



2020/2023(INI)

27.5.2020

OPINION

of the Committee on Constitutional Affairs

for the Committee on Foreign Affairs and the Committee on International Trade

on recommendations on the negotiations for a new partnership with the United Kingdom of Great Britain and Northern Ireland
(2020/2023(INI))

Rapporteur for opinion: Danuta Maria Hübner

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SUGGESTIONS

The Committee on Constitutional Affairs calls on the Committee on Foreign Affairs and the Committee on International Trade, as the committees responsible, to incorporate the following suggestions into its motion for a resolution:

On the implementation of the Withdrawal Agreement

1. Recalls its resolution of 15 January 2020 on implementing and monitoring the provisions on citizens' rights in the Withdrawal Agreement¹, reiterating that the full implementation of the Withdrawal Agreement remains an overriding priority; stresses that the full implementation of the Withdrawal Agreement, including the Protocol on Ireland/Northern Ireland, is an essential pre-condition and basic element to ensure the trust needed for a successful future partnership between the EU and the UK; expresses, in this regard, concern that, despite the commitment expressed by the UK Government to protect the Good Friday Agreement and fulfil its obligations under the Protocol on Ireland/Northern Ireland and on citizens' rights under the Withdrawal Agreement, public statements suggest lack of political will to fully comply with its legal commitments under the Withdrawal Agreement, such as regarding checks on goods in the Irish Sea;
2. Recalls that compliance with treaties constitutes a fundamental principle of any legal order and, in particular, the international legal order; stresses that stability and trust in relations between the European Union and the UK depend on both parties respecting the principles of the binding Withdrawal Agreement and the EU-UK Political Declaration and that these must be implemented in good faith in order to prevent disruption and to provide legal certainty for citizens and economic agents;
3. Is concerned about the process of application of the European Union Settlement Scheme; notes in this regard that according to the latest EU Settlement Scheme Statistics, for February 2020, published by the UK Home Office on 19 March 2020, the total number of applications received up to 29 February 2020 was more than 3.3 million (3 343 700), and that, of the total number of applications concluded, 58 % were granted settled status and 41 % were granted pre-settled status;
4. Considers the number of cases granted pre-settled status to be disproportionately high in comparison with the number of cases granted settled status; urges the UK Home Office to be flexible in accepting evidence provided by applicants that they have been in the country for the five years required; is also concerned that applicants are not issued any physical proof of the status they have been granted; calls on the European Commission to check whether the rights of EU citizens from vulnerable and disadvantaged groups have been respected in terms of their settlement scheme status; is concerned that citizens with pre-settled status do not have access to benefits unless they also prove their right to reside; recalls that the success of the future relationship between the EU and the UK depends also on the correct implementation of the provisions of the Withdrawal Agreement concerning the rights of European citizens in UK;

¹ Texts adopted, P9_TA(2020)0006.

5. Calls on the parties to ensure the strict implementation of the Protocol on Ireland/Northern Ireland; warns that the EU-UK Joint Committee as established under Article 164 of the Withdrawal Agreement cannot be used as a forum for renegotiating the terms of that Protocol or any other part of the Withdrawal Agreement;
6. Takes note of the first meeting of the EU-UK Joint Committee on 30 March 2020, which focused on the state of play of the implementation of the Withdrawal Agreement, and in particular of the Protocol on Ireland/Northern Ireland and of the part on citizens' rights; stresses that following this meeting the European Commission stated that there is 'an urgent need to present a detailed timetable and proceed with the necessary measures, such as preparing for the introduction of customs procedures for goods entering Northern Ireland from Great Britain, and ensuring that all necessary sanitary and phytosanitary controls as well as other regulatory checks can be carried out in respect of goods entering Northern Ireland from outside the EU';
7. Recalls that important decisions are due to be taken by the EU-UK Joint Committee on the implementation of the Protocol on Ireland/Northern Ireland before the end of the transition period; hopes that priority will be given to the work of the six Specialised Committees provided for in the Withdrawal Agreement on the key areas for the implementation of the Withdrawal Agreement, and in particular of the Specialised Committee on the Protocol on Ireland/Northern Ireland; welcomes the first meeting of the Specialised Committee on the Protocol on Ireland/Northern Ireland on 30 April 2020, after which the European Commission noted that exchanges 'urgently need to be followed up by tangible measures'; hopes that an agreement can be found between the EU and the UK on all institutional arrangements, such as the creation of a technical office of the European Commission in Belfast;
8. Recalls that the Withdrawal Agreement provides for reciprocal protection for EU and British citizens, including their family members; calls for both EU and British citizens to be provided with all the necessary information with regard to their rights and to the procedures to be followed to continue living and working in their country of residence and travelling to and from there; reiterates that citizens' rights will remain an absolute priority and calls for the continuation of the citizens' rights guaranteed under the Withdrawal Agreement for both EU and UK citizens and their families; recalls its commitment to monitor EU-27 implementation of part two of the Withdrawal Agreement and reiterates that a consistent and generous approach in protecting the rights of UK citizens resident in the EU-27 is essential;
9. Expects Parliament to be fully and immediately informed of all the discussions held and decisions taken by the Joint Committee; recalls in this respect the obligations stemming from Council Decision (EU) 2020/135 of 30 January 2020 on the conclusion of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community², and in particular Article 2(3) thereof, which provides that Parliament must be in a position to exercise fully its institutional prerogatives throughout the Joint Committee proceedings;

² OJ L 29, 31.1.2020, p. 1.

