



Queen's Policy Engagement: Post-Brexit Clinic

21 April 2021

Organized in cooperation with the ESRC-funded project on *Governance for 'a place between': the multilevel dynamics of implementing the Protocol on Ireland/Northern Ireland*.

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Protocol Monitor ▾ Project Team Project Publications Protocol Analysis Project Events Opinion Polling

POST-BREXIT GOVERNANCE NI

Welcome to the website for the ESRC-funded project on
***Governance for 'a place between':
the Multilevel Dynamics of Implementing the Protocol on Ireland/Northern Ireland***

This three-year project is focused on the implementation of the Protocol on Ireland/Northern Ireland annexed to the UK-EU Withdrawal Agreement. Its core aim is to identify and explain the consequences of the new governance arrangements established by the Protocol since its full entry into force on 1 January 2021. The project explores the governance challenges that the Protocol raises in and for Northern Ireland and seeks to identify how these challenges can be managed in such a way that can promote effective implementation of the Protocol's arrangements as well as enhance their legitimacy.

<https://www.qub.ac.uk/sites/post-brexit-governance-ni/> @PostBrexitGovNI

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Brexit, Northern Ireland and the Protocol: where are we?

Prof David Phinnemore (@DPhinnemore)

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Brexit, Northern Ireland and the Protocol: where are we?

| 2021 | |
|-------------|---|
| 1 January | UK-EU Trade and Cooperation Agreement provisionally enters into force; Protocol on Ireland/Northern Ireland enters fully into force |
| 29 January | European Commission temporarily moves to invoke Article 16 (Safeguards) |
| 2 February | UK Government announces ' next steps ' on implementation of the Protocol DUP launches 5-point ' Free us from the Protocol ' campaign |
| 11 February | Informal Gove-Šefčovič meeting |
| 17 February | David Frost replaces Michael Gove as UK co-chair of Joint Committee |
| 24 February | UK-EU Joint Committee meets |
| 3-4 March | UK announces unilateral action on implementation of Protocol |
| 15 March | European Commission launches legal action against UK |
| 25 March | Specialised Committee for Protocol on Ireland/Northern Ireland meets |
| 7 April | Violent protests in Belfast start |
| 15 April | Informal Frost-Šefčovič meeting |

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Brexit, Northern Ireland and the Protocol: what's ahead?

| | |
|-------------|--|
| 2021 | |
| 26-29 April | EP consent vote on UK-EU Trade and Cooperation Agreement |
| May (?) | UK-EU ' Road Map ' for implementation of Protocol? |
| 13-18 May | Judicial review hearing |
| 30 June | ' Grace period ' for introduction of prohibitions and restrictions on GB-NI movement of meat products ends |
| 31 October | ' Grace period ' for customs declaration requirements for parcels – unilaterally extended by UK – ends ' Grace period ' for export health and other certificates being required for GB-NI movement of goods– unilaterally extended by UK – ends |
| 31 December | ' Grace period ' for application of EU medicines acquis in Northern Ireland ends |
| 2022 | |
| May | NI Assembly elections |
| 2024 | |
| December | MLA's ' democratic consent ' vote |

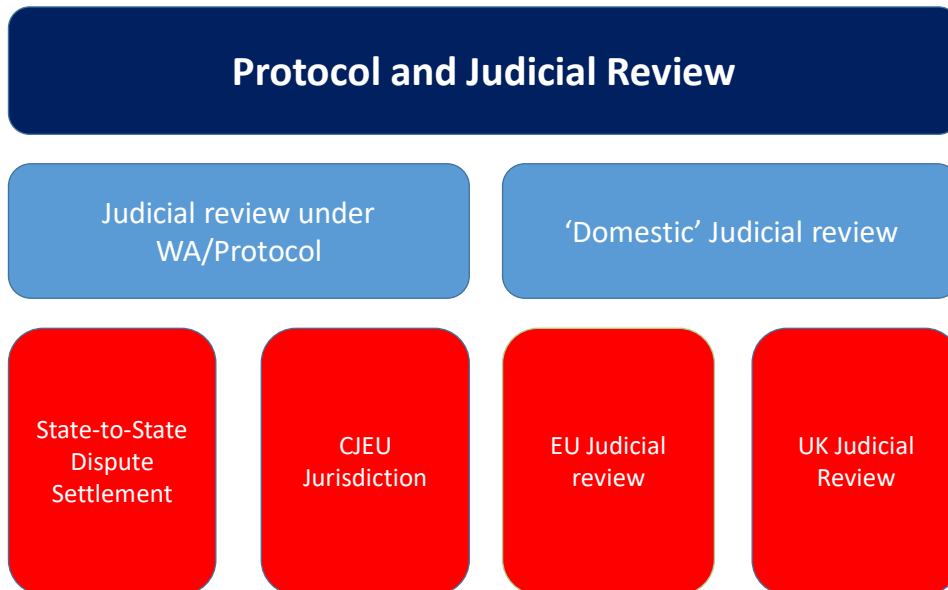
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Brexit, Northern Ireland and the Protocol: legal actions

