

THE UNITED KINGDOM'S DEPARTURE FROM THE EU: THE LATEST DEVELOPMENTS

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This regular paper produced by SPICe sets out developments in the UK's negotiations to leave the European Union which are expected to formally begin early in 2017.

Ahead of the UK Government's triggering of Article 50, the updates will provide information on the UK Government's approach to leaving the EU, along with details of the Scottish Government and the other Devolved Administrations positions. The updates will also provide information on developments within the EU with regard to the UK's departure. Finally the update will provide information on the key issues likely to be at play during the negotiations and in developing the UK's future relationship with the European Union.

As was clear during the referendum campaign and since the decision to leave the EU was taken, there is an abundance of information and analysis available, and this SPICe paper will try to cover the key issues by drawing on that information and analysis. This week's update provides more information on the Article 50 legal challenge and The UK in a Changing Europe report for the Political Studies Association.

The Article 50 Legal Challenge

On 3 November, the High Court in London ruled that the UK Government is not entitled to use the Royal Prerogative to give notice to leave the European Union under Article 50 of the Treaty on European Union.

The [full judgement](#) found that the UK Parliament continues to be sovereign and that the Government could not use the Royal Prerogative to change domestic law.

A shorter [two page summary](#) of the court's decision is also available. An interesting aspect of the decision is the Government's acceptance that once an Article 50 notice has been given it cannot be withdrawn and as a result some rights derived from the EU and set out in domestic legislation would inevitably be lost. According to the Court's summary:

“The Government accepts that a notice under Article 50 cannot be withdrawn once it has been given. It also accepts that Article 50 does not allow a conditional notice to be given; a notice cannot be qualified by stating that Parliament is required to approve any withdrawal agreement made in the course of Article 50 negotiations.

Therefore, once notice is given under Article 50, some rights under EU law as incorporated into domestic law by the 1972 Act would inevitably be lost once the Article 50 withdrawal process is completed.”

As a result, the Court decided that the power to give notice under Article 50 to leave the EU could not be achieved using the Royal Prerogative.

The decision of the Court has been met with a number of different reactions over the last few days. The UK Government has [announced](#) it will appeal the decision to the Supreme Court with the case likely to be heard in December. In a [statement to the House of Commons](#) on 7 November, the Secretary of State for Exiting the European Union, David Davis said:

“Legal action was taken to challenge the Government on the proper process for triggering Article 50.

We have always been of the clear view that this is a matter of the Government: that it is constitutionally proper and lawful to begin to give effect to the referendum result by the use of prerogative powers. As I have said, the basis on which the referendum was held was that the Government would give effect to the result of that referendum. That was the basis on which people were asked to vote.

Our argument in the High Court was that decisions on the making and withdrawal from treaties are clear examples of the use of the royal prerogative, and that Parliament – while having a role in this process which I will come to – has not constrained the use of the prerogative to withdraw from the EU. Our position in the case was therefore that the Government was entitled to invoke the procedure set out in Article 50.

The court has, however, come to a different view, and held that the Government does not have the prerogative power to give notice under Article 50 without legislation authorising it to do so.

The Court said the starting point was that the Crown does not have power to vary the law of the land using its prerogative powers, unless Parliament legislated to the contrary. It held that the European Communities Act 1972 brought rights arising under EU law into the law of the United Kingdom, and that the Crown has no prerogative power to withdraw from the EU, because the effect of withdrawal would be to take away those rights.

Let me be clear about this: we believe in and value the independence of our judiciary, the foundation upon which our rule of law is built.

We also value the freedom of our press. Both these things underpin our democracy.

The Government disagrees with the Court’s judgment. The country voted to leave the European Union, in a referendum approved by an Act of Parliament. Our position remains that the only means of leaving is through the procedure set out in Article 50 and that triggering Article 50 is properly a matter for the Government using its prerogative powers. As a result we will appeal the High Court’s judgment at the Supreme Court.”

In a separate development, the Welsh Government’s Counsel General [said he intended to seek to join the case](#). Mick Antoniw said:

“It has been widely announced that that this matter will be the subject of an appeal to the Supreme Court before the end of the year. In parallel, the High Court of Justice in Northern Ireland recently gave judgment in the matter of Re McCord’s Application.

Again, it is widely understood that this matter will ultimately be joined to the proceedings before the Supreme Court.