10. Emphasises that, according to Article 218(10) of the TFEU, Parliament has the right to obtain comprehensive information covering all stages of the implementation of international agreements concluded by the EU, which covers the Withdrawal Agreement; recalls, in this context, the commitment made by the President of the European Commission to Parliament's plenary on 16 April 2019 that the Commission will closely involve Parliament and take utmost account of Parliament's views in the work of the Joint Committee, and that nothing can be decided without taking full account of Parliament's position, which is also the result of numerous internal and public consultations and dialogues with civil society, experts, national parliaments and other stakeholders;
11. Reiterates that Parliament will remain vigilant about the implementation of all the provisions of the Withdrawal Agreement and the EU-UK Political Declaration;

On the negotiations for a new partnership between the EU and the UK – institutional provisions and governance

12. Welcomes the draft text of the Agreement on the New Partnership with the United Kingdom published by the European Commission on 18 March 2020 ('draft text of the Agreement'), which is broadly in line with its negotiating mandate and the European Parliament's resolution and proposes a comprehensive agreement for a deep and close partnership, an overarching institutional framework and robust rules-based and enforceable dispute resolution provisions, including the ongoing management and supervision of the agreement, as well as dispute settlement, enforcement and compliance arrangements; considers that the approach of the draft text of the Agreement proposed by the Commission avoids a proliferation of bilateral agreements, which would inevitably lead to shortcomings due to the inherent complexity and incompleteness of such a system;
13. Believes that the draft text of the Agreement provides for a robust, transparent, coherent and flexible governance system, providing for dispute settlement mechanisms ensuring effective, rapidly actionable and dissuasive remedies that are entirely commensurate with the unprecedented nature of the wide-ranging partnership envisaged;
14. Welcomes the provisions of the draft text of the Agreement aiming to preserve the autonomy of the EU legal order, including the role of the Court of Justice of the European Union as the ultimate authority in interpreting EU law;
15. Insists that any agreement on a new relationship between the EU and the UK must be coherent and adapted to the geographical proximity of, and cross-border local cooperation between, both parties, on the one hand, and to the high level of interconnectedness of both parties' economies on the other; rejects in this regard any 'cherry-picking' of various elements from different legal and trade frameworks applicable in the context of relations between the EU and various other third countries; further recalls that the integrity of the single market must be respected and that the scope and depth of the future EU-UK partnership will depend on ensuring a proper level playing field;

16. Rejects failure to achieve a comprehensive agreement by resorting to several sectoral agreements, as such duplication would promote inefficiencies in the future implementation of the Agreement;
17. Takes note of the document published by the UK Government on 27 February 2020 entitled ‘The Future Relationship with the EU – The UK’s Approach to Negotiations’; deeply regrets that the UK Government refuses to make public or even to share its legal texts with the European Parliament and the European Council, which constitutes a serious lack of transparency; urges the Task Force for Relations with the UK to ensure transparency and advocate for the publication of the full negotiation positions to ensure that the European Parliament can follow the partnership negotiations effectively and in an informed manner; points out that the UK’s proposals fall short of its commitments under the Withdrawal Agreement and the Political Declaration; rejects, however, a piecemeal approach, as suggested by the UK Government, based on excluding sectors such as subsidies, competition policy, trade and labour, trade and the environment, and taxation from the Agreement’s dispute resolution mechanism, while proposing separate agreements with specific governance mechanisms in areas such as law enforcement and judicial cooperation in criminal matters, nuclear cooperation, or political dispute resolution mechanisms in areas related to data exchange for law enforcement purposes, and operational cooperation between law enforcement authorities;
18. Recalls that the future partnership can only be concluded with the full involvement and final consent of the European Parliament;
19. Insists that an overarching framework with a horizontal governance system should be envisaged for the future relationship with the UK as a whole; recalls that the UK, as a former Member State, has developed important institutional cooperation and dialogue structures with the EU that should facilitate making such horizontal arrangements operational;
20. Notes, moreover, that in line with the EU’s standard practice in the conclusion of Free Trade Agreements (FTA), the draft text of the Agreement provides for exceptions and tailored dispute resolution mechanisms in certain areas, including diplomatic means for the interpretation and application of the Foreign Policy, Security and Defence part of the draft text of the Agreement, thus offering sufficient flexibility within a single and coherent overarching framework; welcomes the fact that any supplementing agreements that may be concluded at a later stage will form an integral part of the overall bilateral relationship governed by the Agreement, including its institutional provisions as provided for in Part Five of the draft text of the Agreement;
21. Welcomes the proposal to establish a Partnership Council, assisted by 15 Specialised Committees responsible for the main areas covered by the Agreement, in charge of supervising and facilitating the implementation and application of the agreement and any supplementing agreements, thus ensuring the joint continuous supervision and management of the Agreement;
22. Calls for the inclusion in the future agreement of ambitious provisions concerning the movement of persons; welcomes the human rights commitments provided for in the draft Agreement, including compliance with the European Convention of Human

