

British Supreme Court rules only Parliament can trigger Brexit

Robert Stevens
25 January 2017

Britain's Supreme Court ruled Tuesday that Parliament must agree to begin the process of exiting the European Union.

The decision followed an appeal to the Supreme Court by the government of Prime Minister Theresa May challenging a November High Court decision. The High Court had likewise ruled that only Parliament has the right to invoke Article 50 of the EU's Lisbon Treaty, under which a member state can begin the process of exiting the EU.

A pro-EU group of claimants led by Gina Miller, a London-based investment manager, brought the legal challenge at the High Court. Miller won the support of all three High Court judges, who submitted that when the UK passed the 1972 European Communities Act paving the way for Britain to join the EU's predecessor organization, rights were conferred on citizens via that act of Parliament. Therefore, it was not within the powers of Royal Prerogative—enacted by a government minister, as proposed by May—to take away those rights.

The Supreme Court dismissed the government's appeal by an 8-3 majority. Reading out a statement, Lord Neuberger, the Supreme Court president, said that because of the UK leaving the EU and ceasing to be party to EU treaties, UK domestic law will change and the rights of UK residents will be affected. "Therefore," the statement declared, "the government cannot trigger Article 50 without Parliament authorising that course."

The statement concluded, "The Supreme Court holds that an act of Parliament is required to authorise ministers to give notice of the decision of the UK to withdraw from the European Union."

The ruling was widely anticipated. In response, the government stated that it planned to proceed with a

timetable of triggering Article 50 by the end of March. In a statement to MPs, Conservative Brexit Secretary David Davis said a bill allowing the government to trigger Article 50 would be introduced "within days." This would be "the most straightforward Bill possible..."

While the Supreme Court came down in favour of Parliament, nothing has been resolved politically by its verdict. Indeed, it lays the basis for the schism within ruling circles over Brexit to deepen and for the conflict to be fought out on the new terrain dictated by the ruling.

Given these divisions, the pro-EU wing does not want to be seen as seeking to overturn a Leave vote made by more than 17 million people.

The Supreme Court justices were careful to stress that their ruling would not overturn the decision to leave the EU. Neuberger said, "The issues in these proceedings have nothing to do with whether the UK should exit from the EU, or the terms or timetable for that exit."

The ruling was crafted to make possible the government putting the briefest bill forward in order to allow Article 50 to proceed on the basis of its timetable. The pro-Remain *Guardian* newspaper commented, "Ministers will...be reasonably happy: the Supreme Court ruled an act of Parliament was required to trigger article 50, but it made no statement on what that act should look like, allowing a very brief bill to be put before MPs."

The central concern on which no compromise is possible for the Remain forces is to ensure that UK corporations and financial institutions maintain access, post-Brexit, to the strategically vital European Single Market and Customs Union.

On this score, the judgement in favour of Parliament still ensures that pro-Remain MPs can make

amendments to whatever Bill the government proposes. Even more importantly, the decision serves to ensure that MPs can vote on—and seek to substantially amend or even block—whatever agreement the government reaches with the EU at the conclusion of negotiations expected to extend over the course of two years.

Labour leader Jeremy Corbyn plans to hold Labour MPs to a three-line whip to ensure that Article 50 is passed, but he responded to the judgement by insisting on Single Market access for British corporations and a final vote on the deal that is eventually reached.

“Labour will seek to build in the principles of full, tariff-free access to the Single Market and maintenance of workers’ rights and social and environmental protections,” he said. “Labour is demanding a plan from the Government to ensure it is accountable to Parliament throughout the negotiations and a meaningful vote to ensure the final deal is given Parliamentary approval.”

Even so, a minority group of 39 cross-party MPs, led by 18 (mainly Blairites) within the Labour Party and supported by six Liberal Democrats and 13 from the Scottish National Party, are pledged to vote against triggering Article 50. One of the Labourites, Owen Smith, challenged for party leadership against Corbyn to spearhead last year’s attempted coup, centring his campaign on accusations that Corbyn lost the vote for Remain because he was not sufficiently enthusiastic in his backing for the EU. Smith pledged in a *Guardian* article Tuesday to oppose Article 50 in any parliamentary vote.

His first argument for doing so was to reject May’s assertion of a “buccaneering Britain striking advantageous trade deals across the globe,” accusing her of placing “party politics over the national interest.” He predicted “a protracted and painful withdrawal from the Single Market and Customs Union...”

The ruling is also meant to oppose the danger of Brexit leading to the breakup of the United Kingdom, but fails in this respect too.

All 11 Supreme Court justices rejected the argument made by claimants representing the devolved administrations of Scotland, Wales and Northern Ireland that they should be consulted before the government triggers Article 50. The judges’ summary decision said that the various acts of devolution

creating the devolved administrations “were passed by Parliament on the assumption that the UK would be a member of the EU, but they do not require the UK to remain a member.”

The Scottish National Party (SNP) have repeatedly threatened to hold a second referendum on independence—less than three years after the previous one—if Scotland loses access to the Single Market as a result of the EU exit. Only a week ago, after Prime Minister May confirmed that the UK would leave the Single Market in a “hard Brexit,” the Scottish parliament passed an SNP motion stating that “Alternative approaches within the UK should be sought that would enable Scotland to retain its place within the Single Market and the devolution of necessary powers to the Scottish Parliament.”

In response to the Supreme Court ruling out any veto rights over Article 50 for the devolved powers, SNP leader and Scottish First Minister Nicola Sturgeon declared, “It is becoming clearer by the day that Scotland’s voice is simply not being heard or listened to within the UK.”

She added, “Is Scotland content for our future to be dictated by an increasingly right-wing Westminster government with just one MP here—or is it better that we take our future into our own hands?”

The SNP, who have 56 MPs at the Westminster Parliament, plan to put forward 50 amendments to the Article 50 legislation of a “serious and substantive” character.

The situation is made more fraught still by the fact that Northern Ireland voted in favour of Remain and the pro-EU Sinn Fein has precipitated a general election. Having brought to the forefront the prospect of a united Ireland, it will contest bitterly against the pro-British and pro-Brexit Democratic Unionist Party.



To contact the WSWS and the
Socialist Equality Party visit:

wsws.org/contact