

# Supreme Court Brexit hearing begins amid growing divisions in UK ruling circles

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On Monday, the UK's Supreme Court began a four-day hearing on whether the Conservative government of Prime Minister Theresa May is able to trigger Article 50 of the Lisbon Treaty—to begin the process of leaving the European Union (EU)—without the consent of Parliament.

The case stems from the major constitutional and political crisis sparked by the narrow June 23 referendum vote by the population to exit the EU. It is the most significant to be heard in a British court in modern times.

The government intends to trigger Brexit by the end of March 2017, by invoking the powers of Royal Prerogative—once held by British monarchs and now reserved to the government on the advice of the prime minister and the cabinet.

The government appealed to the Supreme Court, the highest court in the land, to challenge last month's High Court decision ruling that Parliament alone has the right to trigger Britain's EU exit. The High Court case was brought by a group of claimants led by Gina Miller, a London-based investment fund manager. They argued successfully that rights conferred by Parliament when it passed the 1972 European Communities Act—paving the way for the UK to join the then European Economic Community—were threatened by Brexit. The High Court accepted their contention that a process leading to the withdrawal of these rights could therefore only be determined by Parliament.

The significance of the Supreme Court hearing was laid out prior to the case by the president of the court, Lord Neuberger. He said the assembling of 11 Supreme Court judges to hear the case was the largest panel constituted since the Law Lords were created in 1876. Cases are normally heard before just five judges, or occasionally seven. The Court's deliberations are being live streamed on the Supreme Court web site, by the BBC and other news channels, with an estimated 300,000 expected viewers.

Representatives from the UK devolved Scottish, Welsh and Northern Ireland administrations are also in court as interested parties.

What is being fought out in the courts are the fundamental strategic interests of warring factions of the British ruling class—between those who favour remaining in the EU, and the minority faction, which includes the May government but not all of the ruling Conservative Parliamentary party, who favour leaving.

In the aftermath of the High Court ruling, Nigel Farage, a leading Leave campaign figure and then leader of the right-wing xenophobic UK Independence Party (UKIP), threatened to lead a march of 100,000 people through central London to the Supreme Court. Supporters of the Remain camp were preparing to hold a counter-protest. The Farage-led march was cancelled after the organisers, Leave.EU, said they feared it would be hijacked by fascist groups, including the English Defence League and British National Party.

The Leave-supporting media responded to the High Court verdict by describing the judges as “enemies of the people” and accusing them of “treachery.”

On Saturday, the *Daily Mail* continued its campaign by editorialising, “With only a simple majority needed for a ruling, we therefore find it disturbing that no fewer than five Supreme Court judges have publicly expressed views which appear to be sympathetic to the EU, while six have close links with people who have publicly attacked the Leave campaign.”

The *Telegraph* led Monday's front page with the headline, “Don't defy the people, judges told.” This was in reference to the Attorney General for England and Wales and Tory MP, Jeremy Wright QC, who outlined the government's case at the beginning of Monday's session. Wright would say that the government's opponents were inviting the court “to stray into areas of political judgment rather than legal adjudication,” the *Telegraph* reported.

“The Court should resist that invitation, particularly where the underlying issue is one of considerable political sensitivity.”

Tensions escalated further as the case got underway, with May’s spokeswoman saying threats by Labour and Liberal Democrat MPs to amend any Brexit bill that comes before Parliament if the government loses the case were an attempt to “frustrate the will of the British people.”

The Supreme Court began its deliberations in an extraordinarily febrile atmosphere. Neuberger was forced to warn the media they should not report the names and addresses of Miller and other claimants and their families, as there had been “threats of serious violence and unpleasant abuse” made to them online and in emails.

In his submission, Wright stated that the “foreign affairs prerogative” was not an “ancient relic,” but was essential for the “government to maintain control over strategy, policy and operational matters in conducting our bilateral or multilateral international relationships.”

If May’s government loses the case, it plans to present a mini-bill to Parliament, confirming its intention to proceed with Brexit. Presented as a “compromise”, the government—with a majority of just 13—is desperately seeking to bring its Brexit agenda back under its control. It calculates that Parliament will accept the bill and therefore hand back to the government full control of negotiations with the EU over Brexit that will last a minimum of two years. However, this outcome is unacceptable to the Remain camp, whose leading figures are seeking the reversal of the Brexit vote.

In Parliament, they are supported across party lines, by up to three-quarters of MPs. While a majority of MPs have said they will not block Article 50 being triggered, many are committed to amending any Article 50 bill in order to ensure that their pivotal aim—access for British capital to the EU’s Single Market—is achieved in the EU negotiations. Last Saturday, Labour leader Jeremy Corbyn stated, “When the Article 50 debate comes up, we will put forward an amendment to it, about market access and protections. We want those to be part of the negotiations.”

The bitter divisions in ruling circles cannot be resolved through the courts. The Brexit referendum was called in 2013 by May’s predecessor, David Cameron, as a manoeuvre to stem the growing influence of the Tories’ euro-sceptic wing and to prevent a further haemorrhaging of support to UKIP. As a Leave result was never seriously contemplated, no planning was undertaken by the Cameron government for this eventuality. The Remain

campaign, led by Cameron, was only ever intent on implementing the referendum if they got the result they wanted.

The working class must take an independent political stance against both equally reactionary factions of the ruling elite. The pro-Brexit forces are advancing a “Britain into the world” strategy, based on the tearing up of all regulations that hamper the unfettered ability of Britain’s corporations to reap profits. This is premised on escalating the exploitation of the working class in order to “compete internationally.” The pro-EU wing are solely concerned with access to the EU’s single market for UK banks and corporations, and the ability to compete globally as part of the world’s largest trade bloc. Both wings are equally supportive of cuts in immigration and restrictions on the freedom of movement.

This unprecedented crisis in British ruling circles gathers pace amid the ongoing fracturing of the EU. The Remain camp eulogises the EU under conditions where its austerity agenda and the accompanying destruction of living standards is being rejected by millions across the continent. Just hours before the Supreme Court hearing began, Italian Prime Minister Matteo Renzi was forced to resign after the population rejected, in a referendum, constitutional amendments modifying electoral laws to vastly strengthen the prime minister’s powers. The EU supported Renzi’s proposals and their decisive rejection reflects deep opposition to the ruling Democratic Party government and the austerity policies enacted since the 2008 global financial crash.



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