Having considered the judgments in both matters, I consider that they raise issues of profound importance not only in relation to the concept of Parliamentary Sovereignty but also in relation to the wider constitutional arrangements of the United Kingdom and the legal framework for devolution.

They raise questions about the use of the prerogative power to take steps which will or may impact on:

- the legislative competence of the National Assembly for Wales;
- the powers of the Welsh Ministers;
- the legal and constitutional relationships of the Assembly to Parliament;
- the legal and constitutional relationships of the Welsh Government to the UK Government; and
- the social and economic impact on Wales.

Therefore, in accordance with my power under section 67 of the Government of Wales Act 2006, I intend to make an application to be granted permission to intervene in the proposed appeal before the Supreme Court. My intention is to make representations about the specific implications of the government's proposed decision for Wales."

The Scottish Government has yet to indicate whether it will formally seek to also join the case, though the First Minister speaking at First Minister's Questions shortly after the Court decision had been announced [said](#):

"We will look at the judgment very carefully and, yes, we will actively consider whether there is a case for the Scottish Government to become a participant in that case.

I do not think that the judgment this morning is a huge surprise to anybody who has followed the case, but it is hugely significant and underlines the total chaos and confusion at the heart of the UK Government. We should remember that its refusal to allow a vote in the House of Commons is not some matter of high constitutional principle; it is because it does not have a coherent position and knows that if it takes its case to the House of Commons that will be exposed.

The job of this Government is to protect Scotland's interests. Scotland voted to remain in the European Union and my job, therefore, is to protect our place in Europe and the single market as far as I possibly can. Scottish National Party MPs in the House of Commons will certainly not vote for anything that undermines the will or the interests of the Scottish people."

Following the Court's decision, the Law Society of Scotland released a [statement](#) emphasising the importance of an independent judiciary and setting out why it was important the case went before the High Court:

“Given the complexity of constitutional law matters around Brexit, the case brought by Miller and Dos Santos against Secretary of State for Exiting the European Union merited going before the courts. It is important to understand what the judges were being asked to consider. Despite some of the protest and accusations that the judiciary is interfering with the ‘will of the people’, the High Court judges decision does not affect the outcome of June’s referendum vote to leave the EU. That has already been decided.

The case asked the court to determine whether, as a matter of the constitutional law of the United Kingdom, the Government was entitled to use its powers to give notice under Article 50 for the United Kingdom to cease to be a member of the European Union.

The judges agreed with the claimants and ruled that the prime minister did not have power to trigger Article 50 of the Lisbon Treaty to start the two-year process of negotiating Brexit without the prior authority of parliament.”

The Court’s decision has also led to a number of blogs being written on the outcome. Nick Barber, from Trinity College Oxford and Jeff King, a Professor of Law at University College London writing for the [UK Constitutional Law Association blog](#) suggested the most surprising thing about the Article 50 decision was that people found it surprising. Barber and King then summarise three thoughts on the reaction to the Article 50 decision, the first was to rebut the idea that the decision prevents Brexit happening. Their second point focussed on the decision being a matter of law and not politics:

“Some, reflecting on the decision, have sought to argue that we should not allow legal niceties to stand in the way of the sovereignty of the people. If the judges had embraced such an approach, it would have been judicial activism of the very worst sort. Having concluded that the executive lacked the power to trigger Article 50 and – by implication – that a statute was needed to confer it, for the court to have then concluded that the executive should, nevertheless, be granted this power for policy reasons would have been a worrying decision. Equally unacceptable would have been the court concluding that, despite its legal character, the question was not for a court to resolve (the ‘justiciability’ point), which would have effectively allowed the executive to exercise a legal power it did not possess. Either of these decisions really would have been examples of judicial activism undermining Parliament’s position in the constitutional order, with the judges stripping away Parliament’s rights because those rights risked inconveniencing the executive.”

Finally Barber and King criticise the reaction (particularly in the press) to the Court’s decision.

Tobias Lock from Edinburgh University used his blog to make [four brief points](#) about the Court’s decision. On the question of whether an Article 50 notification can be revoked, Dr Lock wrote:

“The Government made a cardinal mistake in conceding that a notification under Article 50 TEU cannot be revoked. This question is contentious (see e.g. Paul Craig’s excellent analysis); and once that point had been given away the claimants’ argument that Article 50 TEU sets into motion an unstoppable chain of events at the end of which individuals will be deprived of their EU law rights was onto a winner. An important question for the Government’s appeal to the Supreme Court will be whether

this point can be reopened. If it can, there is a possibility that this question (and only this question) will be referred to the European Court of Justice.”

