

# DÁIL ÉIREANN

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## AN COMHCHOISTE UM GHNÓTHAÍ AN AONTAIS EORPAIGH

### JOINT COMMITTEE ON EUROPEAN UNION AFFAIRS

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*Dé Céadaoin, 13 Deireadh Fómhair 2021*

*Wednesday, 13 October 2021*

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Tháinig an Comhchoiste le chéile ag 9.30 a.m.

The Joint Committee met at 9.30 a.m.

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Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
John Brady,	Lisa Chambers,
Dara Calleary,	Vincent P. Martin.
Francis Noel Duffy,	
Marian Harkin,	
Brendan Howlin,	
Ruairí Ó Murchú,	
Neale Richmond.	

Teachta / Deputy Joe McHugh sa Chathaoir / in the Chair.

## **Business of Joint Committee**

**Chairman:** Apologies have been received from Deputy Haughey and Senator Keogan. We will now go into private session.

*The joint committee went into private session at 9.32 a.m., suspended at 9.50 a.m. and resumed in public session at 9.52 a.m.*

## **State of the Union 2021: Discussion**

**Chairman:** Ar son a choiste ba mhaith liom fáilte a ghabháil roimh an Uasal Barbara Nolan agus Uasal Jonathan Claridge of the European Commission Representation in Ireland.

Before beginning there are some housekeeping matters and the privilege notice. All witnesses are reminded of the long-standing parliamentary practice that they should not criticise or make charges against any person or entity, by name or in such a way as to make him, her or it identifiable, or otherwise engage in speech that might be regarded as damaging to the good name of the person or entity. Therefore, if their statements are potentially defamatory with regard to an identifiable person or entity, they will be directed to discontinue their remarks. It is imperative that they comply with any such direction. For witnesses attending remotely outside the Leinster House campus, there are some limitations to parliamentary privilege and, as such, they may not benefit from the same level of immunity from legal proceedings as a witness who is physically present does. Witnesses participating in this meeting from a jurisdiction outside the State are advised that they should also be mindful of their domestic law and how it may apply to the evidence they give.

Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official either by name or in such a way as to make him or her identifiable.

For people watching this meeting, Members of the Oireachtas and witnesses now have the option of being physically present in the committee room or of joining the meeting remotely via Microsoft Teams. I remind members of the constitutional requirement that members must be physically present within the confines of the Leinster House complex in order to participate in public meetings. I will not permit members to participate where they are not adhering to the constitutional requirement. Therefore, any member who attempts to participate from outside the precincts will be asked to leave the meeting. In this regard, I ask any members participating via Microsoft Teams that, prior to making a contribution to the meeting, they confirm that they are on the grounds of the Leinster House campus. If members are attending in the committee room, they are asked to exercise personal responsibility to protect themselves and others from the risk of contracting Covid-19. They are strongly advised to practise good hand hygiene and leave at least one seat vacant between themselves and others attending the meeting. Attendees should also maintain an appropriate level of social distancing during and after the meeting. Masks should be worn at all times during the meeting, except when speaking.

I am sorry about that. Our time is nearly up at this stage, although we might have a few minutes left. I look forward to this presentation on the state of the Union in 2021. I invite Ms Nolan to open the proceedings.

**Ms Barbara Nolan:** I am delighted to be invited by the committee to present the European Union State of the Union address 2021, which was delivered in Strasbourg a month ago by the President of the European Commission, Ursula von der Leyen. This speech is an annual exercise by the European Commission to lay out its stall for the next year. It tends to be quite forward-looking and basically sets the agenda for legislation and other activities, setting the priorities for the Commission for the next year. It was the president's second State of the Union speech and was entitled, "Strengthening the Soul of our Union".

She looked back a little on the Covid-19 experience. It is difficult not to look at that because it has been such a cathartic experience for Europe and the world. She also looked ahead and set priorities and new initiatives for the year ahead. On the pandemic, she acknowledged the speed and magnitude of events which, initially, had been very difficult to grasp. Europe's initial response with the vaccine roll-out was slower than expected due to production bottlenecks. All members have seen the various toings and froings in that regard. Nonetheless, Europe very much caught up and, indeed, was one of the best performers in the world in the roll-out of the vaccine. Every part of Europe got the same access to lifesaving vaccines. Big and small member states were treated the same. If we remember the scramble for vaccines, this was not necessarily guaranteed at the outset. If there had been a free-for-all and everybody had tried to do their own thing, it was not necessarily guaranteed. Europe coming together ensured that, regardless of the size of the member state, equal access to the vaccines, equal distribution and so forth were very beneficial to all. There is no room for complacency. The pain of Covid is very much still felt, but we have reasons for confidence in the future. Europe achieved its objective by the summer of vaccinating over 70% of adults, with Ireland, of course, in the vanguard, which is very impressive.

The EU digital certificate, which was developed and implemented in a period of three and half months, has also helped to get lives back to normal and get free movement flowing again, which is one of the fundamental benefits of EU membership. The president underlined the need to strengthen our pandemic preparedness and announced plans for a new health authority, called HERA, who I think was a Greek goddess. Members of the committee who know the Classics might be able to tell me more. It is planned to get this new health authority up and running. This new authority will address serious cross-border health threats, monitor medical countermeasures and reinforce global health emergency preparedness in case a similar situation ever arises again.

Looking beyond its borders, Europe has shared half of its vaccine production, more than 700 million doses, with the rest of the world from the outset. Other countries kept their production for themselves, but from the outset Europe shared the production of the vaccines in the European Union. It has also been a key supporter of COVAX, which is the global facility to procure vaccines for low and middle income countries. There is still a lot to do, and global vaccination remains a big priority. The president announced a new vaccine donation of 200 million doses by the middle of 2022 on top of the donation of 250 million doses being given this year. She underscored the need to boost vaccine production capacity in Africa. There are measures to set up facilities in Africa so it can produce its own vaccines.

