

Written evidence submitted by Centre for Cross Border Cooperation, relating to the operation of The Windsor Framework

[OWF0021]

This document has been prepared by the Centre for Cross Border Cooperation in response to the call for evidence issued by the Northern Ireland Affairs Committee on the operation of the Windsor Framework.¹ It focuses on the extent to which the necessary conditions for North-South cooperation are being maintained in accordance with Articles 1(3), 2 and 11 of the Windsor Framework.

About The Centre for Cross Border Cooperation

The Centre for Cross Border Cooperation (CCBC), based in Armagh, has a strong reputation as an authoritative advocate for cross-border cooperation and as a valued source of research, information and support for collaboration across borders on the island of Ireland, between the island of Ireland and Great Britain, elsewhere in Europe and beyond. The Centre was established in 1999 as the Centre for Cross Border Studies, and has been trading under the name of Centre for Cross Border Cooperation since celebrating its 25th anniversary in 2024.²

The submission that follows is closely informed by the Centre's particular knowledge of and experience in cross-border socio-economic development involving a range of sectors from both Northern Ireland and Ireland, including public bodies, business and civil society. It is focused on the Centre's ongoing efforts in monitoring the extent to which the necessary conditions for North-South cooperation are being maintained following the UK's withdrawal from the EU in accordance with Article 11 of the Protocol on Ireland/Northern Ireland and the Windsor Framework,³ and is informed by the results of its quarterly surveys on the conditions for North-South and East-West cooperation, ongoing since the first quarter of 2021,⁴ as well as the Centre's role in convening the Ad-Hoc Group for North-South and East-West Cooperation.⁵

Executive Summary

- Given that a substantial number of its articles are dedicated to trade and related matters, the implementation and operation of the Windsor Framework cannot guarantee the maintenance of the necessary conditions for continued North-South cooperation as set out in Article 11, or the overarching objectives set out in Articles 1 and 2, unless more considered focus is dedicated to these aspects.

¹ This response was authored by Dr Anthony Soares, Director of the Centre for Cross Border Cooperation (Director@crossborder.ie).

² For more information see <https://crossborder.ie/>.

³ The Centre has responded to a range of relevant parliamentary inquiries and produced a number of Briefing Papers, which can be consulted at <http://crossborder.ie/category/research-and-policy/policy/consultation-responses/> and <http://crossborder.ie/category/research-and-policy/policy/briefings/>.

⁴ The results of the Centre's quarterly surveys, published in Research Briefings, can be accessed at: <https://crossborder.ie/what-we-do/projects/maintaining-the-necessary-conditions-for-cooperation-and-cross-border-lives/>.

⁵ The views expressed in this submission are entirely those of the Centre for Cross Border Cooperation and should not be seen as representing the opinions of individual organisations supporting the Ad-Hoc Group for North-South and East-West Cooperation. For further information on the Ad-Hoc Group, see <https://crossborder.ie/ad-hoc-group-for-north-south-and-east-west-cooperation/>.

