissed the idea that Brexit could undermine the peace process, stressing the main threat was not leaving the EU, but the paramilitary organizations, which “remain[ed] intent on killing”. Likewise, it highlighted that the Irish border would not be affected by a British withdrawal from the EU, as Arlene Foster made clear on the Andrew Marr programme:

> The common travel area between ourselves and the Republic of Ireland was in existence before we entered the European Union and it will be there when we leave the European Union if that’s what the people of the United Kingdom decide to do.

The DUP leader thus stated that Northern Ireland and the Republic would both remain part of the Common Travel Area (CTA) if the UK left the EU, and the CTA would not be impacted by Brexit.

More generally, the issues of the border and the peace process gave rise to contradictory statements during the campaign amongst the main political parties. Although British Secretary of State for Northern Ireland Theresa Villiers, a pro-Brexit campaigner, claimed the border would remain unchanged (thanks to the CTA) in the event of a Brexit, Prime Minister David Cameron and Home Secretary Theresa May said that border controls would be necessary. The Leave side also minimized the impact of Brexit on the peace process, Theresa Villiers stated that the commitment to peace and democracy would not be weakened since the Belfast Agreement did not depend on EU membership.

So far, we have seen that the three main Northern Irish parties supporting a Remain vote used political, historical and economic reasons to justify their stance in the EU referendum debate. These reasons were obviously linked to the specific fears of each party about the potential impact of Brexit on the devolution settlement of Northern Ireland and the political future of the province. For the UUP, Brexit meant the breakup of the UK whereas the SDLP and Sinn Féin considered it would make a United Ireland more difficult – because of the key role played by the EU in Northern Ireland. Yet none of these fears were brought to the fore by the DUP. Were the concerns of the Remain side justified?

### Assessment of the role played by the EU in Northern Ireland

#### The EU and the Peace Process

With regards to the peace process, one could first wonder whether Brexit would imperil the complex devolution settlement described in the first part of this paper. Indeed, EU membership seemed to be a key element of peacebuilding as mentioned in several official documents, like the 1993 Downing Street Declaration:

> [The Taoiseach, Mr. Albert Reynolds, TD and the Prime Minister, the Rt. Hon. John Major MP] also consider that the development of Europe will, of itself, require new approaches to serve interests common to both parts of the island of Ireland, and to Ireland and the United Kingdom as partners in the European Union.

Likewise, the Good Friday Agreement referred to the shared EU membership of Northern Ireland/UK and the Republic of Ireland, stating that the British and Irish governments wished “to develop still further the unique relationship between their peoples and the close co-operation between their countries as friendly neighbours and as partners in the European Union”. Regarding the North/South Ministerial Council...
(NSMC) \(^2\) – Strand Two – the Agreement added that this institution had to “consider the European dimension of relevant matters, including the implementation of EU policies and programmes and proposals under consideration in the EU framework”. \(^3\) Both the Belfast Agreement, as well as, the 1998 Northern Ireland Act, which provides the legislative basis for the establishment and implementation of the devolved Stormont administration, stipulated that the legislative scope of the Northern Ireland Assembly and Executive had to be compatible with EU law.

Would Brexit undermine this settlement? According to reports and views from several academics, it seems that these official documents would not be rendered completely obsolete by Brexit, which would change the devolution settlement, but would not prevent it from operating. \(^5\) Brexit would only mean that the EU provisions would no longer apply and would no longer have to be taken into account. The relationship that Northern Ireland and the UK have with the Republic of Ireland would continue and the power-sharing elements that form the core of the Good Friday Agreement would not be affected. The same conclusion was drawn as regards the NSMC. Since the need to comply with EU law made the work of the NSMC easier, the report published by the Northern Ireland Affairs Committee in May 2016 explained that Brexit might make cross-border collaboration more difficult, but this would depend on:

the extent to which UK Governments used the policy autonomy that would nominally be afforded them outside the EU. If UK policy diverged significantly from the EU’s in key areas, it could make cross-border collaboration more difficult to achieve.\(^6\)

Political relations in Northern Ireland could be further undermined because of the power-sharing government, which compels the two biggest parties, currently the DUP and Sinn Féin, to share the first ministership in a coalition. Considering the fact that the DUP campaigned for Brexit whereas Sinn Féin backed Remain, this could create problems even if the DUP’s and Sinn Féin’s positions in the EU referendum debate were predictable.