Another issue which Dr Lock addresses is whether the Devolved legislatures will now have a role in the process:

“Are the parliaments of the devolved nations going to get a say as well? There is a constitutional convention that devolved parliaments are asked for their consent where the Westminster Parliament either legislates with regard to devolved matters – now expressly in s. 28 (8) of the Scotland Act – or where it legislates to augment or reduce the powers of the devolved parliaments or executives. If the claimants’ arguments continue to run in the Supreme Court and a bill allowing Article 50 to be triggered would be introduced, would this lead to legislative consent motions? The situation is not entirely clear. On the one hand, one could adopt the reasoning of the High Court in Belfast, which ruled that EU matters were an excepted matter (or in the Scottish context a reserved matter) and therefore no legislative consent was required. On the other hand, an argument can be constructed that because the triggering of Article 50 will inevitably lead to Brexit, it will inevitably lead to a change in the powers of the devolved parliaments and executives so that the convention kicks in. Certainly, the convention is only a convention, i.e. there is no way of legally enforcing it. Moreover, it only applies where ‘normally’ and Brexit could be considered abnormal. At the end of the day, these subtleties do not matter much. It is chiefly a political question, which will need to be played out between London, Edinburgh, Belfast and Cardiff.”

A post by Kirsty Hughes on the Centre on Constitutional Change blog suggested that the Article 50 Court decision which brought the UK Parliament into the Brexit decision meant politics are also now a part of the Brexit debate. Whilst accepting that Parliament’s involvement may lead to little change in the process or outcome, Kirsty Hughes suggests another possible outcome is that [the substance of Brexit may be debated](#):

“What seems more likely is that opposition MPs will demand that Theresa May sets out a much clearer set of Brexit negotiating goals. If these goals are for a very hard Brexit – trading on WTO rules for instance – then there might be a close vote in Parliament, possibly even a vote against the goals. But May is unlikely to set such a hard Brexit out as her goal.

If, rather, her goals are to obtain maximum access to the single market, and to get a comprehensive trade deal with no barriers to goods or services trade (however hard this may be to actually achieve with the EU27) then Labour, and probably the Lib Dems, may find this hard to oppose. The SNP would still have a strong basis to oppose such a negotiating mandate.

One key question is whether opposition MPs – perhaps the Lib Dems who have been arguing for this – would insert an amendment to the Article 50 vote demanding a second referendum on the final terms of the deal, before the end of Article 50’s two year negotiating time limit.”

On the question of whether the Article 50 Court decision will lead to a general election, Kirsty Hughes suggests it is a possibility though not a certainty.

How the United Kingdom might leave the European Union

A report by the UK in a Changing Europe for the Political Studies Association, published on 2 November sets out the immense legal, constitutional and bureaucratic challenges involved in the Brexit process. [How the United Kingdom might leave the European Union](#) covers a number of different issues related to the UK's departure from the EU including how the negotiations might progress once Article 50 is triggered and how what the UK will look like post Brexit.

On the negotiations, the report examines the likely role of the UK Parliament along with whether the civil service has the capacity to deal with the Brexit negotiations and Brexit itself:

“Brexit thus exposes Whitehall to multiple cross-cutting pressures. In addition, a depleted Whitehall will also be expected to deal with domestic policy agendas. Inevitable crises will emerge. Whether a machinery that will be focused on Brexit-related matters will be sufficiently agile to develop comprehensive policies to address purely domestic agendas is questionable. Tensions will emerge about the lack of initiatives that will place ministers in the limelight of the media, especially as Brexit-related negotiations get bogged down in the kind of details that political masters find unappealing...

... Brexit requires, in the short term, an extensive knowledge of policy detail, sage-type nous about what is politically feasible and negotiable, and delivery capacity to adjust regimes to new specifications. In the long term, depending on the form Brexit might take, demands on Whitehall competence could range from lobbying the EU and ensuring domestic compliance (under a Norway-EFTA type deal) to the simple business advice services as to how to trade with the EU (under a deal that did not place any obligations on the UK).”