- To ensure that the necessary consideration is given to the non-trade related aspects of the Windsor Framework, the Joint Committee must ensure that the Specialised Committee on the Implementation of the Windsor Framework considers advice it receives from stakeholders on the implications for North-South cooperation, including in terms of divergence on rights and equality protections, potentially resulting from the development of policy and legislation by either the UK or the EU, and that this is reported to the Joint Committee. Further, the Joint Committee itself must pay due regard to such issues and engage as soon as possible with stakeholders as was committed to in the Windsor Political Declaration.
- The Joint Committee should undertake an update on the 2017 mapping exercise on North-South cooperation, but one that should include cooperation taking place at the informal, local and community level that both the UK and European Commission recognised may not have been captured in the original mapping exercise. This updated exercise would serve to offer a more accurate and complete picture of North-South cooperation.
- The UK Government, in collaboration with the Irish Government where it pertains to cooperation between Ireland and the UK, should undertake a mapping exercise of East-West cooperation in order to identify the levels of and challenges to such cooperation, and to implement measures to further encourage East-West cooperation.
- The Electronic Travel Authorisation's roll-out to include non-visa nationals from the EU/EEA/Switzerland from 2 April 2025 directly impacts on a formal area of cooperation under the North South Ministerial Council (NSMC) and has consequences for Tourism Ireland, a body established under the NSMC and Strand 2 of the Belfast/Good Friday Agreement. Therefore, the UK Government should introduce the minimal mitigations being called for by the tourism sector, which would consist of a time-bound exemption for such tourists to visit Northern Ireland for a period of five to seven days.
- While the exemption for non-visa nationals legally resident in the Republic of Ireland from obtaining an ETA to travel into Northern Ireland and the rest of the Common Travel Area is a recognition of 'the unique circumstances on the island of Ireland' (Article 1 of the Windsor Framework), the UK Government needs to provide a clear statement on whether the guidance provided to Home Office staff will be applicable to entry from the Republic of Ireland into Northern Ireland, who will be responsible for its enforcement and how will it be enforced. Clear guidance also needs to be provided on what will happen if a person exempt from having an ETA crossed from the Republic of Ireland into Northern Ireland but without the means to prove that they are exempt.
- The European Commission must provide clarifications on its proposed Defence of Democracy directive, or an explicit reference that its implementation should not impact on Article 11 of the Windsor Framework. As it is currently formulated, and as Northern Ireland is outside of the EU, the directive would create administrative and financial burdens on Northern Ireland organisations engaged in cross-border cooperation on matters of public policy, requiring them to have a legal representative within the Republic of Ireland.
- Given that the Windsor Framework considers East-West cooperation to be a responsibility of the UK Government, and in order to demonstrate its commitment to East-West cooperation, the UK Government should provide dedicated funding streams to support organisations on the island of Ireland undertaking such cooperation.

- In order for cooperation and relations to flourish within and across these islands it is essential that civic society is given the opportunity to be directly involved in relevant structures put in place as a result of the “Safeguarding the Union” Command Paper and of the initiatives undertaken by the current Government as part of its resetting of UK-Irish relations, as well as existing structures under Strand 3 of the Belfast/Good Friday Agreement.
- It is important that divergence in the protection for equality and human rights is avoided in order to provide for citizens’ enjoyment of certain rights on a cross-border basis in line with the Belfast/Good Friday Agreement, and to maintain the necessary conditions for North-South cooperation in crucial policy areas such as health and justice. The Westminster Parliament and the Northern Ireland Assembly must ensure the enhancement of equality and human rights protections is reflective of the progression in international human rights standards that may go beyond the requirements of the Windsor Framework.
- The same is true for environmental safeguards. Diminution of environmental rights and safeguards across a range of areas are likely to fall within the scope of Article 2 of the Windsor Framework. Therefore, it is important to use the Windsor Framework as a mechanism to ensure that the environmental rights of individuals on the island of Ireland are upheld.
- The smooth flows of cross-border data exchanges between the EU and the UK are vital enablers of both North-South and East-West cross-border cooperation, including in crucial areas of public policy. Therefore, to maintain its data adequacy status it is essential that the UK Government ensures the Data (Use and Access) Bill safeguards the necessary standards required by the EU, and thereby abiding by the commitments jointly held with the EU to Articles 1, 2 and 11 of the Windsor Framework.
- It is essential that the UK Government adopts the practice of “border-proofing” in its development of policy and legislation, considering their potential impacts on the commitments made under the Windsor Framework and those it has as a co-guarantor of the Good Friday/Belfast Agreement. In this regard it is important to note that the Irish Government’s Cabinet Handbook obliges that proposals brought to Cabinet be assessed in terms of their potential impacts on North-South and East-West relations.

General assessment of the operation of the Windsor Framework

1. Most of the attention paid to the operation of the Windsor Framework (previously the Protocol on Ireland/Northern Ireland) has been on the implementation of its trade-focused elements. Bearing in mind that Northern Ireland civic society organisations are also economic operators (in terms of being both producers and consumers of goods and services), and therefore potentially required to manage the trading and related challenges identified in previous parliamentary inquiries, for those involved in North-South and/or East-West cooperation insufficient regard has been given to the extent to which the Windsor Framework has served to safeguard that cooperation.

