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Impact of Brexit on the Northern Ireland Peace Process

Master Thesis

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Statutory Declaration

I hereby declare that this master thesis under the title Impact of Brexit on the Northern Ireland Peace Process I have elaborated by myself and cited all sources used.

In Olomouc on 26th of April Milada Váchová

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Abstract

The master thesis deals with the potential impact of Great Britain's withdrawal from the EU (Brexit) on the stability of the Northern Ireland region. The thesis characterizes in brief the region's development after the Second World War but the emphasis lies in the analysis of the post-Brexit evolution. It contains a digest of the peace Belfast Agreement and the survey of the influence of the Withdrawal Agreement negotiated between Great Britain and the EU. Special focus is on the Protocol on Northern Ireland. The main state and non-state actors and their standpoints after Brexit are interpreted. It is summarized that the possibility to detach the Brexit's impact in the instable region with many variables is rather limited.

Key words

Northern Ireland Conflict, Brexit, Paramilitary Groupings, IRA, Sinn Féin, Peace Process, Conflict Resolution, Conflict Research, Belfast Agreement, Protocol on Northern Ireland

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Introduction

The thesis is focused on one of the Europa's traditional storm centres, the Northern Ireland specific situation in the times of Brexit. The ambition of the thesis is to find an answer to the question if and how Brexit threatens the Northern Ireland peace process introduced by the Belfast Agreement.

The relationship between the Irish and the rest of Great Britain have been formed for many centuries and during the major part of the co-existence of the people of Ireland and the ruling English Kingdom, later imperium, were hardly harmonic in any period. This tension lasted even until the 20th century with a clear manifestation in the era of the Second World War and even after the war the attempt of finding a key for a long-lasting peaceful solution was not found. The call for the Home Rule and for independence rights was genuine for the Irish region but even after the establishment of independent Republic of Ireland the call did not find general support. The island of Ireland has been split mainly by the division line of Protestants and Catholics. The Protestants did not want to represent a minority in the new established state and have given the priority to maintain in the union with Great Britain although the Republic of Ireland has been declared in 1949. Northern Ireland remained under the tribute of the big monarchy. The following five decades were marked by the struggle for religious and civil equality, the right for self-determination or by ambitions, which could be hid under these paroles. The conflict, which escalated into the form of bloody riots, influenced instantly the course of events on the Irish Ireland. The British supremacy has been perceived by Northern Irish radicals as an oppression and led to strong tension which product were the paramilitary groupings. There violent activities had thousands of victims as a result. Nearly fifty years after the end of the Second World War the process leading to the peace agreement succeeded at least and this achievement represents the summit of the Northern Ireland peace process.

This relative tranquillization was essentially destabilized by a step made by Great Britain on behalf of the 2016 referendum. The referendum about the withdrawal of Great Britain from the European Union. The relative securities and assurances gained by the citizens of both sides of the inter-Irish border were infirmed and the citizens of Northern Ireland, in the majority supporters of remaining in the European Union, felt again their subservience on Great Britain. The fragile truce seemed to be endangered. Brexit has been followed not only

by the rise of voices calling for reunion with the Irish Republic, but also by the potential of the ignition of new disturbances by the Northern Irish radicals.

The new settlement of the Northern Ireland – Great Britain – European Union relations became a corner stone of the post Brexit negotiation process. The anticipation of a possible economical decrease or the re-establishment of a fixed border between Northern Ireland and Republic of Ireland led among the citizens of Northern Ireland to inquietude and displeasure.

The method of the thesis is based on a single case instrumental case study which allows us to analyse a clearly delimited situation with a specific substance able to clear up examined phenomenon, according to Kořan.¹ The main research question of the thesis is: *If and how Brexit threatens the Northern Ireland peace process introduced by the Belfast Agreement?* This main research question can be followed by lateral questions as: *Which provisions of the peace agreement in particular can be threatened by Brexit?* The text works with the hypothesis assuming *Brexit as a factor of destabilization which threatens the relative stability of the Northern Ireland region secured by the Belfast Agreement.* The basic time frame we analysed was from 2016 until now. Writing this thesis we were in a specific position to be able to watch and track on-line the situation which includes many variables and thus can lead to unpredictable results. We are aware of the fact that the phenomena are multi-causal but we will focus only on one main variable – Brexit.

The thesis is divided into chapters aimed to sort the substance into logical units. In the first chapter – the theory – we analyse mainly the framework of the conflict resolution and we try to find common features with the theory and the specific Northern Ireland situation. The following chapter contains the conflict's background with its history from the second decade of the 20th century. Only by embedding of the contemporary events into the framework of history we can understand the coherency of the past with the present. Next chapters analyse the Belfast Agreement and the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community 2019/C 384 I/01 and their mutual influencing. By the means of these analyses we want to find out whether and how the Withdrawal Agreement influences the Belfast Agreement provisions and whether it contains the potential of their erosion. Chapter five is meant to provide information about specific practical impacts of the post-Brexit situation on

¹ KOŘAN, M. Jednopřípadová studie. In: DRULÁK, P. et al. *Jak zkoumat politiku: kvalitativní metodologie v politologii a mezinárodních vztazích*. Praha: Portál, 2008, pp. 32-35.

relationship settlement between Great Britain, Northern Ireland and the EU. The last chapter characterizes in brief the main participants of the ongoing conflict and tries to describe the different forces, influences, organizations, parties etc. in the governmental and non-governmental sphere. At the same time there will be a description of the participant's interests, goals and reactions to the Brexit and post-Brexit settlement.

The umbrella theory of conflict resolution is quite broadly elaborated and this thesis works primarily with the monography of Peter Wallensteen *Understanding conflict resolution: War, Peace and the Global System* (2005) as a key source. In the Czech context a fundamental study *Řešení konfliktu v mezinárodních vztazích (Conflict Resolution in International Relations;* 2011) has been written by Šárka Waisová. For this case study also the data provided by research institutes as The Heidelberg Institute for International Conflict Research and The Stockholm International Peace Research Institute are essential. The topic of the Northern Ireland Conflict is quite satisfactory treated but mostly until the first decade of the 21st century. For the purposes of this text we have chosen the synthetic literature represented mainly by the monography *Politický systém Irska (The Irish Political System;* 2007) by Ivo Šlosarčík, the monograph *Dlouhý boj. IRA & Sinn Féin: Od ozbrojeného boje k mírovým rozhovorům (The Long War. The IRA and Sinn Féin;* 2003) by Brendan O'Brien, the article *The Long Good Friday: Consociationalism and the Northern Ireland Peace Process 1973 – 1998* (2005) by Hynek Melichar and relevant policy papers dedicated to the Northern Ireland conflict history and the key agreements. The thesis is focused largely on the actual development which has been left – due to the lack of time distance – practically unreflected with the exemption of several articles in specialized journals. One of these articles is represented by Elisabeth E. Driscoll's *Equal Treatment for the Identity: The Inequality of Irish and British Citizenship in Post-Brexit Northern Ireland* (2019). A primal source of actual information are then articles in relevant internet sources and newspapers as BBC, The Irish Times or The Guardian. And last but not least the thesis analysis the wording of the Belfast Agreement and the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community 2019/C 384 I/01 in specific relation with the topic.

The topic of Northern Ireland's destabilization by Brexit is an actual and instructive model for the political theory and international relations suitable to serve as a mirror for new theses by day by day watching and analysing of the situation's changes. Only a close watch

and survey of this permanently fluctuating phenomenon can lead us to a knowledge how the post-Brexit situation in Northern Ireland fits with known politic theories.

1. Theory of Conflict Dynamics

Each and every conflict needs to be put into a broader framework. First of all, it is necessary to know the very definition of conflict and its basic aspects. For its research, it is crucial to know the categorization of conflicts based on their characteristics and components. To understand the conflict itself, we need to know its structure and the various stages that the conflict goes through, as well as the types of actors involved in the conflict. The following chapter deals with this analysis.

1. 1 Definition of the Term

The very term *conflict* is interdisciplinary and is used not only across disciplines but also in general discourse, and it is therefore difficult to find a satisfactory definition for it. A conflict can also be perceived as a positive as well as a negative driver of events and interactions of individual actors. Its perception as something natural or, on the contrary, unnatural also differs.²

Peter Wallensteen presents a suitable general description of the conflict. He claims that each conflict consists of three interconnected components. The first component is a certain activity, the second is the so-called incompatibility and the third are the actors. By linking them, Wallensteen concludes that conflict can be defined as *“a social situation in which a minimum of two actors (parties) strive to acquire at the same moment in time an available set of scarce resources”*.³

A more specific description of the conflict in the field of international relations is presented by Šárka Waisová, who examines the term from the point of view of conflict resolution. According to Waisová, conflict can be defined as *“social situation that arises when two or more actors, at least one of whom is a state, strive to acquire the same good in terms of national values and themes and this good is not sufficient to meet the basic needs of both / all actors”*.⁴

² ŠMÍD, T. Teoretické koncepty výzkumu konfliktu – terminologie příčiny a dynamika. In: SMOLÍK, J. and T. ŠMÍD. *Vybrané bezpečnostní hrozby a rizika 21. století*. Brno: Masarykova Univerzita, Mezinárodní politologický ústav, 2010, pp. 21-22.

³ WALLENSTEEN, P. *Understanding conflict resolution: War, Peace and the Global System*. London: Sage Publications, 2005, p. 16.

⁴ WAISOVÁ, Š. *Řešení konfliktu v mezinárodních vztazích*. Plzeň: Aleš Čeněk, 2011, p. 39. Translation by Milada Váchová.

From a political science point of view, the relevant definition of a conflict is presented by the Czech political scientist Pavel Pšejja, who defines conflict as a “*clash between clearly definable actors who seek to pursue their interest in one or more identical areas, and these actors perceive their conflict as a situation where the gain of one party means the loss of the other*”.⁵

1. 2 Conflict Research

The interpretation of conflict research presented by Šárka Waisová in her publication *Řešení konfliktu v mezinárodních vztazích* is crucial for the theoretical grasp of the study of the chosen conflict. Waisová defines five basic aspects that must include an examination of each conflict:

1. research of the background of the conflict
2. the determination of actors type
3. research of the character and nature of the conflict parties
4. research of the causation of the conflict
5. research of the context/milieu of the conflict⁶

For the first phase of conflict research, conflicts can generally be categorized based on the following factors: their location (systemic / national / interstate conflicts); means used (violent / non-violent conflicts) or according to the type of incompatible interests (eg. power, constitutional, ideological, economic, etc.).⁷

Several important subjects have long been involved in the classification and categorization of conflicts in the field of international relations, but on the basis of different methodologies they reach different conclusions regarding the degree of conflicts and their intensity in the world. At this point, it is necessary to mention two of them in particular. The Heidelberg Institute for International Conflict Research (“HIK”) examines both armed and unarmed conflicts as part of its research methodology. As part of the so-called Conflict Barometer, it

⁵ PŠEJJA, P. Konflikt. In: ZEMAN, P. (ed.). *Česká bezpečnostní terminologie*. Brno: Masarykova Univerzita, Mezinárodní politologický ústav, 2002, p. 84.

⁶ WAISOVÁ, Š. *Řešení konfliktu v mezinárodních vztazích*. Plzeň: Aleš Čeněk, 2011, p. 39.

⁷ WAISOVÁ, Š. *Řešení konfliktu v mezinárodních vztazích*. Plzeň: Aleš Čeněk, 2011, p. 40.

publishes an annual report evaluating and documenting the degree of conflicts in the world.⁸

The scale of possible intensity of a conflict is determined by the HIIK as follows:

1. dispute (non-violent conflicts)
2. non-violent crisis (non-violent conflicts)
3. violent crisis (violent conflicts)
4. limited war (violent conflicts)
5. war (violent conflicts)⁹

As the scale of the conflict rate according to the HIIK methodology is relatively extensive and also includes the latent stages of the conflict, this paper will continue to focus mainly on this method of data evaluation.