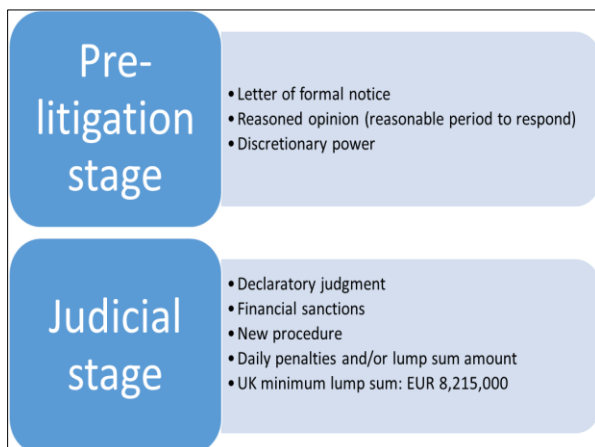
Dr. Billy Melo Araujo (@BillyMeloAraujo)

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Enforcement Action



UK Judicial review

- Section 7A EU WA Act: rights arising under the WA to flow into UK law
- Liberal approach to standing
- UK acts (and omissions) can be challenged
- Grounds: illegality, procedural impropriety, and irrationality
- Remedies + damages

DUP leadership starts legal challenge against Northern Ireland protocol

Arlene Foster and senior MPs want new post-Brexit trade arrangements to stop disruption at Irish Sea ports



▲ Northern Ireland's first minister, Arlene Foster, is insisting there should be unfettered trade throughout the UK. Photograph: Kieran Doyle/Press Eye/PA

The leader of the Democratic Unionist party, Arlene Foster, and senior DUP MPs are launching a legal action challenging the Brexit deal's Northern Ireland protocol.

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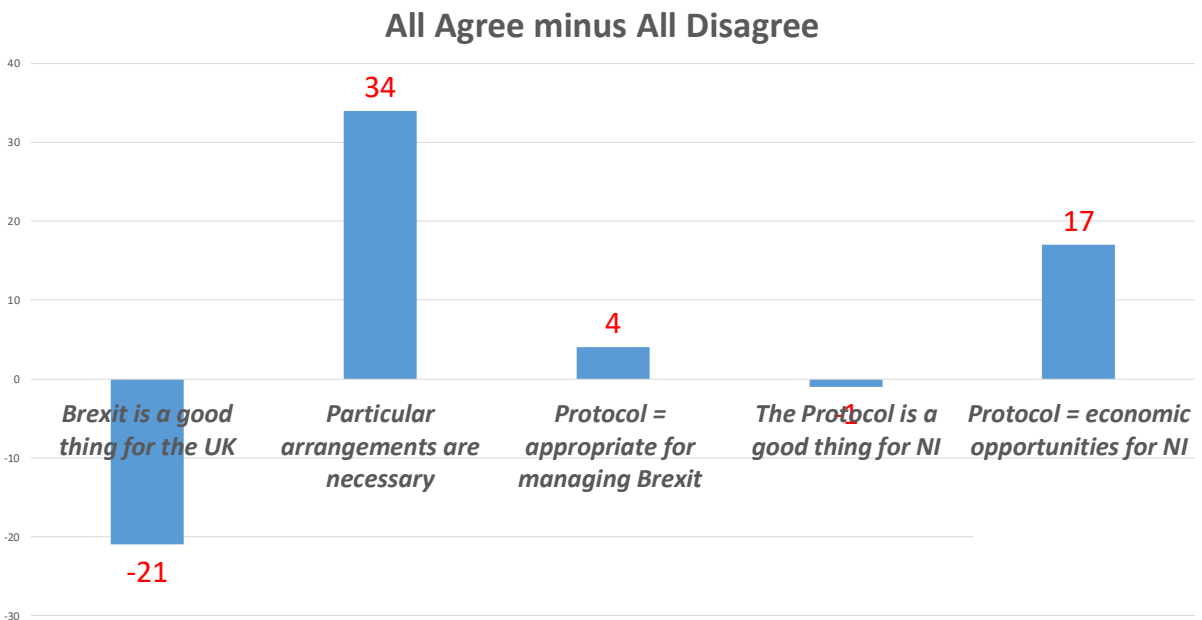


What do voters in Northern Ireland think about the Protocol?

