



Brexit Literature Update 01/2018

Following a relevant request by the Committee on Constitutional Affairs, the Policy Department for Citizens' Rights and Constitutional Affairs has been compiling, on a regular basis, academic and scholarly material related to the process of, and the negotiations on, the withdrawal of the UK from the EU. Since the June 2016 referendum in the UK, Brexit-related literature has grown significantly and it is probably going to expand further in the future. Thus, this compilation is far from exhaustive; rather, it identifies some of the more useful articles, taking into account, in particular, the following elements:

- Scholarly rather than a journalistic character of the publication
- Originality and interest
- Recent publication
- Be of interest for the EU
- Constitutional or institutional relevance.

A. Institutional and Political Issues

Katy Hayward and Paul McGrade: 'Regulatory alignment: what will it take to make it work, and how big are the risks of failure?' (Scottish Centre on European Relations, 14 December 2017).
<https://www.scer.scot/database/ident-4521>

This paper offers an in-depth examination of the reality of regulatory alignment and what it may entail not only for Northern Ireland - Republic of Ireland cross-border cooperation, but also for the wider relationship between the entire UK and the Republic.

Katy Hayward 'Bordering on Brexit: Views from Local Communities in the Central Border Region of Ireland / Northern Ireland: Executive Summary'. A report prepared for the Irish Central Border Area Network. Executive Summary (Centre for International Borders Research, Queen's University Belfast November 2017).
<http://www.qub.ac.uk/brexit/Brexitfilestore/Fileupload,781170.en.pdf>

This study presents the findings of a survey of more than 300 people in eight local authority areas on both sides of the Irish border and their views on the impact of Brexit on their lives.

B. Future relationship

Joe Owen, Alex Stojanovic and Jill Rutter: 'Trade after Brexit: Options for the UK's relationship with the EU' (Institute for Government, December 2017).
https://www.instituteforgovernment.org.uk/sites/default/files/publications/IFGJ5896-Brexit-Report-171214-final_0.pdf

The paper proposes three potential options for the future EU-UK relationship which fall between the EEA Agreement and a 'Canada-type' FTA, arguing that the choice is not binary. The examined options include an EEA-type arrangement, a DCFTA, managed divergence and the so-called 'Canada plus' option.

Adam Jackson and Gemma Davies: 'Making the case for ECRIS: post-"Brexit" sharing of criminal records information between the European Union and United Kingdom' (International Journal of Evidence & Proof, Volume 24, Issue 4, 2017).
<https://login.westlaw.co.uk/maf/wluk/app/document?&srguid=i0ad6290300000160da9974929b4397d1&docguid=I8D969130B45E11E7A777E146B340BB9F&hitguid=I8D969130B45E11E7A777E146B340B9F&rank=22&spos=22&epos=22&td=141&crumb-action=append&context=11&resolvein=true>

The article examines future cooperation between the EU and the UK in criminal justice matters, in particular how the UK and EU may share the criminal records of their citizens and residents via the European Criminal Records Information System.

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PE 596.840

Erika Szyszczak: 'A UK Brexit transition: to the Ukraine model?' (UK Trade Policy Observatory, Briefing Paper 11, November 2017).
<http://blogs.sussex.ac.uk/uktpo/files/2017/11/Briefing-Paper-11.pdf>

The research paper argues for a future relationship between the UK and EU akin to that which the EU has with Ukraine, namely an Association Agreement with a Deep and Comprehensive Free Trade Agreement component alongside other areas of cooperation.

C. Domestic UK and Devolved Administrations Matters

Arianna Andreangeli: 'The consequences of Brexit for competition litigation: an end to a "success story"?' (European Competition Law Review, Volume 38, Issue 5, 2017).
<https://login.westlaw.co.uk/maf/wluk/app/document?access-method=toc&src=toce&docguid=IA48E3B701B5E11E7B91D80F1CDB008CF&crumb-action=append&context=20>

This article examines the impact of the UK's withdrawal from the EU to its position as a primary hub for private transnational competition litigation in the EU. It argues that the future non-applicability of the Brussels I Regulation threatens the ability of UK courts and tribunals to exercise jurisdiction over future competition litigation.

Vaughne Miller: 'Brexit and Gibraltar' (House of Commons Library Briefing Paper, 2 May 2017).
<http://researchbriefings.files.parliament.uk/documents/CBP-7963/CBP-7963.pdf>

The paper examines a number of the possible implications for Gibraltar of the UK's withdrawal from the EU, particularly as Gibraltar is already outside of the Customs Union. Furthermore, it considers the potential effect of Brexit upon Gibraltar, and by extension the UK's, with Spain.

D. Rights of citizens

Tobias Lock, 'Human rights law in the UK after Brexit' (Public Law, November Supplement, November 2017).
<https://login.westlaw.co.uk/maf/wluk/app/document?&srguid=i0ad6290300000160dac76c9872f838cd&docguid=I812ED0E0C87411E79CFE663275FD29&hitguid=I812ED0E0C87411E79CFE663275FD29&rank=11&spos=11&epos=11&td=141&crumb-action=append&context=34&resolvein=true>

The author proposes that the loss of the Charter of Fundamental Rights of the European Union, following the UK's decision to withdraw, cannot be compensated alone by the UK's continuing membership of the ECHR. Instead, Charter rights may have an indirect effect in particular policy areas such as data transfers, or where the European Court of Human Rights closely follows the jurisprudence of the CJEU and the Charter.

E. Thematic Articles

Anne Weyembergh, 'Consequences of Brexit for European Union criminal law' (New Journal of European Criminal Law; September 2017, Vol. 8 Issue: 3 pp. 284-299).
<http://journals.sagepub.com/doi/pdf/10.1177/2032284417721286>

The article looks into the consequences of Brexit for the EU police and judicial cooperation sector in criminal matters and the possibilities for a future relationship between the UK and EU.

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