

Brexit and the IT Industry

Tuesday 4th July 2017

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Brexit and the IT Industry

- Why we have already left the EU
- Article 50: myths and reality
- GDPR and Brexit
- Eighth data protection principle and Brexit
- Other effects of Brexit in the IT industry

We have already left the EU

- Most law is European law
- Official languages
- Significance of Official Language
- Miller Judgment
- Vote
- Wording of Article 50

Article 50(2) TEU

- 2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article 218(3) of the Treaty on the Functioning of the European Union. It shall be concluded by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.

Article 50(3) TEU

- 3. The Treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period.

Article 50

- Negotiate and conclude an agreement
- With Union
- Concluded by Council (qualified majority)
- Consent of European Parliament (including UK MEPs)
- If no agreement, automatic withdrawal after 2 years
- European council and UK can agree to extend the 2 year period

Changing the law before Brexit?

- E.g. Data Protection
- General Data Protection Regulation
- Enacted: 27th April 2016
- In force: 25th May 2018
- Francovitch, C9/90
- Existing divergence: e.g. definition of "personal data"
- EU extraterritoriality

Data Protection

- Why is the new GDPR not a Directive?
- GDPR "choices"
- Differences in (historical) interpretation
- Meaning of ambiguous phrases
- Future divergence
- Process justifications
 - Compliance with law
 - Public interest or official authority
- Enforcement

Other IT Law

- Freedom of movement of Goods
- "Putting on the market"
- Trade marks
- Physical products
- Software

Other IT Law

- TUPE
 - Software contracts
- Outsourcing contracts
 - Force Majeure
- Copyright Regulation
 - Uniform application of copyright law to software
 - Crystallisation of legal grey imports

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Full day GDPR course: www.eu-gdpreducation.eu

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