On the economic and social protection front, there has been a lot of hardship over the past year. Nevertheless, when the pandemic struck, the EU's response was quick and effective. It is fair to say lessons have been learned from the way in which the economy was handled during the financial crisis, and I know that will be welcomed in Ireland. The EU supported more than 31 million workers and 2.5 million companies across Europe through its SURE programme,

which stands for temporary support to mitigate unemployment risks in an emergency. Ireland is drawing down €2.5 billion in loans under the SURE facility. A robust rebound of the EU economy is under way, and Ireland's recent excellent growth forecasts are clearly good news in that regard. The continued easing of virus containment measures has helped propel a higher-than-expected GDP growth. A significant element of Europe's response has been its Next-GenerationEU programme and the positive impulse provided by the recovery and resilience facility. In an unprecedented step, the EU is borrowing from the financial markets to help lay the basis for short-term recovery and longer term growth. Ireland's own recovery and resilience programme, which was at the heart of the visit by President von der Leyen to Ireland in July and her meeting with the Taoiseach, has a significant role to play in that regard. There is roughly €1 billion for Ireland in that facility. Another focus of the address was digital Europe, with the president describing it as "the make-or-break issue". There are now plans to develop a European chips Act which would aim to link together Europe's world-class research, design and testing capacities and to tie that in with the production of semiconductors, which, as all members will be aware, are in great shortage at the moment and are holding up a lot of production. Looking back, we could compare this forward-looking attempt on the chips Act with the time when the Galileo satellite system was being developed a couple of decades ago. There was a lot of scepticism and even derision as to why the EU was putting money into that, but, looking back at it today, it now provides the navigation system for more than 2 billion smartphones. We want to try to get ahead of the curve with the semiconductors operation. Supporting young people, particularly those who have fallen through the gaps and are not in employment, education or training, was another big theme. Europe needs to do more. The Commission will shortly propose to make 2022 the European year of youth and will put in place a new programme called Aim, Learn, Master, Achieve, ALMA, to help young Europeans find work experience abroad. We are therefore not just focusing on Erasmus or higher education students; we also want to help young people in difficulty to have experience of working abroad.

There have been many activities in respect of the green deal over the course of the past year. The EU has high ambitions on climate change and environmental protection, including the target of at least 55% emissions reduction by 2030. The Fit for 55 package which, unfortunately, sounds like some kind of exercise programme but is not meant to sound like that, published in July contains a very broad and ambitious set of interconnected measures to achieve this. We want to get that package adopted and implemented. That is a key objective of the coming months and year. The president underlined that the green transition must be socially just and fair, and the proposed new social climate fund is intended to tackle energy poverty and provide support to vulnerable households. For the moment the amount earmarked for that is €73 billion. With climate change and environmental protection being issues that require a global response, the president announced a doubling of external funding for biodiversity, in particular for vulnerable economies. She also set out plans to propose an additional €4 billion for climate finance until 2027 and called for the US and other partners to work closely with Europe on this issue.

Turning to the global dimension, the president was clear on the EU's commitment to the Afghan people and the need to do everything to avert the risk of famine and humanitarian disaster. Yesterday the committee may have seen that the Commission announced a €1 billion support package for Afghanistan in order to avert such a humanitarian crisis. We are already hearing stories of malnutrition and even starvation come out of Afghanistan, where there appears to be a total breakdown in the functioning of the state. Defence was another theme of the address and one that drew some attention here in Ireland. The president reflected on the painful events in Afghanistan and the need to reflect on how the Afghan mission could have ended so abruptly. Co-operation with NATO is vital, and the EU is investing great efforts in this direction

and working on a new EU-NATO Joint Declaration. The president said Europe can and clearly should be able to do more. For example, we need to provide stability in our neighbourhood. We need to be able to tackle the evolving nature of threats - for example, cyberattacks. To quote the president, "You no longer need armies and missiles to cause mass damage.". All you need is a laptop to paralyse administrations. We have seen this happen to some extent in Ireland with the cyberattack on hospitals earlier this year.

Cybersecurity is a big part of defence. The president set out the ambition not just to be satisfied to address the cyber threat, but also for Europe to become a leader in cybersecurity. She called for a European cyberdefence policy which would help ensure that Europe has the capacity to develop cyberdefence tools. She also called for legislation on common standards under a new European cyber-resilience Act. A European defence union does not mean a European army. It is a matter of the need to develop effective measures to respond to crisis. It is a matter of the ability to have a common assessment of threat to gather information and anticipate attacks. It is a matter of strengthening our resilience, overcoming capability gaps in the EU and working effectively with partners. This will be taken forward under the next Presidency of the Council of the European Union, which is the French Presidency starting in January of next year.

Finally, rule of law, democracy and common values are a subject very much in the news at the moment. On the rule of law, on which this committee has engaged productively with Commissioner Reynders, the president pointed to worrying developments in certain member states, saying that dialogue always comes first but that dialogue is not an end in itself. There is a need for a dual approach of dialogue and decisive action. As part of a strengthening of the Commission's rule of law reports, including for Ireland, from 2022 those reports will come with specific recommendations to member states, a bit like the European semester in the past. In the field of fundamental rights, the Commission will also propose by the end of this year a new law to combat violence against women. The president noted that the pandemic has been particularly terrifying for those with nowhere to hide, and action is needed from prevention to protection and effective prosecution. Finally, as a means to protect those who create transparency and defend democracy, the president undertook to deliver a media freedom Act in the next year. This is in response to some rather alarming developments in relation to journalists, even the murder of journalists, in the EU, and the need to protect freedom of speech and freedom of the press.

**Chairman:** Gabhaim buíochas le Ms Nolan. I will open it up now to the committee members. Deputy Richmond will be first, followed by Deputy Calleary.

**Deputy Neale Richmond:** Go raibh maith agat, a Chathaoirligh. Thank you for the opportunity. I thank our guests for joining us in person today, which is a novelty that we will get used to in due course as we, hopefully, all get back to normal.

It is great to hear the summary of what was a very ambitious state of the Union address. There is a couple of areas I will pick on and perhaps ask a few questions, based on the President of the European Commission, Dr. von der Leyen's comments and, indeed, some comments she did not make. It was an address talking about looking forward but I want to look back initially.