Prof. Katy Hayward (@hayward_katy)
Lisa Claire Whitten (@LisaClaireWhit1)

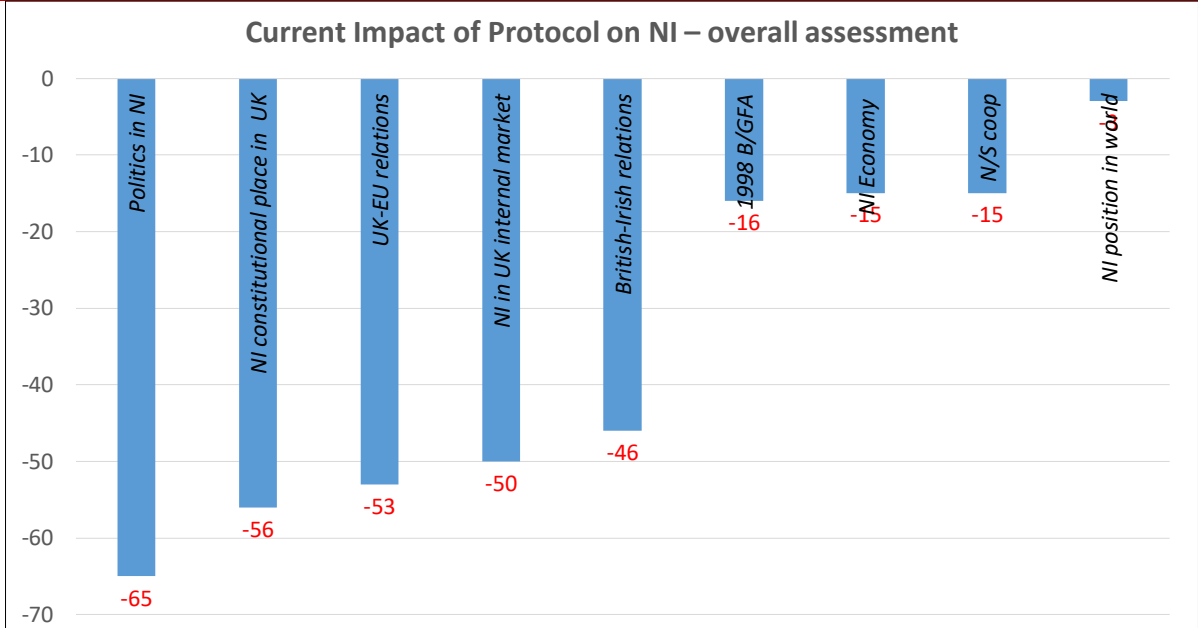
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What do voters think? *Protocol need & impact*



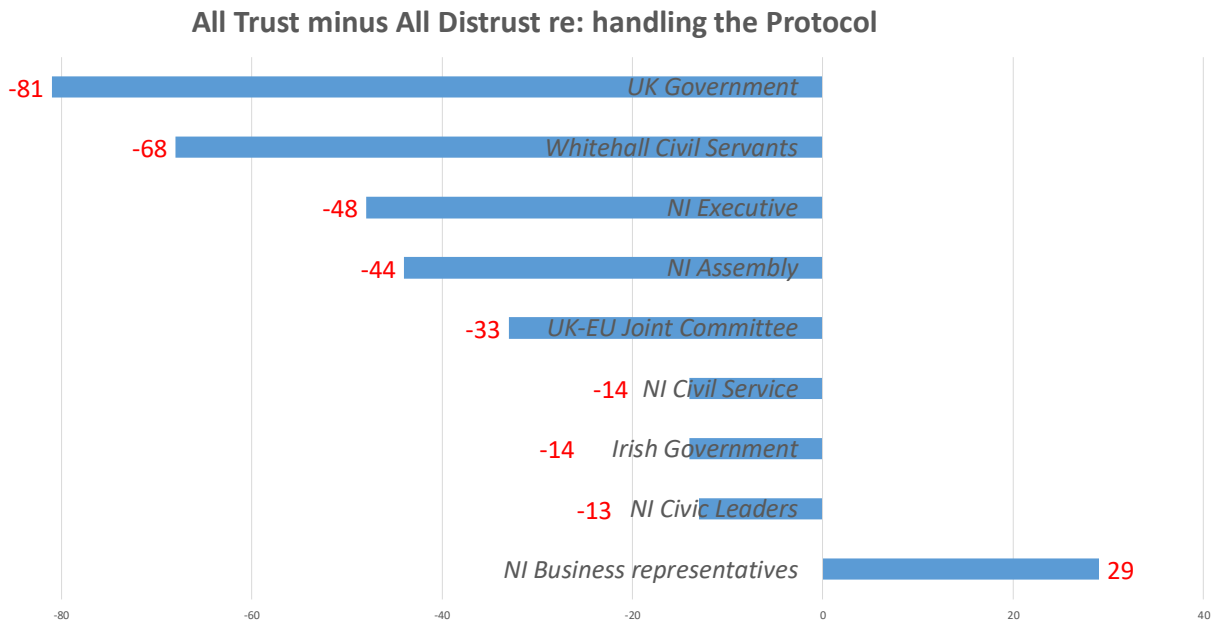
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What do voters think? *Protocol need & impact*



