

Brexit: A threat or an opportunity for UK lawyers and legal London?

No other shift in Britain's post-war history has more intrinsically required the legal knowledge and education of lawyers as much as Brexit. Brexit cannot be summarily framed as a political problem. The questions central to successfully constructing a post-Brexit framework are, in the purest and technical sense, legal questions. Brexit therefore presents a unique opportunity for UK lawyers to take a central role in the most consequential change to the UK's constitutional arrangement.

Phillip Kolvin QC noted that "once it becomes clear how much the laws and regulations affecting businesses will change lawyerly advice will be in greater demand than ever." Miriam Gonzalez, a partner at corporate heavyweight law firm Dechert, has emphasised that if a new trading relationship with the EU materialises, we will need to rethink the regulatory rules of UK plc in almost every sector, a move which will require "a hell of a lot of legal man hours".

Lawyers have already been at the centre of the journey to Brexit. The UK courts have had to shed light on who should ultimately be responsible for taking Britain out of the EU. In a case which pitted the executive against the legislature, the law helped answer the first of many questions concerning the labyrinthine process of initiating Brexit. The symbolism of the *Miller* case cannot be underemphasised. In the face of what could be a prolonged period of political uncertainty, legal clarity-a vital skill for all lawyers- will become all the more important and decisive.

But some fear that UK lawyers will no longer enjoy legal privileges in bringing EU cases to the ECJ. The Law Society noted that, in the last 2 years, more than 1,000 British qualified solicitors had joined the roll of solicitors in Ireland: in a bid to keep practicing in EU-related fields after Brexit.

This fear is compounded by the fact that some premier city firms have shored up their presence in other major European cities, with many setting up new offices or relocating part of their practices to cities such as Brussels. Elsewhere, Paris opened up an international commercial appeal court where lawyers and litigants will be allowed to speak in English. Similarly, the Dutch and the Belgians plan to exclusively use English to resolve international business disputes in the Netherlands Commercial Court and the Brussels International Business court respectively.

These permutations appear to present an apparent threat to the international attractiveness of legal London. Yet such a view is both parochial and flimsy. It ignores two key British features that will almost certainly survive long after Brexit: the primacy of English law and the intellectual firmament of UK lawyers.

It is ironic that the chief strategy of attempting to draw attention away from London as the legal hub of dispute resolution is by making use of the UK legal system's nascent traits: English law and the English language.

A recent study characterising the UK legal sector as "the most international legal sector in the world" credited English law for being the "leading choice of governing law for resolving disputes in cross border trade and investment". Sir Richard Aiken, meanwhile, emphasised that English law remained "predominantly the commercial law of the planet".

In arbitration, English law is the law of choice for around 40% of all global corporate arbitrations. Notably arbitration in the UK-governed by the Arbitration Act 1996- operates independently of EU rules. International enforcement of arbitral awards in London is equally governed by rules external to the EU i.e. the New York Convention. Brexit will therefore do little to disrupt London's premier position as the arbitral seat of choice for international commercial disputes.

Brexit will incidentally create more room for legal development in a number of corporate fields. For example, M&A in the UK is governed by the UK Takeover Code- a binding set of rules which have, since 1968, developed with minimal influence from EU legislation. Drafted in simplistic, non-legalistic language, the UK code has helped attract swathes of large foreign companies to invest in the UK. Considering that the framework of the EU's Takeovers Directive was heavily influenced by the UK code, Brexit will allow the UK to better distinguish itself as the most accessible venue for takeovers.

This should mainly be seen as positive for transactional lawyers in the UK. In the first quarter of 2018 alone, the UK saw a notable increase in the acquisition of UK companies made by foreign companies-over £18 billion- from the last quarter of 2017. The commercial opportunities for lawyers notwithstanding, this re-enforces the international appeal and 'soft power' of legal London.

Lingering questions remain over the enforcement of UK court judgements after Brexit. Leaving the EU will mean that the Recast Brussels Regulation -which guarantees automatic enforcement of judgements across EU member states- will no longer apply to the UK.

The complex options available range from signing up to the Lugano Convention and/or Hague Convention on Choice of Court Agreements; to potentially negotiating a novel arrangement with the EU. Whilst each of these choices will involve political decision making, the detail and substance of any arrangement will involve mechanically untying the various legal knots around the future private international law relationship between the UK and the EU. Herein lies the opportunity for UK lawyers to offer technocratic leadership. Any future legal arrangement will have to be legally sound and commercially pragmatic. For legal London-with its rich history of closing notoriously difficult and obtuse commercial transactions- this is the perfect opportunity to showcase its most prized human assets: its lawyers.

It is no secret that majority of lawyers sided with remaining in the EU. Ironically, lawyers will have to play an integral role in ensuring the smoothest transition out of the EU. Addressing the complex challenges ahead posed by Brexit will not simply rely on political will and skill. For UK lawyers and legal London, it presents the grandest opportunity to exhibit both legal acumen and creativity.