The Stockholm International Peace Research Institute (“SIPRI”) focuses its research exclusively on armed conflicts and then publishes the results of the research annually in the SIPRI Yearbook.¹⁰ The data of the Uppsala Conflict Data Program (“UCDP”) project, led by the above-mentioned Peter Wallensteen, has also been published in the SIPRI Yearbook for a long time.¹¹ Also, the UCDP reflects in its research methodology only armed conflicts. Precisely due to the non-inclusion of unarmed conflicts in the methodology of their research, the outputs of SIPRI and UCDP are not suitable for the needs of this paper.

1. 3 Conflict Dynamics

Each and every conflict undergoes during its existence certain stages of development and phases of intensity, which are influenced primarily by the behaviour of the actors involved. The actors react to each other, which can lead to an escalation or de-escalation of the conflict. This process is referred in the literature as the so-called *dynamics of conflict*. In *Řešení konfliktu v mezinárodních vztazích*, Waisová defines the following basic stages:

1. latent conflict
2. manifestation of a conflict

⁸ Conflict Barometer for 2019 (last published) is accessible at: https://hiik.de/wp-content/uploads/2020/08/ConflictBarometer_2019_4.pdf

⁹ Methodology of the Heidelberg Conflict Research. *hiik.de* [online].[viewed 30 March 2021]. Available from: <https://hiik.de/hiik/methodology/?lang=en>

¹⁰ Summary of SIPRI Yearbook for 2020 is accessible at: https://sipri.org/sites/default/files/2020-06/yb20_summary_en_v2.pdf

¹¹ The outputs of UCDP research are accessible at: <https://ucdp.uu.se/#/encyclopedia>

3. escalation of a conflict
4. conflict's dead point
5. de-escalation of a conflict
6. solution of a conflict
7. post-conflict clearing of relations

At the same time, the conflict does not necessarily have to go through all the above-mentioned phases – it can, among other things, stagnate for a long time without changing the stage, just as there can be a backward movement to the previous phase.¹²

Whilst for instance in the case of antique drama and its particular stages (exposition, collision, crisis, peripetia, catastrophe) is the progression only unidirectional, respecting the direction of the time axes, in the conflicts dynamic an opposite motion can occur. The following part of the text puts forward a brief description of the particular phases of the conflict.

If we have defined the conflict as a state when two or more actors endeavour the same good/value/interest which is not sufficient for all of them and because of this a clash appears, *latent conflict* is a stadium in which all actors are aware of in an active way but meanwhile they do not perform any further steps. The phase of *latent conflict* can last a long time if both sides of the controversy lack the possibility / power to act actively against the opponent. The *manifestation of the conflict* happens when one of the actors actively demonstrates the tendency of defending its interests at the expense of the interests of the counterparty.¹³ Because the conflict is a *dynamic phenomenon*¹⁴ the *manifestation* of one or more actors is followed by a natural reaction of the counterparty which shifts the conflict into the stadium of *escalation*. During this phase a significant disturbance of communication between the parties can occur, also the manipulation with information and the risk of using violence increases. The phase of *escalation* can be divided into four stadiums: *discussion, polarization, isolation* and *destruction*. All phases of *escalation* are again determined by the rule of action and reaction. In the following phase, the *phase of dead point conflict* a stale mate situation appears in which none of the parties have means to reach its marked aim, respectively a

¹² WAISOVÁ, Š. *Řešení konfliktu v mezinárodních vztazích*. Plzeň: Aleš Čeněk, 2011, pp. 55-56.

¹³ WAISOVÁ, Š. *Řešení konfliktu v mezinárodních vztazích*. Plzeň: Aleš Čeněk, 2011, p. 58.

¹⁴ WALLENSTEEN, P. *Understanding conflict resolution: War, Peace and the Global System*. London: Sage Publications, 2005, p. 34.

victory on the counter party. After having overcome the phase of the *dead point* the conflict progresses into the stadium of *de-escalation*. The counterparties are active in the effort of solving their dispute and a proper form of diplomatic procedures contributes to a de-escalation i.a. by the participation of third conciliatory parties. The penult stadium of the conflict is its *solution*. Closely related with the very ending of the conflict. In this phase the parties contribute to the overcome of the clash whereas the forms of the conflicts ending can be different as well as the reasons leading to this step. The *solution* is followed by the last phase of the conflict – the *post-conflict clearing of relations*. This includes for instance the reconstruction of the state and the society and the successive reinstallation of peace. The parties update the mutual communication and enforce their diplomatic and economic ties etc. Because of the certain fragility this last phase of the conflict is in principle the longest.¹⁵

1. 4 Conflict Resolution

The area which deals with the observation and solution of conflicts is known as *conflict resolution*. One of the main efforts inside this area is the creation of strategies which enables to overcome the conflict, its ending and the reaching of an agreement, which will be acceptable and sustainable in long terms.¹⁶ Peter Wallensteen defines the conflict solution as a situation “*where the conflicting parties enter into an agreement that solves their central incompatibilities, accept each other’s continued existence as parties and cease all violent action against each other*”.¹⁷ Of no lesser importance of conflict solution is the sphere of prevention and forgo of conflict which formats in the study of individual conflicts that happened in the past, their causation, course and their way of settling. The area of conflict solution can be divided into four basic periods. The first period took place in the years 1914 to 1954. In this period the discipline slowly forms and the first organization struggling for peace solutions of conflicts appear. The second period is limited by the years 1946 to 1969. In this phase we can see a big upswing of *conflict resolution*, mainly because of the strong polarization of the world on the axis East – West. And exactly in this era, in the year 1966 SIPRI is founded and until now it stays one of the most important subjects of the discipline. The

¹⁵ WAISOVÁ, Š. *Řešení konfliktu v mezinárodních vztazích*. Plzeň: Aleš Čeněk, 2011, pp. 55-71.

¹⁶ WAISOVÁ, Š. *Řešení konfliktu v mezinárodních vztazích*. Plzeň: Aleš Čeněk, 2011, p. 24.

¹⁷ WALLENSTEEN, P. *Understanding conflict resolution: War, Peace and the Global System*. London: Sage Publications, 2005, p. 8.

third period, from 1970 to 1985 is accompanied by the retirement from the polarization on the above mentioned axis. A new way of dispute solution appears, the so-called *Alternative Dispute Resolution*, used mainly by the USA. The second new tool of conflict resolution are the seminars of conflict solution which i.a. dealt with the ongoing conflict in Northern Ireland. The last fourth period lasts from 1986 until today and is connected with the concept of multilevel diplomacy.¹⁸

1. 5 Factors that May Affect the Resumption of Conflict

There are quite many factors which can influence the durability of the peace which has been reached and, on the other hand, the possibility of the re-ignition of the conflict. In this sphere no given list of factors that may affect the resumption of conflict in general exists and every conflict includes specific aspects and possibilities of a restart. In the complex analysis of armed conflicts composed by the UK Stabilization Unit in August 2018 (*What are the key factors that affect the securing and sustaining of an initial deal to reduce level of armed conflict*) we can read about a “complex array of factors that shape drivers of violent conflict...”¹⁹ At the same time a “significant weakness in the academic literature”²⁰ in this topic is mentioned. The actual discursus in the field of the violent conflict is focusing on two main issues:

“In countries experiencing violent conflict, what factors determine the feasibility of reaching some kind of initial deal to reduce levels of violence?”

*“What factors then determine whether this deal will endure and provide a ‘first step’ towards more sustained processes of peacebuilding, or whether violent conflict will recur?”*²¹

According to UK Stabilization Unit another basic direction in the conflict’s survey is the question: “Does the way in which a conflict ends influence the likelihood that the peace will endure?”²² In scientific papers there are two main opinions on conflicts and their settlements. One opinion regards the settlement of the dispute as a main factor of the post-conflict relations, the opposite opinion sees the main determinant of the post-conflict stability in the outcome of the dispute. The settlements themselves can be divided into three main categories

¹⁸ WAISOVÁ, Š. *Řešení konfliktu v mezinárodních vztazích*. Plzeň: Aleš Čeněk, 2011, pp. 24-35.

¹⁹ MEEHAN, Patrick. What are the key factors that affect the securing and sustaining of an initial deal to reduce levels of armed conflict? *Stabilization Unit*, 2018, p. 4.

²⁰ *Ibid.*

²¹ *Ibid.* p. 13.

²² *Ibid.* p. 14.

– imposed settlement, negotiated settlement and no settlement.²³ The outcome of the Northern Ireland conflict can be classed as a negotiated settlement. In this part of the thesis we will comment factors with the potential of influencing our specific situation.

In the course of our topic one of the important key methods of the factor inquiry is the question whether a peace agreement in which the conflict parties reached a consensus, exists. In the case of the Northern Ireland conflict the peace treaty is represented by the Belfast Agreement (frequently assigned as Good Friday Agreement), which has been successfully negotiated in 1998. The Belfast Agreement reglements also the so-called power-sharing that means the power division inside of the Northern Ireland Assembly between unionist and republicans. The aim is to avoid conflicts and to establish the equality of the representation. We deal with the Belfast Agreement in a chapter three of this thesis.

One of the main problematic features of the Belfast Agreement is the absence of an approval of all actors of the Northern Ireland conflict with its conclusion. One of the actors on behalf of the republicans was the Sinn Féin party which agreed (but unfortunately could influence only a part of the paramilitary organizations, especially the Provisional Irish Republican Army /“PIRA”/, which is one of the branches of Irish Republican Army /“IRA”/)²⁴ and other paramilitary groupings directly connected with this armed organization. So, there remained a vast number of other paramilitary grouping members (labelled as dissident republicans) which disagreed with the peace agreement conclusion. The reason for this position was the absence of goals which were marked out during the conflict. Primarily the end of the British rule over the Northern Ireland region or the renewal of Irish unity. The existence of these subjects and their activities is confirmed by the first report of the *Independent Reporting Commission* from the 2018. The report claims that despite the peace agreement the paramilitarism is in the region still present in a quite broad scale of manifestations. The diapason of these symptoms is between gangsterism and criminality (the radicals use the conflict as a front for real criminal activities) and holding membership of these illegal structures as a kind of political, societal or personal motivations without being criminals.²⁵

²³ QUACKENBUSH, S. L. and J. F. VENTEICHER. Settlements, Outcomes and the Recurrence of Conflict. *Journal of Peace Research*, 2008, 45(6), pp. 723-724.

²⁴ We refer to the history and functioning of the IRA in sub-chapter number 6. 4.

²⁵ Independent Reporting Commission. First Report. *Independent Reporting Commission*, 2018, p. 10.

Another important factor which we have to follow in our analysis is the real fulfilment of the demilitarization. Together with the Belfast Agreement the disarmament of IRA has been agreed (despite the fact that some branches of IRA did not agree with that). This process lasted with many complications until 2005 when the termination of IRA's disarmament was officially announced. The whole process has been watched by International Independent Commission for Decommissioning.²⁶ This positive process though is from the beginning relativized by the fact that not all paramilitary subjects were conform with this part of the peace process and, as we will explain in the following text, soon after 2005 these groupings continued with their violent armed actions. The disarmament was agreed by the main paramilitary organization in the region – the IRA (or at least by the PIRA, its most relevant wing at the moment) – but the secondary groupings were not touched by this process. The region is therefore still affected by armed violence. Therefore we can ask whether the demilitarization can be regarded as the “*initial deal*”²⁷ in the terms of the methodology of the Stabilization Unit, which was “*reached and then sustained to stabilise the violent conflict “which may then provide a first step towards more sustainable peace building”*”.²⁸

1. 6 The Placing of the Northern Ireland Post-Brexit Course of Events into the Conflict Theory

To be able to analyse the Northern Ireland post-Brexit course of events properly we must succeed in the placing of the potential conflict into the above mentioned theory. That means to classify the conflict correct, to determine its actual phase, resp. phases which it underwent. We will scrutinise the conflict by the five above mentioned aspects given by Waisová in *Conflict Resolution in International Relations* (research of the background of the conflict, the determination of actors type, research of the character and nature of the conflict parties, research of the causation of the conflict, research of the context/milieu of the conflict). Due to the complexity of the selected conflict, some aspects/areas will overlap. The next chapter therefore deals with the research of the background of the conflict.

