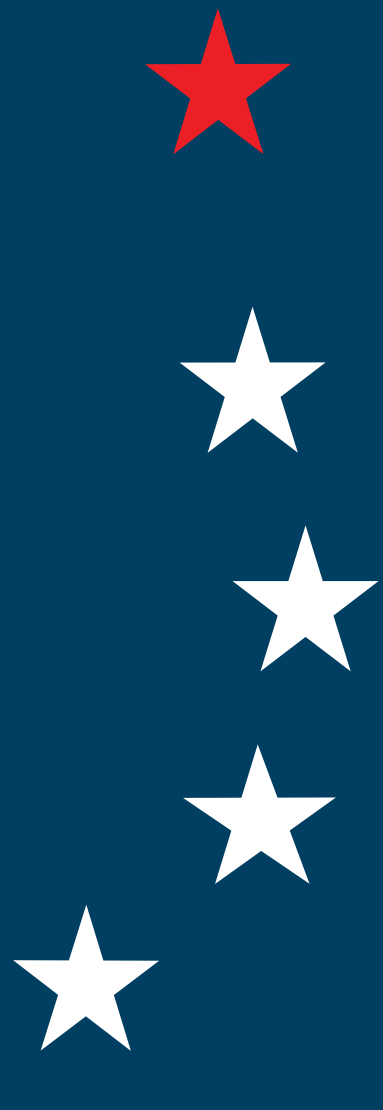


The Implications of a No-deal Brexit

Spring 2019



CONGRESS
BRIEFING

Contents

Introduction	3
<hr/>	
Part 1 – Economic impact	5
The Republic of Ireland	5
Impact on growth and jobs	5
Impact on Wages and Prices	6
Impact on the Public Finances	7
Northern Ireland	8
Impact on Trade	8
Impact on jobs	9
Impact on firms	9
Social Dialogue	9
<hr/>	
Part 2 – Protecting and advancing citizens' and workers' rights	10
Protection of Rights	10
Recognition of Professional Qualifications	10
Workers' Rights in Northern Ireland	11
<hr/>	
Part 3 – The Peace Process	12
The Belfast/Good Friday Agreement	12
Human Rights	12
Citizenship	12
EU Funding	13
Free movement of people and the Common Travel Area	13
EU and UK Citizens' Rights	13

Introduction

The Irish Congress of Trade Unions (ICTU) represents nearly 800,000 workers on both sides of the border on the island of Ireland.

We remain firmly of the view that there is no such thing as a 'good' Brexit for working people and citizens in Northern Ireland and in the Republic of Ireland; any Brexit agreement will inevitably be less favourable than full UK membership for working people and all citizens on this island.

We have always argued that if there is to be a Brexit, it should be as soft a Brexit as possible, particularly given the relatively narrow result of the June 2016 referendum and the fact that a majority in Northern Ireland voted remain.

We believe the best way to achieve this is to agree as close as possible a relationship between the UK and the EU, ideally with the entire UK staying in the Single Market and the Customs Union. Only by achieving this can we ensure that jobs and citizens' and workers' rights are not negatively affected.

The draft Withdrawal Agreement is essentially the end of the beginning of the UK isolating itself from the EU. We see the backstop as a fall-back position, an insurance policy that all sides, ICTU included, hope will never have to be used. And we see a UK-wide backstop, with the entire UK in a customs union with the EU as preferable to a Northern Ireland-only backstop.

The alternative to an orderly Brexit – a disorderly 'no deal' Brexit – must be avoided at all costs. The consequences of such an outcome would be catastrophic. The UK would become a 'third country' and applicable tariffs would be World Trade Organisation (WTO) 'most-favoured nation'

(MFN) tariffs. In addition, legal arrangements put in place between the EU and the UK over the course of the UK's membership could become null and void. The scale of the potential disruption is reflected in the fact that the European Commission and EU agencies have so far published almost 100 'Preparedness notices' setting out the consequences in different policy areas (e.g. on the recognition of professional qualifications) and issued over 30 separate legislative proposals 'aimed at remedying the negative impact of a disorderly withdrawal' (e.g. to continue the PEACE IV and INTERREG programmes).

The risk of a no-deal Brexit has nevertheless increased over recent weeks. This briefing, the fourth that ICTU has issued on Brexit, therefore examines the implications of a no-deal Brexit from the perspective of workers and citizens on both sides of the border, and sets out our demands in this context of the Irish and UK Governments and of the EU.

This briefing is structured as follows. Part 1 looks at the economic impact, part 2 the impact on citizens' and workers' rights, and part 3 the impact for the peace process.

Executive Summary

Due to its unprecedented nature, it is difficult to estimate the potential impact of a no-deal Brexit on the economies of the Republic of Ireland and of Northern Ireland. Estimates that have been issued so far may not capture the full impact and may be conservative.

The Department of Finance (January 2019) suggests that a no-deal Brexit could slow growth in the Republic from the Budget 2019 estimates of 4.2% to 2.7% in 2019 and of 3.6 to 0.9% in 2020; that the unemployment rate could rise from the Budget 2019 forecast of 5% to 7% by 2020; and that instead of an additional 233,000 at work by 2023, there would be 178,000 more at work – 55,000 fewer.

