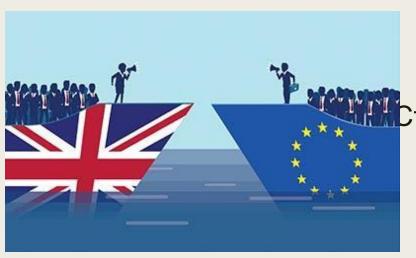
ПРАВОВЫЕ ПОСЛЕДСТВИЯ БРЕКЗИТ И РЕФОРМИРОВАНИЕ ПРАВА



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Правовое оформление выхода Великобритании из ЕС

Статья 50 Договора о ЕС

- Любое государство-член в соответствии со своими конституционными правилами может принять решение о выходе из состава Союза.
- Договоры прекращают применяться к заинтересованному государству со дня вступления в силу соглашения о выходе либо





The agreement on the withdrawal of the UK from the EU and the European Atomic Energy Community (Euratom) –

31/01/2020 Протоколы (включая Протокол Северной Ирландии) и Приложения

являются неотъемлемой частью соглашения о выходе (статья 182).

The agreement on the withdrawal of the UK from the EU and the European Atomic Energy Community (Euratom) – 31/01/2020



Agreement:

https://ec.europa.eu/info/strategy/relations-non-eu-countries/relations-united-kingdom/eu-uk-withdraw

Основное последствие Брекзита: крах идеологии развития европейской интеграции.



События последних лет несколько примеров отката интеграционного процесса, фактического отказа OT достигнутого уровня взаимодействия и передачи обратно вопросов национальный уровень (например, миграционный кризис).

Brexit 2020 results: https://www.bbc.com/news/av/uk-53201236

Эволюция понятия 'English law'

До Брекзита и в переходный период:

English law = английское право, включая соответствующее применимое законодательство



English law = английское право, действующее в настоящее время, то есть исключается действие права EC.



Переходный период: Brexit Basics: The transition period explained https://www.bbc.com/news/av/uk-459

Брекзит в праве: Contracts and

incoterms

Обновление договоров, имеющих ту или иную привязку к Великобритании: применявшееся десятилетиями право Европейского союза теряет свою актуальность для Великобритании





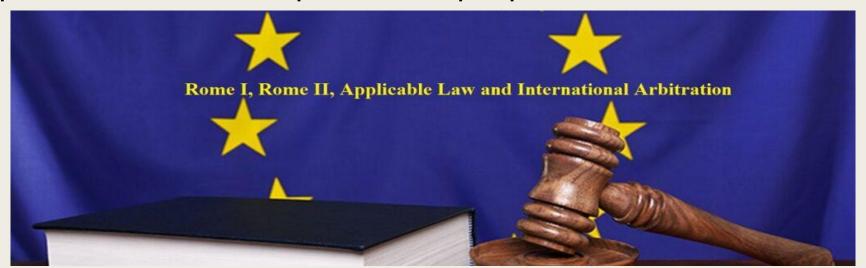
 Появление дополнительных затрат на услуги юристов

Брекзит в праве: choice of law agreements continue to be effective

До Брекзита английские суды определяли применимое право к договору в соответствии с регламентом Рим I.



Закон, применимый к договорным обязательствам и Внедоговорным обязательствам после Брекзита был утвержден парламентом Великобритании в феврале 2019 года.



Брекзит в праве: риски и коллизии



Brexit risks

Examples Company Law

Legal

Company Law

Explanation:

- > EU-UK restructuring becomes more difficult after the Brexit, in particular, cross-border mergers to/from the UK are likely to be abolished
- Liability risks for shareholders of UK companies active in EU member states (e.g. UK Limited)
- Unclear fate of European companies (e.g. SE) based in the United Kingdom

UK-related restructuring

Cross-border mergers on the basis of the EU Merger Directive between companies in the UK and EU Member States will probably no longer be possible after the Brexit

Liability risks for UK Companies

- After the Brexit, UK Limited and other limited liability companies which have their head offices in a EU member state could, by the courts of such member state, be deemed to constitute a non-limited company.
- > For example, German courts will likely regard a UK Limited with their administrative seat in Germany as a non-limited partnership.

Societas Europaea

> It is unclear whether societies under European law, in particular Societas Europaea (SE), based in the United Kingdom can continue to exist, or whether they must move their registered offices or change their legal form following the Brexit

Брекзит в праве: риски и коллизии



Brexit risks Examples Employment Law

Legal

Employment Law

Explanation:

- > The Brexit may have implications for deployment and/or the flexibility of deployment of workers in or from the United Kingdom
- Changes can also be expected in the area of the European Works Council and TUPE rules

Freedom of Movement for Workers

- There is legal uncertainty as to whether, and for how long, British employees who work in a EU member state without other EU citizenship will continue to enjoy freedom of movement, and/or whether and when local residence regulations will be applied.
- > There is legal uncertainty as to whether, and for how long, employees who work in the UK without British citizenship will continue to enjoy freedom of movement, and/or whether and when UK residence regulations will be applied.
- > The freedom of movement continues until the extended Brexit date (31st October 2019), unless the Withdrawal Agreement is signed before 31st October 2019. If the Withdrawal Agreement is agreed on before 31st October 2019, that date will be the Brexit date.
- > The current Withdrawal Agreement foresees a transition period as well (until 31st December 2020), during which the freedom of movement will continue.

European Works Council

European Works Councils under UK law may have to be re-elected as part of the Brexit, and other European Works Councils may need to be reconfigured as necessary

Transfer of Undertaking (TUPE rules)

> Transfers of Undertaking with a UK reference could become more difficult after the Brexit (British TUPE regulations could be repealed)

Брекзит в праве: риски и коллизии



Brexit risks

Examples Commercial & IP

Legal

Commercial and IP

Explanation:

- The Brexit will have a significant impact on the exchange of goods between the United Kingdom and the EU, as well as corresponding sales structures
- > The question whether Intellectual Property (IP) rightsholders are immediately affected by Brexit depends very much on which IP rights are involved.

Commercial contracts, especially sales structures

- The sale and/or placing on the market of goods between the EU and the UK will be significantly affected by the Brexit in both directions, e.g. regarding customs, import, export control, fees and taxes, regulatory responsibilities (e.g., WEEE, RoHS, REACH, and other industry particulars such as LSHC), enforcement of claims, etc., which result in increasing costs due to e.g. longer waiting times at the border and higher import tariffs
- For EU companies selling goods and services to customers based in the UK via e-commerce platforms and vice versa, the following applies: webshop and platform structures are largely harmonized based on EU guidelines, which will no longer be applicable after Brexit. Certain discrepancies will occur directly from the Brexit (e.g. telecommunications law). Other changes can be expected in the medium and long term, due to national modifications in the UK legislation
- > Territorial arrangements with reference to the EU could become difficult to interpret (what territory is meant by "EU"?) (applicable to all types of commercial agreements such as distribution systems, dealer and representative agreements, exclusivity agreements)

Intellectual Property (IP)

- Given the many specific changes Brexit brings to the spectrum of IP rights that can impact strategy, enforcement, maintenance and registration of IP rights, clients are advised to check the impact on their portfolio.
- EU trademarks and Community design rights (both registered and unregistered Community designs) for instance will no longer be valid in the UK after the transition period. Comparable UK rights will be provided for rights registered before the end of the transition period. After the transition period, owners of pending applications or those that want to make a new application and include protection in the UK, will have to apply for UK equivalents (as well).
- > Territorial agreements in IP-related contracts (licenses, research and development contracts, etc.) with reference to the EU may become difficult to interpret (see above)

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