

# UK Supreme Court completes hearing on Brexit procedure

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On Thursday, the UK's Supreme Court concluded its four-day hearing on whether Conservative Prime Minister Theresa May has the power to trigger Article 50 of the Lisbon Treaty—initiating Britain's departure from the European Union—without consulting Parliament. May wants to use the archaic power of the Royal Prerogative to start the process of Brexit by the end of March 2017.

A ruling by the Supreme Court, the highest court in the land, is expected in January.

The government appealed to the Supreme Court to challenge last month's High Court decision that Parliament alone has the right to begin Britain's exit following June's referendum vote to leave the EU. The High Court case was brought by a pro-EU group of claimants led by Gina Miller, a London-based investment manager.

Miller won the support of all three High Court judges by submitting that when the UK passed the 1972 European Communities Act paving the way for Britain to join the EU's predecessor, the European Economic Community, rights were conferred on citizens via that act of Parliament. It was therefore not within the realm of Royal Prerogative to take away those rights.

There was a surreal element to the proceedings at the Supreme Court, as everyone concerned knew there was far more at stake than how Brexit is triggered.

On the last day, the government's leading advocate, James Eadie QC, summarised his case by arguing that the rights incurred due to EU membership were created and taken away "on the international plane" rather than by domestic legislation. Therefore, a new act of Parliament was not required for Brexit, as foreign policy is covered by Royal Prerogative.

He was able to add to his argument against the need for parliamentary sanction to initiate Brexit the fact that

the House of Commons had on Wednesday passed a "highly significant" motion supporting the timetable of the government to invoke Article 50 by March 31. Parliament "indicated its view and has done so clearly," said Eadie, adding that the motion might not be "legally binding, but this does not mean it is not legally relevant."

Westminster MPs voted 461 to 89 in favour of a motion moved first by the Labour Party and then amended by the government, with an additional 56 Labour MPs absenting themselves or abstaining. The motion agrees that the Conservative government publish its plans for leaving the EU before beginning formal negotiations over the UK's exit. In return, however, Labour and other opposition parties must accept that Article 50 should be invoked by the end of March, that the result of the referendum should be accepted, and that the publication of the plan should not undermine the government's stance in the negotiations.

Given these facts, it may be difficult to understand why the Supreme Court hearing is considered the most significant in modern times and why for the first time since the Law Lords were created in 1876 all 11 Supreme Court judges have been assembled to hear a case. However, the issue under dispute is not the triggering of Article 50. Only a handful of Liberal Democrat MPs and Blairites in the Labour Party are ready at this point to openly oppose the referendum result.

What is really at stake is the possible setting of a precedent whereby Parliament will have the right to ratify any Brexit deal that is eventually reached between the UK and the EU. If the deal threatens Britain's access to the Single Market, the rebellion against the government will be far bigger than the 145 MPs who either voted "no" or did not vote on

Wednesday. In that case, the opposition to the government's position will likely comprise a majority of MPs.

Though this is widely understood, speaking for the court, its president, Lord Neuberger, insisted, "We are not being asked to overturn the result of the EU referendum. The ultimate question in this case concerns the process by which that result can lawfully be brought into effect."

The same line is echoed by virtually all those in the pro-EU "Remain" camp of the ruling elite, even as they denounce Brexit for threatening continued access to the Single Market. In 2015, fully 44 percent of the UK's goods and services were exported to the EU, while 53 percent of imports came to the UK from the EU.

There is little indication that access to the Single Market or any other concessions will be on offer from the EU, which is itself mired in deepening economic, political and social crises. As the Supreme Court case was being heard, relatively little coverage in the British media was given to the comments Tuesday of Michel Barnier, the EU's chief negotiator in talks with Britain.

Barnier said his team would "preserve the unity and interests of the EU-27," and that the UK would have to accept an inferior trade deal to that of EU members. To have access to the Single Market, countries had to agree to accept that the "four fundamental freedoms" of the EU—free movement of goods, services, capital and people—"were indivisible."

The last two days of the hearing included a submission from James Wolfe QC on behalf of the Scottish National Party (SNP)-devolved government in Edinburgh. The Scottish population, unlike England and Wales, voted by a majority to remain in the EU. The SNP is committed to Scotland continuing to have access to the Single Market. The result was the extraordinary spectacle at the Supreme Court of the Scottish nationalists, who are seeking eventual independence from the UK, insisting on the sovereignty of the Westminster Parliament.

No less ironic are the legal arguments of the pro-Brexit forces, comprising a substantial section of the Conservatives' parliamentary party and the party's wider base. Having insisted in the referendum campaign that Westminster had to "take back control" from Brussels, they now demand that a government edict take precedent over Parliament.

Whatever verdict the Supreme Court hands down, it can only deepen the schism in ruling circles.

Everything that has happened since the June 23 referendum is an extraordinary confirmation of the political stand taken by the Socialist Equality Party (SEP) in its statement calling for an active boycott of the referendum.

The SEP opposed both the Remain and Leave camps, explaining that they represented the interests of vying factions of the ruling class. The statement defined a policy "that upholds the interests of workers not only in Britain, but in Europe as a whole and throughout the world." It explained, "The SEP is irreconcilably hostile to the European Union, but our opposition is from the left, not the right."

On this basis, the statement continued, "No support can be extended to the Remain campaign," which "has the backing of much of Britain's corporate elite, who regard EU membership as essential to their ability to compete internationally—not least through a continued offensive against the living standards of the working class throughout the continent."

However, it insisted, "None of this imparts a progressive character to the Leave campaign, or justifies lending even the most critical support to it. Its claim that the British parliament and its parties are any less instruments for imposing the wishes of finance capital than the EU is a transparent fraud."

The SEP explained, "British workers cannot find a way out of the current economic and political impasse on the basis of a nationalist programme."

It stated that in opposition to the "national chauvinism and xenophobia promoted by both sides in the referendum campaign, the working class must advance its own internationalist programme to unify the struggles of workers throughout Europe in defence of living standards and democratic rights. The alternative for workers to the Europe of the transnational corporations is the struggle for the United Socialist States of Europe."



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