Ms Nolan mentioned the pandemic response and some of the supply chain and delivery issues of vaccines at the outset. I must state frankly that the citizens of the European Union were grossly let down by certain drugs manufacturers. I wonder if Mr. Nolan can provide an update on what actions are ongoing or will be taken by the European Commission against those companies that let the people of Europe so badly down when they needed them most and caused quite a lot of concern and heartache, particularly in this country. I am not an expert on

the classics but the new health body is certainly an area where there is huge potential. In our engagement in relation to the future of Europe and our discussions, particularly with the Irish MEPs, this was an area that consistently came up. There is huge scope for the European Union as a collective to do so much more providing that connectivity.

In relation to new plans for security and defence co-operation, this is something that we in Ireland need to wake up to. We are not immune to the threats that the European Union faces on a daily basis and we have felt them, as Ms Nolan so rightly said, in the growing threat of cyberattacks, which are merely a fact of life these days. We need to be realistic, domestically, in terms of our investment in security and defence and on a European scale, on what our responsibilities to our European Union membership are. That does not mean a European Union army. It does not mean abandoning neutrality. However, we need to be much more realistic about what is required. It is nominally such a small part of the European budget but it is one that has so much impact. I would dread to think that one day in the future we would say that maybe we should have engaged a little more with our neighbourhood partners or committed a little more.

In relation to one of Ms Nolan's last points on the future of the rule of law, specifically, to the current situation in Poland, personally, I was cheered by the scenes in Warsaw on Sunday night to see tens of thousands of people taking to the street in defence of common European values. Ms Nolan might provide an update on what actions the European Commission is taking in that regard.

Two areas were not covered in the President of the European Commission's state of the Union address but I will take a liberty and raise them. The first is in relation to eurobonds and the future of eurobonds. One of the great achievements we should take from the pandemic is the ability of the European Union finally to come together and deliver on this mechanism that will benefit every citizen of this Union. In the post-pandemic era, it is one of the great learnings. How do we retain that ability and how do we use it to the best of every citizen, particularly in the more deprived and socioeconomically challenged areas?

Lastly, I refer to the current situation - it has been ever thus for the past five or six years - of the European Union's relationship with our nearest neighbour and former member, the United Kingdom. I appreciate your indulgence on this, a Chathaoirligh. Lord Frost's speech yesterday in Lisbon was extremely disappointing. I look forward to Commission Vice-President, Mr. Šefčovič's announcements this evening. No doubt they will be generous and reactive to what the people of Northern Ireland want. I would be interested to get the European Commission's take on what are the next steps. Are we dealing with a trustworthy partner any more, and if we are not, how do we react going forward?

**Ms Barbara Nolan:** There were some very painful experiences in the course of accessing the supply of vaccines. We were let down by one particular producer. I would say it did not deliver as was agreed and this caused problems. Fortunately, there were alternatives. Indeed, the EU had spread its orders and had ordered supplies from several companies. At least, that was able in time to make up the shortfalls that we experienced. There are lessons that have been very much learned by the Commission in the management of that. We will have to make sure that we have a spread of suppliers in the future and that we are not overdependent on any one particular company. In a way, all is well that ends well to some extent. Look where we are now. Who would have believed it? This time last year we did not even have a vaccine. All in all, it was a good experience in the end but I agree with the Deputy that over-reliance on any one supplier clearly is not the way to go. Indeed, the creation of this new Health Emergency Preparedness and Response Authority, HERA, will help us have a better overview in the future

and to be ready for something like this, which was a black swan moment in a way which nobody was expecting.

On security and defence co-operation, I am glad the Deputy said it is not an EU army. It is not. A lesson has been learned from the Afghanistan debacle where, for example, we were reliant on the United States to evacuate our citizens and we did not have the capacity to get people, or even refugees, out. This is not new as in a way, this reflection has been going on. Also, there was reflection about there being a lot of defence expenditure in the member states which is not necessarily linked up, using economies of scale, or being smart about what they purchase or pooling resources. There are many issues in relation to better co-operation on defence. This is the reflection that is going on at present. It will look at probably issues such as crisis management, our resilience as the EU, capability development and better development of partnerships between the member states and between the EU and other parts of the world. This is on the drawing board. When we think of issues such as cybersecurity, that is also a question of defence. We must further develop our cybersecurity protection against these attacks that are now happening on a daily basis across the world. These are the kind of issues that we will look at. As I said, this debate on a defence union will be kicked off under the French Presidency.

On eurobonds, I take note of the Deputy's comments but I do not have anything substantial to add to that today.

Let us get to the protocol. Obviously, today is a big day for the Commission. The Commission will unveil a package. I was listening to RTÉ radio this morning and I heard a very good summary of what is coming down the tracks from RTÉ's Brussels correspondent, who is very well informed. The Commission Vice-President, Mr. Šefčovič, came to Ireland and Northern Ireland a month ago. He spent two days engaging with stakeholders, citizens and people on the ground from different walks of life - human rights, business, NGOs, those who benefited from PEACE funding etc. He has taken careful note of the real problems on the ground that people are being confronted with as a result of the protocol. The Commission is trying to find practical solutions to practical problems. What will be announced later today will be a very far-reaching response to what the Commission Vice-President has heard and to the British command paper and will further build on a package that was already put on the table by the Commission on 30 June last, which passed without particular engagement but is there and we will build on. It is intended to stretch our response to the absolute limits and try to address the problems on the ground. We do not want to escalate the rhetoric or engage in political brinkmanship. We want to find practical solutions to practical problems and ease any particular issues about goods moving from the UK to Northern Ireland. That is the purpose of the four papers coming out today. The idea is our officials will immediately travel to London and start to engage on this. That is where we are at and we are trying to keep the noise from the sidelines out for the moment and focus on coming up with practical solutions to practical problems.

