

Legal latest

Brexit: news bulletin

30 January 2017



UK Supreme Court – Prior approval of Parliament required to trigger Article 50

Executive Summary: The terms of the European Communities Act 1972, which gave effect to the UK's membership of the EU, are inconsistent with the exercise by ministers of any power to withdraw from the EU Treaties without authorisation by a prior Act of Parliament.

On Tuesday 24 January 2017, the UK Supreme Court ruled (by a majority of 8 to 3) that the British government cannot trigger Article 50, the legal pathway to Brexit, without an act of Parliament authorising it to do so. The court noted that Brexit effects a fundamental change by cutting off the source of EU law, as well as changing legal rights, and that such changes require to be authorised by Parliament.

The court, however, unanimously rejected arguments that the Scottish Parliament, the Welsh Assembly and/or the Northern Irish Assembly had any right to vote on Article 50 before it is triggered – thereby highlighting the limited powers such devolved administrations have within the context of Brexit and Article 50 discussions.

The court's decision is a blow to Theresa May but it is unlikely to derail her plan to invoke Article 50 before the end of March.

Following the ruling, David Davis, the Brexit minister said that "This does not change the fact that the UK will be leaving the European Union," and warned MPs not to try and frustrate the will of the people. It's unlikely that the legislation will be voted down. However, it is expected to face numerous amendments from MPs and Peers.

Ireland's Finance Minister Michael Noonan has stated that the Brexit process will take 'at least six years' between exit talks and the negotiation of a new trade deal.

A copy of the UK Supreme Court's judgment can be found [here](#).



Sean Ryan
Partner

+353 1 6644 207
seanryan@eversheds.ie



Ciara Drayne
Solicitor

+353 1 6644 955
ciaradrayne@eversheds.ie