²⁶ ŠLOSARČÍK, I. *Politický systém Irska*. Praha: SLON, 2007, p. 247.

²⁷ MEEHAN, Patrick. What are the key factors that affect the securing and sustaining of an initial deal to reduce levels of armed conflict? *Stabilization Unit*, 2018, p. 4.

²⁸ Ibid.

2. Research of the Background of the Conflict

In the scope of the conflict background research this chapter deals with the history of the Northern Ireland Conflict and the latter peace process from the establishing of the Home Rule in the beginning of the second decade of the 20th century, through the so-called Troubles connected with the 70's and 80's, the peace agreement negotiations in the 90's to the referendum on the withdrawal of Great Britain from the EU. The last sub-chapter *The Conflict's Causation: The Northern Ireland Conflict after the Brexit Referendum* contains the stress of some crucial factors and phenomena with the power to contribute to the increase of uncertainty and to conduce the re-ignition of the crisis and renewal of the Northern Ireland conflict.

2. 1 Northern Ireland Conflict until the Belfast Agreement

The Northern Ireland region is stigmatized by long lasting struggle for independence which historically took place not only on its territory but also on the whole island of Ireland. The significant milestone for the subsequent development of the Northern Ireland region in the 20th Century was the year 1920. In 1920 the *Government of Ireland Act* came to force and Northern Ireland became a separate region with the so-called *Home Rule*. Northern Ireland was administratively excluded from the Irish Autonomy, later the Irish Republic. The division of the island took place on the basis of splitting line Protestants – Catholics and this line is outstandingly present in Northern Ireland until today.²⁹

In the following more than fifty years (until 1972) Northern Ireland had its deputies in two parliamentary bodies. In the genuine Northern Irish parliament, the so-called *Stormont* which had sessions only a few months in the year and Protestants had there majority, and in the British parliament. Because of the fact of *Stormont* being predominantly Protestant there was a factual discrimination of Catholic citizens in the Northern Ireland region. They were hindered in housing, in the sphere of public functions but also in the access to working positions in the sphere of education, health or police forces.³⁰ In the sixties the civil right movements were established and their task was to indicate the violation of the Catholic citizen rights or their persecution by police forces. It had been just the violence against Catholic

²⁹ ŠLOSARČÍK, I. *Politický systém Irska*. Praha: SLON, 2007, p. 217.

³⁰ Ibid. pp. 222-223.

citizens by the police apparatus which led to the calling of British armed forces with the objective of defending the Catholics and this violence led also to the suspension of the *Stormont* in 1972.³¹

In 1972 thus Northern Ireland came under the direct rule of the British centre. This step ignited a new wave of armed violence by terrorist groupments, mainly the IRA³², not only on the territory of Northern Ireland, but also in other parts of Great Britain, mainly in England. The attempts on life by the IRA were targeted not only on military objects but also on civil objects and high ranked politics.³³ There will be a focus on IRA and its activities in the text of subsequent chapters.

The direct rule, despite of some attempts of the British centre in terms of introduction new models of ruling (primarily the "*consociational experiment*"³⁴ is meant here, the so-called power-sharing executive which the Agreement of Sunningdale³⁵ in 1974 tried to introduce) lasted on the Northern Irish territory until 1998 when it was terminated by the Belfast Agreement.³⁶

The so-called Anglo-Irish Agreement from 1985 formed an important milestone in the series of attempts of regaining Northern Ireland's autonomy. In the scope of this agreement a consensus has been reached between moderate representatives of Northern Ireland and the British centre (represented by the former Prime Minister Margaret Thatcher). This consensus has been achieved in the question of the necessitous renewal of Northern Ireland institutions, of course under the condition of the ending of armed violence. Northern Ireland representatives also gained new rights within the British political decision-making and the so-

³¹ O'BRIEN, C. C. *Terrorism under Democratic Conditions: The Case of the IRA*. In: CRENSHAW, M. (ed.). *Terrorism, Legitimacy, and Power: The Consequences of Political Violence*. Middletown: Wesleyan University Press, 1987, pp. 99-100.

³² The attacks of IRA on the territory of the island of Ireland took place already from the second half of the 19th century and on the territory of Northern Ireland they continued also after the introduction of the Home Rule. The establishment of direct rule in 1972 naturally increased the number of armed attacks in the Northern Ireland region radically. The period from the end of the sixties, connected in full with the riots and subsequent terrorist attacks, is called *Troubles*. These *Troubles* ended in fact in the nineties by the peace Belfast Agreement.

³³ ŠLOSARČÍK, I. *Politický systém Irska*. Praha: SLON, 2007, pp. 227-228.

³⁴ STRMISKA, M. 1998. *Regionální strany a stranické systémy: Španělsko, Itálie, Velká Británie a Severní Irsko*. Brno: Centrum pro studium demokracie a kultury, 1998, p. 119.

³⁵ The Sunningdale Agreement proposed a constitution of a new separate legislative body containing a division of power between Protestants and Catholics with the requirement of a consensus in case of crucial questions. This assembly lasted only few months before Great Britain re-introduced, for safety reasons (riots in Northern Ireland region), a direct rule again.

³⁶ ŠLOSARČÍK, I. *Politický systém Irska*. Praha: SLON, 2007, pp. 233-234.

called Anglo-Irish Secretariat has been i. a. established for this purpose.³⁷ The Anglo-Irish Agreement was subsequently incorporated into the Belfast Agreement in the framework of the so-called third dimension of relations and it had to regulate the relations between Great Britain and the Republic of Ireland.³⁸

The Downing Street Declaration, known also as Joint Declaration on Peace, was undoubtedly an advancement in the framework of the Northern Ireland peace process. The declaration was entered in 1993 and contained provisions establishing the future form of the region's ordering. The reaction on the Downing Street Declaration signing came from the leaders from the controversial nationalistic political party Sinn Féin which has been in Northern Ireland connected with the IRA activities for a long time. There will be a focus on Sinn Féin and its activities in the text of subsequent chapters. The result was an agreement about abandoning of violence in Northern Ireland which helped also in the case of interim relinquish of terrorist IRA actions in the region between the years 1994 and 1996; it referred also to other paramilitary groups in the region.³⁹

The nationalist Sinn Féin party was also invited to the preparation of the key peace agreement known as Belfast Agreement under the condition of re-cessation of terrorist action of IRA, but it caused a huge displeasure of the Democratic Unionist Party ("DUP"). The preparations started in 1997 and their result should have been the re-establishment of Northern Ireland's autonomy. The Belfast Agreement designed newly three dimensions of relations. Primarily the relations inside Northern Ireland itself. The second dimension was the adjustment of relations between Northern Ireland and the Irish Republic. The third dimension represented the modification of relations between Irish Republic and Great Britain. Thanks to the support across political spectrum (both the Protestant and the Catholic Part) the Belfast Agreement gained a rather broad legitimation and this despite the fact that the DUP for instance repulsed the agreement. The Belfast Agreement was ceremonially signed on the 4th of April 1998 and is fully regarded as agreement crowning the Northern Ireland peace process.⁴⁰ Analysis of the Belfast Agreement is included in the next part of the thesis in the section The Conflict's Causation – Analysis of the Belfast Agreement.

³⁷ FRANK, J. *Konflikt v Severním Irsku*. Praha: Triton, 2006, pp. 154-156.

³⁸ MELICHAR, H. The Long Good Friday: Consociationalism and the Northern Ireland Peace Process 1973 – 1998. *Mezinárodní vztahy*, 2005, 4:28-49, p. 46.

³⁹ *Ibid.* p. 34.

⁴⁰ ŠLOSARČÍK, I. *Politický systém Irska*. Praha: SLON, 2007, pp. 237-238.

2. 2 Northern Ireland Conflict after Belfast Agreement until the Brexit Referendum

Together with the Belfast Agreement a new Legislative Assembly was in Northern Ireland established. Electoral system of this body was adjusted to prevent the superiority of either Catholics or Protestants. The key decisions must be approved by the majority of Protestant and Catholic delegates. Similar rules have been set also for the new government of Northern Ireland, which must also respect the mandate's division on the basis on the Protestant – Catholic line. The equalisation of the Catholic citizens was projected also into the sphere of police jobs distribution that means increase of numbers of Catholic policemen in the stuff.⁴¹ Until Brexit Northern Ireland had three own representatives in the European Parliament.

The beginning of the new millennium in Northern Ireland was accompanied by the so-called crisis of the shared competences which was established in the framework of the Belfast Agreement. This crises was caused by the resignation of the Prime Minister David Trimble who reacted in this way on the long lasting problems connected with the disarmament of IRA. One of the impacts of the Trimble's resignation was even the dissolution of whole Legislative Assembly (by the decision of the British centre) and the subsequent announcement of new elections. In these elections the biggest achievement were noted by parties which were rather sceptical about the system stated by the Belfast Agreement.⁴² The activities of Legislative Assembly and the Northern Ireland executive were henceforth limited. The final declaration of a standstill of violent operation and the disarmament of IRA took place not until 2005. Despite this fact there were attacks connected with IRA also after that year.⁴³ The events of the beginning of the millennium connected with the resignation of the David Trimble showed fully the fragility of the system established by the Belfast Agreement.

The St. Andrews Agreement from 2006 was aimed to solve the stale mate and to re-establish the competencies of the Northern Ireland autonomous bodies. The negotiations connected with *“the meeting between the UK Government and the Government of Northern*

⁴¹ ŠLOSARČÍK, I. *Politický systém Irska*. Praha: SLON, 2007, pp. 242-244.

⁴² Successful was not only DUP which not previously supported the Belfast Agreement but also Sinn Féin which had a lot of remarks on the Belfast Agreement conditions.

⁴³ ŠLOSARČÍK, I. *Politický systém Irska*. Praha: SLON, 2007, pp. 245-247.

Ireland cleared the way for the restoration of the political institutions".⁴⁴ The St. Andrews Agreement was negotiated under the presence of all relevant political parties of Northern Ireland the DUP and Sinn Féin included. The conclusion of the St. Andrews Agreement led to reconstruction of the Northern Ireland's autonomous institutions and to an establishment of a new government in 2007.⁴⁵ The St. Andrews Agreement is generally regarded as a historical step of the Northern Ireland peace process because this agreement was established also by a co-operation of deputies of the more radical wings of the unionists (DUP) as well as the nationalist (Sinn Féin).

The beginning of the second decade of the millennium was accompanied by the signing of the Hillsborough Castle Agreement, an agreement devoted to the devolution in the sphere of police forces and justice.⁴⁶ In the scope of this agreement DUP and Sinn Féin came to conformity.⁴⁷

With the assistance of the UK Government and Ireland Government the *Independent Reporting Commission* ("IRC") was established in 2015. The main purpose of the organization is „to bring an end to paramilitary activity and to tackle organised crime in Northern Ireland”.⁴⁸ The IRC is disposing with four commissioners, which task is „to carry out its functions with a view to supporting long term peace and stability in society and stable and inclusive devolved Government in Northern Ireland, and promoting progress towards ending paramilitary activity connected with Northern Ireland”.⁴⁹

The referendum about Brexit enunciated by the former British Prime Minister David Cameron, which took place on 23rd June 2016, was a big backset not only for Northern Ireland but for whole Great Britain. The foregoing campaign was brought to the boil and accompanied by many populist declarations and misinformations.⁵⁰ From the relevant parties of Northern

⁴⁴ The St. Andrews Agreement, October 2006. *gov.uk* [online]. 16 July 2006 [viewed 30 March 2021]. Available from: <https://www.gov.uk/government/publications/the-st-andrews-agreement-october-2006>

⁴⁵ ŠLOSARČÍK, I. *Politický systém Irska*. Praha: SLON, 2007, pp. 247-248.

⁴⁶ Hillsborough Castle Agreement. *gov.uk* [online]. 5 February 2010 [viewed 30 March 2021]. Available from: <https://www.gov.uk/government/publications/hillsborough-castle-agreement>

⁴⁷ LANDOW, Ch. and M. A. SERGIE. The Northern Ireland Peace Process. *Council on Foreign Relations* [online]. 5 March 2020 [viewed 30 March 2021]. Available from: <https://www.cfr.org/backgrounder/northern-ireland-peace-process>

⁴⁸ Independent Reporting Commission. *ircommission.org* [online]. [viewed 30 March 2021]. Available from: <https://www.ircommission.org/about-irc>

⁴⁹ Ibid.