More generally, regarding the EU’s role in the peace process, opinions are mixed. The report published by the Northern Ireland Affairs Committee stated that the importance of EU membership should not be exaggerated. While EU institutions played a supporting role and helped find a solution to the Troubles through specific funding and EU membership of both the UK and Ireland, they did not determine the success and the continuity of the peace process. These indeed were due primarily to:

the commitment of successive UK and Irish governments and the willingness of politicians and the communities they represent to put aside past differences sufficiently to allow Northern Ireland to be governed peacefully.\(^7\)

Nevertheless, such a statement seems overly optimistic and has been contradicted by academics like Christine Bell, Professor of Constitutional Law at the University of Edinburgh, who highlighted that a new, post-Brexit, constitutional settlement could change each communities’ perception of the peace process in Northern Ireland. Indeed, Bell stressed that the peace process had been sold to each community in a specific context:

While the peace process was sold to Nationalists and Republicans as transformation of the Northern Irish State, the context of devolution and the close binding of the devolution framework to EU and ECHR [European Convention on Human Rights] law enabled Unionists to accept the project as one of ‘modernisation’ in line with the changes that were happening in the UK. Human rights and anti-discrimination law – transformative for Nationalists in ensuring that the new arrangements would not replicate the discriminatory devolution of the past – could be accepted by Unionists as a ‘normal’ part of the British (in Europe) context.\(^8\)
Even if it is difficult to make the case that the peace process depends directly on EU membership, indirect EU influence has been strong since the EU encouraged unionists and nationalists in Northern Ireland, as well as the UK and Ireland, to work together. Northern Ireland’s EU membership has been a key psychological and political factor in this process. First, common EU membership has enabled the UK and Ireland to improve their relations. The experience of participating as equals in European institutions has helped build trust, highlight shared interests and discuss Northern Ireland.\(^{29}\) Second, EU membership has diluted the concept of sovereignty of Ireland and eased tensions between unionists and nationalists, as exemplified by the creation of the North-South and East-West institutions in 1998. Multi-level governance has contributed to this more nuanced understanding of sovereignty insofar as it has given Northern Ireland a way to bypass the British State by using the European level to be heard.\(^{40}\) Brexit could consequently deprive the British and Irish governments of the EU as a neutral space where they could collaborate, and it could revive inter-communal tensions.

Moreover, EU funding has been of utmost importance for peace-building since Northern Ireland has benefited from several European Structural and Investment Programmes, and above all from PEACE and INTERREG, two cross-border collaboration programmes. Since 1995 there have been three PEACE programmes (with a financial contribution of €1.3 billion), a fourth programme (PEACE IV) was launched in January 2016 – with a total value of €270 million. These PEACE programmes are aimed at ensuring “cohesion between communities involved in the conflict in Northern Ireland and the border counties of Ireland; and economic and social stability”.\(^{61}\) They have funded infrastructure, business, political reconciliation and civil society projects and encouraged collaboration between communities.\(^{62}\) The EU INTERREG programme aims to support “cross-border co-operation for a more prosperous and sustainable region”, by addressing the economic and social problems resulting from the existence of borders.\(^{53}\) The INTERREG IVA Programme for 2014-2020 is worth €256 million. Brexit would obviously endanger Northern Ireland’s eligibility for continued access to EU funding. It would also jeopardise the special Northern Ireland Task Force set up within the European Commission in 2007 to “examine how Northern Ireland could benefit more from EU policies, and how it could participate more actively in the EU policy process in order to generate more prosperity”.\(^{64}\)

