



Brexit: The Human Rights challenges for Northern Ireland

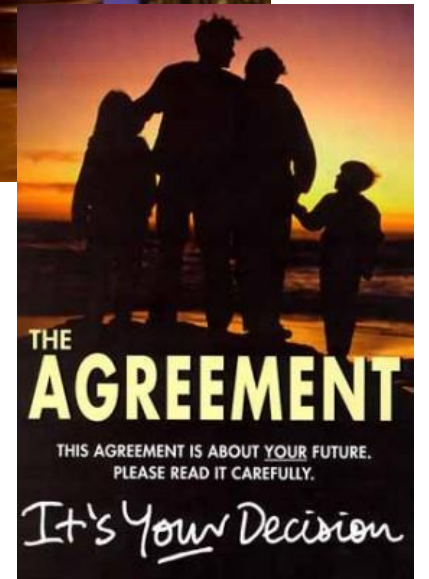
Kevin Hanratty

HRC approach to Brexit

- HRC neutral on referendum vote, not on risk to rights
- Need for retention, protection or replication of EU derived rights
- Brexit a clear threat to existing rights in NI

EU and Human Rights in NI

- Explicit reference to EU in Belfast/Good Friday Agreement
- Human rights role of the EU is less obvious BUT still important
- External restraint of EU rights built into the implementation mechanisms of Belfast/Good Friday Agreement



EU underpinning of B/GFA & peace process

Explicit references

- **Assumption of EU membership**

‘Wishing to develop still further the unique relationship between their people and the close co-operation between their countries as friendly neighbours and as partners in the European Union;’

- **North South relations – Strand Two**

‘It is understood that the North/South Ministerial Council and the Northern Ireland Assembly are mutually inter-dependent, and that one cannot successfully function without the other.’

British-Irish Agreement 1998

EU underpinning of B/GFA & peace process

Implementation role

- Section 6,2.d, Northern Ireland Act 1998 binds NI Assembly to act compatibly with Community Law
- ‘Confidence Building Measures’
- Checks and balances on exercise of power within new power sharing Executive

Mother with disabled girl awarded £19k after tribunal decides her dismissal was discrimination



Maria McKeith was dismissed by Ardoyne Association in March 2015

By Staff Reporter

May 9 2017



An industrial tribunal has found that an advice service in north Belfast discriminated against a woman who worked for them as an adviser.

The tribunal awarded Maria McKeith, who was supported by the Equality Commission, £18,886 in compensation following the case against the Ardoyne Association.

Ms McKeith had worked as a paid adviser for the Ardoyne Association for 16 hours per week, on four mornings since 2010.

Popular

DUP man celebrated election with photo of terror group flag in Downing Street [General Election](#)



Claims of Foyle vote theft mounts - SDLP to meet with Electoral Office [Northern Ireland](#)



Restore devolution or face return of direct rule, DUP's Arlene Foster tells Sinn Fein [UK](#)



Fight breaks out as loyalist march passes Irish bar in Liverpool [UK](#)



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EU based rights in NI

- Disability Discrimination Act interpreted in light of the Framework Employment Directive

Aligning rights in NI

- Using EU law to bypass local rights impasse



**EXPLANATORY MEMORANDUM TO
THE SEX DISCRIMINATION (AMENDMENT OF LEGISLATION)
REGULATIONS 2008**

2008 No. 963

Amending Northern Ireland anti-discrimination legislation at Westminster

7.4 The Regulations implement the Gender Directive in Great Britain and Northern Ireland. The draft 2007 Regulations were laid on 28 November 2007 in order to meet the implementation deadline of 21 December 2007 in Great Britain. Although the Northern Ireland Assembly has competence to legislate on this devolved matter, because the First Minister did not agree to the inclusion of references to transgender or gender reassignment in the Northern Ireland Regulations, the First Minister and Deputy First Minister could not reach joint agreement on all of the policy proposals to implement the Gender Directive.