⁵⁰ Compare to: D'ARCY, M. Nigel Farage: The Story of 'Mr. Brexit'. *bbc.com* [online]. 29 November 2019 [viewed 30 March 2021]. Available from: <https://www.bbc.com/news/election-2019-50565543>

Ireland the Brexit was supported only by the unionist DUP.⁵¹ The result of Brexit was as follows: 51,9% voters balloted for leave. But regarding the national results we can see that in England 53,4% of the voters were in for leave, in Wales 52,5%, but in Northern Ireland mere 44,2% and in Scotland even 38%.⁵² If the decision on its own faith were remained in the hands of the Northern Ireland citizens, the stay in the European Union prevailed.

2. 3 The Conflict's Causation: The Northern Ireland Conflict after the Brexit Referendum

The decision about the withdrawal of Great Britain from the EU triggered an uncertainty in all respects. The result of the referendum could be marked as unexpected and a situation after the announcement of its outcome as unprecedented. Great Britain was about to be the first state to leave the EU optionally while the process and its impact of this exit were more than unclear.

One of the greatest anxieties not only of Northern Ireland was the fear of the renovation of a fixed border between Northern Ireland and Ireland. One of the contributions of the Belfast Agreement was mainly the very guarantee of the absence of a physical border across the island of Ireland (which would include for instance border control, camera monitoring etc.).⁵³ The Great Britain would though have become so-called third state country for the EU member states. That would cause the restoration of ground custom border involving the standard checking procedure.⁵⁴ Even the repeated establishment of a fixed border was often labelled as a potential trigger of a new wave of a violence in the region. A solution to prevent the re-establishment of a fixed border should have been the so-called Irish backstop proposed in the scope of the so-called Joint UK-EU Report in 2017. The conformity in the case of such procedure has been found between the former Prime Minister Theresa May and the EU, because for the EU (and especially Ireland) was the guarantee for avoiding

⁵¹ LANDOW, Ch. and M. A. SERGIE. The Northern Ireland Peace Process. *Council on Foreign Relations* [online]. 5 March 2020 [viewed 30 March 2021]. Available from: <https://www.cfr.org/backgrounder/northern-ireland-peace-process>

⁵² EU Referendum Results. *bbc.com* [online]. [viewed 30 March 2021]. Available from: https://www.bbc.com/news/politics/eu_referendum/results

⁵³ EDGINGTON, T. and C. MORRIS. Brexit: What is the Northern Ireland Protocol and will it stop border checks? *bbc.com* [online]. 15 March 2021 [viewed 30 March 2021]. Available from: <https://www.bbc.com/news/explainers-53724381>

⁵⁴ Irish Backstop. *instituteforgovernment.org.uk* [online]. 24 February 2020 [viewed 30 March 2021]. Available from: <https://www.instituteforgovernment.org.uk/explainers/irish-backstop>

the re-establishment of a fixed border a key question.⁵⁵ In the form that has been put forward was the Irish backstop not acceptable for the British Parliament; therefore the proposals of an agreement about the future settlement of relations between EU and Great Britain was repeatedly rejected. On the contrary the EU announced that without the Irish backstop or an equivalent proposal which would hinder the re-establishment of a fixed border the negotiated agreement about the withdrawal of Great Britain of the EU would not be approved.⁵⁶

The IRC draw attention in its second annually report 2019 to the possibility of intensifying of paramilitary groups activities in the region. The IRC advices in its report that the activities of paramilitary groups in the region is present while one of the factors of the possible growth of these activities is indicated as Brexit. But it emphasizes that the questions connected with the survival of paramilitary activities in the region have their roots deep in the periods before Brexit. The danger for peace in Northern Ireland is, because of this fact, not the Brexit itself causing the new evolvement of violence, but its potential to enhance of the latent paramilitarism.⁵⁷ The armed attacks of this period in the Northern Ireland region were mainly connected with small paramilitary nationalistic or unionistic groupments. The apprehension about the growth of armed attacks in the region was expressed also by the Northern Ireland and Ireland police officials.⁵⁸

As mentioned above, Brexit is not the only factor that conduces the destabilization of the situation in the Northern Ireland region. A fundamental problem for Northern Ireland has been a long-lasting crisis of Stormont, which started in 2017, when the power-sharing between DUP and Sinn Féin collapsed due to major programme dissensions. Northern Ireland autonomous Legislative Assembly was therefore paralyzed again, until the beginning of the 2020, when DUP and Sinn Féin finally reached common positions and the power-sharing was restored.⁵⁹ Repeated dissonances between main Northern Irish parties (DUP and Sinn Féin)

⁵⁵ Ibid.

⁵⁶ ZICHOVÁ, K. Bez irské pojistky dohodu o vystoupení neschválíme, usnesl se Evropský parlament. *euractiv.cz* [online]. 18 September 2019 [viewed 30 March 2021]. Available from: <https://euractiv.cz/section/brexit/news/bez-irske-pojistky-dohodu-o-vystoupeni-neschvalime-usnesl-se-evropsky-parlament/>

⁵⁷ Independent Reporting Commission. Second Report. *Independent Reporting Commission*, 2019, p. 9.

⁵⁸ FERGUSON, A. *Brexit could fuel Northern Ireland paramilitary attacks, watchdog says*. *reuters.com* [online]. 4 November 2019 [viewed 30 March 2021]. Available from: <https://www.reuters.com/article/us-britain-eu-nireland/brexit-could-fuel-northern-ireland-paramilitary-attacks-watchdog-says-idUSKBN1XE1FF>

⁵⁹ MCCORMAC, J. Stormont: What is it and why did power-sharing collapse in Northern Ireland? *bbc.com* [online]. 10 January 2020 [viewed 30 March 2021]. Available from: <https://www.bbc.com/news/uk-northern-ireland-politics-50822912>

are one of the main problems that the fragile stability in the Northern Ireland region must face. The combination of political instability and ongoing Brexit can, according to IRC, implicate a security risk for Northern Irish region.⁶⁰

For Northern Ireland the question of Great Britain's withdrawal from the EU was very delicate also because of the so-called direct funding. Only from 1995 to 2013 the EU granted in the scope of the PEACE programme more than 1 billion Euro for Northern Ireland to establish peace, reconciliation and the support of economic and social progress. Despite the withdrawal of Great Britain from the EU in the beginning of 2020 was due the so-called transition period the participation of Northern Ireland in EU programmes guaranteed inclusive the PEACE programme until the end of 2020.⁶¹ Between 2021–2027 this programme should be replaced by a new one under the name PEACE Plus dedicated not only for the region of Northern Ireland but also cross-border cooperation inside the island of Ireland as a whole. But this programme should be financed on behalf of the EU as well as by Great Britain together with the Northern Ireland executive and the Irish government.⁶²

⁶⁰ Independent Reporting Commission. Second Report. *Independent Reporting Commission*, 2019, p. 5.

⁶¹ Northern Ireland Peace Programme. *europarl.europa.eu* [online]. [viewed 30 March 2021]. Available from: <https://www.europarl.europa.eu/factsheets/en/sheet/102/northern-ireland-peace-programme>

⁶² Minister McGrath updates Cabinet on the €1bn PEACE PLUS Cross-Border EU Programme 2021-27. *gov.ie* [online]. 26 January 2021 [viewed 30 March 2021]. Available from: <https://www.gov.ie/en/press-release/96e1b-minister-mcgrath-updates-cabinet-on-the-1bn-peace-plus-cross-border-eu-programme-2021-27/>

3. Belfast Agreement: a Conflict Resolution Framework

This part of the thesis contains the analysis of the peace treaty known as Belfast Agreement, which is one of the crucial milestones reached in the scope of the Northern Ireland peace process. Its analysis is suitable for the comprehension of Brexit (in the specific stages of negotiations) and its power to influence – as a contribution or a disturbance of guarantees assured by this agreement. We will try to find answers to the question which consequences could the violence of this agreement have for the particular actors and how it could influence their ability to react. We have to have a clear structure of the analysis by dealing with the most important chapters of the agreement separately. In this analysis we will assume the impact of Brexit individually according the specific chapters.

3. 1 The Belfast Agreement and Declaration of Support as its Introduction

The Belfast Agreement has been signed after challenging multi-party negotiations on 10. 2. 1998, as mentioned above, and subsequently went through a referendum not only in Northern Ireland but also in the Republic of Ireland.⁶³ The wording of the question was: “*Do you support the agreement reached in the multi-party talks on Northern Ireland and set out in Command Paper 3883?*”⁶⁴ The participation of the citizens on the approval of the agreement illustrated i.e. the overall endeavour for a stabilization across whole island of Ireland and the whole society.

The contain of the Belfast Agreement can be divided in several basic parts, beginning with the *Declaration of Support*, in which the particular parties of the agreement declare the new beginning of mutual relations. The parties regret the past tragedies and suffering and pronouncedly confirm their mutual commitment of avoiding any armed acting and pledge oneself to “*exclusively democratic and peaceful means of resolving differences on political issues*”.⁶⁵

⁶³ MELICHAR, H. The Long Good Friday: Consociationalism and the Northern Ireland Peace Process 1973 – 1998. *Mezinárodní vztahy*, 2005, 4:28-49, p. 34.

⁶⁴ The Belfast Agreement from 10 April 1998. Validation, Implementation and Review. Validation and Implementation. Article 2.

⁶⁵ The Belfast Agreement from 10 April 1998. Declaration on Support.

3. 2 Constitutional Issues

The first part of the agreement deals with *Constitutional Issues* that means the newly constituted institutional system and the relations among them. An important point is the respect for the legitimacy of the people of Northern Ireland (with regard to its status) with no preference to their choice to support the union with Great Britain or a sovereign united Ireland. The right of self-determination on the basis of consent must be achieved by “*an agreement of a majority of the people of Northern Ireland*”.⁶⁶ Melichar claims that the recognition of the legitimacy of the state-constitutional system’s change was definitely ground breaking⁶⁷ but its conditioning by the majority opinion of the Northern Ireland citizens led simultaneously to its relativisation.

One of the important side effects of the agreement was the abolition of the Government of Ireland Act from 1920 with its pretension of British supremacy of the whole island of Ireland.⁶⁸

3. 3 Equal Citizenship and its Disruption after Brexit Referendum

One of the most crucial points in the Belfast Agreement was the freedom of the Northern Ireland born people to choose their identity as Irish or British, on the other hand their right is confirmed to hold both citizenships, British and Irish. And this is a status meant to be free of affection by any future change of the Northern Ireland’s position.⁶⁹ Speaking about equality this might be the first question-mark why the fact of being born in Northern Ireland makes a division line among the citizens. The legal situation might be not so clear as somebody can suppose by reading the Belfast Agreement. We can find also situations which refer to some dubiousness.⁷⁰ Under the terms of The British Nationality Act (1982) not impeached by the Belfast Agreement the fact of being born in Northern Ireland leads automatically to British citizenship. But the same agreement claims that there is freedom to identify oneself as Irish or British or both, as stated before. This causes huge uncertainty which is even deepened by Brexit.

⁶⁶ The Belfast Agreement from 10 April 1998. Constitutional Issues.

⁶⁷ MELICHAR, H. The Long Good Friday: Consociationalism and the Northern Ireland Peace Process 1973 – 1998. *Mezinárodní vztahy*, 2005, 4:28-49, p. 37.

⁶⁸ The Belfast Agreement from 10 April 1998. Constitutional Issues. ANEX A, Article 2.

⁶⁹ The Belfast Agreement from 10 April 1998. Constitutional Issues.

