

# Supreme Court throw out appeal by UK Government



It was businesswoman Gina Miller brought the action against the UK Government to demand that the government would have to get approval of parliament before triggering Article 50.

She won that action but the UK Government appealed it and the decision of the Supreme Court was delivered by Lord Neuberger this morning.

The Supreme Court decided by a majority of 8 to 3 that the appeal would be refused. This means that the government will now have to get the approval of parliament before beginning the Brexit process proper. It is not a decision against Brexit happening, but a decision on the process by which it will.

One of the reasons why they decided so was explained thus:

- The fact that withdrawal from the EU would remove some existing domestic rights of UK residents also renders it impermissible for the Government to withdraw from the EU Treaties without prior Parliamentary authority

Gina Miller issued a statement through her lawyers Mishcon De Reya :

*“Today 8 out of 11 Supreme Court Judges upheld the judgment handed down by the High Court last November. This case was one that went to the very heart of our constitution and how we are governed.*

*“Only Parliament can grant rights to the British people, and only Parliament can take them away.*

*“No Prime Minister or Government can expect to be unanswerable or unchallenged. Parliament alone is sovereign. This ruling today means the MPs we have elected, will rightfully have the opportunity to bring their invaluable experience and expertise to bear in helping the Government select the best course in the forthcoming Brexit negotiations. Negotiations that will frame our place in the wider world, and shape all our destinies for decades to come.*

*“There is no doubt that Brexit is the most divisive issue of a generation. But this case has been about legal process not politics. Today’s decision has created legal certainty, based on our democratic process, and provided the legal foundations for the Government to trigger Article 50 in line with our constitution.*

*“The Government’s exit plan will shape the country we want to live in and be a part of. As the Prime Minister said, we must have in mind the futures we want for our children and grandchildren. We owe it to ourselves, and to those who follow us, to ensure that the course we embark upon in the coming months and years is one we can be confident that history will judge us well for choosing.*

*“I am sure everyone would agree that transparency and parliamentary scrutiny are vital components in this process and on the wider political stage. Democracy, parliamentary sovereignty, the strength of our legal system and the independence of our judiciary: these are the things that make Britain Great. We should never lose sight of that.*

*“It is now for Parliament to debate and vote on what is best for Britain and for the British people.”*

The government will introduce legislation shortly at Westminster. The bill proposed will be passed before 31 March 2017 so that the timetable already set out by Westminster can be followed.

Brexit Secretary David Davis said in the House of Commons today : “The Supreme Court confirmed in the judgement that devolved legislations do not have a veto on the UK decision to withdraw from the EU. We will introduce a straightforward bill shortly, the purpose of which is to trigger Article 50 and begin the process to leave the European Union.

“The Supreme Court ruling in no way diminishes the UK Government commitment to work closely with the devolved administrations.”

The SNP have already said it will table 50 amendments to the Article 50 legislation to be introduced by the Conservative Government at Westminster. They describe these as ‘serious and substantive’ and will call on the government to publish a White Paper before invoking Section 50 and that the government must seek unanimous agreement of the Joint Ministerial Committee.

SNP International Affairs spokesperson, Alex Salmond MP, speaking from Strasbourg at the Parliamentary Assembly of the Council of Europe, said:

“We welcome the Supreme Court’s decision and hope that their ruling brings this Tory government back to the reality that they cannot simply bypass elected Parliamentarians to fulfil their role in carrying out due and proper scrutiny of one of the biggest decisions facing the UK.

“The Prime Minister and her hard Brexit brigade must treat devolved administrations as equal partners – as indeed she promised to do.

“For over six months the concerns surrounding a hard Tory Brexit have been echoing throughout the land and yet the Prime Minister has not listened.

“If Theresa May is intent on being true to her word that Scotland and the other devolved administrations are equal

partners in this process, then now is the time to show it. Now is the time to sit with the Joint Ministerial Committee and not just casually acknowledge, but constructively engage. Consultation must mean consultation.

“Our amendments will address the very serious concerns facing the UK and the very real issues that the UK government has, thus far, avoided.”

Ruth Davidson MSP, Scottish Conservative Leader said: “The SNP tried to use this hearing to hold the rest of the UK to ransom. It has comprehensively failed to do so.

“All parties should now respect the ruling that the court has given.

“Yet typically, Nicola Sturgeon has decided to ignore it by stating – even before the verdict was in – that she would still seek a separate vote at Holyrood.

“The Scottish Conservatives will have no truck with yet more SNP stunts on Brexit.”

Patrick Harvie MSP, the party’s co-convener says the decision confirms that Scotland is not an “equal partner” in the UK and that the decision to give Westminster a vote prior to triggering Article 50 will be of “no consolation” to voters in Scotland.

Glasgow MSP, Patrick Harvie said: “By recognising that Brexit will alter the powers of the Scottish Parliament but deciding that MSPs will have no say, the Supreme Court has made it clear today that Scotland is not an equal partner in the UK.

“While it’s good that Westminster at least must have a vote before the UK begins the formal process of leaving the European Union, there’s no consolation for people in Scotland, who have come to expect that Westminster never speaks up for Scotland or respects the democratic wishes of the people who

live here.

“So now we know that the Scottish Parliament won’t get a say, that the Scottish Government’s options paper is likely to be rejected and that a Hard Brexit will cost around eighty thousand jobs and a two thousand pound drop in the average income in Scotland. It is hard to see any other option than putting the choice back in the hands of voters in Scotland, giving people the choice of an independent future in Europe, and rejecting the angry and isolated Britain the Tories are planning.”

Responding to today’s decision Scottish Liberal Democrat leader Willie Rennie MSP said:

“As the Supreme Court has concluded that Parliament must be given a say over the decision to trigger Article 50 this presents a huge opportunity for Parliament to agree to a Brexit Deal Referendum.

“Liberal Democrats will vote against the triggering of Article 50 in Parliament unless there is a Brexit Deal Referendum that gives the British public a final say on the terms of Brexit.”

**Stephen Chater**, solicitor at [Postlethwaite Solicitors Limited](#) whose firm is a member of the [UK200Group](#), the UK’s leading membership association of independent chartered accountancy and law firms, said he does not think this ruling will slow the Brexit process down: “I can’t see that the requirement for a vote in Parliament is going to affect the timetable for Brexit one iota, because if there is a vote in the House of Commons on whether to trigger Article 50, it is almost inconceivable to think that MPs would not vote in favour of leaving the EU. The government has an overall majority and Jeremy Corbyn has stated that Labour will not frustrate the Article 50 process.

“The House of Lords is a slightly more difficult question because a majority of the House of Lords are thought to have

favoured Remain. However, I find it difficult to imagine the House of Lords being able to delay that process significantly. The government could refer to the Salisbury Convention, which would prevent the House of Lords from defeating the bill as it was mentioned in the Conservative Party manifesto ahead of the 2015 General Election.

“The timetable might have been affected if the Supreme Court decided that the prior consent of the devolved assemblies was required but it is interesting to see that they have decided against this unanimously.”