2. Joint UK Government and European Commissions statements issued following meetings of the Specialised Committee on the Implementation of the Windsor Framework underline how the primary focus has been on the trade and related elements of the Windsor Framework.⁶ That focus is

⁶ See, for example, the joint statement issued after the meeting of 3 March 2025, available at <https://www.gov.uk/government/news/joint-statement-following-the-meeting-of-the-specialised-committee->

further underlined by the nature of the Joint Consultative Working Group's structured sub-groups established following the Windsor Framework agreement. Given that these bodies report to the Withdrawal Agreement Joint Committee, this focus appears to be replicated where it considers the operation of the Windsor Framework.⁷

3. The privileged attention paid to the trade and related elements of the Windsor Framework/Protocol is reflective of the fact that nine of its 19 articles (not including Article 9 on the Single Electricity Market) address these matters, with many of the remaining articles addressing governance issues. The question arises, therefore, as to what extent the operation of the Windsor Framework and its monitoring by the UK Government and European Commission can protect the necessary conditions for those involved in North-South and/or East-West cooperation.

The operation of the Windsor Framework and Articles 1, 2 and 11

4. A key objective of the Windsor Framework, as per Article 11, is to 'be implemented and applied so as to maintain the necessary conditions for continued North-South cooperation'. This is also one of the overarching objectives set out in Article 1, where the Protocol/Windsor Framework is presented as 'the arrangements necessary to address the unique circumstances on the island of Ireland, to maintain the necessary conditions for continued North-South cooperation, to avoid a hard border and to protect the 1998 Agreement in all its dimensions'. Article 2(2) also commits the UK Government to continuing to facilitate the work of the Northern Ireland Human Rights Commission, the Equality Commission for Northern Ireland, and the Joint Committee of representatives of the Human Rights Commissions of Northern Ireland and Ireland.

5. Although important, the implementation and application of the Windsor Framework's articles on trade and related matters cannot of themselves maintain the necessary conditions for North-South cooperation, nor can they fulfil the other overarching objectives set out in Article 1. Their implementation and application does not prevent unilateral actions being taken by either the UK or the EU with the potential to undermine the conditions for North-South cooperation and the achievement of the other objectives to which both parties committed to in Articles 1 and 2. Two examples of such unilateral actions are the UK's Electronic Travel Authorisation (ETA) system and the European Commission's proposed Defence of Democracy directive.⁸

The ETA and the Windsor Framework

[on-the-implementation-of-the-windsor-framework](#).

⁷ This can be seen in the joint statement published following the Joint Committee's last meeting on 16 May 2024, which reports that 'The Joint Committee adopted decisions on implementation of the Windsor Framework, including to allow businesses in Northern Ireland to benefit from UK tariff rate quotas for specific agri-food products, whilst protecting the EU Single Market'; available at <https://www.gov.uk/government/news/joint-statement-on-the-withdrawal-agreement-joint-committee-and-trade-and-cooperation-agreement-partnership-council-meetings-16-may-2024>.

⁸ The official title of this proposed directive is Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing harmonised requirements in the internal market on transparency of interest representation carried out on behalf of third countries and amending Directive (EU) 2019/1937 (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2023%3A637%3AFIN>). It forms part of the European Commission's Defence of Democracy Package, details of which can be found at https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/new-push-european-democracy/protecting-democracy_en.

6. The ETA's roll-out to include non-visa nationals from the EU/EEA/Switzerland from 2 April 2025 directly impacts on a formal area of cooperation – tourism – under the North South Ministerial Council (NSMC) and has consequences for Tourism Ireland, a body established under the NSMC and Strand 2 of the Belfast/Good Friday Agreement. Tourism is specifically mentioned in Article 11 of the Windsor Framework as one of the areas of North-South cooperation for which the necessary conditions would be maintained. Tourism Ireland has responsibility for promoting the island of Ireland overseas as a tourist destination, and yet – as Tourism Ireland and other tourism sector bodies have noted – if tailored mitigations are not put in place the ETA will have a deterrent effect on overseas visitors to the Republic of Ireland considering travel into Northern Ireland. Bearing in mind that 70% of Northern Ireland's overseas visitors arrive via the Republic of Ireland and that tourism is a formal area of North-South cooperation, it is important that the UK Government introduce the minimal mitigations being called for by the tourism sector, which would consist of a time-bound exemption for such tourists to visit Northern Ireland for a period of five to seven days.⁹

7. The exemption for non-visa nationals legally resident in the Republic of Ireland from obtaining an ETA to travel into Northern Ireland and the rest of the Common Travel Area was a positive step taken by the previous UK Government following lobbying to this end. The exemption is a recognition of 'the unique circumstances on the island of Ireland' (Article 1 of the Windsor Framework), which includes the fact that not all those resident in the Republic of Ireland, and particularly those living in the border region, are Irish or British citizens, and who will cross the border into Northern Ireland as part of their regular lives.

