

Professor Danuta Hübner

“For implementation to work, we need political willingness on both sides”

**Public hearing of the Committee on International Trade on the trade-related
aspects of the Northern Ireland Protocol
European Parliament, Brussels (online), 22 March 2022**

Good morning and a very warm welcome to all our guests.

Thank you for the possibility to present the perspective of the Constitutional Committee, which was monitoring the negotiations of the Withdrawal Agreement including the Northern Ireland Protocol, and was responsible for the monitoring procedure by Parliament and maintained close dialogue with both Northern Ireland’s and Ireland’s civil societies and business communities.

We have one relationship with the UK and two agreements. Each has its own governance and institutional mechanisms.

The Trade and Cooperation Agreement is a living agreement. It can be supplemented and it can cover most of the Treaties.

The Withdrawal Agreement is of a very different nature.

The Withdrawal Agreement, with its Protocol on Ireland and Northern Ireland, is a stand-alone independent agreement.

It is prescriptive regarding its implementation. It provides stability to businesses and citizens life. It also clearly details what the UK needs to do to ensure a long term legal certainty.

There are also strong governance and enforcement tools embedded in the Protocol. We saw over the last year the UK’s preference for unilateral measures.

EU law applies to the Protocol as the Protocol is embedded in EU law, including many legal acts, policy instruments, the role of the European Court of Justice, infringement procedures, as well as the role of the Commission.

The main issues seem to emerge from the fact that Northern Ireland is a part of a third country but also a part of the EU single market. It is impossible to have access to the Single Market without the supervision of the ECJ. And we see in public opinion polls and meetings with Northern Irish stakeholders that this does not matter for the public at large.

We cannot accept any risk to the integrity of the EU single market coming from the implementation of the Protocol.

Moreover, without custom formalities and checks, there is no guarantee that UK-only compliant goods imported into NI from other third countries or Great Britain or produced in Northern Ireland, would not enter the Single Market.

We have a problem with the dispute settlement tools of the Withdrawal Agreement and cross cutting sanctions that apply under the EU-UK TCA.

The Protocol is the jointly-agreed solution to address those unique challenges posed on the island of Ireland by Brexit and specifically the type of Brexit chosen by the UK government.

The Union has offered the full use of its flexibilities and the reduction of checks for products that are not at risk of entering the Single Market. But the total elimination of checks is not an option as the single Market must be protected.

Today the longer we discuss implementation-related issues, the more clearly we see that for the Protocol to work it heavily depends on the willingness of the UK government to make it work.

For more than a year now we have not seen this willingness. And I am worried that, if the 2022 is going to be the year of divergence, it will have further negative impacts on the implementation of the Protocol.