



### Brexit Literature Update 10/2017

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

Piet Eeckhout & Eleni Frantziou: '**Brexit and Article 50 TEU: A Constitutionalist Reading**' (Common Market Law Review, Vol. 54, Issue 3, June 2017, pp. 695-733).  
<http://www.kluwerlawonline.com/document.php?id=COLA2017058>

The article considers the constitutional requirements and implications of Article 50 TEU for the EU and argues for the need to read it in light of its drafting context, namely the Convention on the Future of Europe, as well as of the substantive protections of EU constitutional law.

Raphael Hogarth: '**Dispute resolution after Brexit**' (Institute for Government, September 2017).  
[https://www.instituteforgovernment.org.uk/sites/default/files/publications/IfG\\_Brexit\\_dispute\\_resolution\\_WEB.pdf](https://www.instituteforgovernment.org.uk/sites/default/files/publications/IfG_Brexit_dispute_resolution_WEB.pdf)

The paper examines the various alternatives for establishing a dispute resolution mechanism between the EU and the UK for both the withdrawal agreement and the future relationship. It looks at a range of options for new means of dispute resolution, besides and beyond the CJEU, including other courts, arbitration mechanisms and joint committees.

Eleni Frantziou & Adam Lazowski: '**Brexit Transitional Period: The Solution is Article 50**' (Centre for European Policy Studies, September 2017).  
<https://www.ceps.eu/publications/brexit-transitional-period-solution-article-50>

The paper discusses the most appropriate framework for a transitional period, and proposes, rather than the negotiation of a separate transitional agreement, to continue negotiations under the existing framework of Article 50 with a prolongation of the 2-year period set in this Article.

#### B. Domestic UK and Devolved Administrations Matters

Jose Martin y Perez de Nanclares: '**Brexit and Gibraltar: the Spanish proposal for joint sovereignty**' (Spanish Yearbook of International Law, Vol. 20, 2016).  
[http://www.sybil.es/documents/ARCHIVE/Vol20/15\\_Martin.pdf](http://www.sybil.es/documents/ARCHIVE/Vol20/15_Martin.pdf)

The paper examines the implications of Brexit on Gibraltar in the context of the dispute over its sovereignty and the wider EU-UK negotiations and looks into Spain's 2016 proposal for shared sovereignty.

Richard Whitman: '**Devolved External Affairs: The Impact of Brexit**' (Chatham House, February 2017).  
<https://www.chathamhouse.org/publication/devolved-external-affairs-impact-brexit>

The research paper examines the impact of Brexit on the devolution settlements in the UK and the ability of Scotland, Northern Ireland and Wales to participate as distinct actors from the UK on the European and international stages in areas related to external affairs.

*Derek Birrell & Ann Marie Gray: 'Devolution: The Social, Political and Policy Implications of Brexit for Scotland, Wales and Northern Ireland'* (Journal for Social Policy, Vol. 46, Issue 4, 2017, pp. 765–782).

<https://www.cambridge.org/core/journals/journal-of-social-policy/article/devolution-the-social-political-and-policy-implications-of-brexit-for-scotland-wales-and-northern-ireland/C11D58D353481B5EE8730BFCFA343A84>

The article examines the impact of EU policies and programmes, in particular of social policies over the devolved administrations and the post-Brexit concerns over the possible changes that will take place in the operation of devolution after Brexit.

*Cathy Gormley-Heenan: 'Northern Ireland and Brexit: Three effects on 'the border in the mind''* (British Journal of Politics & International Relations, Vol. 19, Issue 3, 2017, pp. 497-511).

<http://journals.sagepub.com/doi/pdf/10.1177/1369148117711060>

The article examines the impact of Brexit on Northern Ireland from two distinct but intimately related points of view: firstly the politics of identity in the region and secondly from the conceptual connotations of the 'border' in peoples' minds.

## C. Future relationship

*UK House of Lords European Union Committee: 'Brexit: Judicial Oversight of the European Arrest Warrant'* (House of Lords Paper, 16 - 27 July 2017).

<https://publications.parliament.uk/pa/ld201719/ldselect/ldeucom/16/1602.htm>

The report looks at the EU-UK relations in criminal justice cooperation, mainly as regards the European Arrest Warrant, after Brexit. It examines the various options available for the UK to participate in the EAW, in particular in view of the UK's position on the future jurisdiction of the CJEU.

## D. Rights of citizens

*Elsbeth Guild: 'Brexit and the Treatment of EU Citizens by the UK Home Office'* (Centre for European Policy Studies, September 2017).

[https://www.ceps.eu/system/files/PI2017-33\\_EG\\_UKTreatmentEUCitizens.pdf](https://www.ceps.eu/system/files/PI2017-33_EG_UKTreatmentEUCitizens.pdf)

This article examines the recent treatment of EU nationals residing in the UK from the UK Home Office. The article details the current administrative hurdles and instances of maladministration which EU citizens have faced since the referendum.

## E. Thematic Articles

*Joe Owen, Marcus Shephard & Alex Stojanovic: 'Implementing Brexit: Customs'* (Institute for Government, September 2017).

[https://www.instituteforgovernment.org.uk/sites/default/files/publications/IfG\\_Brexit\\_customs\\_WEB\\_0.pdf](https://www.instituteforgovernment.org.uk/sites/default/files/publications/IfG_Brexit_customs_WEB_0.pdf)

An in-depth analysis of the customs changes and arrangements which will be required by the UK and the EU in the event that the UK leaves the Customs Union.

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