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Who Should Decide UK – EU Disputes after Brexit?

German Lawyer Warns against Dominant Role for the ECJ in new E-Publication

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Link to PDF: [The ECJ- An Imperial or Impartial Court? Adjudicating Treaty Rights After Brexit](#)

One of the major aims for the UK after Brexit is to restore the independence and sovereignty of UK courts. The government therefore intends that the powers now exercised by the European Court of Justice (ECJ) will be restored to UK courts and the role of the ECJ will cease.

How then should the normal disputes that arise between states be resolved in respect of both the UK and the EU? Should, as some suggest, ECJ jurisdiction continue with regard to certain matters? Or should the UK's own courts be wholly sovereign? If powers were to be restored to the UK courts, what should the system for dispute adjudication be?

In Politeia's latest publication, *The ECJ - An Imperial or Impartial Court? Adjudicating Treaty Rights After Brexit?*, Dr Gunnar Beck considers such questions as:

- What role is there for the ECJ in a post-Brexit Britain?
- What are the options for dispute resolution?
- What is the legal interpretation of ECJ power?

The author explains that it is highly unprecedented for any sovereign state to permit the jurisdiction of an international organisation of which it is not a member. Furthermore, the ECJ is not an impartial court and it has developed to promote, in each case, a 'pro-EU outcome' with a view to advancing an agenda of ever-closer union among EU member states.

Rather, Dr Beck advocates that the best option for the UK would be for:

Each party [to have] a central court - the ECJ within the EU and the International Treaty Tribunal (ITC) within the UK – [to reach] decisions in individual cases on the interpretation of the agreed provisions of any EU-UK separation and trade agreement.

He explains that:

Under ordinary principles of international comity between courts of different countries which are interpreting common treaty provisions, each court would pay respect to the decisions of the other and, although not bound to follow them, would seek to follow them wherever possible.

Dr Beck concludes that such a system would mean that persistent divergence would be rare. But where divergences did continue, the EU-UK Treaty Tribunal would be available at bilateral level.

The ECJ – An Imperial or Impartial Court? Adjudicating Treaty Rights After Brexit is published by Politeia, 14a Eccleston Street, London, SW1W 9LT

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