In the Republic, labour-intensive sectors such as agri-food (especially processed foods, beef, sheep and other cattle meat, and dairy), manufacturing, construction, wholesale and retail and air transport could be more at risk; the impact is also likely to be greater in rural areas and among small and medium-sized indigenous firms rather than multinationals.

Maximising sustainable employment should be the prime objective in all policy responses. Alternatives to redundancy should be considered, including short-term work schemes agreed by unions and employers, as previously proposed by Congress in its response to the post-2008 crash. A Brexit Adjustment Assistance Fund should be established now to support workers whose jobs are most at risk, not after any redundancies take place. In addition, the European Globalisation Adjustment Fund should be revised to expressly allow for support to workers made redundant as a result of Brexit.

As a no-deal Brexit could result in price rises, especially for low-income households as well as reduce wages, particularly for low-skilled workers, the government should ensure that all citizens, particularly those on low pay and who receive social transfers are not adversely affected. A no-deal Brexit could also impact negatively on the Republic's public finances. The Government should abandon its plans for tax cuts and to allocate €500 million into the Rainy Day fund.

For Northern Ireland, a no-deal Brexit would see exports from Northern Ireland to the EU liable for WTO 'most-favoured nation' tariffs on a range of goods, including of almost 36% on

dairy exports. The UK government must update UK law in order to meet EU standards for goods and seek Equivalence Agreements with the EU so that UK regulations are recognised by the EU. It should channel financial support to areas of the economy most affected by a no-deal Brexit, with greater devolution of decision-making powers in order to ensure more effective interventions. In addition, it should establish an Adjustment Fund to support workers most at risk and provide social security protections, seek to establish a 'trusted trader' scheme, recognised by the EU, for firms who trade across the border, as well as convene a Social Dialogue Forum with unions and employers to allow all parties to raise Brexit-related concerns.

Congress is opposed to any hardening of the border on this island and to a border in the Irish Sea. We believe that the best way to avoid both is for the EU and the UK to negotiate as close a relationship as possible, ideally with the UK in the Single Market and the Customs Union. We are fully supportive of the principle of consent enshrined in the Belfast/Good Friday Agreement. All parties should ensure that the vital PEACE IV and INTERREG funding is maintained.

The UK Government should fully implement the principle of equivalence of rights protections between Northern Ireland and the Republic of Ireland and remain part of the European Convention on Human Rights and not repeal or replace the Human Rights Act 1998.

Both governments should adopt legislation that guarantees full equality for Irish and British citizens and agree a legally-binding treaty to clarify the rights of British and Irish citizens under the Common Travel Area. The British government should also recognise the particular status of Irish citizens born in Northern Ireland.

The rights of UK and EU citizens should continue to enjoy residency and other rights post-Brexit. The operation of the UK Settlement Scheme must be fair, open and transparent and must recognise the difficulties some workers and their families may face in proving residency. The UK Government should clarify the position of Irish citizens in relation to this scheme, and clarify the arrangements that will be made to protect frontier workers.

Part 1 - Economic impact

The Republic of Ireland

Due to its unprecedented nature, it is very difficult to estimate the potential impact of a no-deal Brexit. Despite these difficulties, a number of such estimates have been made over recent weeks, including by the Central Bank of Ireland and Department of Finance amongst others. The Central Bank for example states:

...it is evident that a disorderly [i.e. no-deal] Brexit has the potential to significantly alter the path of the Irish economy in both the short and medium term. There would be heightened stress in financial markets and a potentially large depreciation of sterling. The deterioration in economic conditions and a more adverse outlook would cause firms and households to cut spending. It is likely that there would be disruption at ports and airports as border infrastructure is unable to cope with the new customs requirements, at least for an initial period. Imports would be affected with implications for firms through disruption to their production processes, and for households through the price and availability of consumer goods. Exports would fall due to an immediate and large reduction in demand from the UK and the fall in sterling.' (Central Bank of Ireland, 2019: 29).

And:

'The disruption and related decline in economic activity would be front loaded and would mean a significantly more adverse outlook for the Irish economy in 2019 and 2020, compared to the central forecasts in this Bulletin. In the long run, it is likely that the Irish economy would adjust to the new arrangements but the short-run challenges would be immense.' (2019:30).

Impact on growth and jobs

A Department of Finance preliminary assessment of the economic and fiscal impact of a no-deal Brexit, published on 29 January,

A no-deal Brexit could slow growth in the Republic from the Budget 2019 estimates of 4.2% to 2.7% in 2019 and of 3.6 to 0.9% in 2020

suggests that a no-deal could slow growth from the Budget 2019 estimates of 4.2% to 2.7% in 2019, and of 3.6% to 0.9% in 2020.¹ It also estimates that in 2020 the unemployment rate could increase from the Budget 2019 forecast of 5% to 7% and by 2023, instead of an additional 233,000 at work, there could be 178,000 more at work, i.e. 55,000 fewer.² The Department also stresses that these estimates may not capture the full impact of a no-deal and may be conservative.

The Minister for Finance and Public Expenditure and Reform Pascal Donohoe TD has said that the Department of Finance's aggregate estimates hide 'an even larger hit to economic activity in labour-intensive sectors such as agri-food, and indigenous small and medium-sized enterprises'. The preliminary assessment did not provide further details on the potential impact on these sectors. However, this has been considered by other studies, including the 2017 Copenhagen Economics report on the impact of Brexit on Ireland, prepared for the Department of Business, Enterprise and Innovation. This estimated that Brexit (in general) would have the largest impacts in agri-food (especially processed foods, beef, sheep and other cattle meat, and dairy), manufacturing, construction, and wholesale and retail as well as air transport.