⁷⁰ Compare to: MURRAY, C. EU Citizenship Rights in Northern Ireland. *ukandeu.ac.uk* [online]. 6 April 2020 [viewed 30 March 2021]. Available from: <https://ukandeu.ac.uk/eu-citizenship-rights-in-northern-ireland/>

With the Brexit there came a thoroughly new and in a way unexpected situation. The desirable equality is after Brexit even more threatened because those Northern Irish citizens who have chosen only the British nationality will be hindered in their access to the rights of others who kept their Irish nationality which is connected with EU citizenship. But this creates a new inequality and causes that Great Britain is violating its legal obligations under the Belfast Agreement.⁷¹ Brexit led to a paradox situation in which the previously more affected Irish Catholics were less handicapped than Protestants loyal to Great Britain. According to Driscoll there were, as she was convinced in 2019, only two possible ways to find a solution keeping full EU rights for all citizens of Northern Ireland without breaching Belfast Agreement: to allow Northern Ireland to remain separately in the EU or reversing Brexit.⁷² Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community 2019/C 384 I/01 (“The Withdrawal Agreement”) deals with the questions of citizenship only in general terms, which are stressed in the so-called Protocol on Northern Ireland – Article 2, Rights of Individuals, paragraph 1. However, the Protocol on Northern Ireland does not contain any specific provisions on how citizens of Northern Ireland with Irish citizenship can enjoy the benefits and rights which result from their citizenship. Some questions are still open. There deal with vivid situation of Northern Ireland-resident Irish citizens, for instance in the sphere of healthcare during their traveling to other member states of EU or the possibility of pensions transfer.⁷³

Because there are many specific situations concerning all Northern Ireland citizens despite their preferences or choices, new subjects for the examination of the impacts of the Brexit withdrawal were set up. For instance The Joint Committee of the Northern Ireland Human Rights Commission (“NIHRC”) and The Irish Human Rights and Equality Commission (“IHREC”).⁷⁴ To draw a conclusion it must be clearly said: Not only that some unclearness has remained, more, the confusion has grown and there is no prediction how the agreements will be functioning and proved under the circumstances of real life. In fact only practical demands

⁷¹ DRISCOLL, E. E. Equal Treatment for the Identity: The Inequality of Irish and British Citizenship in Post-Brexit Northern Ireland. *Boston University International Law Journal*, 2019, 37:211, pp. 214-215.

⁷² Ibid. p. 211.

⁷³ Northern Ireland after Brexit. *europarl.europa.eu* [online]. [viewed 30 March 2021]. Available from: [https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/649416/EPRS_BRI\(2020\)649416_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/649416/EPRS_BRI(2020)649416_EN.pdf)

⁷⁴ MURRAY, C. EU Citizenship Rights in Northern Ireland. *ukandeu.ac.uk* [online]. 6 April 2020 [viewed 30 March 2021]. Available from: <https://ukandeu.ac.uk/eu-citizenship-rights-in-northern-ireland/>

and expectations of Northern Irish citizens will reveal the validity of all political and juridical limits of the endeavours of British and EU officials.

3. 4 Strands

The next part of the agreement is so-called *Strand One*, which deals with democratic institutions in Northern Ireland. The re-establishment of a democratically elected 108 member Legislative Assembly as a full legislative and executive authority was an essential step in the process of regaining autonomous administration of Northern Ireland.⁷⁵ This means an end of the direct administration from British centre. Further articles were dealing with the safeguards, the operations of the Assembly, executive authority, legislation and relations with other institutions. The last two paragraphs are dedicated to transitional arrangements and the review. As an annex we can read the Pledge of Office and Code of Conduct. The essence of the safeguards is to ensure *“that all sections of the community can participate and work together...and that all sections of the community are protected...”*⁷⁶ The most important feature of the safeguards is the power to avoid the outvoting of one national/religious entity by the other. Voting on cross-community basis was one of the main principles to assure the stability of the system.

Strand Two attends to so-called second dimension of relations (relations between Northern Ireland and Ireland) and contained the mechanism of the North-South dialog on the basis of the North South Ministerial Council. The Council has been created as a forum for exchanging information, discussing and consulting with *“a view to cooperating on matters of mutual interest within the competence of both Administrations...”*⁷⁷

Strand Three can be found under the title British-Irish Council (BIC). Its aim is *“to promote the harmonious and mutually beneficial development of the totality of relationships among the peoples of these islands”*.⁷⁸ The modus operandi of the BIC is *“by consensus”*.⁷⁹ A new standing British-Irish Intergovernmental Conference was to established, which subsumed both, the Anglo-Irish Intergovernmental Council and the Intergovernmental Conference

⁷⁵ The Belfast Agreement from 10 April 1998. Strand One: Democratic Institutions in Northern Ireland, Article 2, 3, 4.

⁷⁶ The Belfast Agreement from 10 April 1998. Strand One: Democratic Institutions, Article 5.

⁷⁷ The Belfast Agreement from 10 April 1998. Strand Two: North/South Ministerial Council, Article 5 (i).

⁷⁸ The Belfast Agreement from 10 April 1998. Strand Three: British-Irish Council, Article 1.

⁷⁹ Ibid.

established under the 1985 agreement.⁸⁰ Also security matters were part of Conference's framework. That means the areas of right, justice, prisons and policing in Northern Ireland (*"unless and until responsibility is devolved to a Northern Ireland administration"*).⁸¹ In fact, the devolution of these areas took place only after the above mentioned Hillsborough Castle Agreement in 2010 and it seems that there is no visible impact of Brexit on these spheres.

3. 5 Rights, Safeguards and Equality of Opportunity

The subsequent part of the agreement is dedicated to Rights, Safeguards and Equality of Opportunity. In the field of economic, social and cultural issues new regional development strategy for Northern Ireland was to be developed dealing with the problems of the *"divided society and social cohesion in urban, rural and border areas..."*⁸² The main attendance has been given to the questions of the Irish language with the intend to encourage its use also in Northern Ireland. The interpretation of this step could pave the way to the equality of national and religious groups.

The second question range was dedicated to the so-called decommissioning, which means the decrease of illegally-held arms and the disarmament of all paramilitary organizations. To control the process an Independent Commission had to be created.⁸³ The commitment of disarmament has shown to be out of reach for a quite long period after the signing of the Belfast Agreement – as mentioned above, the disarmament of the IRA has been formally completed only in 2005 after the Stormont crisis.

In the sphere of the security *"the removal of emergency powers in Northern Ireland"*⁸⁴ was one of the main tools. In the scope of Policing and Justice the declared goal was to secure a *"professional, effective and efficient, fair and impartial"* police service *"free from partisan political control"*.⁸⁵ A basic feature of the agreement in this field was to *"deliver a fair and impartial system of justice to the community"*.⁸⁶ These provisions were important for the

⁸⁰ The Belfast Agreement from 10 April 1998. Strand Three: British-Irish Intergovernmental Conference, Article 1.

⁸¹ The Belfast Agreement from 10 April 1998. Strand Three: British-Irish Intergovernmental Conference, Article 6.

⁸² The Belfast Agreement from 10 April 1998. Rights, Safeguards and Equality of Opportunity, Article 2, par. 1.

⁸³ The Belfast Agreement from 10 April 1998. Decommissioning, Article 4.

⁸⁴ The Belfast Agreement from 10 April 1998. Security, Article 2, par. 3.

⁸⁵ The Belfast Agreement from 10 April 1998. Policing and Justice, Article 2.

⁸⁶ The Belfast Agreement from 10 April 1998. Policing and Justice, Article 4.

Catholic part of the society, which was in the past unequally treated by the police staff. Also this area is obviously not affected by Brexit.

3. 6 Review of the Criminal Justice System

An important impact on the tranquilization had the changes proposed in the part Review of the Criminal Justice System. An essential measure was an acceleration programme for the release of prisoners (in chapter Prisoners) "*convicted of scheduled offenses in Northern Ireland*".⁸⁷ Prisoners affiliated to organization not following a complete and unequivocal ceasefire were excluded from this benefit. This regulation was primary aimed to attract Sinn Féin to agree with the final wording of the agreement, which has been in most of the provisions quite vague concerning the Catholic and republican minority and pretension on the Northern Ireland self-determination. The Prisoners chapter was put into the agreement to lure the Sinn Féin to facilitate its influence on IRA and insure by this tactic the disarmament of IRA.⁸⁸

As already mentioned, the approval of the Belfast Agreement went through referendum in Northern Ireland and The Republic of Ireland and the majorities of the voting caused the support and introducing the result in their respective parliaments.

⁸⁷ The Belfast Agreement from 10 April 1998. Prisoners, Article 1.

⁸⁸ O'BRIEN, B. *Dlouhý boj. IRA & Sinn Féin: Od ozbrojeného boje k mírovým rozhovorům*. Zvláštní vydání, 2003, p. 340.

4. Analysis 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 Community 2019/C 384 I/01

The result 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 Community 2019/C 384 I/01 became effective after a long period of negotiations on 31st January 2020 at midnight when Great Britain left the EU. The real impact of the British decision should have been noticed after the end of time-limited transition period Great Britain negotiated with the EU for eleven months term that means until 31st December 2021.⁸⁹ In this interval the same conditions had to be remained as during the membership in the sphere of citizenship and connected advantages, business, studies, research and working opportunities.⁹⁰ Until the end of this transition period succeeded Great Britain and the EU in negotiating even of an interim Trade and Cooperation Agreement which entered into force with end of the transition period.⁹¹ The Withdrawal Agreement contains Common Provisions, General Provisions, Provisions concerning Citizen's Rights, a Provision on Separation Issues (concerning the sphere of Customs, Taxes, Intellectual Property, Police and Justice Cooperation, Judicial and Administrative Procedures etc.), Provisions concerning Transition Period, Provision on Financial settlement, the complete structure of Administration and the Steering of the Withdrawal Agreement and Final Provisions including the Protocol of the sovereign Base Areas in Cyprus, Protocol on Gibraltar and Protocol on Northern Ireland.⁹² The next part of the text is dedicated to the pivotal Protocol on Northern Ireland.

⁸⁹ There was a possibility to prolong this period after a bilateral agreement of Great Britain and the EU, but this decision was limited by the 6th of July 2020, nevertheless this did not happen.

⁹⁰ Questions and Answers on the United Kingdom's withdrawal from the European Union on 31 January 2020. *ec.europa.eu* [online]. 24 January 2020 [viewed 30 March 2021]. Available from: https://ec.europa.eu/commission/presscorner/detail/en/qanda_20_104

⁹¹ EU-UK Trade and Cooperation Agreement: Council adopts decision on the signing. *consilium.europa.eu* [online]. 29 December 2020 [viewed 30 March 2021]. Available from: <https://www.consilium.europa.eu/en/press/press-releases/2020/12/29/eu-uk-trade-and-cooperation-agreement-council-adopts-decision-on-the-signing/>

⁹² Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community 2019/C 384 I/01 from 31 January 2020.

4. 1 Protocol on Northern Ireland

Provisions to ensure the respect for the Belfast Agreement treaties were crucial from the beginning for the whole negotiation of the Withdrawal Agreement. The parties involved were aware of the fact that the violence of guarantees negotiated by the Belfast Agreement could have the power to disturb thoroughly the whole peace process and the stability of the region. The institute designed to protect the guarantees first appeared in the form of the above mentioned Irish backstop, which was aimed primarily to solve the threat of the fixed border and became a stumbling-block of the whole post-Brexit negotiation. Into the final wording of the Withdrawal Agreement has been instead put even the so-called Protocol on Northern Ireland (officially Protocol on Ireland/Northern Ireland) which was really able to avoid the establishment of a fixed border between Northern Ireland and Ireland and Great Britain edit a key obligation of safeguarding of all guarantees of the Belfast Agreement in all their aspects. So we can find this obligation even in Article 1, paragraph 1 of the Protocol on the Northern Ireland, were it is written: *„This Protocol is without prejudice to the provisions of the 1998 Agreement in respect of the constitutional status of Northern Ireland and the principle of consent, which provides that any change in that status can only be made with the consent of a majority of its people“*.⁹³ The above cited provision is rather quite general without any specific tools and methods to make the guarantees given by the Belfast Agreement untouchable. So it is not clear in which way precisely the Protocol on Northern Ireland the protection of the Belfast Agreement provisions insures.