On the future relationships across the UK, the report examines a number of scenarios for the future of the UK including the possibility of differentiated relationships for Scotland and Northern Ireland:

“A step on from this is the possibility that Scotland and Northern Ireland might remain part of the EU, at least for some purposes, while remaining within the UK. All sides are agreed that closing the Irish border would be a serious mistake and that some accommodation will have to be made. This could take the form of keeping the historic common travel area and some crossborder institutions. It is difficult, however, to envisage Northern Ireland being within the Single Market and the rest of the UK being outside it without controls on trade in goods and services between Northern Ireland and Great Britain. In Scotland, there has been talk of a ‘reverse Greenland’ under which EU law would not apply in England and Wales (as it does not in Greenland) but would apply in Scotland and Northern Ireland. However, the Greenland analogy is hard to make, since Greenland is a sparsely populated island remote from Denmark, not the core of the state containing 80 per cent of the population. Nor is it possible to see how Scotland and Northern Ireland could exercise full Member State competences, including in reserved areas (which extend to foreign and security policy). Even if this were technically possible, it would be politically unacceptable both to the UK and the EU. There would also be all the internal market and border issues discussed above.”

On the impact on devolution, the report concluded it was likely Brexit would have a big impact:

“There is no clear resolution to any of these issues but Brexit will have a big impact on devolution. It may lead to a recentralisation as the UK reconstitutes itself as a sovereign polity; or to further decentralisation with the devolution of EU competences. In either case, the process will be difficult and controversial.”

Ian Dunt writing on Politics.co.uk outlined what he considered to be the [four key findings](#) in the Political Studies Association report.

The role of the Devolved Administrations in Brexit

Professor Michael Keating writing on the Centre on Constitutional Change website following the publication of the Political Studies Association report examined [what role for the devolved nations in Brexit?](#) The blog examines how the governments of the devolved nations could be involved in Brexit given the differences in views between the UK Government and the Devolved Administrations.

“Yet it is clear that neither Scotland nor Northern Ireland can be in the single market, while the rest of the UK is outside, without creating new internal borders within the United Kingdom. It also seems, from what UK ministers have been saying, that there is little scope for comprehensive and distinct Brexit packages for the nations and regions, nor for whole economic sectors.

More likely are detailed arrangements at the margins of policy, which may be both sectoral and territorial. There may be scope for variation in work permits across the UK, for the detail of fisheries management or in higher education. There will have to be a new financial settlement to deal repatriated EU expenditures. For this to work, the devolveds would need to follow the negotiations in detail rather than just laying out general principles. This implies more of an insider role than the UK Government appears to be contemplating through the new JMC mechanism. It is also a matter of political weight – pieties about cooperation and goodwill are not enough. It is still not clear how the new machinery will meet these needs.”

Leading the Brexit negotiations for the EU

Previous weekly updates have provided details of the view of the Brexit negotiations from the EU’s perspective. The first weekly update published on [15 September](#) included a link to an article examining why the Member State Governments and the European Commission couldn’t agree on who should lead the negotiations for the EU. The [article](#) outlined the arguments of both institutions:

“The Council’s legal position, according to the Commission’s own legal service, is that the U.K. would be a member of the EU at the time of the divorce talks, not a “third state” that would usually be dealt with by the Commission, as for example in talks on joining the union. By that logic, as the Council groups together member states, the Council is the appropriate setting for these negotiations. “To the contrary,” the Commission legal service memo said, Article 50 “treats the withdrawing Member State as if it were already a third State: that State shall not participate in the Council’s discussions and decisions on the negotiations.”

Anthony Salamone from the University of Edinburgh writing for the London School of Economics blog has set out why he believes [it matters if the European Commission ends](#)

[up leading the Brexit negotiations](#). Anthony Salamone suggests that in recent weeks it has become more likely the Commission will lead the negotiations as the Council (made up of Member State Governments) does not wish to “be taken over by Brexit at every meeting for the next few years”. In addition, the European Commission has experience of negotiating both trade agreements and enlargements (the Brexit process might be seen as a reverse enlargement). As a result, if the Commission does lead the negotiations the suggestion is the implications for the UK are that it will be a tougher Brexit:

“As an organisation, the European Commission is quite fond of integration. Unless specifically obliged to do so, it is probably the last entity that would ever agree to picking apart the Single Market (either separating the four freedoms or negotiating differentiation for individual sectors), as the UK government seemingly wishes to do at present. Perhaps more than any other actor, it knows the details of the Single Market and all of the EU’s policies and programmes. It is extraordinarily unlikely that it will not be aware of all the facts and all the briefs going into the talks. The UK won’t be able to get by on fudging substantive points. The Commission’s collective knowledge, expertise and resources afford it an advantage in the negotiations.