On the rule of law, the Commission is carefully studying the ruling from the Polish courts. It is a serious challenge to the EU structure and the primacy of EU law. This is what the EU is built on and there cannot be a situation in which national courts start to overrule EU law. The arbiter of EU law is the European Court of Justice and that is a fundamental point. We have a number of tools which we have been using over the past years for breaches of rule of law and fundamental rights. We have the infringement procedure, the rule of law mechanism and Article 7. We have a rule of law toolbox and we also have the recommendations that will be in the annual rule of law report.

We will not rashly respond at this stage. We have seen Polish citizens coming out on the

streets very much demonstrating their support for the European Union and their belief in it. This is heartening for us all. We want to see how we can engage with and deal with this, but I do not have much more to bring to the table on this issue because we are studying this ruling from the Polish courts.

**Chairman:** The committee is taking a keen interest in that ongoing issue. We had a meeting about it this morning.

**Deputy Dara Calleary:** I welcome the witnesses. I am not as brave as Deputy Richmond to go down to the committee room yet. I acknowledge the work of Vice-President Šefčovič, the proposals he will put on the table today and the commitment he has given. He has engaged with this committee and is willing to engage with us again. I also acknowledge the work of Ms Nolan and her team. They do not get thanked enough, especially in the past number of years, when it has been pretty clear they have been fighting and elbowing our interests. We should acknowledge that and I thank her and her team for doing so.

I note Ms Nolan's phrase that the Commission will stretch its response to the limit. I suggest that all of us will have our patience stretched to the limit in the coming days. I agree with Miss Nolan on not commenting much. What timeline does she anticipate for this issue as it begins to come to a head?

Miss Nolan mentioned what the EU is built on. It strikes me that many of the principles on which the EU is built are being undermined, not just by member states but by geopolitical trends, inadequate response to crises and a shift away from the values on which the Union was built, namely, solidarity and a commitment to peace and individual and human rights.

Ms Nolan mentioned there is a toolbox available but it needs to be used rationally. This drift has been under way for some time. We all looked askance at the US in 2016 but when it was happening here, not just in Poland but in other member states such as Hungary, we were shrugging our shoulders and the Commission was slow to respond, especially in the case of Hungary. That may have emboldened those in Poland and other countries to go the road they are going. I am absolutely with Ms Nolan in her view that the Commission wants to respond rationally but at some stage we have to open the toolbox and use the tools, rather than having it gather dust. If we continue to soft-soap the response to this, it will worsen. Yes, there were millions of Poles on the streets at the weekend, but that was people-led. That was led by communities and people throughout Poland, not by politics. The Commission needs to be far stronger in defending the principles of the European Union and not allowing member states to go as far as some are going.

The ambition for the European Green Deal is very high. We have to collectively support it get behind it, but what about those communities feeling left behind, especially fishing and agriculture? Our fishing community would not recognise the current European Green Deal and what is being done to them as socially just or fair. How do we ensure those communities get buy-in to the programmes and resources Ms Nolan indicated are being made available? There is a sense of a disconnect between these communities and the negotiation as to how those resources are delivered to and within member states. There is a sense that the interests of these communities are not being reflected. The Commissioner for Environment, Oceans and Fisheries visited some of the communities a number of weeks ago, but there is a serious disconnect, especially in our fishing communities and very much growing in our agricultural communities, from many of the aspirations of the European Green Deal. I will leave that with Ms Nolan and thank her for her time.

**Ms Barbara Nolan:** The Deputy referred to an inadequate response. The Commission has been doing its best. It has taken infringements wherever there have been breaches of rule of law or fundamental rights, against Poland and Hungary, and any other member state in that situation. The Commission has not yet lost a single case. All of those cases are very sensitive and delicate and take a long time to prepare, but they are extremely important because we are defending important principles. There have also been Article 7 proceedings, as the Deputy probably knows, but Article 7 requires unanimity of the member states and we do not have that when it comes to these situations. There have been several processes and attempts to rein in the excesses but, so far, it has been more piecemeal than we would have liked, but we are using everything we can.

We also have this rule of law mechanism since last December where EU funding can also come into play. If there is a breakdown of rule of law or a situation where we are not happy that EU funds can be managed in the correct way, EU funding can be stopped. As I said, there is a toolbox and I do not want to pre-empt what the Commission will do because it is studying the situation. There will be a comprehensive response in time to this challenge to the supremacy of EU law.

On the green deal, it is correct that there may be winners and losers to some extent, but several funds are being put in place to help to alleviate some of the negative effects on certain groups. First and foremost is the Brexit adjustment fund, whereby Ireland will get the lion's share among member states. Some of the funding is to go to fishing communities that have suffered quota cuts as a result of the Brexit deal, for example. We will also have a climate adjustment fund, which is also supposed to help with the adjustment to climate change. It is to help people with retrofitting, for example. It will help those in energy poverty or those suffering from some of the side-effects of going green. The social climate fund will have around €72 billion. It is to help citizens to finance investments in energy efficiency, new heating systems and cleaner transport. There is also the just transition mechanism, which is run by the Directorate-General for Regional and Urban Policy, DG REGIO, which will provide targeted support to regions and sectors most affected by the transition towards the green economy.

We have anticipated that the adjustments will be painful in certain areas and for certain sectors. I have referred to at least three different sources of funding that are supposed to alleviate the negative aspects of adjustment to the green agenda. On the farming side, the Common Agricultural Policy, CAP, is still one of the biggest funds we manage at EU level. The policy will still exist. It will be greener in the future but support for farmers is still part and parcel of what the EU does and is about. Combined with the other funds, we should be able to shore up and support the sectors mentioned.

**Deputy Ruairí Ó Murchú:** I thank Ms Nolan and Mr. Claridge. The first issue I wanted to bring up has been dealt with to a degree. It relates to the current difficulties concerning the Irish protocol. I welcome what was said in that it follows on from what we have heard from Vice-President Šefčovič on engaging with those who are seeking to provide solutions. We have from the British Government, and particularly Mr. David Frost, what can, at best, be described as noise. Very soon, we will see the colour of the British Government's money and whether it is serious or play-acting. I welcome the fact that the relevant officials are ready to go if there is an element of good faith on the British side. None of this is helped by the fact that there has been an element of political unionism painting itself into a corner, but I hope we can get beyond that. The fact is that there seems to be a large number of people who just want solutions to their day-to-day problems, particularly in the North.

