



The Centre for
Cross Border Studies

Brexit, the Border and Citizens' Rights:

Presentation to Human Rights Consortium Conference

15 June 2017

Ruth Taillon, Director
Centre for Cross Border Studies
39 Abbey Street,
Armagh BT61 7EB
r.taillon@qub.ac.uk



European Union

European Regional
Development Fund
Investing in your future



The Centre for
Cross Border Studies

- Free Movement – The CTA and EU citizens' rights
- Implications for Peace Process/Rights
- Impacts on North – South Relations
- EU Funding



The Centre for
Cross Border Studies

No return to a 'hard' border

“No return to border of the past”





British soldier patrols the border 1998



The Centre for
Cross Border Studies

Treaty of Maastricht (1992)

- BEFORE: European rights were only for people that were *economically active*, that moved across borders in order to work or to provide a service in economic terms.
- AFTER: **European Citizenship** -- Citizenship (Free Movement) Directive – guarantees the **right of EU citizens and their family members to move and reside freely** within the EU



The Centre for
Cross Border Studies

Citizenship (Free Movement) Directive

- **EU migrants are entitled to the same benefits as citizens of the host country**
- Access to certain benefits can depend on the amount of time a worker has been paying contributions.
- Jobless migrants are **not entitled** to benefits funded from salary contributions. (Workers pay social security contributions, to cover sickness, unemployment, maternity or paternity, invalidity or occupational injuries.)
- EU citizens visiting for short periods can receive basic and emergency care with a European Health Insurance Card (EHIC).

Social Security



Under EU law:

- ▶ **Unemployment Benefits** usually paid by State of Residence
- ▶ **Family Benefits** usually paid in State of Employment unless there is also employment in State of Residence
- ▶ **Illness Benefit** is usually paid by the State of last insured employment ...

CASE STUDY:

- ▶ A Bulgarian man moved to North of Ireland and took up employment in the South;
- ▶ He needed surgery and was unable to work;
- ▶ He was able to claim Illness Benefit from Irish Department of Social Protection, he transferred his Bulgarian Social Insurance record

***Right to Reside, Right to Work,
Right to Social Security
as an EU Worker***



The Centre for
Cross Border Studies

EU Citizens in the North after Brexit

EU citizens (and their family members) who wish to come to the UK/N. Ireland would be subject to the full force of British immigration law:

- For entry as a visitor: **proof** of funds, intention to return and lack of intention to work
- For long term purposes, e.g. work, study or family reunification: would need a **visa**