8. However, the documentary evidence that a non-visa national 'may be required' to show that they are legally resident in the Republic of Ireland and therefore exempt from the ETA rules will not necessarily be readily available to someone living in the border region and crossing the border into Northern Ireland on a regular basis as part of their daily lives, whereas it may be more applicable to those travelling into other parts of the Common Travel Area (for example, flying from Dublin to London). This is particularly the case for children aged 16 and 17 who are less likely to be in possession of the documents listed in the guidance as evidence of lawful residence in Ireland.¹⁰ In this regard, a clear statement is needed on whether the guidance provided to Home Office staff will be applicable to entry from the Republic of Ireland into Northern Ireland, who will be responsible for its enforcement and how will it be enforced. Clear guidance also needs to be provided on what will happen if a person exempt from having an ETA crossed from the Republic of Ireland into Northern Ireland but without the means to prove that they are exempt.

The Defence of Democracy directive and the Windsor Framework

9. The European Commission's proposed Defence of Democracy directive aims to tackle the threat of foreign interference within the EU by ensuring transparency in relation to lobbying within Member

⁹ See Northern Ireland Tourism Alliance, "Electronic Travel Authorisation Update" (published 16 October 2023), available at <https://nitourismalliance.com/electronic-travel-authorisation-update/>.

¹⁰ See UK Home Office, "Electronic Travel Authorisation: Irish Resident exemption" (published 20 July 2023), available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1172646/Electronic_Travel_Authorisation_-_Irish_resident_exemption.pdf#:~:text=This%20guidance%20provides%20details%20on%20how%20to%20assess,from%20outside%20on%20the%20Common%20Travel%20Area%20%28CTA%29.

States, and forms part of a wider package (the Defence of Democracy Package). Article 2 of the directive defines lobbying – referred to as interest representation activity – as:

an activity conducted with the objective of influencing the development, formulation or implementation of policy or legislation, or public decision-making processes, in the [European] Union, which could in particular be performed through the organising or participating in meetings, conferences or events, contributing to or participating in consultations or parliamentary hearings, organising communication or advertising campaigns, organising networks and grassroots initiatives, preparation of policy and position papers, legislative amendments, opinion polls, surveys or open letters, or activities in the context of research and education, where they are specifically carried out with that objective.

An important aspect of the proposed directive (Article 8) is that it would require third country entities – those outside the EU – engaged in interest representation activities in an EU Member State to have a legal representative within that Member State.

10. Without adequate clarifications on what constitutes an ‘interest representation service’ (Article 2(2)), an ‘interest representation provider’ (Article 2(3)), a ‘third country entity’ in terms of public or private entities (Article 2(4b)), or an explicit reference that its implementation should not impact on Article 11 of the Windsor Framework, the proposed Defence of Democracy Directive could undermine the necessary conditions for North-South cooperation. As Northern Ireland is outside of the EU, the directive would create administrative and financial burdens on Northern Ireland organisations engaged in cross-border cooperation on matters of public policy, requiring them to have a legal representative within the Republic of Ireland.

11. Crucially, the Republic of Ireland already has a lobbying register. The register is online, through the Lobbying.ie platform,¹¹ which offers relevant information and a three-step test to allow organisations to determine whether they are engaging in lobbying activities and should be on the register. If an organisation needs to register, it is free of charge and, importantly, there is no distinction made between organisations within the state or those outside of it; no matter where an organisation is based, if it is considered to be lobbying on a list of what are deemed “relevant matters” then it needs to be on the register.¹² More importantly, unlike what is being proposed in the Defence of Democracy directive, if an organisation based outside the state is on the register there is no requirement to have a legal representative within the Republic of Ireland.

The Windsor Framework, the “Safeguarding the Union” Command Paper and East-West cooperation

12. At the time of the 2018 draft Withdrawal Agreement, the Centre for Cross Border Cooperation published a statement that noted:¹³ ‘As it presently stands, [...] the Protocol does not protect the

¹¹ This can be found at <https://www.lobbying.ie/>.

¹² According to the three-step test, a relevant matter is one that relates to: the initiation, development or modification of any public policy or of any public programme; the preparation or amendment of any law; the award of any grant, loan, contract, or of any licence or other authorisation involving public funds. Excluded from this is the implementation of any such policy, programme, enactment or award or any matter of a technical nature only.