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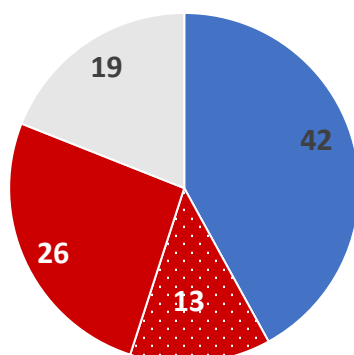
What do voters think? *Protocol management*



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What do voters think?

I will only vote in 2022 for candidates who are:



■ In favour of continued application of the Protocol

■ Against continued application of Arts 5-10

■ In favour of scrapping entire Protocol

■ A candidate's position on the Protocol won't affect how I vote

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What do voters think?

| Theme/Code | Occurrences |
|---|-------------|
| Protocol viewed as necessary / potentially beneficial | 124 |
| Critical of DUP and/or Unionist politicians | 111 |
| Brexit as 'mess' / 'folly' / viewed negatively | 89 |
| Critical of UKG/PM of Great Britain | 75 |
| Scrap the Protocol/Irish Sea Border | 59 |
| Protocol viewed negatively | 53 |
| View (referendum on) United Ireland as more likely due to Protocol/Brexit | 40 |
| Protocol contrary to B/GFA and/or threat to peace | 36 |
| Critical of EU and/or EU approach to implementation of the Protocol | 33 |
| Lack of NI representation / consent | 29 |
| UK to Leave EU as a whole | 29 |
| Critical of EU/IRE for 'using' NI | 24 |
| Lack of information / misinformation | 19 |
| Critical of NI politicians in general | 19 |
| Brexit as threat to Belfast/Good Friday Agreement | 3 |



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What do voters think?

Critical of UK Government

"The UK government should not have negotiated such a bad deal as it sent the signal that people in Northern Ireland don't matter and are not being treated like the British citizens that they are..."

type of Brexit

disregard for NI

Protocol as Necessary or Beneficial

"[The] Protocol is a good thing if implemented correctly"

opportunity

"Brexit is a disaster and the Protocol, while not perfect, is a necessary mitigation to this."

"least-worst"

Remove or Replace the Protocol

"The Protocol is morally reprehensible, an administrative nightmare, and strongly divisive, thus prejudicing political cooperation within Northern Ireland."

multifaceted damage

"The Protocol is destroying the economy of Northern Ireland, its place in the UK and the fabric of the UK in general."



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Managing the Protocol: agri-food

Dr. Viviane Gravey (@VGravey)

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Why SPS matters

5 'Ps' – underpinned by SPS issues

- Pets
- Plants
- (seed) Potatoes
- Plant products
- Parcels

Box 1: Sanitary and phytosanitary measures

Sanitary and phytosanitary (SPS) measures are all regulatory measures adopted:

- a. to protect animal or plant life or health from risks arising from the entry, establishment or spread of pests, diseases, disease-carrying organisms or disease-causing organisms
- b. to protect human or animal life or health from risks arising from additives, contaminants, toxins or disease-causing organisms in foods, beverages or feedstuffs
- c. to protect human life or health from risks arising from diseases carried by animals, plants or products thereof, or from the entry, establishment or spread of pests
- d. to prevent or limit other damage from the entry, establishment or spread of pests.

SPS measures therefore relate principally to food and agricultural products – for example, limits on the amount of pesticide residue that can be left on a fruit or vegetable. But a requirement for wooden crates used to transport other types of goods to be heat-treated or fumigated to prevent insects hitching a ride on them is also an SPS measure.

[Institute for Government, 2018](#)



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What are the options?

Equivalence

- Example of countries EU has equivalence with: USA, Canada, New Zealand...
- Rule by rule agreement – equivalence agreements will differ in scope and ambition.
- In practice: narrow understanding of equivalence
- Reciprocal – cover trade in both directions (with exceptions).
- This does not mean absence of checks, but lighter touch
 - Each party can do spot checks
 - Agreement between parties on frequency of checks
 - Checks are against domestic rules, not export market rules

Alignment

- Example: Swiss/EU Veterinary Agreement
- Switzerland keeps pace with EU regulatory developments on SPS – not reciprocal.
- Common EU-Swiss veterinary area, no veterinary controls for trade in animals and animals products between Switzerland and EU since 2009
- EU Border Control Posts check shipments from non-EU countries going to Switzerland and vice-versa
- Swiss presence in Brussels to influence EU regulatory process
- Some divergence remains possible: eg Swiss import of hormone treated US beef



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