Has the Commission had any engagement on difficulties concerning An Post? I am referring to the change concerning customs requirements on 1 July. I get that the problem is partly because smaller suppliers in Britain just have not prepared for Brexit in the same way as similar companies here. There seems to be an issue. Any pressure that can be brought to bear to bring about a solution will be helpful. There will be stockpiling and delays, and we are in the run-up to Christmas. I know it is a poxy line, but the Santa Claus supply chain could be impacted by this. Everything that can be done to mitigate the problem should be done.

On the vaccine roll-out, the Commission engaged and delivered what was a solution across every state. Had we done what was done in other states, things would have been far worse. There may have been naïveté regarding some of the dealings with particular companies. There was probably an element of the European Commission and European Union dealing with something they did not necessarily have competence in. It shows that, in the future, we do not necessarily need constitutional change regarding delivery; we just need to be able to set out targets that states can buy into when it can be seen that the European Union and Commission can benefit all of us.

My next question is broader. At one stage, there was serious over-and-back over the fact that none of us is safe until all of us are safe. People talked about the TRIPS waiver and said there is no need for it and that it is a cul-de-sac. I am not ideologically wedded to anything but I wonder where the delegates believe matters stand as regards global capacity for production and delivery. These are what matter. That is accepting that as we try to deliver to the developing world, there will be difficulties if there is no proper health infrastructure. My fear over COVAX is that it is aiming to deal with, say, only 20% of the population in some of the areas. What is the scope of HERA?

It is important that lessons be learned. We will have to maintain an element of consistent and constant review, particularly when talking about a stimulus programme. It really has to be targeted.

On the European chips Act, we all get the difficulty regarding semiconductors. Could the delegates go into a little detail on how the European Commission believes it can enter the fray and make a difference concerning what is a serious supply chain problem in the sense that production was overtaken by other elements of the IT sector? There was a need for more computers, devices and whatever due to remote working. There was no car production for part of the time. Now we have a difficulty.

The social climate fund amounts to €72 billion. What can be drawn down? Could the witnesses give some detail on this? I get that they could spend a whole hour answering every question I ask.

On defence, I must add the caveat that we all accept that there needs to be engagement; we cannot put our heads in the sand. If we are talking about Afghanistan, however, we should call the situation what it is. To a degree, it is a misadventure in respect of which the US would have been better reading a couple of history books rather than watching reruns of “Rambo III”. Trillions were spent to end up back almost at the starting point. We do not really need the European Commission and European Union to become part of that. What exactly do the witnesses foresee in respect of the EU–NATO joint declaration, which would frighten me somewhat?

I agree wholeheartedly that we need to consider cyberdefence. The ransomware attack on the HSE proved that to everybody. To meet that threat, we will need the capacity we have as

a group rather than as individuals. We need a capacity to disrupt the attacks, which, to some degree, requires offensive abilities. However, I do not like the idea that cyberdefence would be included with regular defence. As I said, I have concerns regarding a European defence union.

I agree with everything that has been said about the rule of law. As much as dialogue always must come first, it is a question of what leverages we have in the toolbox. There have been difficulties from time to time in trying to link moneys and budgets with ensuring due diligence in terms of the rule of law. We all agree that breaches have occurred in Hungary and Poland, but in the case of the Spain, for example, notwithstanding that we get into constitutional questions, there are not many people who could say that the Spanish Government dealt fairly with some of its Catalanian elected representatives. I suspect there is a feeling across Europe that, sometimes, the rule of law impacts on them but does not impact on some of the original funders of the EU or those who came into the family at an earlier stage.

We all accept the necessity of a media freedom Act to ensure the primacy and freedom of the media. The Facebook whistleblower situation was in the news last week, with the allegation of antagonism and pursuing a “hate sells” approach. That did not come as any shock to us but it is something we collectively need to deal with as we look to the future. Sometimes it is easier to deal with issues on a European level rather than at the level of individual states. We are talking about going toe to toe with some very serious companies but it is something that has to be done. Whatever about the idea that hate sells, we have a wider issue in that what also sells is the really negative stuff, particularly, for instance, in regard to eating disorders. There was an allegation that Facebook was aware of the damage that was being done to people’s mental health but, because that sort of messaging was selling and there was profit in it, action was not taken. The company would say that is not true of course, but we need to ensure there are protections in that regard.

If Ms Nolan can answer all of those questions in the next few minutes, I would be delighted.

**Ms Barbara Nolan:** Before I do, I will address a question I missed from the previous speaker on the next steps in regard to the Northern Ireland protocol. The Commission and the UK Government have been in constant contact over the past months. Once the College of Commissioners approves the new proposals today, Commission officials will travel to London to begin immediate detailed discussions with UK officials on the four non-papers that will come out today. That will be the start, we hope and expect, of a period of intense discussions with the UK Government over the coming weeks. The idea is to move immediately on the package we are producing today. To be clear about the timescale, there is no long wait involved here; we are moving as fast as we possibly can.

On Deputy Ó Murchú’s question about vaccines, the EU, as I have said, has been falsely accused of not being in favour of vaccines for the world. On the contrary, we have been the most generous in terms of giving vaccines to other parts of the world. We are also trying to develop, with the United States, the technology for the development of vaccines in Africa, for instance, so that the manufacturing capacity is there and, in time, the continent will be able to produce its own vaccines. We are trying very hard to make sure it is not just a question of giving donations. It is also a question of making sure countries are able to produce their own vaccines.

**Deputy Ruairí Ó Murchú:** Does Ms Nolan not see the TRIPS waiver or something like it being able to facilitate that?

**Ms Barbara Nolan:** We have been down that road before and we do not necessarily see

it as the best way forward. What we are doing now, which is making substantial donations combined with development of capacity in the regions of the world where they are not able to produce vaccines, is more the direction in which Europe wants to go.