The Copenhagen Economics report also warned that as a high share of employment in exposed sectors such as the agri-food sector is found in regions outside of Dublin, these regions were more exposed to the impact of Brexit, and that the impact was likely to be more pronounced amongst indigenous firms rather than the multinational sector (aside from pharma).

¹ The Budget 2019 forecasts were based on the assumption of a transition period until the end of 2020 and an EU-UK trade agreement thereafter. The Department of Finance has said that as more information becomes available, it will 'update and publish' its preliminary assessment in the Stability Programme, which will be sent to the European Commission in April.

² The possible impact of a no-deal Brexit on employment should also be contrasted with the impact of the post-2008 crash, when total employment fell from 2,170,000 in the third quarter of 2007 to 1,840,000 in the first quarter of 2011, a loss of 330,000 jobs over a 3½ year period.

For ICTU, the maximisation of sustainable employment is the most important objective to be secured in all policy responses to Brexit. The Government must focus on retaining jobs and on creating jobs, particularly in the sectors and regions most at risk. All alternatives to redundancy should be considered, including short-term work schemes agreed by unions and employers, as previously proposed by Congress in its response to the post-2008 crash, and as now recommended in the OECD's new Jobs Strategy (December 2018).

The Government has announced a number of measures to support *companies* impacted by Brexit. These include the *Brexit Loan Scheme*, the *Rescue and Restructuring Scheme*, the *Future Growth Loan Scheme*, the *Brexit SME Scorecard* and the *Be Prepared Grant*, amongst others.

ICTU is therefore again calling for the establishment of a Brexit Adjustment Assistance Fund (BAAF) to support workers whose jobs are most at risk from Brexit. The BAAF could be modelled on the European Globalisation Adjustment Fund (EGAF) and the US Trade Adjustment Assistance Programme (TAA). The current EGAF allows for time-limited one-off support to workers who lose their jobs as a result of globalisation or the financial and economic crisis. It funded support to almost 11,000 workers in the Republic of Ireland between 2007 and 2016, at a total cost of around €75 million. The TAA is similar to the EGAF but has a stronger emphasis on income protection. The BAAF could also build on the experience on initiatives in other European countries that are designed to anticipate and manage restructuring and labour market change, including with the involvement of trade unions. The OECD for example now highlights the effectiveness of Sweden's Job Security Councils. These councils are operated by unions and employers' bodies and provide a range of services targeted at displaced workers to foster re-employment, including in the form of career guidance and training services. ICTU's proposal for a BAAF is very much in line with the OECD's new Jobs Strategy which emphasises the importance of protecting individuals against labour market risks:

A Brexit Adjustment Assistance Fund should be established now to support workers whose jobs are most at risk

'Supporting the quick (re)integration of job seekers in employment remains a top priority, but the new strategy also highlights the importance of addressing challenges *before* they arise by promoting equality of opportunities and preventing the accumulation of disadvantages over the life-course.' (emphasis in the original)

Furthermore, the Government should also seek to ensure that the EU rules establishing the European Globalisation Adjustment Fund, should be amended so as to expressly allow support for workers who lose their jobs as a result of Brexit, as proposed by the European Parliament in January 2019.

Congress position - The Government should establish a Brexit Adjustment Assistance Fund to support workers whose jobs are most at risk. It should also seek to ensure that the EU rules establishing the European Globalisation Adjustment Fund are revised so as to expressly allow for support to workers made redundant as a result of Brexit.

Impact on Wages and Prices

The Economic & Social Research Institute (2018) has estimated the potential impact of Brexit on Irish consumers. For example, if WTO tariffs were introduced and non-tariff barriers applied and there were no changes in consumer spending patterns, the lowest income households could see a 4 per cent increase in their average annual household spend, which is equivalent to a €634 annual increase. Households in the lowest income group could in fact face a 70 per cent higher increase than those in the highest income group, largely due to the higher share of household expenditure accounted for by food by lower income households.³

³ The ESRI estimates for example that milk, cheese and eggs could see a price increase of 46 per cent and bread and cereals an increase of 30 per cent.

A no-deal Brexit could result in price rises, especially for low-income households as well as reduce wages, particularly for low-skilled workers

At the same time as prices are going up, wages, particularly for low-skilled workers, could be adversely affected. The Department of Business, Enterprise and Innovation (2018) has estimated that by 2020, compared to a no-Brexit scenario, under a 'hard' Brexit, low skilled workers could suffer a drop in wages of 3.9%.⁴

It is likely that low-paid workers would be most affected by Brexit-driven price increases. CSO estimates, issued in April 2017, indicate that an average of 1 in 10 employees or approximately 150,000 employees, earned the National Minimum Wage or less over the last three quarters of 2016. As the Low Pay Commission has concluded:

