



## Withdrawal Agreement: Commission sends letter of formal notice to the United Kingdom for breach of its obligations under the Protocol on Ireland and Northern Ireland

Brussels, 15 March 2021

The European Commission has sent today a letter of formal notice to the United Kingdom for breaching the substantive provisions of the Protocol on Ireland and Northern Ireland, as well as the good faith obligation under the Withdrawal Agreement. This marks the beginning of a formal infringement process against the United Kingdom. It is the second time in the space of six months that the UK government is set to breach international law.

Vice-President Maroš **Šefčovič**, the EU's co-chair of the Joint Committee, said: *"The Protocol on Ireland and Northern Ireland is the only way to protect the Good Friday (Belfast) Agreement and to preserve peace and stability, while avoiding a hard border on the island of Ireland and maintaining the integrity of the EU single market. The EU and the UK agreed the Protocol together. We are also bound to implement it together. Unilateral decisions and international law violations by the UK defeat its very purpose and undermine trust between us. The UK must properly implement it if we are to achieve our objectives. That is why we are launching legal action today. I do hope that through the collaborative, pragmatic and constructive spirit that has prevailed in our work so far on implementing the Withdrawal Agreement, we can solve these issues in the Joint Committee without recourse to further legal means."*

The Commission is responding to this situation in the following two ways:

- First, the Commission has sent the UK **a Letter Formal Notice** for breaches of substantive provisions of EU law concerning the movement of goods and pet travel made applicable by virtue of the Protocol on Ireland and Northern Ireland. This marks the beginning of a formal infringement process, as set out in Article 12(4) of the Protocol, in conjunction with Article 258 of the Treaty on the Functioning of the European Union. Under Article 12(4) of the Protocol on Ireland and Northern Ireland, the EU institutions and particularly, the European Commission and the Court of Justice of the European Union have supervisory and enforcement powers as per the EU Treaties in relation to specific provisions of the Protocol, including Article 5. The letter requests the UK to carry out swift remedial actions to restore compliance with the terms of the Protocol. The UK has one month to reply to the letter.
- Secondly, Vice-President Maroš **Šefčovič** has sent **a political letter** to David Frost, the UK's co-chair of the Joint Committee, calling on the UK government to rectify and refrain from putting into practice the statements and guidance published on 3 March and 4 March 2021. These unilateral measures are a violation of the duty of good faith under Article 5 of the Withdrawal Agreement. The letter also calls on the UK to enter into bilateral consultations in the Joint Committee in good faith, with the aim of reaching a mutually agreed solution by the end of this month.

The Protocol on Ireland and Northern Ireland, as an integral part of the Withdrawal Agreement, was ratified by both the EU and the UK, has been in force since 1 February 2020 and has legal effects under international law. The aim of the Protocol is to maintain peace and stability, protect the Good Friday (Belfast) Agreement, avoid a hard border on the island of Ireland and preserve the integrity of the EU single market. In order for these objectives to be achieved, the Protocol must be implemented in full. The UK government's failure to do so jeopardises the attainment of these objectives.

### Next steps

The UK has been given one month to submit its observations to the letter of formal notice. After examining these observations, or if no observations have been submitted, the Commission may, if appropriate, decide to issue a Reasoned Opinion. Under Article 12(4) of the Protocol, the Court of Justice of the European Union has full powers provided for under the Treaties, including the possibility to impose a lump sum or penalty payment.

Secondly, if the UK fails to enter into consultations in the Joint Committee in good faith, with the aim of reaching a mutually agreed solution by the end of this month, the EU may provide written notice to commence consultations under Article 169 of the Withdrawal Agreement, as a first step in the Dispute Settlement Mechanism process set out in Title III of Part Six of the Withdrawal Agreement. If no solution is found, the EU could refer the dispute to binding arbitration. This may ultimately also result in the imposition of financial sanctions by the arbitration panel. In case of non-payment or persisting non-compliance, the EU could suspend its obligations under the Withdrawal Agreement (with the exception of the citizens' rights part of the agreement) or from the Trade and Cooperation Agreement, in accordance with Article INST.24(4), e.g. by imposing tariffs on imports of goods from the UK.

## Background

On 3 March 2021, the UK Government stated its intention to unilaterally delay the full application of the Protocol on Ireland and Northern Ireland concerning the movement of goods and pet travel from Great Britain to Northern Ireland. This followed the Joint Committee meeting on 24 February 2021, where the UK committed publicly to the proper implementation of the Protocol, as well as [the implementation of all decisions taken in the Joint Committee in December 2020](#).

The UK resorted to this unilateral action without any discussion or consultation with the EU side in the bodies established by the Withdrawal Agreement. It constitutes a clear departure from the constructive approach that had prevailed up until this point, thereby undermining both the work of the Joint Committee and the mutual trust and spirit of cooperation that had been rebuilt in the final months of 2020, after the uncertainty created by the UK Internal Market Bill.

The EU has continuously engaged in good faith within the Joint Committee to find pragmatic solutions to help minimise disruption caused by Brexit and to help facilitate the everyday life of communities in Northern Ireland. The EU has consistently sought to bring all those concerned onto a clear trajectory to full compliance with the Protocol.

This recent decision once again sets the UK on a path of a deliberate breach of its international legal obligations and the duty of good faith that should prevail in the application of international agreements pursuant to Article 26 of the Vienna Convention on the Law of Treaties.

## For More Information

[Letter from Vice-President Maroš Šefčovič to David Frost \[15 March 2021\]](#)

[Statement by Vice-President Maroš Šefčovič following the announcement by the UK government regarding the Protocol on Ireland / Northern Ireland \[3 March 2021\]](#)

[Joint statement by European Commission Vice-President Maroš Šefčovič and the UK Chancellor of the Duchy of Lancaster Michael Gove \[24 February 2021\]](#)

[Commission's Brexit website](#)

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