Article 2 of the Protocol on Northern Ireland is concerned in paragraph 1 with *Rights of individuals* we have dealt with in the part of this thesis comparing the impact of Protocol on Northern Ireland on specific provisions of citizenship in the Belfast Agreement. Paragraph 2 than ensures the run of activities by officials which emerged due the Belfast Agreement, *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* included. The abidance of human rights and equality principles are connected with the above mentioned organizations.⁹⁴

⁹³ Protocol on Ireland/Northern Ireland, Article 1, par. 1.

⁹⁴ Protocol on Ireland/Northern Ireland, Article 2, par. 1 and 2.

Article 3 is addressed to the so-called *Common travel area* and secures its smooth functioning which is followed by „*fully respecting the rights of natural persons conferred by Union law*“.⁹⁵ Articles 4, 5, 6 are dedicated to *Customs territory of the United Kingdom, Customs, movement of goods* and *Protection of the UK internal market*. These spheres were very complicated and crucial in the Withdrawal Agreement negotiations, because of the fact that the introduction of custom controls between Northern Ireland and Ireland would in fact mean the implementation of the feared fixed border. In the end Northern Ireland stayed in fact a part of the EU single market for goods and similar business rules as for the rest of the EU remained. In Article 6 paragraph 2 there is stressed indeed that Northern Ireland stays an integral part of the United Kingdom’s internal market.⁹⁶

And just in this hardly settled area complications occurred after the ending of the transition period. Great Britain in March 2021 refused to introduce the customs control of some agricultural products and food stuff imported to Northern Ireland from Great Britain, which were arranged in the Withdrawal Agreement. This was labelled by the EU as a breaking of the Withdrawal Agreement and the European Commission started subsequently proceeding with Great Britain. Despite Brexit the possibility of bringing a suit at the European Court of Justice against Great Britain remained.⁹⁷ It is obvious from this case that the Withdrawal Agreement is mainly a settlement of quite fuzzy compromise which can lead to different interpretations by both sides in the future.

Article 7 holds provision on *Technical regulations, assessments, registrations, certificates, approvals and authorisations*, article 8 provisions on VAT and excise. Article 9 is dedicated to Single electricity market.⁹⁸ Article 10 comprehends the *State aid*. In paragraph 3 the EU is bound, in case of the European Commission’s indication of „*a measure by the United Kingdom authorities that may constitute unlawful aid that is subject to paragraph 1, it shall ensure that the United Kingdom is kept fully and regularly informed of the progress and outcome of the examination of that measure*“.⁹⁹ Article 11 regulates *Other areas of North-*

⁹⁵ Protocol on Ireland/Northern Ireland, Article 3, par. 1.

⁹⁶ Protocol on Ireland/Northern Ireland, Article 6, par. 2.

⁹⁷ ČTK. Komise se nelíbí odklad severoirských kontrol, zahájila s Británií řízení. *euroactiv.cz* [online]. 15 March 2021 [viewed 30 March 2021]. Available from: <https://euractiv.cz/section/brexit/news/komisi-se-nelibi-odklad-severoiskyx-kontrol-zahajila-s-britanii-rizeni/>

⁹⁸ Protocol on Ireland/Northern Ireland, Article 7, 8, 9.

⁹⁹ Protocol on Ireland/Northern Ireland, Article 10, par. 3

South cooperation where the parties are bound „to maintain the necessary conditions for continued North-South cooperation”.¹⁰⁰

Article 12 is dedicated to *Implementation, application, supervision and enforcement*, article 13 to *Common provisions*. Article 14 is dealing with the provision about *The Committee on issues related to the implementation of the Protocol on Ireland/Northern Ireland*, which was founded by the article 165 of the Withdrawal Agreement and article 15 establishes the Joint consultative working group. This group consists of representatives of the EU and Great Britain as well and serves as a platform for consultations and sharing of information.¹⁰¹

Article 16 turns to the Safeguards questions. In paragraph 1 there is a declaration that „ if the application of this Protocol leads to serious economic, societal or environmental difficulties that are liable to persist, or to diversion of trade, the Union or the United Kingdom may unilaterally take appropriate safeguard measures. Such safeguard measures shall be restricted with regard to their scope and duration to what is strictly necessary in order to remedy the situation. Priority shall be given to such measures as will least disturb the functioning of this Protocol”.¹⁰² Even this article tried the president of the European Commission Ursula von der Leyn to use as a tool during a corona crisis to hinder the export of the vaccine from Ireland to Northern Ireland. A part of the next chapter is dedicated to this case.

Article 17 pursues the *Protection of financial interests*. Article 18 is dedicated to *Democratic consent* in Northern Ireland and ensures that Northern Ireland can repeatedly express its approval with the implementation of the articles 5 to 10 of the Protocol on Northern Ireland. The time limits for this approval are defined in paragraph 5.¹⁰³ It means practically that four years after the ending of the transition period the Northern Ireland representatives will have the right to express in Stormont their will of the exercise of articles 5 to 10 (in fact, of course, of the whole Protocol of Northern Ireland). If the approval is not given and the prolongation of the specific provisions is not stated, a de facto collapse of this hardly negotiated system would arise; in Northern Ireland most probably several new measures, custom regulations included, would be introduced.

¹⁰⁰ Protocol on Ireland/Northern Ireland, Article 11, par. 1

¹⁰¹ Protocol on Ireland/Northern Ireland, Article 12-15.

¹⁰² Protocol on Ireland/Northern Ireland, Article 16, par. 1.

¹⁰³ Protocol on Ireland/Northern Ireland, Article 17 and 18.

Article 19 states, that integral part of the Protocol on Northern Ireland are Annexes 1–
7.¹⁰⁴

¹⁰⁴ Protocol on Ireland/Northern Ireland, Article 19.

5. Post-Brexit Relationship Settlement between Northern Ireland, Great Britain and the EU

Despite the fact that during the post-Brexit negotiations the position of the EU was strictly against the restitution of a fixed border and border control between Northern Ireland and Republic of Ireland, in the end it was just the EU to hind the renewal of a border control. This was a controversial attempt to avoid the lack of vaccines in the EU in the connection with the so-called coronavirus crises. The attempt was indicated by the President of the European Commission Ursula von der Leyen to prevent the export of the vaccines from the Republic of Ireland to the Northern Ireland by means of activation of the hardly negotiated Article 16 of the Protocol on Northern Ireland. In fact she demanded an introduction of a border control between Republic of Ireland and Ireland, neglecting the fact that these controls are the main aspect of the so-called fixed border. This initiated a strong wave of disapproval not only from Northern Ireland but also from the side of Great Britain and the EU as a whole (inside the EU this step led to a vivid discussion about the democratic deficit of the European Commission).¹⁰⁵ The idea of the President of the European Commission was titled by the Irish political representative as a “*gift to the Brexiteers*”¹⁰⁶ and in some of the Northern Ireland ports threatening inscriptions aimed against the potential executers of the border controls showed up.¹⁰⁷ The measurements proposed by von der Leyen were also in a direct contradiction with the Belfast Agreement, which excludes the possibility of a fixed border. After the harsh critique von der Leyen made a step backwards, she made a public excuse and emphasized that her Commission “*will do its utmost to protect the peace in Northern Ireland*”.¹⁰⁸ The whole situation with the possible export of the vaccines showed, that the region of the Northern Ireland seems to be between two millstones, its safety situation continues to be threatened

¹⁰⁵ Compare to: O’LEARY, N. Von der Leyen turns abundance of Irish concerns into democratic deficit. *irishtimes.com* [online]. 10 February 2021 [viewed 30 March 2021]. Available from:

<https://www.irishtimes.com/news/world/europe/von-der-leyen-turns-abundance-of-irish-concerns-into-democratic-deficit-1.4481500>

¹⁰⁶ O’LEARY, N. Shellshock in Brussels after Commission blunder. *irishtimes.com* [online]. 3 February 2021 [viewed 30 March 2021]. Available from: <https://www.irishtimes.com/news/politics/shellshock-in-brussels-after-commission-blunder-1.4474558>

¹⁰⁷ EU condemns Northern Ireland Brexit port staff 'threats'. *bbc.com* [online]. 2 February 2021 [viewed 30 March 2021]. Available from: <https://www.bbc.com/news/uk-northern-ireland-55901429>

¹⁰⁸ DE LA BAUME, M. and J. DEUTSCH. Von der Leyen: ‘Mistakes were made’ on vaccine export ban but ‘we got it right’. *politico.eu* [online]. 10 February 2021 [viewed 30 March 2021]. Available from: <https://www.politico.eu/article/ursula-von-der-leyen-mistakes-were-made-but-we-got-it-right-on-article-16/>

not only by improper political or diplomatic acting from its own or British representatives but also from the EU.

Another conflict between the EU and Great Britain was caused by the non-introducing of custom control of some agricultural products and food stuff imported to Northern Ireland from Great Britain from March 2021, already mentioned above.

6. Actors of the Conflict

This chapter deals with actors of the Northern Ireland conflict in the scope of the aspect *research of the character and nature of the conflict parties*. A large number of actors were involved in the Northern Ireland conflict (and subsequent peace process), who tried to promote their interests within it. This part of the thesis is focused on the most important which could have been influenced most strongly and the impact on their interests might have been the greatest. There are at first the Northern Ireland part of the nationalist political party Sinn Féin, the terrorist organization IRA (in several phases of its existence) and other paramilitary organizations acting in the region, the nationalist and loyalist as well.

6.1 Presentation of Main State and Non-State Actors

By analysing the Northern Ireland scene we can find a lot of actors but only three are really of importance for our topic. During the long struggles two main subjects on the nationalist side emerged from the quantum, one as a representative of the policy on the official stage, the other in hidden as a protagonist of a kind of warfare that we label as terrorism. There were of course more subjects involved in the political sphere or in the armed struggle against the British dominance. In the politics Sinn Féin is the only real personification of an official political resistance. In the sphere of armed resistance IRA is the most strongly organized, structured and most visible organization with a clear programme of fight against the British. Of course there are, as mentioned, more paramilitary groupings but IRA was the only playing role in the process of negotiations; although never really present at the table but always a part of the game covered by Sinn Féin. The loyalist side is represented primarily by DUP, as a representative of the more radical unionist attitudes.

Most of the paramilitary groups are nameless and their actions took place mostly ad hoc.

6.2 Sinn Féin

The origin of the political party Sinn Féin is in the beginning of the 20th century and so it is one of the oldest Irish/Norther Irish parties. During its existence it went through a crucial development and the party has been strongly transformed, that means that the new

appearance of Sinn Féin has almost nothing to do with the original one.¹⁰⁹ After the split of the island of Ireland the party acted in both parts, on the territory of the Irish Republic and the territory of the Northern Ireland as well. In the Irish Republic Sinn Féin nowadays represents no leading subject and it is a party with low coalition potential,¹¹⁰ but it has a significant representation in the Irish parliament. On the other hand, Sinn Féin is one of the most relevant political parties in the long term in Northern Ireland and it has its share on the government and the determination of the Northern Ireland's policy direction. The following text will be dedicated to the Northern Ireland branch of Sinn Féin.

The ideological and personal connection with IRA is significant for Sinn Féin and it has been exercised with different intensity throughout the 20th century. Both of the subjects believed in the idea of united Ireland whereas in the beginning their merits rooted primarily in the ideas created in the course of the Easter Uprising.¹¹¹ Sinn Féin as well as IRA repeatedly transformed and split during the 20th century, but even this processes did not mean the end of their mutual interconnection. The influence of Sinn Féin on IRA was a key element in the period of the final phases of the Northern Ireland peace process.

A breaking point period of the perception of the Sinn Féin and for the enhancement of their its relevance at the political scene is without doubts the already mentioned negotiations of the Belfast Agreement; the party has been invited to the procedure and Sinn Féin in fact was the co-author of the agreement. One of the main aims of Sinn Féin was the abolition of the unionist veto power which could have been applied in the sphere of the Northern Ireland right to self-determination.¹¹² As already mentioned, in the part analysing the Belfast Agreement, the final text of the agreement is in the case of self-determination quite inexplicit. The presence of Sinn Féin was crucial for the negotiations, because only Sinn Féin was able to stop the violent actions of IRA and arrange ceasefire. On the other hand the invitation of Sinn Féin to take part in the negotiation process was the clause to influence IRA's ceasefire. Indeed IRA announced ceasefire in 1994 and this had a direct effect on expiring of activities by other

¹⁰⁹ MAILLOT, A. (2005). *New Sinn Féin: Irish Republicanism in the Twenty-first Century*. London, New York: Routledge, 2005, p. 7.

