
Handling civil legal cases

What does it cover?

- The rules on where a civil court case will be held in a matter raising cross-border issues.
- The rules which determine which country's laws apply.
- The rules on how a court judgment obtained in one country can be recognized and enforced in another.

What will happen?

- The current framework for civil legal cooperation will cease in the event of a no-deal and the EU will not consider the UK covered by these rules.
- The UK will repeal most of the existing EU rules and rely on UK law.
- The UK will seek to rely on other international laws to ensure some degree of civil legal cooperation, but this regime is considerably less favourable than the current EU arrangements.
- Even if the UK seeks to mitigate the impact of leaving the EU without a deal, it is unclear if its plans would provide legal coverage for UK businesses trading with EU registered companies.
- Most of the UK's cross-border insolvency regulation would be repealed, opening UK businesses trading with EU businesses to greater commercial risk.
- Similarly, EU-based businesses may view UK businesses as presenting greater commercial risk as they may be outside the jurisdiction of the Courts in their member state and in the event of insolvency they may be less likely to gain a share of assets held in the UK.

What will businesses have to do?

- Very little detail has been provided by the UK government, who simply say it is for businesses to consider how the loss of EU rules will affect them.
- EU countries may simply refuse to recognize orders from UK Courts, leaving UK businesses to launch legal proceedings in an EU country to secure redress.
- The current rules which allow parties to an agreement to choose which law they wish to contract under would remain, thereby allowing UK companies to continue to choose UK law.

- In the event of an insolvency, EU countries may not recognize UK insolvency proceedings, which would then prevent UK creditors taking action against assets held in the EU.
- EU insolvency proceedings and judgments will not be recognized in the UK under EU law; it is possible that they could be recognized under UK domestic rules, but this is not guaranteed.
- UK based businesses face uncertainty that in the event of a dispute with an EU based business, they will be able to secure a favourable legal outcome and may need to use the legal system in the member state where the other party to the dispute is based.
- EU businesses may seek commercial agreements based on EU law, not UK law, as this then provides them with greater legal certainty.
- UK businesses may face greater commercial risk trading with EU based businesses, as in the event of insolvency, they may need to take local legal action to gain a share of any remaining assets.

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