¹³ “Centre for Cross Border Studies Statement on draft Agreement on the withdrawal of the United Kingdom

totality of existing socio-economic relations within and between these islands, notably the East-West dimension, of the 1998 Belfast/Good Friday Agreement'.¹⁴ The Protocol/Windsor Framework in the final Withdrawal Agreement makes clear in its preamble that the safeguarding of East-West cooperation is the responsibility of the UK Government, stating: 'the United Kingdom remains committed to protecting and supporting continued North-South and East-West cooperation'. There is no equivalent joint UK-EU commitment to East-West cooperation as set out in Article 11 in respect of North-South cooperation.

13. In the absence of such a joint commitment, and in order to demonstrate its commitment to East-West cooperation, the UK Government should provide dedicated funding streams to support organisations on the island of Ireland undertaking such cooperation. While the PEACEPLUS programme, which is funded in large part by the UK Government, allows for the possibility of projects to include partners from outside the eligible programme area (Northern Ireland and the six border counties of Ireland), it would be important for the UK Government to provide additional funding programmes with an East-West dimension. This would reciprocate the Irish Government's Reconciliation Fund and Shared Island Civic Society Fund, which are both open to applications with both East-West as well as North-South dimensions.¹⁵

14. Bearing in mind its political objectives and its unnecessarily oppositional positioning of North-South and East-West cooperation,¹⁶ the previous UK Government's "Safeguarding the Union" Command Paper set out the establishment of new structures and bodies that offered opportunities for the strengthening of cooperation and relations on an East-West basis, although exclusively focused on Northern Ireland and the rest of the United Kingdom. However, while Intertrade UK's remit is naturally focused on trade, the inaugural meeting of the East-West Council on 26 March 2024 also privileged discussions on trade and economic matters,¹⁷ while the new Council of the Nations and Regions established by the current Government also focused on investment at its inaugural meeting on 11 October 2024.¹⁸

15. In order for cooperation and relations to flourish within and across these islands it is essential that wider civic society, where much of that cooperation takes place and relations are built and strengthened, is given the opportunity to be directly involved in relevant structures put in place as a

from the European Union" (20 November 2018), p.3; available at: <https://crossborder.ie/reports/centre-cross-border-studies-statement-draft-agreement-withdrawal-united-kingdom-european-union/>.

¹⁴ However, it went on to recognise the difficulty of doing this 'given the UK's decision to leave the Single Market and Customs Union'.

¹⁵ The Department of Foreign Affairs' Reconciliation Fund 'awards grants to organisations working to build better relations within and between traditions in Northern Ireland, between North and South, and between Ireland and Britain' (<https://www.gov.ie/en/service/acf50-reconciliation-fund/>). The Shared Island Civic Society Fund states that 'Applications with both East-West as well as North-South dimensions will be welcomed' (<https://www.gov.ie/en/service/999af-shared-island-civic-society-fund/>).

¹⁶ See the Centre for Cross Border Studies' "Briefing Note on UK Command Paper: "Safeguarding the Union"" (February 2024), available at <https://crossborder.ie/briefing-note-on-uk-command-paper-safeguarding-the-union-2/>.

¹⁷ See Department for Levelling Up, Housing and Communities and Northern Ireland Office, "Press Release: Inaugural meeting of East-West Council" (26 March 2024), available at <https://www.gov.uk/government/news/inaugural-meeting-of-east-west-council>.

¹⁸ See Ministry of Housing, Communities & Local Government and Cabinet Office, "Council of the Nations and Regions: Inaugural meeting on 11 October 2024" (11 October 2024), available at <https://www.gov.uk/government/news/inaugural-meeting-of-east-west-council>.

result of the “Safeguarding the Union” Command Paper and of the initiatives undertaken by the current Government as part of its resetting of UK-Irish relations, as well as existing structures under Strand 3 of the Belfast/Good Friday Agreement. Civic society’s appetite to do so is clearly expressed in the New Common Charter for Cooperation Within and Between these Islands.¹⁹

Divergence, the Windsor Framework and the need for “border-proofing”