¹¹⁰ ŠLOSARČÍK, I. *Politický systém Irska*. Praha: SLON, 2007, p. 154.

¹¹¹ O'BRIEN, B. *Dlouhý boj. IRA & Sinn Féin: Od ozbrojeného boje k mírovým rozhovorům*. Zvláštní vydání, 2003, p. 9.

¹¹² Ibid. p. 13.

paramilitary organization in the region.¹¹³ As we already know Sinn Féin also participated in the negotiations of St. Andrews Agreement and Hillsborough Castle Agreement.

Refer to Brexit Sinn Féin supported the stay of Great Britain in the EU openly because of the fears of the consequences of the further division of the island of Ireland, of the negative impacts on economy and mutual relations between the north and the south. The strategy of Sinn Féin's campaign was to enforce the democratic vote of Northern Ireland. Simultaneously Sinn Féin expressed their standpoint that if the citizens of Northern Ireland vote for remaining in the EU their opinion should be respected. The sudden support for the remaining of Great Britain in the EU was quite interesting, especially because Sinn Féin has been all the time rather reserved or even critical to the process of European integration.¹¹⁴ Great Britain's radical move led Sinn Féin to a position of one of the main Northern Irish defenders of remaining Great Britain in the EU.

Sinn Féin subsequently began to express the wish of gaining a *Special Status for Northern Ireland within the EU* ("Special Status"). It was aimed to secure a unique position for Northern Ireland in the case Great Britain really leaves the EU. This unique position should secure the result of the hard negotiated peace process, to ensure the approach of Northern Ireland to the common market of the EU, to secure to maintain Northern Ireland inside the Common Travel Area, maintain all EU funding streams and to protect the access to social security, health care and jobs. In its manifest *The Case for the North to Achieve Designed Special Status within the EU* Sinn Féin emphasizes the fact that the withdrawal of Great Britain from the EU takes place against the will of Northern Ireland citizens and hence there must be a very precise protection of their rights and advantages, which rooted in their EU citizenship.¹¹⁵ The manifest accents also the sphere of citizenship anchored in the Belfast Agreement which has been already dealt with in the chapter of this thesis analysing questions connected with the citizenship in the Belfast Agreement. According to Sinn Féin Brexit endangers dramatically the guarantees already reached in the sphere of citizenship. Sinn Féin

¹¹³ MELICHAR, H. The Long Good Friday: Consociationalism and the Northern Ireland Peace Process 1973 – 1998. *Mezinárodní vztahy*, 2005, 4:28-49, p. 34.

¹¹⁴ BARDON, S. Sinn Féin to campaign against Brexit in EU referendum. *irishtimes.com* [online]. 24 December 2015 [viewed 30 March 2021]. Available from: <https://www.irishtimes.com/news/politics/sinn-f%C3%A9in-to-campaign-against-brexit-in-eu-referendum-1.2476720>

¹¹⁵ The Case for the North to Achieve Designed Special Status Within the EU. *sinnfein.ie* [online]. [viewed 30 March 2021]. Available from: https://www.sinnfein.ie/files/2016/The_Case_For_The_North_To_Achieve_Special_Designated_Status_Within_The_EU.pdf

appeals at the same time for keeping or even enforcing the integrity of the Irish Ireland – “*Sinn Féin believes that the only credible approach is for the north to be designated a special status within the EU and for the whole island of Ireland to remain within the EU together*”.¹¹⁶

In the course of Brexit there was no achievement of an agreement corresponding with the Special Status in the form Sinn Féin demanded. Sinn Féin was not even in a position to provide and ensure the Special Status. The negotiation between Great Britain and EU was primarily oriented on the Irish backstop which though is not by the content conform to the Special Status (although both institutes intersect in some points). The final Protocol on Northern Ireland is analysed in a previous part of the thesis here it is to be mentioned that the majority of Sinn Féin demands was in the Protocol on Northern Ireland in general terms included. Northern Ireland has in effect remained a part of the EU single market for goods with the intent to enable to continue the free business between both parts of the island of Ireland.¹¹⁷ The Common Travel Area is maintained¹¹⁸ and the parties in the Protocol on Northern Ireland, although very vague, undertake to protect the provisions reached by the Belfast Agreement.¹¹⁹ One topic remains not clearly negotiated – the provisions on the EU funding demanded for the future by the Sinn Féin in the calls of the Special Status. The EU pronounced its obligation to go on with the financing of programmes negotiated for the period 2014–2020. The plan for financing of projects of the following period is, beside the above mentioned programme PEACE and programme Interreg, stated meanwhile not clearly. But it can be presumed that Northern Ireland will not be able to reach the level of contributions of EU funds similar to the pre-Brexit era.¹²⁰ In the same way it is not possible to assume, that this losses will be full substituted by Great Britain.

Sinn Féin stills demand under the aegis of the president Mary Lou McDonald (who is the patron of both, the Northern Irish and Irish fraction of the party) a referendum on the Irish unity in both parts of the island of Ireland and calls for its set up as soon as possible.¹²¹ This

¹¹⁶ Ibid.

¹¹⁷ EU exit and the Northern Ireland Protocol. *www.nidirect.gov.uk* [online]. [viewed 30 March 2021]. Available from: <https://www.nidirect.gov.uk/articles/eu-exit-and-northern-ireland-protocol>

¹¹⁸ Common Travel Area: rights of UK and Irish citizens. *gov.uk* [online]. 31 December 2020 [viewed 30 March 2021]. Available from: <https://www.gov.uk/government/publications/common-travel-area-guidance>

¹¹⁹ Protocol on Ireland/Northern Ireland, Article 1, par. 1.

¹²⁰ Northern Ireland after Brexit. *europarl.europa.eu* [online]. [viewed 30 March 2021]. Available from: [https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/649416/EPRS_BRI\(2020\)649416_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/649416/EPRS_BRI(2020)649416_EN.pdf)

¹²¹ Time for Irish Unity. *sinnfein.ie* [online]. [viewed 30 March 2021]. Available from: <https://www.sinnfein.ie/irish-unity>

demand we can find nowadays only on a level of political declaration. It is, though, an undoubted fact that Brexit distinctively enhanced the debates about an Irish unity referendum and the governments on both sides of the island of Ireland must be thus prepared to make further steps in this direction in the case of the citizen's free will.¹²²

6. 3 Democratic Unionist Party

The dominant political party on the loyalist wing of the Northern Ireland political spectrum is, without doubts, the Democratic Unionist Party. DUP is a creation of a split off. The most radical members of the conservative loyalist Ulster Unionist Party¹²³ decided to leave and today, together with Sinn Féin, the dominate the Northern Ireland political scene. Even the long-lasting conflicts of DUP with the second strongest political party in Northern Ireland – Sinn Féin – cause the revolving government crisis and increase the tensions in this fragile region. The collapse of co-operation between two leading parties is fundamental and leads to the destabilization of the whole region, stated also by IRC. This has been also repeatedly mentioned in this thesis as well as the fact that DUP did not take part the Belfast Agreement negotiations.

In compliance with own Eurosceptic attitude DUP officially supported Great Britain's withdrawal from the EU. The non-transparency scandal in the scope of campaign financing for "vote leave", the party was linked with, response to its Eurosceptic position.¹²⁴ Practically from the beginning DUP performed a delimiting reaction against the proposals of the Protocol on Northern Ireland which arrangements, according DUP, affect the undisturbed trade between Northern Ireland and Great Britain.¹²⁵ This position is not surprising – for DUP (and loyalist in general) the unity of the island of Ireland was not a priority (which the fixed border could disturb) but the maintenance of strong ties with Great Britain. The loyalists, of course, identify

¹²² Compare to: O'LEARY, B. A referendum on Irish unity is coming, whether we like it or not. *irishtimes.com* [online]. 11 January 2021 [viewed 30 March 2021]. Available from: <https://www.irishtimes.com/opinion/a-referendum-on-irish-unity-is-coming-whether-we-like-it-or-not-1.4454681>

¹²³ ŠLOSARČÍK, I. *Politický systém Irska*. Praha: SLON, 2007, p. 240.

¹²⁴ Compare to: MORIARTY, G. DUP's Brexit ads: Who bankrolled the secretive £435,000 campaign? *irishtimes.com* [online]. 3 August 2020 [viewed 30 March 2021]. Available from: <https://www.irishtimes.com/news/ireland/irish-news/dup-s-brexite-ads-who-bankrolled-the-secretive-435-000-campaign-1.4320055>

¹²⁵ CLARKE, V. and M. HILLIARD. Any attempt by UK to override withdrawal agreement 'an act of bad faith,' SF TD says. *irishtimes.com* [online]. 7 September 2020 [viewed 30 March 2021]. Available from: <https://www.irishtimes.com/news/politics/any-attempt-by-uk-to-override-withdrawal-agreement-an-act-of-bad-faith-sf-td-says-1.4348568>

themselves with Great Britain as citizens. The shift of the border from the mainland into the sea between Northern Ireland and Great Britain was in principle against the attitude of loyalist because of the possible obstacles in the fluency of trade between both regions and also as a symbol of separation.

In February 2021 a new campaign under the title *Free NI from the Protocol – Restore our place in the UK Internal Market* has been started by DUP. Its aim was to abolish the Protocol on Northern Ireland from the Withdrawal Agreement with the argument that the Protocol impairs the trade relation between Northern Ireland and Great Britain and more, the position on the UK Internal Market with the destabilization of the region's political situation.¹²⁶ This campaign of DUP leads indeed to increase of tensions on the labile political scene in Northern Ireland. From these activities of DUP can be derived, that the withdrawal of Great Britain from the EU and the mediation of the Withdrawal Agreement are not felt as terminated. The contentment neither on the side of the nationalists, nor the loyalist, both were seeking for, did not arrive. The Protocol on Northern Ireland appears again as a quite vague and not very successful compromise with a rather limited chance to overcome the first voting about its prolongation (see *Democratic Consent*).

6. 4 Irish Republican Army

This part of the thesis is dedicated to the principle non-state actor – the IRA. The origin of IRA is associated with the second decade of the 20th century and especially the so-called Easter Rising in 1916. Its activity is associated with the partisan war and terrorist activities with the objective of getting rid of the British supremacy in Ireland/Northern Ireland. In distinction from other paramilitary subjects active in the region IRA was very well organized and according its title itself its members regarded themselves as a part of regular army and labelled their actions as military. In the 70s a split of IRA into two organization occurred – the Official/Real IRA and PIRA. The PIRA collaborated with the so-called Provisional Sinn Féin in the course of so-called militant republicanism and the PIRA officially stopped its activity as far as 1997.¹²⁷ The transformation, the split and the birth of successor organizations are typical

¹²⁶ O'CARROL, L. DUP launch campaign to scrap Northern Ireland Brexit protocol. *theguardian.com* [online]. 2 February 2021 [viewed 30 March 2021]. Available from: <https://www.theguardian.com/politics/2021/feb/02/dup-launch-campaign-to-scrap-northern-ireland-brexit-protocol>

¹²⁷ O'BRIEN, B. *Dlouhý boj. IRA & Sinn Féin: Od ozbrojeného boje k mírovým rozhovorům*. Zvláštní vydání, 2003, p. 9.

for IRA and this thesis will deal with them in the following part of the text. Similarly as in the part of the text dealing with Sinn Féin this section has no ambition of a deep digest of its historical development and is aimed primarily on the activities of the end of the 20th century and during the new one.

