



### **Brexit Literature Update 02/2018**

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**

*Christophe Hillion: 'Brexit means Br(EEA)xit: The UK withdrawal from the EU and its implications for the EEA'* (Common Market Law Review, Volume 55, 2018)

<http://www.kluwerlawonline.com/abstract.php?area=Journals&id=COLA2018005>

The article focuses on the implications of the UK's withdrawal on the EEA Agreement and States, in both their relations directly with the UK and also their relations with the EU. It examines the legal process of leaving the EEA, as well as withdrawal issues such as the rights of EEA citizens, UK relations with the EEA during the transition period and how to maintain the integrity of the Single Market through close cooperation between the EU, UK and EEA States.

*Etain Tannam: 'Brexit and the British-Irish relationship'* (Dublin City University Brexit Institute, 24 January 2018)

<http://dcubrexitinstitute.eu/2018/01/brexit-and-british-irish-relationship/>

This blog post examines a number of the changes that have occurred in the UK-Ireland bilateral relationship due to the UK's withdrawal. Such changes have occurred not only due to the nature of the negotiations, but also the use of rhetoric and the previous informality of UK-Ireland intergovernmentalism.

*John Bruton: 'Brexit: Transition... or Extension?'* (The Institute of International and European Affairs, Dublin, December 2017\_)

<https://www.iea.com/publication/brexit-transition-extension/>

In the UK's EU withdrawal negotiations, both sides need more time to work out the meaning and implication of Brexit before the die is cast. In this paper, Former Taoiseach John Bruton argues that the two-year period for negotiating Brexit can, and should, be extended

#### **B. Future Relationship**

*Scott Morrison: 'Third-country equivalence: a Brexit scenario for UK financial services'* (International Company and Commercial Law Review, Volume 29, Issue 1, 2018)

<https://login.westlaw.co.uk/maf/wluk/app/document?&srguid=i0ad6ada70000016194a51dc4094c9900&docguid=I067E6230D7C311E791C5CA089C6C1601&hitguid=I067E6230D7C311E791C5CA089C6C1601&rank=22&spos=22&epos=22&td=135&crumb-action=append&context=6&resolvein=true>

This article outlines some of the implications for UK financial services of the UK's withdrawal and sets out how equivalence may be but one way in which such services can gain access to the single market. Using a comparative approach, the author demonstrates the differences between passporting and equivalence, and the latter's limitations with reference to other third countries.

*House of Lords European Union Committee: 'Brexit: Sanctions Policy'* (17 December 2017)  
<https://publications.parliament.uk/pa/ld201719/ldselect/ldeucom/50/50.pdf>

The paper examines the various methods through which the UK and EU can cooperate, post-withdrawal, on sanctions policy. These include the UK aligning with EU sanctions, creating a forum for cooperation, a formal framework for sanctions cooperation or a model based on current EU-US cooperation.

## C. Domestic UK and Devolved Administrations Matters

*Richard Macrory and Justine Thornton: 'Environmental principles: will they have a legal role after Brexit?'* (Journal of Planning and Environmental Law, Volume 9, 2017)  
<https://login.westlaw.co.uk/maf/wluk/app/document?&srguid=i0ad6ada60000016194cb4b8691a6419a&docguid=IDCCD89C081B911E7BE2CE9B6A1EE1C49&hitguid=IDCCD89C081B911E7BE2CE9B6A1EE1C49&rank=43&spos=43&epos=43&td=135&crumb-action=append&context=18&resolvein=true>

The article outlines the potential legal role of EU environmental law principles, such as the precautionary principle, in the UK post-Brexit, both under the Repeal Bill and the Withdrawal Bill. The authors examine how UK courts have used these principles and how they may be maintained in UK domestic law following withdrawal.

## D. Rights of Citizens

*Nuala Mole: 'Some thoughts on the impact of Brexit on the rights of children'* (European Human Rights Law Review, Volume 6, 2017)  
<https://login.westlaw.co.uk/maf/wluk/app/document?&srguid=i0ad6ada70000016194a51dc4094c9900&docguid=I07883DA0DA1F11E790EBE3D22920E74A&hitguid=I07883DA0DA1F11E790EBE3D22920E74A&rank=21&spos=21&epos=21&td=135&crumb-action=append&context=6&resolvein=true>

The author provides an overview of some of the issues which arise from the UK's withdrawal from the EU on the rights of children in the UK, not only UK/EU citizens but also those seeking international protection with a particular focus on Article 24 of the EU Charter of Fundamental Rights, which incorporates the rights contained in the UN Convention on the Rights of the Child into UK domestic law.

*Kirsty Hughes: 'Brexit and the right to remain of EU nationals'* (Public Law, November 2017)  
<https://login.westlaw.co.uk/maf/wluk/app/document?&srguid=i0ad6ada60000016194cb4b8691a6419a&docguid=I8156CB40C87411E79CFE9F663275FD29&hitguid=I8156CB40C87411E79CFE9F663275FD29&rank=25&spos=25&epos=25&td=135&crumb-action=append&context=23&resolvein=true>

This article examines the right to remain of EU nationals in the UK under the rights contained in the European Convention on Human Rights and the jurisprudence of the European Court of Human Rights. Such protection is principally provided under the right to respect for private and family life governed by Article 8 of the Convention.

## E. Thematic Articles

*Dora Kostakopoulou: 'Scala Civium: Citizenship templates post-Brexit and the European Union's duty to protect EU citizens'* (Journal of Common Market Studies, 2018)  
<http://onlinelibrary.wiley.com/doi/10.1111/jcms.12683/pdf>

This article examines the concept of EU citizenship in light of the UK's withdrawal and the status of EU nationals in the UK and vice versa. Using Brexit as a catalyst, the author proposes re-examining EU citizenship and creating 'differentiated citizenship arrangements' such as an EU protected citizen status.

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