On the proposed chips Act, I do not have more information than what was contained in the announcement the President made. It was something of a surprise announcement and Commission is now working to develop it. The lack of such regulation has been identified as a major lacuna in what we are doing at the European level. We need to invest in this whole area in order to have our own capacity to produce semiconductors.

The social climate fund has been announced but, as far as I know, the criteria relating to it have not yet been developed. As I said, it is supposed to deal with the social fallout or consequences of some of the adjustments to the green agenda, which we know will impact on people differently, depending on their socioeconomic situation and the sector and even the region in which they work. As I said, it is one part of the solution. There is also the just transition and, for the fishing community, part of the allocation under the Brexit adjustment fund is supposed to go to them.

**Deputy Ruairí Ó Murchú:** This issue is exacerbated by the energy crisis. If we are talking about a chips Act and member states playing a role in that regard, it would be fair to ask how the Commission sees that it can play a part in dealing with the challenge. We could just ask Vladimir Putin to open up on the gas supply a wee bit more but that probably will not work.

**Ms Barbara Nolan:** The Deputy is really on topic because the Commission will produce a communication today on energy prices. It will contain recommendations on how to manage the current situation, which is not really related to the green deal as such. It is related to many different factors, one of which is that we now have a large increase in production as a result of economies coming out of the Covid situation and, in addition, there are issues with Russia in respect of the production of gas. There are a number of related issues. As some people say, hindsight is 50-50 vision or whatever, and it is important to note that if we had started on the green deal 15 years ago and now had a lot of renewable energy available, we possibly would not be in this situation. The reason there is a crisis is that we are heavily dependent on fossil fuels. There may be an element of being wise after the event in saying that, but it is the reality.

**Deputy Ruairí Ó Murchú:** If we had the car from “Back to the Future”, we would be in a different place.

**Ms Barbara Nolan:** People have been talking about green solutions for a long time, but we are really only now biting the bullet in a serious way. There is a lot of work to do to catch up.

On defence, I think I have gone through the main points.

**Deputy Ruairí Ó Murchú:** I had a question on Afghanistan. Obviously, we need to engage on that issue, but what are we looking at into the future? Will Ms Nolan comment on the EU-NATO declaration and what is foreseen when that lands?

**Ms Barbara Nolan:** Afghanistan was an example I gave of how we were not able to evacuate our own citizens and refugees. We had to rely on the United States. That was fine and it worked to some extent but that is just one example. There will be other crises in our region and neighbourhood when we may need the capacity to do something even if it is part of a peace initiative.

On NATO, we must remember many of our member states are members of NATO. NATO is the backbone of European security and European collective defence. This is the situation. We do not want to replace NATO. We do not seek to replace it. While we do not take instruction from NATO, we want to have good co-operation with that organisation. Strengthening EU defence is not contradictory to co-operation with NATO. I remind everybody that the Commission has no competence on national defence. We are not trying to take over collective European defence. What we are trying to do is have better co-operation to be able to tackle problems and obstacles together. It is a matter of European concern. I know people might not like cybersecurity being lumped in there but it is part of our defence.

**Deputy Ruairí Ó Murchú:** I am not taking away from its importance. Sometimes it is an easy sell with regard to the wider defence issue, which is different. It is something we have to get to the bottom of straight away. There is no two ways about it. We are starting from behind in this regard.

**Ms Barbara Nolan:** It is the new form of attack. It is part of our collective defence. I want to point out there are a number of different elements. It is still on the drawing board. It is still being elaborated. I want to address it because it featured quite prominently in the president's speech.

**Deputy Ruairí Ó Murchú:** I also had a question on the rule of law. It was on what leverage there is and the financial connection. I asked a question at the beginning about An Post and the difficulties we are having and whether the Commission has any involvement.

**Ms Barbara Nolan:** The Commission is in constant contact with the Irish authorities. The Commission is fully aware of whatever problems are here. Vice-President Šefčovič had dinner with the Taoiseach before he went to Northern Ireland. There is constant flow. Ireland is a member state of the EU and, therefore, it has no problem accessing dialogue with the Commission. Any issues being laid before the Commission from the Irish authorities are, of course, being engaged with and discussed. I hope they will come to a resolution. The Deputy spoke about stockpiles and Christmas. I have not seen anything on stockpiling.

**Deputy Ruairí Ó Murchú:** It is an issue that is arising. There is a change in customs requirements. Many firms in Britain are not prepared for it. Something else that is happening is the separation between those who receive the packages and Royal Mail itself. The filtering is not working. Things do not get to their destination because they do not have the proper information delivered. It is holding everything up and it is a huge issue. Everybody needs to play a role in dealing with it.

**Ms Barbara Nolan:** I will take note of that.

**Deputy Ruairí Ó Murchú:** I appreciate it.

**Deputy Francis Noel Duffy:** I thank the witnesses for the briefing. It has been very informative. My question has been covered to an extent. It is has to do with vaccines. President von der Leyen has mentioned the EU's priority to increase global vaccine access. She speaks of the contributions and donations that EU member states have made to assist least-developed countries with their vaccine roll-out. As we know, Ireland has donated more than 1 million vaccines, which is commendable and worth noting. The TRIPS waiver was also mentioned. It sounds like it is not going anywhere. Perhaps it is very difficult to open it up to developing countries and give them the patents for the vaccines. Will Ms Nolan give us an update on this?

Somebody will pay for them and we will then send them over. Why are we not just allowing them to process the vaccine themselves? It would be cheaper all around.

**Ms Barbara Nolan:** This issue was discussed extensively in the recent past. The EU took a different line and is using donations, including donations to COVAX, which is the World Health Organization's operation for countries that do not have access. The approach of developing manufacturing capacity, for example in Africa, is one whereby we very much want Africa to be able to produce its own vaccines. It is a slightly different way of approaching the problem but it is not necessarily an inferior way of approaching it.