The EU and the Irish border

In addition to posing a threat to the peace process, Brexit could also be a source of instability for the border between Northern Ireland and the Republic. Thanks to EU membership (including the launch of the Single Market in 1992) and the implementation of the peace process, the border between the two States has become a soft border. There has been almost no physical manifestation of the border since the 1990s when customs checks were abolished.\(^{65}\) This soft border has been the symbol of successful peace-building as well as being of practical importance since it ensures free movement between the two States. This certainly explains why this issue has been considered as crucial by researchers. For example, the report published by the Northern Ireland Affairs Committee insisted that “an arrangement that maintains a soft land border [...] but which does not see restrictions imposed on travel within the UK would need to be a priority”\(^{66}\) in the event of Brexit. Indeed, Brexit could, in theory, reinstate a hard border insofar as Northern Ireland would no longer be part of the EU – unlike the Republic of Ireland. The border
between Northern Ireland and the Republic would become an external border of the EU and would have to be managed in order to prevent immigration to the UK from EU-nationals. Border controls would consequently have to be introduced.

Likewise, Brexit could jeopardize the Common Travel Area (CTA), a special travel zone set up after the partition of Ireland in 1922. The CTA ensures free movement for nationals of the UK and Ireland and enables the “UK, the Republic of Ireland, the Channel Islands and the Isle of Man [to] collaborate on border policies and practices as part of the CTA”. In 1922 the British government suggested the creation of the CTA to the Irish Free State because they refused to impose passport and immigration checks at the Irish border. These arrangements seem to work well and there is no desire to change them. According to Bernard Ryan, Professor of Migration Law at the University of Leicester, three main reasons explain why successive UK and Irish governments have backed these arrangements. Firstly, the UK authorities consider an immigration border between the two States as impractical (since it would mean immigration control on journeys between Northern Ireland and Great Britain). Secondly, the many economic and social connections between the UK and the Republic justify the need for a relative freedom of movement between the two States, and finally, the free movement of labour is important for cross-border workers.

Nevertheless, the EU could put an end to these arrangements even though the CTA predates British and Irish membership of the EU. Opinions are mixed. On the one hand, the Northern Ireland Affairs Committee insisted the future of the CTA was not assured: The European Union’s Brexit Taskforce told us that as the CTA is an agreement between two EU members and protected by EU Protocol (it is currently included in an annex to the Lisbon Treaty), it would no longer apply if the UK was outside the EU.

On the other hand, Professor Ryan considered that there was no obvious legal reason why Ireland could not retain this benefit after the UK left the EU. Indeed, EU law (Protocol 20 to the Treaty on the Functioning of the European Union) allowed the UK and Ireland to “continue to make arrangements between themselves relating to the movement of persons between their territories [the CTA]” and to maintain these arrangements outside the Schengen Area. What seemed clear was that the UK would have to negotiate a special status (at least for Irish nationals) in case of Brexit. Any bilateral agreement between the UK and the Republic over the border would have to be approved by the remaining EU members, as put forth by Professor Dagmar Schiek, Jean Monnet Chair of EU Law and Policy at Queens University Belfast: “Under EU law, any future relation between the Republic of Ireland and the UK would be subject to agreement not only with the Republic of Ireland, but with the whole of the EU”.

Conclusion

The fears about the impact of Brexit on the peace process and the Irish border, which were raised in particular by nationalists during the EU referendum debate, were justified. EU membership has played a key part in Northern Irish politics. It has been a significant political, economic and psychological factor that has enabled unionists and nationalists to collaborate and has been a means of maintaining relationships with the Republic of Ireland.

Unlike the main Northern Irish parties whose attitudes to the EU do not reflect the “ethnic dual party system”, the Northern Irish population still seems to be divided along...
community lines, as confirmed by the Brexit referendum results. Even if most of the population voted to remain in the EU (by a majority of 55.8% to 44.2%), there was a divide between unionist and nationalist constituencies. Most majority unionist constituencies, seven out of ten (among the eighteen Northern Irish constituencies), voted in favour of leaving, whereas all majority nationalist areas returned a Remain vote. This consequently means that intercommunal tensions may be revived, particularly as membership of the EU is a sensitive issue.