Despite the fact that IRA declared violent and armed activities as a last possible alternative, its own activities respected the strategy published in the so-called Green Book oriented on the means of extortion of the exit of Great Britain from Northern Ireland.¹²⁸ The goals and strategies can be described as follows:

1. *“War of attrition against the enemy bringing a number of disasters and victims which would enforce the British citizens to ask for the withdrawal of the British powers.*
2. *Bomb war with the aim to make the financial interests of the enemy in the country non-lucrative and at the same time keep at a stay the long term investments.*
3. *To achieve a situation that only on six Ulster counties on Northern Ireland territory should be affected by the colonial order at present and also for several previous years.*
4. *To maintain a warfare and to acquire for its objectives support of national and international propaganda and publicism.*
5. *Defending the liberation war by punishing criminals, collaborators and informants”.*¹²⁹

After the attempt of the permanent ceasefire declaration from 1994, which eventually failed, in July 1997 the PIRA announced the final ceasefire despite the fact that in no means it did not reached the goals pronounced as the ending of British supremacy on Northern Irish ground. This decision can be explained by the change of the strategy; the organization decided to support its political aim by negotiating. All by the support by the ideologically allied and personally connected Sinn Féin, which was labelled many times as a political branch of the PIRA. But due the fact that IRA was in those times strongly divided, the subsequent attacks (supported by different others offshoots of the organization) followed quite immediately.¹³⁰ It was clear, that the strong split of the IRA (primarily into Provisional, Official/Real and Continuity Part) hinders very strongly the possibility to keep the promised ceasefire – this was possible only by the final and definitive disarmament of the IRA.

¹²⁸ Ibid. pp. 20-21.

¹²⁹ Ibid. pp. 20-21. Translation by Milada Váchová.

¹³⁰ Ibid. p. 329.

The problem with the IRA's disarmament undersigned the collapse of the government in 2001 (depicted in detail in the part of the thesis Northern Ireland Conflict after Belfast Agreement until the Brexit referendum) as well as the fact that the armed actions connected with the IRA took place not only after 1998, but also after the disarmament of IRA in 2005 (the bank robbery of Northern Bank, murder of Robert McCartney or the murder of Denis Donaldson – all these incidents were connected with IRA).¹³¹ The continuation of armed activities, though lesser, is to be perceived in the context of one important fact: the members loyal to other fractions of IRA, not to the PIRA, did not have to be identical with the ceasefire and truce negotiated by Sinn Féin together with PIRA. If the main ambition of IRA was the abolition of the British supremacy, it is hard to perceive the Belfast Agreement system as successful.

The frustration of the Official/Real IRA sympathizers led in 2021 to the formation of a new mutation of the former IRA organization, the so-called New IRA. The basis was formed not only by the favourers of the "Official" fraction of the republican resistance movement but also by the newly radicalized youth. The New IRA performed attempts on life and bomb attacks on civilians and civil facilities as well as on members and facilities of British armed forces or governmental units. In 2019 in Londonderry the journalist Lyra McKee has been assassinated by the New IRA members.¹³² After the murder it has been published, that a menace appeared in a form of graffiti, witness of the murder, a reporter Leona O'Neill has been threatened.¹³³

The Brexit re-opened the discussion about the independence of Northern Ireland and therefore new fears of sectarian violence and paramilitary attacks (all possible branches of IRA included) arised. From the sheet included in the briefing note *Northern Ireland After Brexit* of the European Parliament 2020 is to be derived that the level of armed attacks in the region is nowadays the same or even lower that in the 90s or at the break of the millennium.¹³⁴ But the situation is still very fragile. It has been reported that on the Brexit day there was an attempt

¹³¹ ŠLOSARČÍK, I. *Politický systém Irska*. Praha: SLON, 2007, p. 247.

¹³² MORIARTY, G. Who are the New IRA and what have they done? *irishtimes.com* [online]. 23 April 2019 [viewed 30 March 2021]. Available from: <https://www.irishtimes.com/news/ireland/irish-news/who-are-the-new-ira-and-what-have-they-done-1.3869569>

¹³³ MCDONALD, H. Graffiti threats to Derry reporter who witnessed death of Lyra McKee. *theguardian.com* [online]. 5 February 2020 [viewed 30 March 2021]. Available from: <https://www.theguardian.com/uk-news/2020/feb/05/leona-oneill-new-graffiti-threat-derry-reporter-witnessed-death-of-lyra-mckee>

¹³⁴ Northern Ireland after Brexit. *europarl.europa.eu* [online]. [viewed 30 March 2021]. Available from: [https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/649416/EPRS_BRI\(2020\)649416_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/649416/EPRS_BRI(2020)649416_EN.pdf)

to smuggle an explosive device to a lorry bound for Scotland. From the context we can assume that this attack, plotted by the Continuity IRA, was not successful. It is further reported by the Continuity IRA's statement, that the bomb should have served for an attack somewhere in England.¹³⁵ This is the evidence of unstableness of the security situation of the region which can be even made more unsteady by the changes caused by the Brexit. Even if Brexit is a mere pretence of the activities of radicals this point can cause an inflammable evolution with gravity impacts on the region.

6. 5 Other paramilitary activities and groupings

A great deal of paramilitary activities and attacks in the Northern Ireland region is attributed to different paramilitary groupings or individuals acting besides any structure and without readable scheme. These activities are often not quite coordinated and it is not easy to rank them. Also the range of activities is quite broad – from intimidating graffiti¹³⁶, vandalism and criminality to real armed violence. The situation of paramilitary activities in the region is watched by the already referred IRC with the subsequent publication of evidence by reports. According to the investigation of the IRC in their first report even after twenty years after the Belfast Agreement several paramilitary subjects are still active in the region, both on republican and loyalist side, but the frequency of attacks in the last decade decreased. In this first report the IRC warns against the activities of so-called dissident republicans still threatening the region. The so-called dissident republicans disagree with the Belfast Agreement and with the outcome of the whole peace process. The IRC stresses at the same time that in some communities the paramilitary subjects are not perceived as a threat but they are felt as a protection of the community against outer exposure and a safeguard of law and order.¹³⁷

In the IRC second report from 2019 makes reference to the possible growth of paramilitary activities after Brexit. The report makes an association of these activities with the long lasting crisis of power-sharing and a permanent complicated political situation in the

¹³⁵ MCDONALD, H. Continuity IRA admits Brexit day lorry bomb plot. *theguardian.com* [online]. 7 February 2020 [viewed 30 March 2021]. Available from: <https://www.theguardian.com/uk-news/2020/feb/07/continuity-ira-admits-brexit-day-lorry-bomb-plot>

¹³⁶ For instance those which could be seen during the vaccine-export crisis mentioned in the chapter Post-Brexit Relationship Settlement between Northern Ireland, Great Britain and the EU.

¹³⁷ Independent Reporting Commission. First Report. *Independent Reporting Commission*, 2018, p. 13.

region. IRC emphasizes that paramilitary activities are boosted by the uncertainty with roots in situations like government crisis or the fear from the consequence of the Brexit. One of the main anxieties was the already many times noticed re-establishment of the fixed border which, according to IRC, could trigger violent activities but also could serve as a kind of excuse of the persisting existence of paramilitary groupings. In 2019 the hard Brexit could have been the main threat with the possible consequence the increased criminality in newly created categories of goods oriented on trade with commodities which actually became illegal.¹³⁸

In its third report from November 2020 the IRC further claims that paramilitarism lingers on as a threat for a region and Brexit is still one of the factors capable to increase the risk of paramilitary activities. The report also speaks of the increase of political temperature and an exacerbated rhetoric.¹³⁹ According to an information published by BBC coming from the security assessment leaks in 2020 there were 12 500 active members of paramilitary loyalist organizations active mainly from the Ulster Volunteer Force (“UVF”) and Ulster Defence Association (“UDA”). Both groupings form an ideological opposition against republican paramilitary groupings, especially several IRA branches and so the risk of violent clashes between these groupings increases. The decision point of UVF and UDA activities lies, indeed, primarily in the sphere of organised crime. Contrary to loyalist paramilitary groupings has IRA and its branches a very strong political agenda and violence is used for carrying of political interests. According to BBC seven different paramilitary branches of dissident republicans declare their support for IRA. In the whole Northern Ireland region in 2020 more than a dozen paramilitary groups performed their activities.¹⁴⁰

It seems that the claims of IRC have been proved by the events of spring of 2021. It is reported that in Belfast and some other cities an outburst of violence appeared and both sides – loyalists and nationalists – were involved. The riots had a form of street vandalism, destroying cars, shop windows and even there were attacks on police forces. Between the suspected entities of the street fights the loyalist UVF was directly mentioned.¹⁴¹ The return of violent actions can be interpreted as a result of general frustration, which has roots in the

¹³⁸ Independent Reporting Commission. Second Report. *Independent Reporting Commission*, 2019, p. 16.

¹³⁹ Independent Reporting Commission. Third Report. *Independent Reporting Commission*, 2020, p. 15.

¹⁴⁰ DEMPSTER, S. Loyalist paramilitary groups in NI 'have 12,500 members'. *bbc.com* [online]. 2 December 2020 [viewed 30 March 2021]. Available from: <https://www.bbc.com/news/uk-northern-ireland-55151249>

¹⁴¹ MCGARVEY, E. and L. SPOULE. Reaction to another night of violence in NI. *bbc.com* [online]. 8 April 2021 [viewed 13 April 2021]. Available from: <https://www.bbc.com/news/live/uk-northern-ireland-56661771>

political misbalance and the absence of a vision for common future. A clear disappointment of the Brexit negotiation outcome is also a strong factor for both opponents, because none of them can be satisfied in its long-lasting historic efforts. It is obvious that the attempts to avoid a fixed border, one of the main topics of the Brexit negotiation, caused potential damages quite not visible during the negotiation process itself. This permanent Irish trauma originating in the deep history does not disappear even if the border is invisible and shifted into the sea.

Conclusion

The Northern Ireland conflict is today irritated again. But there is a fundamental question: was the conflict really appeased and terminated at any time? The phase of peace which the Belfast Agreement should have introduced, was namely repeatedly disturbed by violent activities of both sides of the conflict – the nationalist and unionist. The peace agreement of Belfast can be even regarded as the first weak point of the whole peace project. With the Belfast Agreement not all of the relevant subjects were conform (not only the political party DUP but also some branches of the terrorist organization IRA) – its effectivity thus could not be absolute in principle. The lack of support for the peace treaty was demonstrated not only by terrorist attacks and violent riots, it is visible also in the actual rhetoric of the strongest Northern Ireland party DUP.

The second weak point is the disarmament of IRA. The disarmament was not factual but mostly political because of the main participation of PIRA collaborating with Sinn Féin. The non-collaborating branches of IRA continued with the terrorist actions and the discontent with the “mother organization’s” practice led to the constitution of a new offshoot, the so-called New IRA.

As we tried to show in our thesis, Brexit is indeed one of the factors destabilizing the situation in the Northern Ireland region. The Withdrawal Agreement impairs primarily those provisions of the Belfast Agreement which concern the area of equal citizenship. The disproportion between the “value” of Irish and British citizenship is without doubts a point which brings undue confusion and in the same time it contains a key discriminatory potential. In the cause of the fixed border, which remained problematical during the whole Brexit negotiation process, the result seems to be bewildered. Due the Protocol on Northern Ireland it has been otherwise possible to avoid the formation of a border on the mainland of the island of Ireland, the moving into the sea between Northern Ireland and Great Britain effected indeed fundamental displeasure on the unionist side. On one hand the hard division of the island of Ireland was hampered together with possible riots of nationalist, on the other hand the “invisible” border under the water surface leads to protests of the unionist part. There is obviously no acceptable form of a border which could fulfil the expectations of both antagonistic sides. It can be assumed that the border apart of its concept will be a source of tension also in the future.

It is almost impossible to detach the impact of Brexit from the complex instability of the region. There are long-lasting problems with power-sharing and with the quest of consensus on both ends of the political spectrum in Northern Ireland. Even the missing political goodwill between DUP and Sinn Féin is an outstanding factor of the region's stability. The rhetoric of both parties then is a signal, that the consensus seeking is not the priority and the tranquilisation is today out of reach. On the contrary the development of the last days' situation shows clearly that the overall frustration of the citizens with roots in uncertainty and fear will most probably continue to increase.

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