

Rights at risk post-Brexit Commissions warn

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Rights at Risk of Divergence on the Island of Ireland post-Brexit Equality and Human Rights Commissions warn Oireachtas

While common EU membership had facilitated broad alignment of equality and human rights law in Ireland and Northern Ireland, there is now a real risk of increasing divergence in protections across the island of Ireland post Brexit – unless action is taken.

This is the warning to members of the Oireachtas Committee on the Implementation of the Good Friday Agreement today, when it meets with the Chief Commissioners of the Irish Human Rights and Equality Commission, the Equality Commission for Northern Ireland, and the Northern Ireland Human Rights Commission.

The Commissions are appearing as part of their joint oversight role on rights and equalities issues within scope of the UK Government's commitment in Article 2 of the Windsor Framework that have an island of Ireland dimension. They will outline the risk of disparities in protections arising where EU laws that strengthen equality and human rights are introduced in Ireland but are not required to be implemented in Northern Ireland, now that the UK has left the EU.

This risk remains that despite this UK Government commitment, unlike in Ireland certain equality and rights protections in Northern Ireland will not be strengthened post Brexit and some of Northern Ireland's laws will not keep pace with a range of future changes to EU equality and human rights laws.

Independent research published jointly by the Commissions in April this year identified EU laws that will strengthen equality and human rights but fall outside the scope of the UK Government commitment in Article 2. These include, for example, the Work Life Balance Directive, the European Accessibility Act, and proposed legislation aiming to improve the gender balance among non-executive directors of listed companies.

To mitigate this risk of divergence of rights post Brexit on the island of Ireland, the Commissions have made policy recommendations aligned to each of their respective roles and mandate, which are aimed at strengthening protections. The Commissions will engage with Oireachtas members about these recommendations today.

Chief Commissioner of the Irish Human Rights and Equality Commission, Sinéad Gibney said:

“Long-term North-South equivalence of rights is an important element of the equality and human rights provisions that are foundational to the Belfast (Good Friday) Agreement, and the peace and prosperity it has brought to this island as a whole.

That's why we're calling for the Irish Government, NI Executive, and UK Government to work to enhance and harmonise equality and human rights protections on the island of Ireland, aligned to their respective remits, and make a clear commitment to ensuring ongoing North-South equivalence of rights on the island of Ireland".

Speaking for the Equality Commission, Chief Commissioner, Geraldine McGahey said:

"Strong equality legislation has served Northern Ireland well. It has been fundamental to building a more inclusive and fairer Northern Ireland. However, there is still work to be done and there are still significant gaps in protections that need to be addressed. We must ensure that gaps do not widen further.

EU laws made a significant contribution to enhancing these equality rights. Post Brexit, as equality laws in Ireland continue to be enhanced as a result of future EU laws, we consider it vital that NI equality laws are similarly strengthened."

Alyson Kilpatrick, Chief Commissioner of the Northern Ireland Human Rights Commission said:

'Since we last spoke at the Committee on the Implementation of the Good Friday Agreement last September, we remain as concerned, if not more so, at the protection of rights in Northern Ireland.

As the Illegal Migration, Legacy and Retained EU Law Bills make their way through Parliament at Westminster, the direction of travel is clear. All of these Bills raise grave questions about the compliance with fundamental rights and international commitments. One particular concern is around the Illegal Migration Bill and the potential removal of the oversight of the European Court of Human Rights.

Whilst we believe that Article 2 of the Windsor Framework provides something of a defence against these attacks on rights, it is no substitute for a Bill of Rights for Northern Ireland. We will continue to work with both the Equality Commission for Northern Ireland and the Irish Human Rights and Equality Commission in ensuring the protection of equality and human rights on the island of Ireland'.

Editor's note:

You can find copies of the independent research report and three Commission policy recommendations concerning the impact of Brexit on the Divergence of Rights and Best Practice on the Island of Ireland here: <https://www.ihrec.ie/documents/policy-recommendations-european-union-developments-in-equality-and-human-rights-the-impact-of-brexit-on-the-divergence-of-rights-and-best-practice-on-the-island-of-ireland/>.

Overview of the Commissions

The Irish Human Rights and Equality Commission (IHREC) is an independent public body, appointed by the President of Ireland and directly accountable to the

Oireachtas. The Commission has a statutory remit set out under the Irish Human Rights and Equality Commission Act (2014) to protect and promote human rights and equality in Ireland, and build a culture of respect for human rights, equality and intercultural understanding in the State. It is Ireland's national human rights institution and is also the national equality body for the purpose of a range of EU anti-discrimination measures. It is accredited as an 'A-Status' National Human Rights Institution by the United Nations.

The Northern Ireland Human Rights Commission is a non-departmental public body established following the Belfast (Good Friday) Agreement and pursuant to the Northern Ireland Act 1998. The NIHRC is a National Human Rights Institution with 'A-Status' accreditation from the United Nations.

The Equality Commission for Northern Ireland (ECNI) is a non-departmental public body with powers and duties that derive from the anti-discrimination legislation in Northern Ireland and the Northern Ireland Act 1998.

Schedule 3 of the European Union (Withdrawal Agreement) Act 2020 confers new functions on both the NIHRC and ECNI to enable them to act as part of the 'dedicated mechanism' (DM), to monitor, advise, report on and enforce the UK's adherence to its Protocol Article 2 commitment that there will be no diminution of rights, safeguards or equality of opportunity in Northern Ireland as a result of the UK's exit from the EU.

NIHRC ECNI and IHREC work together to provide oversight of, and reporting on, rights and equalities issues falling within the scope of the commitment that have an island of Ireland dimension.

To find out more about the UK Government's commitment under Article 2 of the Ireland/Northern Ireland Protocol or about making a complaint in the event of an alleged breach of this commitment, please contact the Equality Commission for Northern Ireland www.equalityni.org/brexit or the Northern Ireland Human Rights Commission www.nihrc.org/our-work/brexit.

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