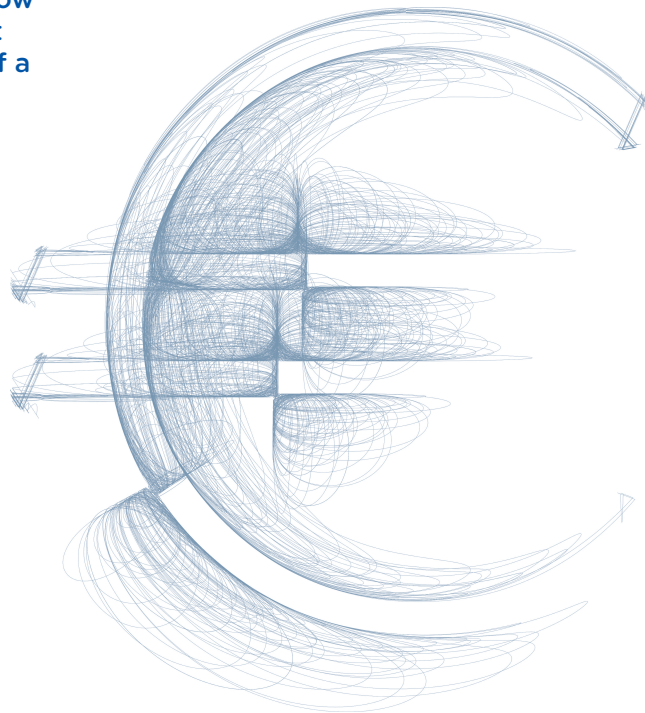
'...whatever negative impacts are felt [from Brexit] are likely to impact predominantly on specific sectors of the economy and disproportionately impact on low skilled workers and low-income households.' (Low Pay Commission, 2018:55).

Congress position - The Government should ensure that all citizens, especially those on low pay and who receive social transfers, are not adversely affected by the negative impact of a no-deal Brexit on prices and wages. Special provision should be made for these citizens.

Impact on the Public Finances

A no-deal Brexit would also have consequences for the public finances. The Department of Finance for example estimates that the general government balance in 2019 would worsen from broad balance to a deficit of 0.2% and in 2020 from a surplus of 0.3% to a deficit of 0.5%. In addition, if the UK fails to honour its financial commitments to the EU under the current budgetary period (2014-2020), the EU would be left with a budgetary shortfall of around €16.5 billion for this period, or around 6.5% of the total budget. If this short-fall were made up by the EU-27 member states, this could amount to an additional budgetary contribution of €300 million for Ireland (Bruegel, 2019).

Congress position - Congress calls on the Government to abandon its plans to cut taxes in Budget 2020 and its plans to allocate €500 million to the Rainy Day Fund in order to be able to meet the additional challenges Brexit poses.



⁴ Cited in the Low Pay Commission report (2018), 'Recommendations for the National Minimum Wage 2018'.

Northern Ireland

Impact on Trade

If the UK leaves the EU without a deal, goods from Northern Ireland will face significant barriers to trade with both the Republic of Ireland and the rest of the EU. Exiting the Single Market means that many goods produced in Northern Ireland and exported to the EU will no longer be recognized as conforming to EU standards and regulation.

Exiting the Customs Union will mean that Northern Ireland exports to the Republic of Ireland and the rest of EU will be liable for tariffs at current World Trade Organisation Most-Favoured Nation (MFN) rates on a range of products. The same will apply to imports from the Republic of Ireland and the EU into Northern Ireland if the UK government agrees to maintain WTO tariff schedules at their current rates.

Northern Ireland's Trade and the WTO Tariff Schedule

Product	Exports (% of EU total)	Imports (% of EU total)	Tariff rate %
Animal products	5.9	10.5	15.5
Dairy products	10.4	4.2	35.9
Fruit, vegetables, plants	1.9	3.4	10.3
Coffee, tea	0.5	0.6	6.0
Cereals & preparations	2.6	3.4	12.3
Oilseeds, fats & oils	0.7	1.8	5.2
Sugars and confectionery	0.4	0.3	21.1
Beverages & tobacco	3.5	2.6	19.3
Cotton	0.0	0.0	0.0
Other agricultural products	3.4	4.0	3.2
Fish & fish products	1.0	0.3	11.6
Minerals & metals	7.1	8.4	2.0
Petroleum	3.6	0.6	2.5
Chemicals	9.6	12.7	4.6
Wood, paper, etc.	2.6	4.0	0.9
Textiles	2.1	1.7	6.5
Clothing	1.8	2.6	11.5
Leather, footwear, etc.	0.4	0.7	4.1
Non-electrical machinery	14.9	12.9	1.8
Electrical machinery	1.6	2.2	2.5
Transport equipment	8.9	5.1	4.7
Manufactures, n.e.s.	11.2	8.3	2.3

Northern Ireland's exports are directly exposed to the threat of a customs barrier between the UK and the EU. Dairy products account for 10% of all Northern Ireland's EU exports and could face an average tariff of 36% trading into the EU. Beverages and Tobacco, which account for almost 4% of Northern Ireland's EU exports, would face a tariff of almost 20%. Animal products account for 10% of all EU imports to Northern Ireland and if the UK maintains its current tariff schedule with the EU, these imports would face a tariff of over 15%. Chemicals, which account for 13% of Northern Ireland's EU imports, could face a tariff of almost 5%.