The Council will still have an important role, of course, particularly on the major issues decided at the key summit meetings. The European Parliament will also have influence, with its approval needed on the withdrawal agreement. In that sense, the Brexit negotiations will be a hybrid of ‘internal’ and ‘external’ negotiations. We will see both the UK-EU negotiation process (external/third country mode) and landmark moments at the European Council, at which the UK will be present until its departure (internal/intra-EU mode). As a negotiation configuration, this will be a novel experience for the EU.

In shaping Brexit, the Council will take many of the big decisions for the EU. However, the Commission could be negotiating the details. And in the EU, the details matter. The European Commission is the ‘guardian of the treaties’, a role which it has always taken seriously. It will undoubtedly continue to do so throughout the Brexit negotiations and afterwards in future UK-EU relations.”

Nissan’s decision to invest further in Sunderland

The decision by Japanese car firm Nissan to increase its investment in Sunderland which was [announced on 27 October](#) following UK Government reassurances has reported come to the attention of the European Commission. [According to Politico](#), the European Commission has asked the United Kingdom for details about what assurances it gave Nissan. According to the article:

“Officials would like to check whether the controversial guarantees breach EU rules preventing governments from subsidizing favored companies or sectors, in a move that runs the risk of enflaming tensions ahead of negotiations over the U.K.’s exit from the EU...

... “We have seen press reports regarding this issue,” said Ricardo Cardoso, a spokesperson for the Commission. “As a result, the Commission at services level is in contact with the U.K. authorities.”

He added that such exchanges are common and that the Commission had not taken any formal view on whether the assurances amounted to state aid.”

Scottish Parliament Committees consider Brexit

The Scottish Parliament's European and External Relations Committee continued its inquiry into [the implications of the EU referendum for Scotland](#) on 3 November by taking evidence on future trade relationships. The Committee [took evidence](#) from Professor Ian Wooton from the University of Strathclyde; Professor Stephen Woolcock from the London School of Economics; Dr Matias Margulis from the University of Stirling and Dr Gracia Marin-Duran from the University of Edinburgh.

Members focussed their questioning on the recently announced news that Nissan would be increasing its investment in its plant in Sunderland and the possibility of relying on World Trade Organisation rules for the UK's future trading relationships including with the EU. On the UK's terms of WTO membership which are set out in the tables of concessions, Dr Marin-Duran told the Committee:

“That said, there are two other aspects of the schedule of concessions that will nonetheless be tricky. One is whether the UK will keep the tariff-rate quotas currently applied by the EU, which are bound in part III of the schedule, as well as the right that it currently has to subsidise agricultural production up to a certain level, which is bound in part IV of that schedule. That goes beyond the issue of the common external tariff in itself, which is what the customs union sets. It says that all the members will keep the same common external tariff. That is dealt with in part I of the schedule, but it does not tell us much about what we are doing with the tariff-rate quotas and subsidies to agriculture, which are dealt with in parts III and IV of the schedule. Those issues, as well as the tariff, are open to question if, instead of the customs union, the UK-EU relationship post Brexit moves into other forms of regional integration, such as a free trade agreement, in which the independent parties keep their right to set external tariffs, so those would not be harmonised. That becomes an issue.

We can talk only about legal options, because the WTO does not have a procedure— whoever claims the contrary is being inaccurate, legally speaking—on how to deal with the current situation of one member leaving a customs territory. The WTO has a procedure for how to deal with a customs territory enlarging, and it has done that through the successive EU enlargements, as new members have acceded to the EU. There is a procedure in article 24 for what needs to be done vis-à-vis other members.

However, there is no procedure for when one member of a customs territory decides to leave. There is no procedure for how we regulate that. There are two legal options. First, it could be argued that that member is modifying the schedule of concessions. That means that, if the UK decides to adopt a completely new trade regime from the one that is currently found at EU level, it will have to modify the schedule of concessions, which will clearly require a renegotiation, with all WTO members having a substantial interest in that new trade regime.