34 The continuity of the peace process in Northern Ireland will depend on the Brexit arrangements, which must pay heed to the divisions in the province and include all relevant actors, particularly Northern Ireland’s political parties and the Irish government. So far Brexit negotiations have tried to take Northern Ireland’s special status into account, focusing on the two key issues mentioned in this paper. The UK and Irish governments have confirmed a shared intention to maintain the benefits of the CTA although the implications of Brexit are not yet clear. They will certainly do their best to maintain most elements of today’s constitutional settlement. Otherwise peace and stability in Northern Ireland could be under threat.

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NOTES


3. The Alliance Party, Northern Ireland’s fifth largest party overall, will not be mentioned in this paper. This nonsectarian party is pro-Europe.

4. Hansard, Parliamentary Debates, 9 June 2015, col. 1067, col. 1152. The four Sinn Féin MPs do not take part in debates and refuse to sit in the House of Commons according to their abstention policy. Yet, they would certainly have supported the amendment.

5. The 2015 Northern Ireland General Election Survey carried out by Jonathan Tonge has shown that these divisions are even more relevant today, particularly in voting terms: “Communal divisions between unionism and nationalism remain as acute as ever in voting terms. The relationship between the percentage of Protestants in a constituency voting for Unionist parties and Catholics voting for Nationalist parties remains as strong as in previous elections” (http://gtr.rcuk.ac.uk/projects?ref=ES/L007320/1 [22 December 2016]).


7. According to the 2011 Census, 42 % of the population of Northern Ireland were Protestant whereas 41 % identified as Catholic. The 2011 Census also showed that: (1) 53% of Catholics considered themselves as “Irish only” and 68 % of Protestants as “British only”; (2) 81 % of people with a British only national identity “were or had been brought up as Protestants while 94 % with an Irish only national identity were or had been brought up as Catholics. Almost three-fifths of those with a Northern Irish only national identity belonged to or had been brought up as Catholics (58 per cent), while 36 per cent belonged to or had been brought up in Protestant denominations” (http://www.ninis2.nisra.gov.uk/public/census2011analysis/ [23 December 2016]).


10. Devolution was suspended between February 2000 and May 2000, twice in 2001 for a day, and for almost five years from October 2002 to May 2007. This last interruption was due to the refusal of the UUP to share power with Sinn Féin following allegations that an IRA spy-ring was operating within Stormont.


22. New Unionism aimed “to make a new deal with nationalism” by taking into account the contemporary domestic and international context (Mary C. Murphy, “Pragmatic Politics: the Ulster Unionist Party and the European Union” in Katy Hayward and Mary C. Murphy (eds.), The Europeanization of Party Politics in Ireland, North and South, op. cit., p. 175).

23. John Hume was a founding member of the SDLP and the SDLP leader between 1979 and 2001.


25. This prize was awarded jointly to John Hume and David Trimble (leader of the UUP between 1995 and 2005).

26. The 1993 Downing Street Declaration thus stated that The Taoiseach and the Prime Minister considered “that the development of Europe will, of itself, require new approaches to serve interests common to both parts of the island of Ireland, and to Ireland and the United Kingdom as partners in the European Union” (“Joint Declaration on Peace: The Downing Street Declaration”, Wednesday 15 December 1993: http://cain.ulst.ac.uk/events/peace/docs/dsd151293.htm [26 December 2016]). The 1995 Framework Documents stressed that cross-border cooperation, and more precisely North/South institutions, could contribute to solving the Northern Irish problem and that many EU-related issues could be addressed more effectively on an all-Ireland basis (“The Framework
28. Ibid., p. 150.
30. In the last May 2016 election to the Northern Ireland Assembly, the DUP and Sinn Féin won the most seats (37 and 28 seats respectively). The UUP got 16 seats, the SDLP 12 (and the Alliance 8). The Assembly currently has 108 seats.
31. The DUP campaigned for a vote to leave like Traditional Unionist Voice and UKIP while Sinn Fein, the SDLP, the DUP, the Alliance Party and the Green Party backed the Remain campaign.
35. See the next section.
39. Declan Kearney, “Brexit from Europe would be disastrous for Ireland”, op. cit.
43. UUP, “MakeItWork”, Northern Ireland Assembly Manifesto 2016, p. 5.
44. “Ulster Unionists give evidence to Northern Ireland Affairs Committee regarding European Referendum”, op. cit. The DUP also gave its members a free vote on this issue (see: “DUP confirms it will campaign for Brexit in Leave/Remain referendum”, The Belfast Telegraph, 20 February 2016 http://www.belfasttelegraph.co.uk/news/northern-ireland/dup-confirms-it-will-campaign-for-brexit-in-leaveremain-referendum-34470806.html [26 December 2016]).