16. Divergence represents a major challenge to North-South and East-West cooperation and relations. The UK’s departure from the EU has also impacted on the status of frontier workers, with a consequent need for greater awareness and the provision of accurate advice on obligations and limitations of rights for such workers.²⁰ In terms of rights, whilst the Windsor Framework requires that Northern Ireland’s equality legislation keeps pace with changes made by the EU to the equality directives listed in Annex 1, there is the potential for equality and human rights to diverge on the island of Ireland where the EU enhances protections beyond the Annex 1 directives. Examples of this include the EU Work-Life Balance Directive,²¹ and the European Accessibility Act.²²

17. It is important, therefore, that divergence in the protection for equality and human rights is avoided in order to provide for citizens’ enjoyment of certain rights on a cross-border basis in line with the Belfast/Good Friday Agreement, and to maintain the necessary conditions for North-South cooperation in crucial policy areas such as health and justice. This will require the Westminster Parliament and the Northern Ireland Assembly to ensure the enhancement of equality and human rights protections is reflective of the progression in international human rights standards that may go beyond the requirements of the Windsor Framework. Such an approach would prevent Northern Ireland from being placed in a situation of divergence in either the North-South or East-West dimensions.

18. Divergence could also have a significant impact on the structures and laws designed to deliver environmental protection in Northern Ireland – mainly because the environment is an area of law which has been heavily influenced by the need to comply with EU environmental rules and standards. Environmental rights are a category of rights particularly vulnerable to potential reduction, or ‘diminution’ as post-Brexit governing arrangements replace those that followed from EU membership. The same is true for environmental safeguards. Diminution of environmental rights and safeguards across a range of areas are likely to fall within the scope of Article 2 of the Windsor Framework. Therefore, it is important to use the Windsor Framework as a mechanism to ensure that the environmental rights of individuals on the island of Ireland are upheld. Regulatory divergence also has the potential to make all-island cooperation on the island more difficult and cooperation is essential to address shared environmental challenges.

¹⁹ The New Common Charter was developed by a range of organisations from both jurisdictions on the island of Ireland, as well as from Great Britain. For more details see <https://crossborder.ie/what-we-do/projects/new-common-charter/>.

²⁰ See, for example, the policy papers published by the Border People project, available at <https://borderpeople.info/policy>, and Northern Ireland Human Rights Commission, “Frontier Workers and their Families: Rights after Brexit” (October 2023), available at <https://nihrc.org/our-work/brexit/research>.

²¹ Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU (<https://eur-lex.europa.eu/eli/dir/2019/1158/oj/eng>).

²² Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019L0882>).

19. The recent announcement by the European Commission to extend its data adequacy decisions for the UK by six months (until 27 December 2025) highlights another area where UK divergence would impact on North-South cooperation. In its submission to the House of Lords European Affairs Committee, the Centre for Cross Border Cooperation stressed the importance of cross-border exchange of data for cross-border cooperation:

The smooth flows of cross-border data exchanges between the Republic of Ireland, as an EU Member State, and the United Kingdom are enablers of both North-South (between the two jurisdictions on the island of Ireland) and East-West (between the Republic of Ireland and Great Britain) cross-border cooperation. In terms of North-South cooperation, it takes place in many forms and across a range of sectors, including cross-border research initiatives, health and social care, collaboration between the emergency services, education, policing, justice, tourism and cross-border environmental protection.²³

UK divergence in the area of data adequacy standards would not only undermine the objectives of Articles 1 and 11 of the Windsor Framework, it would also impact on the fundamental right to personal data protection (falling within the scope of civil rights protections under the Belfast/Good Friday Agreement) and the right to respect for private and family right (falling within the scope of Article 2 of the Windsor Framework).²⁴

20. In its announcement of the extension of its data adequacy decisions, the European Commission stated that this will ‘allow time for the legislative process to conclude in the UK’, and that ‘Once concluded, the Commission will assess the new legal framework and decide on its adequacy’. Therefore, to maintain its data adequacy status it is essential that the UK Government ensures the Data (Use and Access) Bill safeguards the necessary standards required by the EU, and thereby abiding by the commitments jointly held with the EU to Articles 1, 2 and 11 of the Windsor Framework.

21. The process of considering how the Data (Use and Access) Bill could impact on cross-border cooperation and relations is what the Centre for Cross Border Cooperation terms “border-proofing”.²⁵ It is essential that the UK Government adopts this practice in its development of policy and legislation, considering the potential impacts on the commitments made under the Windsor Framework and those it has as a co-guarantor of the Good Friday/Belfast Agreement. In this regard it is important to note that the Irish Government’s Cabinet Handbook obliges that proposals brought to Cabinet be assessed in terms of their potential impacts on North-South and East-West relations.²⁶

²³ Centre for Cross Border Studies, Submission to the House of Lords European Affairs Committee inquiry into data adequacy and its implications for the UK-EU relationship (DAT0003) (May 2024), <https://committees.parliament.uk/writtenevidence/130095/pdf/>.