The UK government must update UK law in order to meet EU standards for goods and seek Equivalence Agreements with the EU so that UK regulations are recognised by the EU

Congress position - In the short term, the UK government must seek to enforce and update UK law in order to meet EU standards for goods. Furthermore, it should seek Equivalence Agreements with the EU so that existing UK regulations will be recognised by the EU. Any such agreements will be product and sector specific and therefore partial. However, Equivalence Agreements will be vital to the flow of trade in goods.

In the short term, it will be necessary to provide support to firms that are exposed to higher export or import tariffs. However, providing direct compensation for import tariffs is in violation of World Trade Organisation rules, and therefore this package of measures could only provide indirect, limited support for wider exports and supply chain diversification would be appropriate. The UK government should channel financial support to areas of the economy most affected by Brexit. Decisions on this support should be devolved to regional administrations as far as possible to enable more efficient and effective interventions.

Impact on jobs

Increased friction in trade with the Single Market and tariff costs will likely put pressure on firms exposed to tariff led price increases. This is likely to lead to redundancies in some firms, particularly small and medium sized firms who are less able to absorb increased costs.

Congress position - An 'Adjustment Fund' must be established by the UK government and be available to workers who are made redundant in these circumstances. These supports could be modelled on the Brexit Adjustment Assistance Fund in the Republic of Ireland. They would provide social security protections for workers affected and support for workers such as training and entrepreneurial incentives to aid their transition to new employment.

Impact on firms

Businesses and firms who trade across the border from Northern Ireland into the Republic of Ireland, and in some cases back again, face a unique exposure in a no-deal Brexit. This will in all likelihood necessitate some form of economic border enforcement and in this case a new system must be developed to ease the flow of goods traffic across the land border.

Congress position - The UK government should establish a 'trusted trader' scheme for firm in Northern Ireland who trade across the border. This should build on existing 'Authorised Economic Operator' schemes that exist at present for non-EU trade. However, the government must ensure that the administrative and financial burdens that apply to existing schemes are eliminated. Furthermore, they must seek recognition of any such scheme from EU authorities in order to ease border trade.

Social Dialogue

Whilst some of the immediate impacts of a no-deal Brexit can be forecast at the outset, many of the localised impacts will only become apparent in the event.

Congress position - The Secretary of State for Northern Ireland should convene a forum to bring government departments and state agencies together with trade unions and representatives of industry to manage these impacts. The forum would provide a mechanism for government to disseminate information among social partners and more importantly would allow workers and firms to bring their concerns directly to government.

Part 2 – Protecting and advancing citizens’ and workers’ rights

Protection of Rights

The draft Withdrawal Agreement would provide for some protections for citizens’ and workers’ rights, protections that Congress would expect to see improved upon in any negotiations on a future EU-UK relationship. Congress will strenuously oppose all attempts to undermine these rights in the event of a no deal Brexit and will continue to campaign for a stronger social Europe, including the full implementation of the European Pillar of Social Rights adopted by all EU governments, i.e. including the Irish and British governments, in November 2017.

A number of the 100 or so European Commission Preparedness notices setting out the consequences of Brexit in different policy areas would be of particular importance for citizens and workers. For example, the Commission points out that EU legislation concerning institutions for occupational retirement provision (the ‘IORPS II’ directive), would no longer apply to the UK and that any such UK schemes would no longer be allowed to operate in the EU-27. In addition, the EU rules concerning the information and consultation of workers at an international level, particularly the European Works Council directive, would no longer apply to the UK.

The Irish Government has announced a number of initiatives to try to limit the damage in the event of a no-deal Brexit. For example, the Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Bill 2019 would amend the Social Welfare (Consolidation) Act 2005 with regard to the continuation of a range of social welfare payments so as to give the Minister for Employment Affairs and Social Protection powers to make regulations with regard to a number of issues such as the recognition of contributions paid in the UK, in line with the commitment to maintain the Common Travel Area. This Bill would also amend the Protection of Employees (Employers’ Insolvency) Act, which governs the insolvency payments scheme, to ensure that employees in the Republic whose employer becomes insolvent under UK law continue to be covered by the scheme.

The UK Government has also said that in the event of no-deal it would take steps to provide ‘reassurance for EU citizens in the UK and had asked the EU and Member States to reciprocate’. It was exploring options in relation to those areas that required reciprocity (like social security co-ordination) and would announce further details prior to exit. It has said:

“We would wish to continue uprating pensions beyond that but would take decisions in light of whether, as we would hope and expect, reciprocal arrangements with the EU are in place”.

The European Commission has published a number of no-deal contingency proposals for social security co-ordination. In the event of a no-deal, EU member state authorities would seek to continue to take into account periods of insurance, (self) employment or residence in the United Kingdom before withdrawal, when calculating social security benefits, such as pensions.⁵

Congress position – Congress calls on the EU and both governments to ensure that citizens’ rights, including in relation to social security contributions and pension entitlements, are fully protected in a no-deal scenario.

Recognition of Professional Qualifications

ICTU has previously stressed the importance of the continued operation of the mutual recognition of professional qualifications between the EU and the UK (ICTU, 2016). The professional qualifications directive (Directive 2005/36/EC) covers EU citizens with qualifications obtained in one or more EU member states. Professions that come within its scope include nurses, midwives, doctors (general practitioners and specialists), dental practitioners, pharmacists, architects and veterinary surgeons.