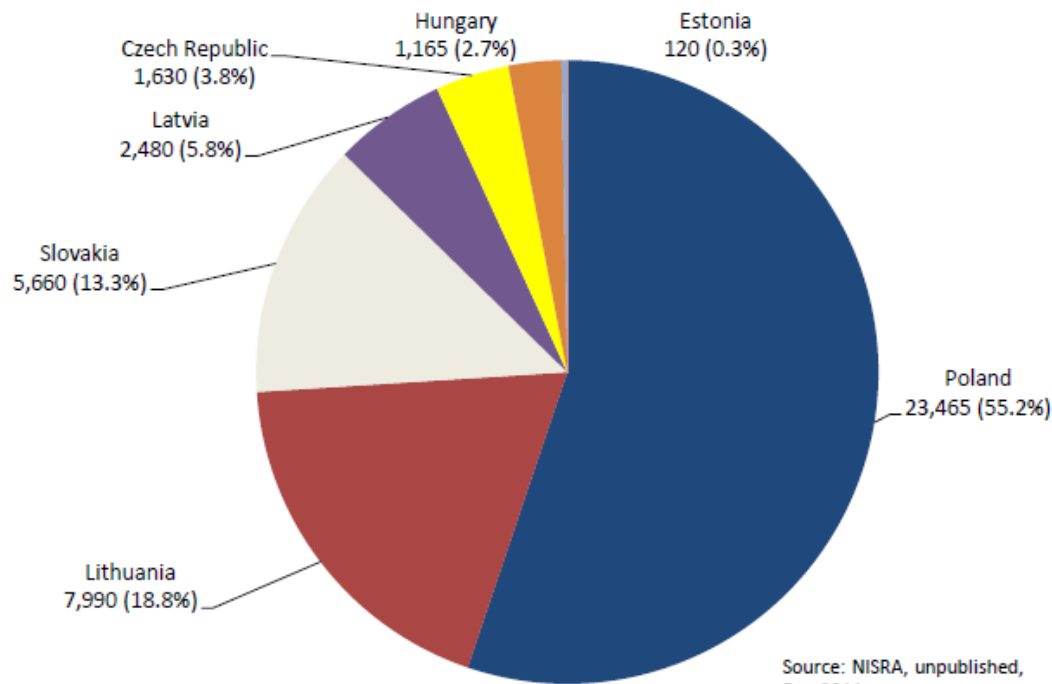
The Centre for
Cross Border Studies

EU citizens in the North

- **39,000 EU/EEA passport holders resident in NI in 2011***
- international migration mainly, but not exclusively, from central and eastern Europe.
- migration from Bulgaria & Romania “relatively modest”.
- Northern Ireland had 25 per cent more ‘A8’ citizens on a per capita basis, than the UK as a whole.

*2011 Census

*Northern Ireland Worker Registration Scheme
Registrations by Nationality (May 2004 – March 2011)*



Source: NISRA, unpublished,
Dec 2011

(TOTAL: 42,510)

EU citizens in the South

**274,505 (non-UK)
EU citizens resident
in Ireland in 2011.**

Table 1 Population with a non-Irish nationality, usually resident and present in the State on census night, classified by nationality with actual and percentage change, 2006 and 2011

Nationality	2006	2011			Actual change 2006 - 2011	Percentage change 2006 - 2011
	Persons	Persons	Males	Females		
EU	284,440	386,764	193,408	193,356	102,324	36.0
Belgium	910	1,071	545	526	161	17.7
Bulgaria	969	1,759	887	872	790	81.5
Czech Republic	5,159	5,451	2,876	2,575	292	5.7
Estonia	2,272	2,560	1,043	1,517	288	12.7
France	9,046	9,749	4,824	4,925	703	7.8
Germany	10,289	11,305	5,011	6,294	1,016	9.9
Hungary	3,440	8,034	4,211	3,823	4,594	133.5
Italy	6,190	7,656	4,309	3,347	1,466	23.7
Latvia	13,319	20,593	9,112	11,481	7,274	54.6
Lithuania	24,628	36,683	17,470	19,213	12,055	48.9
Netherlands	3,990	4,313	2,322	1,991	323	8.1
Poland	63,276	122,585	63,382	59,203	59,309	93.7
Portugal	1,798	2,739	1,589	1,150	941	52.3
Romania	7,696	17,304	8,812	8,492	9,608	124.8
Slovakia	8,111	10,801	5,663	5,138	2,690	33.2
Spain	6,052	6,794	2,727	4,067	742	12.3
Sweden	1,742	1,713	690	1,023	-29	-1.7
UK	112,548	112,259	56,374	55,885	-289	-0.3
Other	3,005	3,395	1,561	1,834	390	13.0



The Centre for
Cross Border Studies

UK citizens entering the EU/(Ireland)

➤ **BORDER CHECKS:**

- more **intrusive questions** about the purpose of each visit, and checks on the intention to return and level of income?
- subject to the EU's planned entry-exit system, which will keep a record of all movements of third-country nationals into and out of EU territory.
- EU would be free to impose **visa requirements** on UK citizens
 - if the UK wished to impose visas (for instance) on Romanians and Bulgarians, it would face pressure from the EU to waive such requirements – or face the imposition of a visa requirement for UK citizens



The Centre for
Cross Border Studies

Crossing the Irish Border

***If you work in one EU country but live in another and return there daily, or at least once a week, you count as a cross-border commuter under EU law
(sometimes called a cross-border or frontier worker).***

Source: Your Europe Advice

Estimated **23,000+** commuters

- *Would work visas be required?*
- *Would cross-border workers encounter border controls each day?*
- *Would that mean long queues to show an Irish or UK passport?*
- *What would happen the other EU migrants e.g. working North but living South?*





The Centre for
Cross Border Studies

The Common Travel Area (CTA)

- **CTA** is a travel zone that comprises Ireland, the United Kingdom, the Isle of Man, Jersey and Guernsey.
- The CTA's internal borders are subject to minimal or non-existent border controls -- normally crossed by British and Irish citizens with minimal identity documents
- *Not legally binding* – does not create or confer any right, privilege or benefit on any person or party, private or public





The Centre for
Cross Border Studies

The Common Travel Area (CTA)

- While **British and Irish citizens** enjoy the right to live in each other's countries under European Union law, the provisions that apply to them are generally more far reaching than those that apply to other EEA/EU nationals.
- There now are **identity checks** at least for air travel, and British and Irish citizens may be requested to produce a valid identity document when crossing the border.