²⁴ See Northern Ireland Human Rights Commission, “NIHRC Briefing on the Data (Use and Access) Bill” (February 2025), <https://nihrc.org/publication/detail/nihrc-briefing-on-the-data-use-and-access-bill-hl>.

²⁵ See, for example the Centre for Cross Border Studies Briefing Paper, “The need for regulatory cross-border territorial impact assessment: Challenges at the Ireland-Northern Ireland border” (December 2019), available at <https://crossborder.ie/reports/the-need-for-regulatory-cross-border-territorial-impact-assessment-challenges-at-the-ireland-northern-ireland-border-2/>.

²⁶ Department of the Taoiseach, Cabinet Handbook, p.28; available at <https://assets.gov.ie/6813/2a580791a7b24dec97a550539a0faff.pdf>.

22. By adopting the practice of “border-proofing”, the UK Government would avoid the introduction of policies or legislation that could impede or create obstacles for the Northern Ireland administration to engage in North-South cooperation initiatives that could reduce expenditure through the sharing of resources and expertise with the Republic of Ireland. Coordinated responses to health crises such as pandemics can ensure a faster and more effective use of resources, while the sharing of data, research, and strategies can strengthen resilience and save lives. Joint efforts to tackle environmental challenges, such as pollution, biodiversity loss, and climate change, can be more effective and cost-efficient. For instance, shared conservation projects or renewable energy initiatives can benefit both jurisdictions while reducing costs. Cross-border initiatives can address gaps in healthcare provision, especially in rural or underserved areas. Collaborative projects, like the Healthacross initiative in Europe,²⁷ have shown that sharing medical expertise and facilities can enhance health outcomes and reduce disparities. By pooling resources, such as medical facilities, equipment, and expertise, both jurisdictions can reduce duplication and achieve economies of scale. For example, specialised healthcare services can be centralised, ensuring better access for people in border areas without the need for redundant infrastructure.

Conclusion: Reviewing North-South and East-West cooperation and the operation of the Windsor Framework

23. Given that the implementation and application of the Windsor Framework’s articles on trade and related matters cannot of themselves maintain the necessary conditions for North-South cooperation as per Article 11, nor can they fulfil the other overarching objectives set out in Article 1, the Joint Committee must ensure that the Specialised Committee on the Implementation of the Windsor Framework considers advice it receives from stakeholders on the implications for North-South cooperation, including in terms of divergence on rights and equality protections, potentially resulting from the development of policy and legislation by either party, and that this is reported to the Joint Committee. Further, the Joint Committee itself must pay due regard to such issues and engage as soon as possible with stakeholders as was committed to in the Windsor Political Declaration by the European Commission and the Government of the United Kingdom of 27 February 2023.²⁸

24. In view of the 2017 mapping exercise of North-South cooperation that informed the negotiations on the UK’s departure from the EU and the resulting Withdrawal Agreement and its Protocol/Windsor Framework, the Joint Committee should undertake an update on that exercise, but one that should include cooperation taking place at the informal, local and community level that both the UK and European Commission recognised may not have been captured in the original mapping exercise.²⁹ This updated exercise would serve to offer a more accurate and complete picture of North-South cooperation.

²⁷ For more information on the Healthacross initiative, see https://ruralpact.rural-vision.europa.eu/good-practice/healthacross-ensuring-access-cross-border-healthcare-lower-austria_en.

²⁸ Available at https://commission.europa.eu/publications/windsor-political-declaration-european-commission-and-government-united-kingdom_en.

²⁹ See Department for Exiting the European Union, “Technical explanatory note: North-South cooperation mapping exercise” (7 December 2018), paragraph 16; available at <https://www.gov.uk/government/publications/technical-explanatory-note-north-south-cooperation-mapping-exercise>.

25. The UK Government, in collaboration with the Irish Government where it pertains to cooperation between Ireland and the UK, should undertake a mapping exercise of East-West cooperation in order to identify the levels of and challenges to such cooperation, and to implement measures to further encourage East-West cooperation.

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