The second option is if the UK does not want to substantially modify or amend the current trade regime to which it is bound at EU level but simply to continue to apply it as the UK. If that is the policy option that the UK Government decides to go for—although, as I say, there is not a clear procedure—it may be that it could make the argument that that is not a modification of the schedule that requires renegotiation with all the other members but simply a rectification of the schedule. We have already heard UK Government officials trying to make that argument.

A rectification of a schedule means only a formal change because, in practice, the same concessions are being applied. It is just that it is not the EU applying them anymore but the UK independently. The concessions remain the same. That does not involve renegotiating with the members; it involves notifying the WTO of the rectification and hoping that no member objects. If a member objects, it could always take the UK through the WTO dispute settlement system. That would be a simpler and faster procedure than the whole process of having to adopt an entirely new trade regime, with new tariffs and so on, and having to modify the schedule of concessions through negotiations with other members and compensatory adjustment. In that case, the UK would need to compensate the other members for any change that it wanted to make to the current EU-bound regime.”

The Economy, Jobs and Fair Work Committee meanwhile began taking evidence for its [Economic Impact of Leaving the European Union inquiry](#) on 1 November. The Committee took evidence from Dr Graeme Roy, Director, Fraser of Allander Institute; Richard Marsh, Director, 4-Consulting; Stephen Boyle, Chief Economist, The Royal Bank of Scotland; Dr Matias Margulis, Lecturer, University of Stirling; Dr Fabian Zuleeg, Chief Executive and Chief Economist, European Policy Centre; Jane Gotts, Director, GenAnalytics Ltd and Jenny Stewart from KPMG.

Much of the [discussion with witnesses](#) focussed on the uncertainty of Brexit and what Scotland’s future trade policies should be. Dr Fabian Zuleeg summarised the current uncertainty:

“It is clear that there is still a significant amount of uncertainty about timing, transition and the final outcome. It is also clear that the harder and the quicker Brexit is, the higher the costs will be. The key question is whether the UK continues to be in the single market, which is qualitatively different from negotiated access to the single market. It is a binary choice. The single market is much more than a free-trade agreement.

If there is a free-trade agreement, rather than membership of the single market, it will depend on when that is negotiated and it is likely to be way into the future. We are not talking about having a free-trade agreement on exit; we are talking about having one at some undefined point in the future.

There are a lot of questions, including what will happen with the UK and the WTO. The UK does not have a WTO schedule and it will have to negotiate one—again, there is the question of transition arrangements. All of that will impose costs: short-run costs, medium-run costs and long-term dynamic costs—which is where the really significant costs will come in.

There are some considerations about whether there can be special deals. If the UK leaves the single market, I think that it is highly unlikely that any part of the UK will get a special deal to remain in the single market. The big question with special deals is whose gift they are in. Who will be the one to decide on those special deals?

With international trade, there is a game of negotiation that involves give and take. The big question is always what the UK Government will give. What will be on the table to rescue some of the special provisions that there are? It should not be forgotten—it has already been mentioned—that that takes place within a framework that has already been set. WTO rules will prescribe certain things for the UK. For example, it is quite difficult to see how some agricultural subsidies or preferential trade deals will work under WTO rules.

It is not just the relationship between the EU and the UK that will change fundamentally, but the relationship between the UK and the rest of the world. Should Scotland aim for the rest of the world, rather than for the rest of the EU? It is about both, rather than either. It is about taking into account the uncertainty that will exist under WTO rules with the rest of the world. There is also an economic proximity factor: the closer a country is, the more you trade with it. Generally, that holds true regardless of the institutional arrangements. In the Nissan case, we do not know what has been promised, but the key thing is that we should not assume that UK car makers produce for the UK market. UK car makers produce for the European market, so it matters a lot whether there are tariffs for cars that are exported from the UK to the continent. That will also determine car makers' long-term decisions about whether to continue to invest here. There are possibilities for trying to mitigate some of that, but those possibilities are costly—state aid, for example—and again we come back to the question of what is WTO compatible and what is not.”