Rights; stresses the need to formalise these commitments, including compliance with the European Court of Human Rights; reiterates that future judicial and police cooperation and cooperation on asylum and migration policies between the EU and the UK should be consistent with such formalised commitments;

23. Stresses the need to include clear provisions upholding the objectives under Article 21 of the TEU, including a rules-based international order, the rule of law and the promotion of democracy, with special attention to the safeguarding of the values, fundamental rights and interests, security, independence and integrity of the Union as a whole;
24. Welcomes the proposal to establish a Parliamentary Partnership Assembly for Members of the European Parliament and of the Parliament of the United Kingdom, with the right to receive information from the Partnership Council and submit recommendations to it;
25. Highlights the importance of interparliamentary cooperation between EU and UK parliamentarians; recognises the positive contribution of UK parliamentarians in EU interparliamentary fora prior to the UK's withdrawal from the EU; looks forward to continuing parliamentary relations with the Parliament of the United Kingdom;
26. Considers that formal arrangements, such as the Parliamentary Partnership Assembly and the participation of civil society in the implementation of the Agreement through the proposed domestic advisory groups and Civil Society Forum, can contribute substantially to the legitimacy and transparency of the implementation of the future Agreement and the future development of the partnership;
27. Considers that clearer details on the functioning of the Civil Society Forum should be provided, in particular on the way the dialogue and consultation between the Forum and the Partnership Council will be organised;
28. Demands that, above and beyond any role in the context of the Parliamentary Partnership Assembly, Parliament's role is respected in the context of the implementation of the provisions on regulatory cooperation in order to ensure that it is able to exercise proper political oversight, and that its rights and prerogatives as co-legislator are guaranteed; considers that Parliament's rights to be informed about the arrangements on review of the Agreement and any supplementing agreements, and of the monitoring of their implementation, should be commensurate with the unprecedented nature of the partnership envisaged;
29. Recalls that Article 184 of the Withdrawal Agreement stipulates that the Union and the United Kingdom shall use their best endeavours, in good faith and in full respect of their respective legal orders, to take the necessary steps to negotiate expeditiously the agreements governing their future relationship; notes with concern that substantial divergences between both Parties persist at this stage of the negotiations, including on the scope and the legal architecture of the text to be negotiated; regrets, in this regard, the UK's lack of willingness to engage in a wide number of critical issues; is furthermore concerned about the negative impact of the COVID-19 pandemic on the timeline planned for the conclusion of the negotiations on a comprehensive future partnership before the end of the transition period on 31 December 2020; warns that these factors increase the risk of a cliff-edge scenario in which the lack of agreement on

a comprehensive future partnership ensuring a smooth transition and all the necessary institutional arrangements will lead to additional economic damage on top of the COVID-19 crisis; reiterates in this context the possibility set out in Article 132 of the Withdrawal Agreement for the Joint Committee to adopt a decision extending the transition period beyond 31 December 2020; recalls that such a decision to extend the transition period must be taken by 1 July 2020.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	26.5.2020
Result of final vote	+: 25 -: 1 0: 1
Members present for the final vote	Gerolf Annemans, Gabriele Bischoff, Geert Bourgeois, Fabio Massimo Castaldo, Leila Chaibi, Włodzimierz Cimoszewicz, Pascal Durand, Daniel Freund, Charles Goerens, Esteban González Pons, Sandro Gozi, Maria Grapini, Brice Hortefeux, Paulo Rangel, Antonio Maria Rinaldi, Domènec Ruiz Devesa, Helmut Scholz, Pedro Silva Pereira, Antonio Tajani, László Trócsányi, Guy Verhofstadt, Loránt Vincze, Rainer Wieland
Substitutes present for the final vote	François Alfonsi, Brando Benifei, Jorge Buxadé Villalba, Markéta Gregorová

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

25	+
ECR	Geert Bourgeois, Jorge Buxadé Villalba
GUE/NGL	Leila Chaïbi, Helmut Scholz
NI	Fabio Massimo Castaldo
PPE	Esteban González Pons, Brice Hortefeux, Paulo Rangel, Antonio Tajani, László Trócsányi, Loránt Vincze, Rainer Wieland
RENEW	Pascal Durand, Charles Goerens, Sandro Gozi, Guy Verhofstadt
S&D	Brando Benifei, Gabriele Bischoff, Włodzimierz Cimoszewicz, Maria Grapini, Domènec Ruiz Devesa, Pedro Silva Pereira
VERTS/ALE	François Alfonsi, Daniel Freund, Markéta Gregorová

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ID	Gerolf Annemans

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ID	Antonio Maria Rinaldi