Taking away the patents from the companies that have developed these vaccines is very difficult to do. If we have a new pandemic, a new health scare or a new horrible disease we have to have these companies ready to produce vaccines at short notice in future. There are intellectual property issues. There are all sorts of other issues related to it. I am not an expert in this area myself but this has obviously been looked at extensively. It was felt this was the way to deal with the lack of vaccines. It is a big priority for the Commission. None of us are safe until we are all safe. This is the basic thing about the pandemic. The approach I have mentioned goes down the road of donations in combination with raising the capacity of manufacturing in, for example, Africa to produce vaccines there.

**Deputy Francis Noel Duffy:** Essentially, what Ms Nolan is saying is that it is about trying to allow the companies to go into these countries so they can manufacture there, as opposed to these countries manufacturing the vaccine by themselves. It seems a little bit odd. There are people dying and money is getting in the way. This is what it sounds like. In the context of a humanitarian crisis it is a little bit sad. Ms Nolan has given an answer and that is fine.

**Senator Lisa Chambers:** Many of the questions have been covered. If it is okay, I would like to go back to the Brexit issue and the protocol. I fully appreciate there are sensitivities and Ms Nolan needs to be cautious in the answers she gives. I want to ask a question on the potential threat of the triggering of Article 16. It gets discussed quite a lot, as though it is open to be used at any time for any reason when, obviously, it is not. I am sure Ms Nolan will agree quite a high bar has to be reached to trigger Article 16. There has to be a significant impact on society or an economic impact. Ironically, given that the issue now seems to be around the European Court of Justice, even though it was not an issue before now, ultimately that court is the final arbiter of anything to do with the withdrawal agreement and the protocol. What is the position if the UK triggers Article 16 and the European Union disagrees that the bar has been met to trigger it? What happens at that point? Is there a process to decide whether the EU proceed with the Article 16 procedure? Is there something else that can happen at that point? It is unusual that the very issue that seems to be the crux in the UK side is the European Court of Justice and ultimately that court will decide. Where do we go from there on that front? On a separate topic, Ms Nolan's introduction on the state of the Union address was very good and very comprehensive. I am particularly interested in the Aim, Learn, Master, Achieve, ALMA, programme. This extension of opportunities for young people to work abroad in the European Union is long overdue. It important to have more than just Erasmus because not everybody wants to go to college or university and we should broaden those opportunities out. Does Ms Nolan have any further details on the ALMA programme? When might it start? When can we start informing young people here that they can apply? How might it work? How does she see the reciprocal arrangements here in Ireland operating? How will we cater for students coming from other member states?

**Ms Barbara Nolan:** I have tried not to get too drawn into the UK's threats and the sword

of Damocles that is Article 16. From our perspective, invoking Article 16 would not solve any of the challenges people and businesses in Northern Ireland are experiencing due to Brexit. On the contrary, it would only add to the uncertainty. It would probably further complicate the process of finding solutions. If the UK Government's concerns are more about sovereignty and domestic policies than the actual problems on the ground in Northern Ireland, it may indeed decide to trigger Article 16. If it does so, we will at least feel that we have done everything to avoid that situation. We would then have to look at deploying parts of our own legal toolbox under the withdrawal agreement and the trade and co-operation agreement in response. What are those measures? One is arbitration to challenge such measures. The next is to move to an infringement procedure which was launched in March but then put on ice. We could also launch a series of new infringement procedures on, for example, chilled meats and other areas in which the protocol has been breached. We can use measures under the trade and co-operation agreement as well. We do not want a confrontation. We do not want to enter such a phase but we have to prepare for that case arising. That is where we stand on that.

On the European Court of Justice, I do not want to use the term "red lines" because everybody is talking about red lines, but that is a clear red line. The European Court of Justice is the arbiter on the Single Market. If one takes out the European Court of Justice, one cannot have access to the Single Market. It is a chicken and egg situation. Vice-President Šefčovič said the same to the Institute of International and European Affairs last week. He made it crystal clear how important this is. I do not think I need to add anything to that.

The ALMA programme was just announced by the president last month. Colleagues in either the employment or the education Directorate General - I am not sure which - are now preparing it. We have to wait to see when that proposal comes through but the idea is that this is not for the higher education area but more for young people who may have fallen through the cracks to some extent, in that they are not in employment, education or training. As soon as I have more details on that programme, I will be happy to share them with the Senator.

I thank the Senator for participating in our event on the state of the Union on the day the president made her speech because she had to react in real time. She did a great job. I thank her for participating in that event.

**Senator Lisa Chambers:** I thank Ms Nolan. I appreciate her kind comments. I look forward to getting information on the ALMA programme.

**Deputy Marian Harkin:** I apologise; I was trying to connect from my office for half an hour with no success. I apologise for being late. I thank the Commission representation's staff, including Ms Nolan and others, for their work. It is invisible but really important. I put that on the record. Many of the issues have already been dealt with. I will not go back over the same ground but I have a few comments and one or two questions.

When Deputy Calleary spoke about Poland he said that, in his view, the Commission needs to be stronger. I sat listening to debate in the European Parliament for many years. Those on the extreme left were saying that we were not doing nearly enough and those on the extreme right were defending certain states. It is a double-edged sword because, as soon as the Commission acts decisively, it is seen as the European elites acting. It is a really difficult issue. Perhaps the Commission is, to some extent, waiting for a change of government in certain member states because that often changes the dialogue. Despite people's frustration and deeply held beliefs that the Commission should act and that it is not good enough that it is not doing so - and we can all say that - there is another aspect to it. I can see why the Commission acts in the way it does.

I have one small question. I do not want to throw an incendiary device in here but there was a ruling from a German court some time back which showed certain similarities to the ruling of the Polish courts. I do not know the details but this is an example of why we sometimes have to stand back.

In the state of the Union address, the Commission President spoke about social fairness and a European care strategy. Ms Nolan has already answered a question on the ALMA programme. I would like to hear anything she has to say on that care strategy.

We have spoken about the protocol at length. All I can say is that the EU has demonstrated extreme patience and that I hope it continues to do so. My personal view is that there are those who simply want to try to force the European Commission to introduce some kind of land border on the island of Ireland. For many, that is the outcome they want to see. In that context, the stance and the patience of the Commission has been really important. I expect that will continue.

