

# Brexit

## Editor's Comments for European Public Law

On 23 June 2016 the British and Northern Irish people and those of Gibraltar, made what can only be described as a momentous decision through a plebiscite. Momentous not simply for the United Kingdom and its future but for Europe and the wider global society. They voted by 51.9pc to 48.1pc (from 33,551,983 who voted, constituting 72.2pc of the electorate) to leave the European Union (EU). It seems as I write that the country is in a state of shock not unlike, one imagines, that that followed the execution of Charles I in 1649, or declaration of war in 1939. It is quite clear that the leaders of Brexit had no plan for victory. Was this why David Cameron initially deferred his resignation as Prime Minister until October 2016? Exaggerated benefits of Brexit were immediately qualified by Brexiteers. Images of rabbits caught in headlights come to mind in relation to the then favourite to replace David Cameron as Prime Minister, Boris Johnson, former mayor of London and leading Brexiteer. The supporters of Brexit numbered many working class communities who felt alienated, and ignored, swamped by immigrants and who lacked economic prospects. No-body, they felt, spoke for them. The Union became their scapegoat, their protest vote. But to characterize the 'leave' vote as exclusively a working class protest vote runs the risk of serious oversimplification. The campaign to leave was led by politicians whose campaign was characterized by vacuous optimism, lies and/or racist fear-mongering supported by swathes of the popular press.<sup>1</sup> It was in large part a disgrace. The campaign to remain was accused of stoking exaggerated fears of austerity, lacking passion, inconsistency and failing to argue through the ethical principles of working together and social cohesion. Time only will inform us whether the UK (which may be subject to loss of Scotland) will suffer and to what extent as a consequence of this decision. It is a decision which saddens me gravely. We have to move on. And events are moving at a frenetic pace. None of us has the remotest idea what the position will be like when this editorial is read in September 2016.

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<sup>1</sup> The Press Gazette analysed that in the last month of the campaign on Brexit more than ninety million newspapers were published with front pages favouring leave; only thirty million front pages were published with front pages favouring remain: *Financial Times* 25/26 June 2016, p. 6.

This journal has as its ambitions, and which were set out almost twenty-two years ago, the study of the relationship between European law and laws and national public law of European states. These relationships and their analysis are more germane now to the future of the EU, Europe and the UK and the wider global community than they were then. The road map seemed clear then. Now it is far from clear, certainly for the UK. What for instance is going to happen in the future relationship between EU laws and UK law as Brexit unravels? It will be a long process. What might replace the Human Rights Act – the next target of Brexiteers? Many EU laws are likely to stay in place such as Data Protection and financial regulation. Our statute book will remain heavily influenced by EU law. The Bar Council of England and Wales has set out the possibilities.<sup>2</sup>

There is a great, powerful and noble European tradition promoting legal protection, legal certainty and the rule of law. We may have increasingly to call on those values through independent bodies to protect us all in increasingly uncertain times. There are also dark forces from Europe's not so distant past which must be contained. The result of a plebiscite has not removed the need for us all, both as lawyers and human beings, to continue learning from each other, to protect our public law heritage and to pass its benefits and development to future generations. It is a sad note to end on the fact that the younger voters in the plebiscite voted apparently overwhelmingly in favour of remain.

*The Editor*  
27 June 2016.

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<sup>2</sup> See: [http://live.barcouncil.netextra.net/media/472103/exec\\_summary\\_bar\\_council\\_eu\\_referendum\\_final.pdf](http://live.barcouncil.netextra.net/media/472103/exec_summary_bar_council_eu_referendum_final.pdf) [http://live.barcouncil.netextra.net/media/472106/paper\\_i\\_bar\\_council\\_eu\\_referendum\\_final.pdf](http://live.barcouncil.netextra.net/media/472106/paper_i_bar_council_eu_referendum_final.pdf) [http://live.barcouncil.netextra.net/media/472109/paper\\_ii\\_bar\\_council\\_eu\\_referendum\\_final.pdf](http://live.barcouncil.netextra.net/media/472109/paper_ii_bar_council_eu_referendum_final.pdf) [http://live.barcouncil.netextra.net/media/472112/paper\\_iii\\_bar\\_council\\_eu\\_referendum\\_final.pdf](http://live.barcouncil.netextra.net/media/472112/paper_iii_bar_council_eu_referendum_final.pdf).