

Brexit and Its Impact on the UK's Plural Legal System

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Abstract

On the 23rd of June 2016 the United Kingdom held a referendum on exiting the European Union. The Leave side won, with 51.9% of the votes, to the surprise of international onlookers. With the entry into force of the Treaty of Lisbon on the 1st of December 2009, Article 50 of the Treaty on European Union, sets out clearly the terms for withdrawal from the Union: “*Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.*” Article 50 underlines the importance of a Member State’s “orderly” exit from the Union, in order to maintain the political, economic and social stability of the Member State and of the European Union, and Article 50 also refers to the establishment of cooperative relations anew between the two parties. When the UK joined the EU it had to accept the EU *acquis* and this greatly enriched UK law. The UK adopted the 1972 ECA to resolve the relationship between UK law and EU law, and to confirm the direct applicability and supremacy of EU law in the UK’s legal system. The withdrawal of the UK from the EU will have a significant impact on the UK’s pluralist legal system. The

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Brexit is therefore a politically sensitive subject as well as a constitutionally important one.

The UK formally notified the European Council on 29 March 2017 of its intention to withdraw from the EU. In principle, the UK and the EU shall conclude a withdrawal agreement in the two years following the notification. Britain's departure from the EU has already given rise to many problems and to uncertainty. It involves complex legal problems; in particular, whether or not the notification to leave the EU has to be given prior authorization through legislation. What are the main legal issues involved in the Miller case triggered by Brexit? And how to solve the UK's internal procedural problems for the Brexit notification? But also: how will the UK and the EU conduct the Article 50 negotiations? Which areas of law will be affected by the Article 50 process? How are the UK and EU going to conduct the negotiations pertaining to their future relationship? What procedures will they use and which questions will they tackle? What scope will EU law have within the UK after it withdraws from the Union? What impact will the withdrawal from the Union have on the acquired rights of British citizens? The UK will introduce a European Union (Withdrawal) Bill to repeal the ECA 1972, to take back legal control from the EU and to respond to the legal challenges after Brexit. What are the main contents of the EU Withdrawal Bill? And how to deal with the UK-EU legal relationship after the UK's exit from the EU? All these questions require a thorough study because they pose enormous impacts on the future relationship between the UK and the EU and also to the British pluralistic legal system, in terms of the changes and adjustments required.

Keywords: Brexit, European Union, plural legal system, *acquis communautaire*, Treaty on European Union (TEU), Article 50, Treaty on the Functioning of the European Union (TFEU), Parliamentary sovereignty, 1972 European Community Act (ECA 1972), EU Withdrawal Bill, *Miller case*