Northern Ireland Act 1998

- Acts of the Northern Ireland Assembly
 - Must be compatible with Convention rights
 - Must be compatible with Community law
 - Shall not modify the European Communities Act 1972 or the Human Rights Act 1998

- Article 12: “Reconsideration where reference made to EJC”

“(3)In this section “reference for a preliminary ruling” means a **reference of a question to the European Court of Justice ...**”



The Centre for
Cross Border Studies

'Brexit' and the Peace Process

- **John Bruton** (former Taoiseach):
- The underlying assumption of the Good Friday agreement between the two governments was that both parts of Ireland would be included in a zone of free movement of goods and people
- If the UK leaves the Customs Union Ireland would have to impose the full EU common external tariff on imports from Britain.
- Controlling immigration from the EU, means hard controls within Ireland or between Ireland and the UK mainland.
- Britain's subsidisation of the Northern Ireland economy will become less sustainable.
- **"Leaving the bloc has been decided, but the extra step of leaving the customs union has such serious implications for peace on the island of Ireland that it is arguable that it should be the subject of a separate referendum."**

<https://www.ft.com/content/9d364f78-78e0-11e6-97ae-647294649b28>



The Centre for
Cross Border Studies

Impact on North-South Relations

“Common membership of the EU has been a force for reconciliation and a framework for cooperation on this island. Even in the context of the positive state of North-South and East-West relations a British exit from the EU would have extremely serious consequences irrespective of mitigation strategies.”

Paschal Donohoe, Irish Minister of State for EU Affairs, June 2014

EU funding to NI: €7.25bn 1988-2013

EU funding to Northern Ireland

(Includes CAP, structural funds, peace funds and fisheries)

2007-2013	€2.4bn
2000-06	€2.27bn
1994-99	€1.9bn
1988-1993	€925m

Source: European Commission



The Centre for
Cross Border Studies

EU Cross-Border funding 1994-2020: €2.759bn

EU Community Funding: PEACE and INTERREG Programmes Ireland/Northern Ireland 1994-2020

PEACE PROGRAMME		INTERREG A	
		INTERREG IA	76 m ECU
Peace I (1994-99)	500m ECU	INTERREG IIA	165m ECU
Peace II (2000-2006)	€995m	INTERREG IIIA	€137m
Peace III (2007-2013)	€225m	INTERREG IVA	€192m
Peace IV (2014-2020)	€229m	INTERREG V	€240m



The Centre for
Cross Border Studies

“Flexible and imaginative solutions”

- **The commitment to cross-border cooperation embedded in the Good Friday Agreement must remain a priority for both the UK and Irish Governments**
- **The ‘soft infrastructure’ to support cross-border cooperation – must be protected and nurtured**
 - statutory cross-border bodies
 - links at Departmental and local government level
 - civil society networks and projects
- **Existing EU directives and regulations should remain in place** until proposed changes have comprehensive territorial, equality and environmental impact assessment



The Centre for
Cross Border Studies

“Flexible and imaginative solutions”

- Continued eligibility of Northern Ireland in cross-border and transnational programmes e.g. Horizon 2020, Erasmus+, Life and Europe for Citizens
 - **This will require a financial commitment from the UK Government**
- Irish and UK Governments ensure new and sufficient resources are available for the social and economic development of the border region, including local authority- and civic society-led projects
 - On the UK side, **additional funding allocations should be derived from the UK’s current contribution to the EU budget** that will revert to the Treasury post-withdrawal, not from the ‘block grant’
- Additional funding to address the challenges of inter-community conflict and cross-border relationships in the context of the UK withdrawal from the EU
- Differentiated immigration policies that reflect the specific circumstances of the devolved regions