

Et oversettelsesvalg henger alltid tett sammen med vurderinger knyttet til det konkrete oversettelsesoppdraget (*translation brief*). Derfor følger her beskrivelsen av et tenkt oppdrag for oversettelsen av nedenstående tekst, tatt fra <https://www.supremecourt.uk/cases/docs/uksc-2016-0196-press-summary.pdf>. Teksten skal brukes i undervisning av studenter i forfatningsrett for å belyse hvordan et land uten skriftlig grunnlov håndterer konstitusjonelle stridsspørsmål.

BACKGROUND TO THE APPEALS

Article 50 of the Treaty on the European Union provides, in summary terms, that, if a member state decides to withdraw from the European Union (“the EU”) ‘in accordance with its own constitutional requirements’, it should serve a notice of that intention (“a Notice”), and that the treaties which govern the EU (“the EU Treaties”) “shall cease to apply” to that member state within two years thereafter. Following the June 2016 referendum, the Government proposes to use its prerogative powers to withdraw from the EU by serving a Notice withdrawing the UK from the EU Treaties.

The principal issue in these appeals is whether such a Notice can, under the UK’s constitutional arrangements, lawfully be given by Government ministers without prior authorisation by an Act of Parliament.

[...]

The UK’s constitutional requirements are a matter of domestic law which the parties all agree should be determined by UK judges. The issues in these proceedings have nothing to do with political issues such as the merits of the decision to withdraw, the timetable and terms of so doing, or the details of any future relationship between the UK and the EU.

[...]

The Supreme Court considers that the terms of the ECA, which gave effect to the UK’s membership of the EU, are inconsistent with the exercise by ministers of any power to withdraw from the EU Treaties without authorisation by a prior Act of Parliament

Section 2 of the ECA authorises a dynamic process by which EU law becomes a source of UK law and takes precedence over all domestic sources of UK law, including statutes. So long as the ECA remains in force its effect is to constitute EU law as an independent and overriding source of domestic law. It operates as a partial transfer of law-making powers, an assignment of legislative competences, by Parliament to EU institutions, unless and until Parliament decides otherwise.

It is common ground that UK domestic law will change as a result of the UK ceasing to be party to the EU treaties and the rights enjoyed by UK residents granted through EU law will be affected.

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