The European Commission has advised EU citizens holding UK professional qualifications obtained *before* the withdrawal date to consult the relevant national authorities ‘to assess

⁵ See House of Commons Library Briefing Paper Number CBP-7894.

whether it is advisable to obtain, before the withdrawal date, the recognition of those UK professional qualifications in an EU-27 member state.' It has also said that qualifications obtained by EU citizens in the UK *after* the withdrawal date would be considered as 'third country qualifications under EU law and hence would be governed by the national policies and rules of *each* of the EU-27 member states.

Other specific occupational professions governed by other EU rules may also be similarly affected, including auditors, lawyers, train drivers, aviation personnel (e.g. pilots and cabin crew instructors, assessors and examiners), seafarers, coach and bus drivers, and the drivers of live animals.

Congress position - Congress calls on both governments to clarify the situation after a no-deal Brexit for workers who have obtained qualifications in their respective jurisdictions but who have not yet had these qualifications recognised in their state of residence as well as the situation of workers who obtain their qualifications after a no-deal Brexit.

Workers' Rights in Northern Ireland

Congress has serious concerns about the continuing force and effect of EU law in Northern Ireland once the UK leaves. EU law underpins a range of key workers' rights. It is clear that Brexit threatens to undermine and weaken these rights. Brexit must not be used as a pretext to dismantle hard won rights and protections or to drive down employment standards generally. A no-deal Brexit would mean that workers in Northern Ireland will no longer automatically enjoy the suite of workers' rights and employment protections that are guaranteed under EU law. Furthermore, it would also remove the obligation on the UK to ensure no diminution of rights in Northern Ireland, and remove the obligation on the UK to not allow workers' rights to fall below the common standards shared by the UK and the EU at the date of exit.

Congress Position - The UK Government must reverse the moves already made to end the effect of the EU Charter of Fundamental Rights in UK law after Brexit. It should reverse the curbs it has placed on devolved Government in Northern Ireland to enhance employment and equality laws in line with EU developments at the EU level after the UK leaves. It must also honour its commitment to introduce a Bill of Rights for Northern Ireland.



Part 3 - The Peace Process

The Belfast/Good Friday Agreement

The Belfast/Good Friday Agreement is an international peace treaty signed by both the British and Irish governments and registered at the United Nations. The Agreement was made with both the UK and the Republic of Ireland in the EU.

The imposition of a hard border may lead to political and social tensions which the peace process has been geared towards removing; Brexit Law NI warns that a hard border would inevitably become a target for dissident republicans opposed to the peace process.

Congress is mindful that many unionists within Northern Ireland are concerned that the backstop arrangements would lead to a border in the Irish sea and represent a constitutional challenge to the status of Northern Ireland as part of the United Kingdom.

Congress is opposed to any hardening of the border on this island and to a border in the Irish Sea

Congress position - Congress is opposed both to any hardening of the border on this island or any border in the Irish sea and believes that the best way to avoid this is for the UK to negotiate as close a relationship as possible with the EU, preferably with the whole of the UK remaining in the Single Market and Customs Union. Congress fully supports the principle of consent within the Belfast/Good Friday Agreement, which provides that any change in the status of Northern Ireland can only be made with the consent of the majority of its people.

Human Rights

The Belfast/Good Friday Agreement includes a principle of equivalence between human rights protections in Northern Ireland and the Republic of Ireland. If Northern Ireland is outside the EU and is not subject to EU law, rights in Northern Ireland will not develop in the same way.

The Belfast/Good Friday Agreement sought to protect human rights in Northern Ireland by requiring the UK Government to incorporate the European Convention on Human Rights (ECHR) into domestic law. This was done through the Human Rights Act 1998. Brexit would undermine the status of the Act, as whilst the ECHR is overseen by the Council of Europe, EU member states are required to be members of the Convention, a requirement that would no longer apply to the UK. The current UK Government has indicated a clear intent to repeal or replace the Act after Brexit.⁶

Congress position - The UK Government should make legally binding commitments to fully implement the principle of equivalence of rights protections between Northern Ireland and the Republic of Ireland and offer an unequivocal commitment that it will both remain part of the ECHR and will not repeal or replace the Human Rights Act 1998.

Both governments should adopt legislation that guarantees full equality for Irish and British citizens and agree a legally-binding treaty to clarify the rights of British and Irish citizens under the Common Travel Area'

Citizenship

A core principle of the Belfast/Good Friday Agreement is equality of citizenship, with the Agreement recognising it as the birth right of "the people born of Northern Ireland" to identify as Irish or British or both and, accordingly, to hold British or Irish citizenship or both. When considered in light of the equality and parity of esteem provisions within the Agreement, this provides for equal treatment between British and Irish citizens. Brexit causes serious problems for this principle for both British and Irish citizens and Congress is concerned that any undermining of it will lead to tensions between communities.

⁶ See Conservative General Election Manifesto 2017 and letter of Edward Argar MP, Parliamentary Under-Secretary of State for Justice, to Lord Boswell, Chair European Union Committee, House of Lords, 4th January 2019.

Congress position – In order to protect equality of citizenship under the Belfast/Good Friday Agreement, legislation should be passed in the UK and the Republic of Ireland that guarantees full equality for both Irish and British citizens in the rights they can access and which recognises the particular status of Irish citizens born in Northern Ireland.