There has been some discussion on the European Green Deal, just transition and how people feel it is not working for them. I heard Ms Nolan mention the CAP and I believe we have a real problem here. The CAP is meant to support the production of quality, traceable food. It must comply with a whole ever-increasing raft of European legislation on everything from veterinary matters to soil, the environment and animal welfare. That is fine but, with the new CAP, 25% of Pillar 1 money is dedicated to eco-schemes. Farmers have to do more to get that part of the money. The issue here is that year on year and CAP on CAP, the requirements on primary producers are constantly increasing. Yet they have to sell in world markets, certainly in the European market. We now have the issue of carbon tax, a greater cost to access Pillar 1 money and the threat to the national herd. For farmers today, it is okay to hear about the social climate fund but what is that? How does it impact farmers and what they do? We have a massive job to do on this issue. Last Thursday night, the Minister, Deputy McConalogue, was in Carrigallen in south Leitrim. I sat for three hours in a mart and listened to what farmers were saying. There is a sense that they are seen as the problem and there is no proper dialogue on how they can be part of the solution. There is talk of further requirements, cutting the herd and carbon tax. I understand there has to be change but if people feel outside of that, as they do, then we have a huge job to do there. Farmers in general tend to be quite pro-EU in their views and I would not like to see that changing.

**Ms Barbara Nolan:** I thank the Deputy. I know she has in her long experience of the European Parliament seen many attempts on the rule of law and how difficult it is to build a consensus around that issue. On the care strategy, this is a new announcement in the state of the Union address. It is being drawn up. I do not have any details but as soon as I have I am happy to share them with Deputy Harkin.

On the protocol, the EU has stood firmly with its principles in terms of supporting no border on the island of Ireland and respecting the Good Friday Agreement and other objectives of the peace process. We will continue to do that. That is the number one issue here. We have not caused this problem. It has been caused by the extreme version of Brexit that was chosen by the UK Government. That is why we needed the protocol, which is the solution and not the problem.

On the green deal, I do not disagree with anything the Deputy said. It will be hard on certain groups in society. Ireland has a lot of ground to make up, in terms of not taking green measures earlier. It will be a difficult transition across the EU for different sectors, such as coal in Poland

and so on. There are different issues in different states in relation to the green deal but we are trying to save the planet. That is the bottom line and we all have to make our efforts. I take the Deputy's point that we need to engage more with the farming community on these issues and reach out to explain the direction we are going with the green deal but the bottom line is that much of the pollution in Ireland comes from transport and agriculture. These are areas where we have to reduce the carbon footprint. I do not think we can get away from that but I agree it needs to be done in a way that people feel included and listened to in the difficult adjustment process ahead.

**Deputy Marian Harkin:** I am not all that satisfied with that response. It is not that anything Ms Nolan said was untrue but we have sustainable production here, grass-fed beef production etc. It is unusual at a farmers' meeting to hear people talking about data centres and aviation but they were. When it is said that "We're in it together", the question, which I do not ask Ms Nolan to answer, is "Who is this we?" Let us see who they are and what they are contributing. It is not so much that we have to tell farmers the direction we are going; it is a question of involving and bringing people with you. If that is not done, people stick their heels and all you will hear about is data centres and tax on aviation fuel. Those are legitimate concerns. There is a big issue here.

**Chairman:** I thank the Deputy. Her intervention on that issue no doubt has a lot of support in rural parts of the country, not just in one sector of farming but across the board. I thank members for their questions, observations and input and thank Ms Nolan and Mr. Claridge for their participation. There is so much going on. We are all waiting with bated breath for what will come out this evening in relation to the Northern Ireland protocol, which is something in which this committee takes a keen interest. We are following that closely and we are also being proactive, meeting up with Vice-President Šefčovič in early December in Brussels. A date has been secured and we will work a programme around that. Any guidance or signposting the witnesses can give us for that trip would be most helpful. It is a very comprehensive programme and the clerk has been working on that already.

The state of the Union address by Ursula von der Leyen focused a lot on health. We had a successful programme in the end with vaccination. There were initial concerns around the distribution of vaccines but that co-operation was positive. It is not new because the European mobility directive for health has been an important foundation for such co-operation. We can look at other ways to be proactive and creative in breaking down borders in terms of healthcare. This committee is keeping a close eye on the future of Europe. We are focused on what is going on in Poland and are looking at those areas specifically.

It was good to see the Commissioner in Killybegs recently. Ms Nolan attended and would have picked up on a lot of frustration in the fishing industry. She would have been struck by the heightened level of frustration. It is a contradiction because while rules and regulations are controlled by our Government, they are often introduced against a backdrop of what the Commission says and proposes. A fundamental of the European project and the big principle of interest to many on this committee is the principle of subsidiarity. What more subsidiarity could one get than part-time farmers in south Donegal who will do part-time work in Killybegs for fishing vessels landing with mackerel? Because of the rules, in the last few days many of these boats are landing outside the EU. They are not landing in Killybegs and all that work is lost. If we are looking to build communities at a local level, we need to grapple with the tension that is there, where the fishing industry feels its Government is not representing it and the administrators or people involved at an official level in Government are constantly quoting stuff coming from the

Commission. The rules that are in place are not workable for the fishing industry. Everything has to be done properly and people will point to this not being done in the past. The fishermen I deal with and the fishing vessel owners want to work within the rules but they have to work within something that is practicable and workable. I just wanted to mention that point and I am not expecting any feedback on it. I acknowledge the fact the Commissioner was in Killybegs in County Donegal because it is important for him to see and hear where the real tensions are. If any guidance or direction can be provided on that front, we would be open to hearing that.

Gabhaim buíochas leis na finnétithe agus guím gach rath orthu. B'fhéidir go mbeimid le chéile in Brussels nó in Strasbourg i mí na Nollag. Táimid ag súil go mór leis sin.

The joint committee adjourned at 11.21 a.m. until 9.30 a.m. on Wednesday, 27 October 2021.