

Oral statement to Parliament

Process for invoking Article 50: Ministerial statement 7 November

A statement from the Secretary of State for Exiting the European Union on the process for invoking Article 50.

With permission, Mr Speaker, I will now make a statement on the process for invoking Article 50.

The Government's priority at every stage following the European Union referendum has been to respect the outcome of that referendum and to ensure it is delivered on.

To leave the EU was the decision of the British people. It was taken after a six to one vote in this House to put that decision in their hands.

As the Government told the voters: "This is your decision. The Government will implement what you decide." No ifs, no buts.

So there can be no going back. The point of no return was passed on June 23.

Implementing the decision to leave the EU means following the right processes. We must leave in the way agreed in law by the UK and other member states, which means following the process set out in Article 50 of the Treaty on the European Union.

And we have been clear about the timing. There was a good reason the Government did not take the advice of some in this House and trigger Article 50 immediately.

Instead, the Prime Minister was clear that she would not invoke Article 50 before the end of this year. This is giving us the time to develop a detailed negotiating position. We have also said that the process should not drag on, and that we intend to trigger Article 50 by the end of March next year.

Let me now turn to the issues at hand this week.

Legal action was taken to challenge the Government on the proper process for triggering Article 50.

We have always been of the clear view that this is a matter of the Government: that it is constitutionally proper and lawful to begin to give effect to the referendum result by the use of prerogative powers. As I have said, the basis on which the referendum was held was that the Government would give effect to the result of that referendum. That was the basis on which people were asked to vote.

Our argument in the High Court was that decisions on the making and withdrawal from treaties are clear examples of the use of the royal prerogative, and that Parliament – while having a role in this process which I will come to – has not constrained the use of the prerogative to withdraw from the EU. Our position in the case was therefore that the Government was entitled to invoke the procedure set out in Article 50.

The court has, however, come to a different view, and held that the Government does not have the prerogative power to give notice under Article 50 without legislation authorising it to do so.

The Court said the starting point was that the Crown does not have power to vary the law of the land using its prerogative powers, unless Parliament legislated to the contrary. It held that the European Communities Act 1972 brought rights arising under EU law into the law of the United Kingdom, and that the Crown has no prerogative power to withdraw from the EU, because the effect of withdrawal would be to take away those rights.

Let me be clear about this: we believe in and value the independence of our judiciary, the foundation upon which our rule of law is built.

We also value the freedom of our press. Both these things underpin our democracy.

The Government disagrees with the Court's judgment. The country voted to leave the European Union, in a referendum approved by an Act of Parliament. Our position remains that the only means of leaving is through the procedure set out in Article 50 and that triggering Article 50 is properly a matter for the Government using its prerogative powers. As a result we will appeal the High Court's judgment at the Supreme Court.

Given our appeal, it would not be appropriate to comment further on the details of the legal arguments: I am sure that the House will understand this.

But let me say a brief word about the process of our appeal. We have taken two necessary procedural steps.

First, the Government has been granted a certificate to by-pass the Court of Appeal and "leapfrog" the case to the Supreme Court. This will ensure that, when we lodge our appeal, it will be heard directly in the Supreme Court without further delay in the courts.

Second, we will this week apply for the substantive permission to appeal to the Supreme Court.

It is likely that any hearing will be scheduled in the Supreme Court in early December. We would hope the judgment would be provided soon after. This timetable remains consistent with our aim to trigger Article 50 by the end of March next year.

We are now preparing our submissions to the Supreme Court in the usual way: as I have said it would not be proper to go into those in great detail here today. But the core of our argument will remain that we believe that it is proper and lawful for the Government to trigger Article 50 by the use of prerogative powers.

Of course, there is also litigation under way in Northern Ireland. This is considering a number of specific issues linked to Northern Ireland's constitutional arrangements.

The High Court in Belfast found in the Government's favour on these points.

A hearing in Belfast is being held tomorrow to consider whether an appeal by the claimants in this case should also leapfrog to the UK Supreme Court and whether the issues that overlapped with the English courts should remain stayed pending the outcome of the Supreme Court.

Again, it would not be appropriate for me to say more on this at this stage, except to say that in the event of any appeal in the Northern Ireland litigation, the Government will robustly defend its position.

And for the avoidance of doubt, our view is that the legal timetable in relation to this case in the event of an appeal should also be consistent with our commitment to notifying under Article 50 by the end of March next year.

I have said that because of our appeal, I will not go into detail here on the points of law that were raised in the High Court's judgement.

But let me set out some fundamental principles for how we move ahead.

First of all, our plan remains to invoke Article 50 by the end of March. We believe that the legal timetable should allow for that.

Second, the referendum result must be respected and delivered. The country voted to leave the European Union, in a referendum provided for by an Act of Parliament.

There must be no attempts to remain inside the EU, no attempts to re-join it through the back door, no second referendum. The country voted to leave the European Union, and it is the duty of the Government to make sure we do just that.

Parliament had its say in legislating for the referendum, which it did in both Houses, with overwhelming majorities in this House and cross-party support. The people have spoken, and we intend to act on their decision.

Third, irrespective of the on-going Court process, there is an important role for Parliament. Parliament will have a central role in making sure that we find the best way forward and we have been clear we will be as transparent and open as possible.

There have already been a number of debates and Parliamentary statements on Brexit and the Prime Minister has pledged that that process will continue before Article 50 is invoked.

I informed the House in October that there would be a series of debates on Brexit in Government time. The first of those is this afternoon. This is on top of a number of other debates and opportunities for scrutiny.

The new Select Committee on Exiting the EU has been established. This provides another place for parliamentary scrutiny of our withdrawal from the EU. And the Committee will be visiting my Department tomorrow, if I remember correctly.

The Government will bring forward legislation in the next session that, when enacted, will repeal the European Communities Act 1972 on the day we leave the EU. This 'Great Repeal Bill' will end the authority of EU law and return power to the UK.

And we have been clear, European Union law will be transposed into UK law at the time we leave, providing certainty for workers, businesses and consumers. This will be an Act of Parliament which we intend to have in place before the end of the Article 50 process.

It is important to remember that Article 50 is the beginning of the process; it is not the end. As the Prime Minister has made clear, there will be many opportunities for Parliament to continue to engage with Government once Article 50 has been invoked.

And when negotiations have concluded, we will observe in full all relevant legal and constitutional obligations that apply.

But there is a balance to be struck between Parliamentary scrutiny and preserving our negotiating position, which is why the House unanimously concluded last month that the process should be undertaken in such a way that respects the decision of the people of the UK when they voted to leave the EU on 23 June and does not undermine the negotiating position of the Government as negotiations are entered into.

And we will give no quarter to anyone who, while going through the motions of respecting the outcome of the referendum, in fact seeks to thwart the decision of the British people.

So, to conclude: we are disappointed by the Court's judgment in this case. We will appeal that judgment to the Supreme Court. And none of this in any way diminishes our determination to respect and deliver on the outcome of the referendum and to notify under Article 50 by the end of March next year.

We are going to get on with delivering on the mandate to leave the European Union in the best possible way for the UK's national interest - best for jobs, best for growth and best for investment.