EU Funding

The EU had made significant financial contributions to the peace process and to the development of the border region, particularly through the PEACE and INTERREG programmes.⁷ Whilst the EU and the UK government have stated that they will continue funding for peace and cross-border projects after Brexit, the Secretary of State for Northern Ireland has stated that the provision of this funding may be “*very difficult*”⁸ in a no-deal scenario.

Congress position – Congress calls on all parties to ensure that vital EU funding programmes are maintained, including after a no-deal Brexit.

Free movement of people and the Common Travel Area

Free movement of people is of critical importance as the Republic of Ireland will be the only EU member state to share a land border with the UK after Brexit. An estimated 20,000 people regularly commute across the border for work or study. A no-deal scenario could lead to a hard border comprising of border infrastructure, checks and controls which would lead to significant disruption for workers and their families as they move between both jurisdictions.

The Common Travel Area (CTA) has frequently been presented as a solution to maintaining freedom of movement for Irish and British citizens across these islands after the UK leaves the EU. However, concerns have been raised that even where all the rights associated with the CTA (including the right to work and access public services) are currently provided for in the

domestic law of the UK and Republic of Ireland, they are open to being changed or amended by any future Governments and that effectively the CTA is “*written in sand*”.⁹

Congress position – An international legally binding treaty between the UK and Ireland is needed to fully clarify the rights of British and Irish citizens under the CTA.

EU and UK Citizens’ Rights

Congress has been clear throughout the process of the UK withdrawing from the EU that EU citizens in the UK and UK citizens in the EU must have certainty in their future positions and that it is imperative that both continue to enjoy residency and other rights, including those secured under bilateral social security agreements in their respective jurisdictions. Congress is conscious that both the public and private sectors in Northern Ireland are heavily dependent on migrant workers.

Under the *EU Settlement Scheme*, EU citizens will need to register to remain in the UK. The UK Government intends to carry on with this scheme even if the UK leaves without a deal.¹⁰ The Withdrawal Agreement would include frontier workers within its provisions on citizens’ rights,¹¹ and a separate scheme recognising their status has been promised, but has yet to be announced.

The position of Irish citizens under the Settlement scheme is very unclear. The official guidance from the UK Home Office has been that Irish citizens are not required to apply for settled status, but may do so if they wish. However, as outlined above, the rights of Irish citizens under the CTA are not as secure as some assume, meaning that the Settlement scheme may be a more attractive option in the absence of a legally binding treaty on the CTA. In addition, question marks remain as to whether Irish citizens born in Northern Ireland can even apply for the Settlement scheme, regardless of the contentious question of whether they should have to continue to enjoy the same rights in the place of their birth.¹² The UK Government states that Irish citizens resident in the UK who do not hold British

⁷ The EU has stated that it contributed 1.3 billion euro, with the British and Irish Governments contributing 661 million euro over the PEACE I - III programmes (Brexit Law NI Policy Report: Brexit and the Peace Process (September 2018), p.12). The PEACE IV budget is 270 million euro (<https://www.seupb.eu/piv-overview>). Since 1991, the INTERREG programme has contributed 1.13 billion euro, with the 2014-20 programme worth 283 million euro (<https://www.seupb.eu/iva-overview>).

⁸ <https://www.bbc.co.uk/news/uk-northern-ireland-46832141>

⁹ Discussion Paper on the Common Travel Area (Irish Human Rights and Equality Commission and Northern Ireland Human Rights Commission) November 2018, p.9.

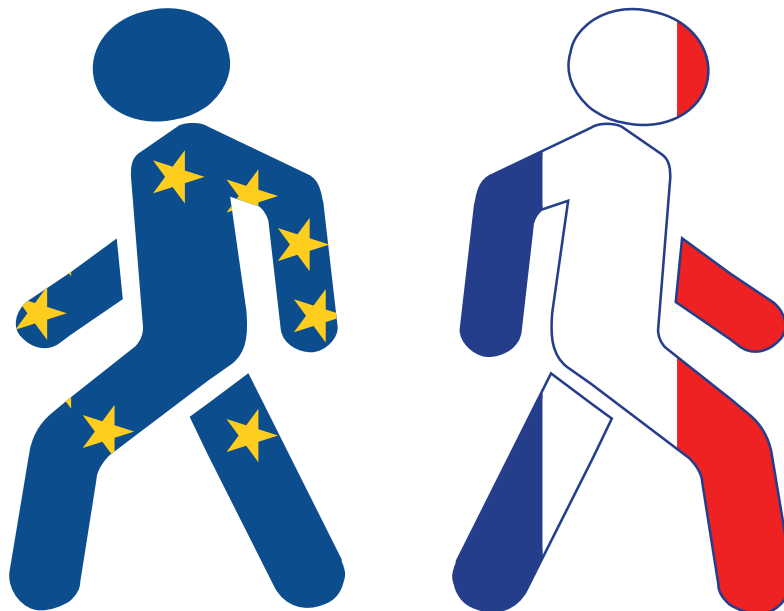
¹⁰ <https://www.gov.uk/settled-status-eu-citizens-families/applying-for-settled-status>

¹¹ See Part 2 and Articles 24 – 26.

citizenship will be able to apply.¹³ This suggests that Irish citizens born in Northern Ireland will not be able to apply for settled status, as the UK Home Office position is to treat persons born in Northern Ireland as British, regardless of the provisions of the Belfast/Good Friday Agreement.¹⁴

Congress is further concerned about the potential for racial profiling to occur as increasingly differentiated categories of citizenship come into place. The UK Government has suggested that checks on a person's immigration status would occur when a person seeks to access employment or public services. Congress is very concerned about a 'hostile environment' approach to immigration checks being put in place, and of workers being required to enforce such an approach.

