



Countdown to Brexit

10 things you need to know about managing disputes in a no-deal Brexit

1 No-deal means no transition

EU law will cease to have automatic effect in the UK on Exit Day. Any reciprocal arrangements between the EU and the UK will also automatically cease.

2 The UK will adopt all EU legislation into UK law on Exit Day

It will then immediately repeal the rules and regulations that don't work without reciprocity – this includes many of the regulations which help manage disputes between Member States.

3 There will be significant changes to the CPR

Changes will be needed, particularly to Part 6 relating to service out of the jurisdiction. Practice directions and the rules for the Intellectual Property Court will also be affected.

4 Rules for choice of law will remain the same

Rome I and II will remain in force in the UK so there shouldn't be any change to the rules that govern choice of law.

5 New legislation is required for jurisdiction and enforcement of judgments

The UK has ratified the Hague Convention on Choice of Court Agreements 2005 ("Hague 2005") in its own right, to enter into force immediately upon exit from the EU. This gives additional reassurance, beyond what individual Member States' domestic law provides, that in certain circumstances, EU Member States will uphold exclusive jurisdiction clauses and recognise and enforce UK judgments after Brexit.

6 Hague 2005 isn't a complete solution

It doesn't apply to non-exclusive or asymmetric jurisdiction clauses. There is also a suggestion that it may not apply to contracts entered into pre-Brexit. Whilst the domestic laws in many EU countries will recognise and uphold exclusive jurisdiction clauses in favour of a third country, their ability to stay proceedings in some circumstances may be curtailed under Brussels Recast.

7 Enforcement of UK judgments in EU and EFTA countries could be more expensive

The EU will only automatically recognise UK judgments where the judgment has been exequatored in a Member State court before Exit Day. In all other cases, unless Hague 2005 is held to apply, enforcement of UK judgments in Europe would rely on domestic laws. And it's not just the EU which is affected. The UK will lose the benefit of the Lugano Convention post-Brexit meaning that there will be no statutory basis for enforcement of the judgments of EFTA countries in the UK.

8 Enforcement of European judgments in the UK will be straightforward for a time

The UK has passed a statutory instrument confirming it intends to recognise and enforce EU judgments provided that proceedings were commenced in an EU Member State court before Exit Day. For proceedings issued after Exit Day, in the absence of any other statutory basis for recognition, the common law will apply.

9 There is a new Hague Convention to simplify cross-border enforcement of judgments

However, currently only Uruguay has signed up. If and when other states contract this could be an important piece of legislation. In the meantime if you have an EU court judgment to enforce in the UK, or vice versa, take steps to commence enforcement as soon as possible.

10 Arbitration is not affected

Deal or no-deal, arbitration is unaffected by Brexit. The key legislation providing the framework for arbitration in the UK and the international convention which governs enforcement of arbitral awards remain in force, making arbitration an attractive option where certainty is needed.

Further information

For more information on what a no-deal Brexit means for cross-border dispute management, read our article: [Making sense of Brexit: What does no-deal mean for commercial litigation across the EU?](#)

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