50. I have chosen not to mention the European Convention on Human Rights (ECHR). The latter is related to the Peace Process but is institutionally distinct from EU membership.


53. The NSMC had been set up in 1998 to develop consultation, cooperation and action between the Northern Ireland Executive and the Government of the Republic on all-Ireland and cross-border issues.


56. Northern Ireland Affairs Committee, op. cit., p. 29.

57. Ibid.


60. The multi-level governance theory, which was popularized by Gary Marks in the 1980s, stressed the complex network of interactions at the European level, insisting on the role played by the following institutions in the European decision-making process: the supranational actors (the EU institutions), the national state institutions and the sub-national governments.


62. Ibid.


In Northern Ireland, the EU Referendum debate focused on two specific issues related to the political stability of the province and the Irish border, particularly as far as the Remainers were concerned. On the one hand, it was feared that leaving the EU would threaten the peace process since it would undermine the devolution settlement, which had been signed in April 1998 (The Good Friday Agreement). On the other hand, the issue of the Irish border raised quite a bit of uncertainty in the case of Brexit. Several politicians, like Prime Minister David Cameron, insisted that border checks should be implemented since Northern Ireland, which was the only nation of the UK to have a land border with another EU member, would become a non-EU country while the Republic of Ireland would remain part of it.

Would Brexit really threaten Northern Ireland’s stability? In order to answer this question and assess the role played by EU membership in this debate, this paper will first focus on the specificities of the political and constitutional context of Northern Ireland before analysing the attitude of the population and the traditional policy of the main political parties towards the EU. The concerns raised by the issues of the peace process and the Irish border during the EU referendum debate will then be examined. Finally, this article will try to assess whether these fears were justified.

En Irlande du Nord deux questions bien spécifiques, qui ont été essentiellement soulevées par les opposants au Brexit, ont été mises en évidence lors du référendum sur l’Union européenne. Ces questions étaient liées à la stabilité politique de la Province et à la frontière irlandaise. D’une part, le camp du Remain craignait que le retrait du Royaume-Uni de l’UE ne menace le processus de paix dans la mesure où le Brexit remettrait en cause l’accord qui avait été signé en avril 1998 (Accord du Vendredi Saint). D’autre part, ce même camp pour le maintien du Royaume-Uni au sein de l’UE s’inquiétait beaucoup de l’avenir de la frontière irlandaise. Plusieurs hommes politiques, tel David Cameron, ont ainsi souligné que des contrôles aux frontières devraient être mis en place en cas de Brexit, puisque l’Irlande du Nord, qui était la seule nation du Royaume-Uni...
à partager une frontière terrestre avec un autre pays membre de l’UE, quitterait l’UE alors que la République d’Irlande en ferait toujours partie.
Le Brexit peut-il vraiment menacer la stabilité politique de l’Irlande du Nord ? De façon à répondre à cette question et à pouvoir évaluer le rôle joué par l’adhésion à l’UE dans ce débat, cet article se concentrera tout d’abord sur les spécificités politiques et constitutionnelles de l’Irlande du Nord avant d’analyser l’attitude de la population et la politique traditionnelle adoptée par les principaux partis à l’égard de l’UE. Il examinera ensuite les inquiétudes soulevées par les questions liées au processus de paix et à la frontière irlandaise dans le cadre du débat référendaire. Enfin, il essaiera d’évaluer dans quelle mesure ces craintes sont justifiées.

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Mots-clés: Irlande du Nord, Union Européenne, processus de paix, frontière irlandaise, Brexit, Accord du Vendredi Saint
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