7.5 Once it became clear that the First Minister and Deputy First Minister were unable to reach joint agreement on implementation in Northern Ireland, the decision was taken to take forward UK-wide regulations at Westminster. It was considered that the most effective way of securing UK-wide compliance with our European Community obligations was for the Government Equalities Office, headed by the Lord Privy Seal, to take the lead in implementing the Gender Directive in Great Britain and Northern Ireland. The present draft Regulations resulted.

EU (Withdrawal) Bill

- Transfers *acquis* of EU law into domestic UK legislation – Retained Law (**Cluses 2 – 4**)
- EU Charter of Fundamental Rights not to be part of UK Law (**Clause 5**)
- No role for the Court of Justice (**Clause 6**)



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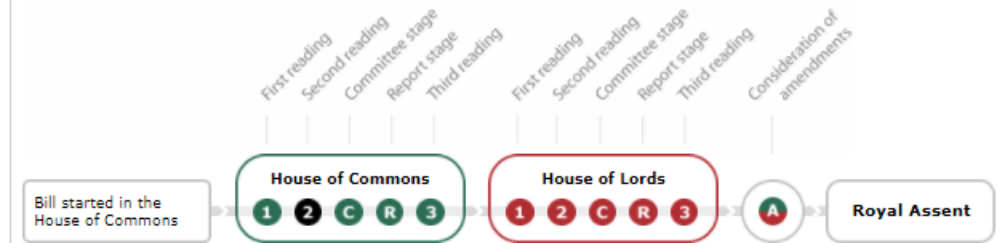
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- Bill stages
- Bill documents

European Union (Withdrawal) Bill 2017-19

Type of Bill: Government Bill
Sponsor: Mr David Davis
Department for Exiting the European Union

Progress of the Bill



Last event

1 1st reading: House of Commons 13 July, 2017 | 13.07.2017

Next event

2 2nd reading: House of Commons | 07.09.2017

Read debates on all stages of the European Union (Withdrawal) Bill 2017-19

Latest Bill

House	Bill	Date
C	Bill 005 2017-19, as introduced PDF version, 303KB	13.07.2017

All Bill documents

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EU (Withdrawal) Bill

- No formal recognition or protection to the Belfast/Good Friday Agreement.
- Amends the NI Act (NIA) so as to remove the restriction on the Assembly to act in accordance with EU Community Law. **(Clause 11,3)**
- Gives UK Ministers wide powers to amend, repeal or replace retained EU law by making use of regulatory powers - Henry VIII clauses. **(Clause 7)**

EU (Withdrawal) Bill

- Gives Ministers wide powers to make any provisions deemed necessary to implement the Withdrawal Agreement. **(Clause 9)**
- Blocks the automatic download of competencies to devolved administrations and retains centrally at Westminster. **(Clause 11)**



Department
for Exiting the
European Union

Legislating for the
United Kingdom's withdrawal
from the European Union

DISCLAIMER: Brexit Priorities Subject to Change



The United Kingdom's exit from and new partnership with the European Union

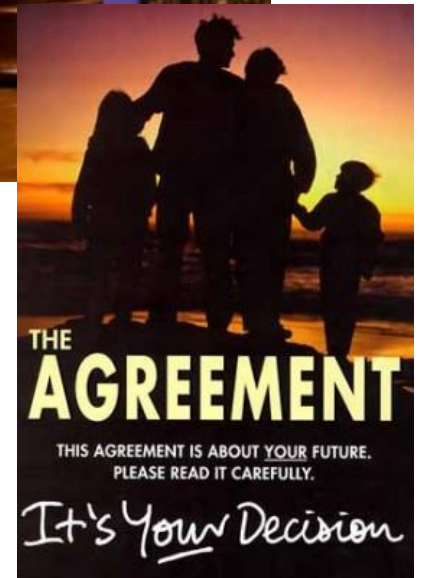
- Government Brexit priorities?

Unknown Elements

- Cross border context?
- Rights of Irish Citizens born in NI?
- Reciprocal rights?

Final thoughts – Solutions?

- Protection of Agreement (Tokenistic or meaningful)?
- Amending Withdrawal Bill.
- Possible role for NI Bill of Rights – ‘particular circumstances of Northern Ireland’.



Thank You