Scottish Parliament debate on Justice and Security following the EU referendum

On 1 November, the Scottish Parliament debated [UK Referendum on EU Membership: Justice and Security](#). Following the debate, the Parliament passed the following motion by 94 votes to 29:

“That the Parliament acknowledges the result of the UK referendum on EU membership in Scotland; recognises the continuing importance of EU membership to Scotland; acknowledges the benefits to the justice system of EU-wide cooperation and the extent to which the current Scottish justice system is shaped and informed by EU law, as well as the benefits to Scotland’s mixed legal system, which includes civilian elements; notes that any repeal of the EU justice and law enforcement measures will have an impact on the effectiveness of law enforcement and an increase in costs in law enforcement procedures due to the lack of harmonised systems and standards already established; acknowledges the pivotal role played by EUROPOL in facilitating and supporting the international cooperation necessary to combat cross-border crime and terrorism; resolves to promote Scotland’s willingness to continue to collaborate with European partners; calls on the Scottish Government to undertake a full analysis of the impact of leaving the EU on Scotland’s independent justice system, to protect against any unforeseen consequences and to fully inform the negotiation process, and calls on the UK Government to ensure that Scotland has a role in the decision-making, as well as full involvement in all negotiations between the UK Government and the EU, to protect Scotland’s independent justice system.”

Scottish Parliament Information Centre (SPICe) Brexit Briefings published

On 1 November the Scottish Parliament Information Centre (SPICe) published a briefing on [Implications of Leaving the EU – Climate Change](#). The briefing highlights the EU framework that relates to climate change policy and explores the implications that leaving the EU may have on Scotland's approaches to tackling climate change. The briefing also sets out some views on how alternatives to EU membership may impact on Scotland's efforts to tackle climate change.

On 3 November, SPICe published a briefing on [EU nationals living in Scotland](#). The briefing presents analysis of the characteristics of EU nationals living in Scotland, based on the 2015 Annual Population Survey. The briefing also reviews evidence relating to the economic contribution of migrants.

On 7 November, SPICe published a briefing on [European Union funding in Scotland](#). The briefing provides details of the European funding for Scotland during the 2014-2020 programming period.

The UK Parliament's response to the decision to leave the European Union

[Membership](#) of the House of Commons Exiting the EU Committee has been confirmed. The Committee which will be chaired by Hilary Benn MP of the Labour Party includes 10 Conservatives, 5 Labour Party members, 2 SNP members, and one member each for the Liberal Democrats, Plaid Cymru and the Democratic Unionist Party. Members on the Committee representing Scottish constituencies are Alistair Carmichael, Joanna Cherry and Peter Grant. The Committee's first piece of work was to launch an inquiry into the [UK's negotiating objectives for withdrawal from EU](#).

Membership of the House of Commons International Trade Committee has also been confirmed. The Committee of eleven will be chaired by Angus MacNeil MP of the SNP and will have 6 Conservatives and 4 Labour members on it. The Committee began by setting out its [forward work plan](#).

A number of Committees in both the House of Commons and House of Lords have established inquiries linked to the UK's decision to leave the European Union. Upcoming Brexit related work includes:

The House of Lords has produced an update covering its on-going [Brexit inquiry work](#).

On-going Brexit related work in the UK Parliament includes:

[House of Commons European Scrutiny Committee Post Referendum Consultation](#)

[House of Commons Scotland Affairs Committee Scotland's Place in Europe](#)

[House of Commons Welsh Affairs Committee Implications for Wales of the EU Referendum Result](#)

[House of Commons Public Administration and Constitutional Affairs Committee Lessons Learned from the EU Referendum](#)

[House of Commons Environmental Audit Committee The Future of the Natural Environment after the EU Referendum](#)

[House of Commons Energy and Climate Change Committee Leaving the EU: Implications for UK Energy Policy](#)

[House of Commons Brexit and health and social care inquiry](#)

[House of Lords European Union Committee Brexit: UK-Irish Relations](#)

[House of Lords European Union Committee Brexit: Parliamentary Scrutiny Inquiry](#)

[House of Lords EU External Affairs and EU Internal Market Sub-Committees Brexit: future trade between the UK and the EU inquiry](#)

[House of Lords EU Internal Market Sub-Committee Brexit: future trade between the UK and EU in services inquiry](#)

The [sub-committees](#) of the House of Lords European Union Committee are also conducting a number of evidence sessions following the UK's decision to leave the EU including:

[Fisheries Policy after Brexit](#)

[Brexit implications for environment policy examined by committee](#)

[Brexit implications for energy and climate change policy](#)

[Brexit and Financial Services](#)

[Brexit: environment and climate change.](#)

The UK Parliament has also produced [impartial analysis](#) of the UK's referendum for remaining in or leaving the European Union. This page sets out useful research on the impact of Brexit on key policy areas. It also explains the process for leaving the EU.

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