Congress position – UK and EU citizens should continue to enjoy residency and other rights. The operation of the UK Settlement Scheme must be fair, open and transparent and must recognise the difficulties some workers and their families may face in proving residency. The UK Government should also clarify the position of Irish citizens in relation to this scheme. Clarity is also needed around the arrangements that will be made to protect frontier workers. The ending of free movement must not result in racial profiling.



¹² See also <https://www.thedetail.tv/articles/brexit-the-complex-new-boundaries-between-different-groups-of-citizens-in-northern-ireland>

¹³ <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2019-01-28/213222/>

¹⁴ <https://caj.org.uk/2019/02/06/press-statement-ni-born-irish-citizens-not-entitled-to-apply-to-retain-eu-rights/>

Summary of Congress positions

Jobs in the Republic of Ireland -

The Government should establish a Brexit Adjustment Assistance Fund to support workers whose jobs are most at risk. It should also seek to ensure that the EU rules establishing the European Globalisation Adjustment Fund are revised so as to expressly allow for support to workers made redundant as a result of Brexit.

Incomes in the Republic of Ireland -

The Government should ensure that all citizens, especially those on low pay and who receive social transfers, are not adversely affected by the negative impact of a no-deal Brexit on prices and wages. Special provision should be made for these citizens.

The public finances in the Republic of Ireland -

The Government should abandon its plans to cut taxes in Budget 2020 and its plans to allocate €500 million to the Rainy Day Fund in order to be able to meet the additional challenges Brexit poses.

Trade in Northern Ireland -

The UK government must seek to enforce and update UK law in order to meet EU standards for goods through Equivalence Agreements and channel financial support to areas of the economy most affected.

Jobs in Northern Ireland -

The UK Government should establish an Adjustment Fund for workers made redundant in a no-deal Brexit scenario.

Firms in Northern Ireland -

The UK government should establish a 'trusted trader' scheme for firms in Northern Ireland who trade across the border.

For Social Partners in Northern Ireland -

The Secretary of State for Northern Ireland should convene a Social Partners forum to bring government departments and state agencies together with trade unions and representatives of industry to manage the impact of a no-deal.

Protecting citizens' and workers' rights -

The EU and both governments should try to ensure that citizens' rights, particularly in relation to social security contributions and pension entitlements, are fully protected in a no-deal scenario.

Recognition of qualifications -

Both governments should clarify the situation after a no-deal Brexit for workers who have obtained qualifications in their respective jurisdictions but who have not yet had these qualifications recognised in their state of residence as well as the situation of workers who plan to obtain qualifications after a no-deal Brexit.

Workers' Rights in Northern Ireland -

The UK Government must allow a devolved government in Northern Ireland to enhance employment and equality laws in line with developments at the EU level after the UK leaves the EU and introduce a Bill of Rights for Northern Ireland.

The Belfast/Good Friday Agreement -

Congress is opposed both to any hardening of the border on this island or any border in the Irish sea and believes that the best way to avoid this is for the UK to negotiate as close a relationship as possible with the EU, preferably with the whole of the UK remaining in the Single Market and Customs Union. Congress fully supports the principle of consent within the Belfast/Good Friday Agreement, which provides that any change in the status of Northern Ireland can only be made with the consent of the majority of its people.

Human rights -

The UK Government should make legally binding commitments to fully implement the principle of equivalence of rights protections between Northern Ireland and the Republic of Ireland and offer an unequivocal commitment that it will both remain part of the ECHR and will not repeal or replace the Human Rights Act 1998.

Citizenship -

To protect equality of citizenship under the Belfast/Good Friday Agreement, both governments should adopt legislation that guarantees full equality for both Irish and British citizens in the rights they can access. The British Government should also recognise the particular status of Irish citizens born in Northern Ireland.

EU funding -

All parties should ensure that the vital PEACE IV and INTERREG funding programmes are maintained in the event of a no-deal Brexit.

Free movement and the Common Travel Area -

An international legally binding treaty between the UK and Ireland is needed to fully clarify the rights of British and Irish citizens under the CTA.

Citizens' rights -

UK and EU citizens should continue to enjoy residency and other rights. The operation of the UK Settlement Scheme must be fair, open and transparent and must recognise the difficulties some workers and their families may face in proving residency. Clarity is needed around the arrangements that will be made to protect frontier workers. The ending of free movement must not result in racial profiling.

Irish Congress of Trade Unions

31/32 Parnell Square
Dublin 1, Ireland

Tel: +353 1 8897777
Fax: +353 1 8872012
Email: congress@ictu.ie
Web: www.ictu.ie

**Northern Ireland Committee
Irish Congress of Trades Unions**

45-47 Donegall Street
Belfast BT1 2FG, Northern Ireland

Tel: 02890 247940
Fax: 02890 246898
Email: info@ictuni.org
Web: www.ictuni.org

Printed by Trade Union Labour



STRONGER TOGETHER

CONGRESS

Irish Congress of Trade Unions