



**Federation of European Bars
Dialogue with the Court of Justice of the European Union
CJEU, Luxembourg, 14th October 2016**

*Consequences of Brexit for the freedom to provide legal services
and the freedom of establishment of lawyers*

**Philip Moser QC
Monckton Chambers**

Bar of England & Wales



Article 50 TEU

1. Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.
2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. [...]
3. The Treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period. [...]

- *R (Miller & others) v Secretary of State for Exiting the European Union & others* (pending)

- UK Government's arguments:

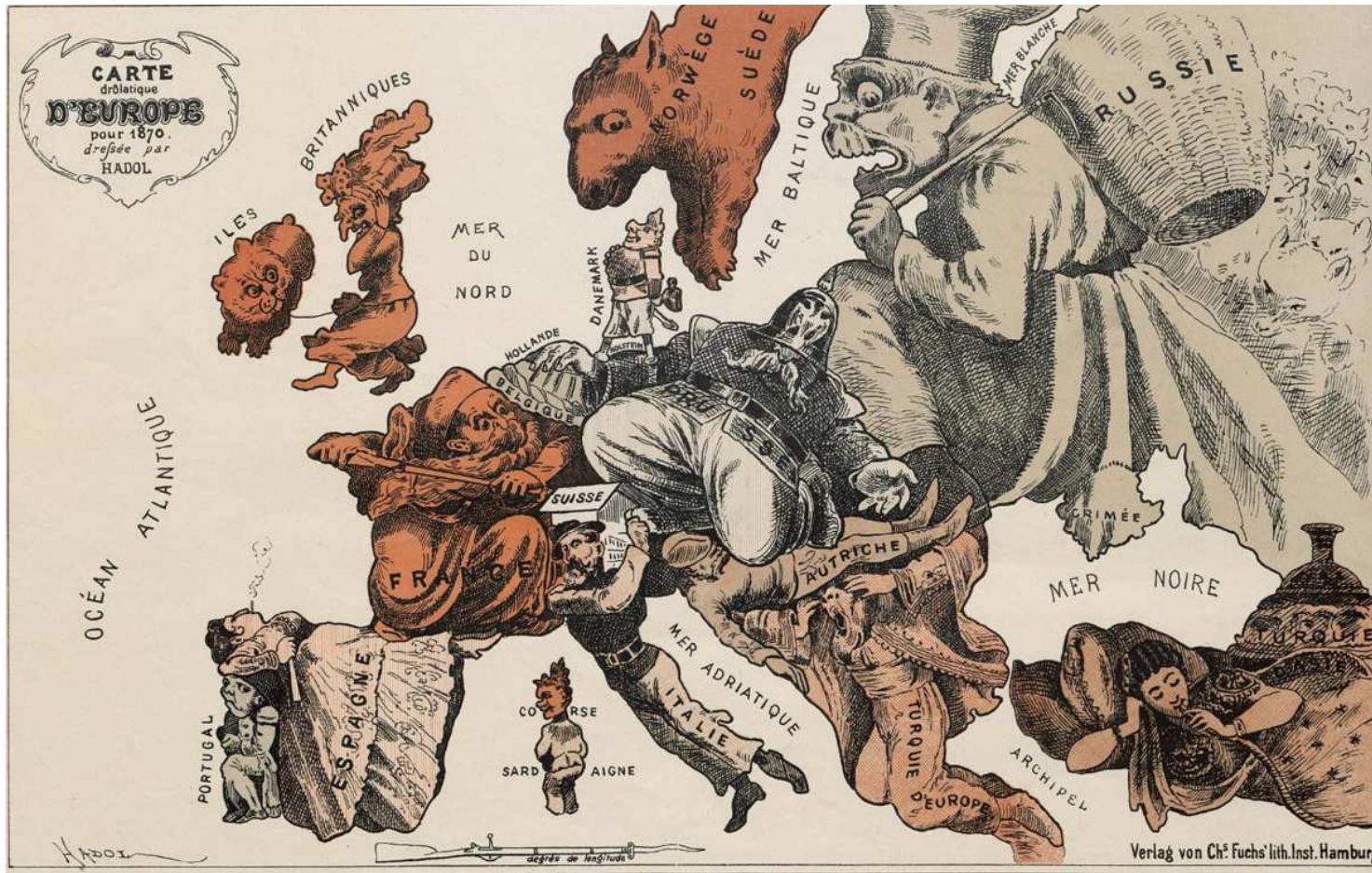
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/558592/Miller_v_SSEuEU_-_Skeleton_Argument_of_the_Secretary_of_State_300916.pdf








UK Article 50 Timetable

- UK Government timetable: “No later than March 2017”
- Likely “Brexit Day”: 1 April 2019
- “Great Repeal Bill” to be published for debate in Parliament: May 2017

“framework for a future relationship”



Future rights for EU/UK lawyers

- Depends on the future relationship EU/UK:
-  EEA option?
-  Associate Agreement?
-  Bilateral agreements?
-  Free Trade Agreement?
-  Bespoke arrangement?
 - *“Cross-Channel Trade and Investment Partnership”*



Likely issues

- Ability to provide services without needing to open an office
- Ability to open an office
- Ability to acquire right to advise on local law
- Ability to draw up contracts
- Ability to represent clients in national courts
- Ability to represent clients in CJEU proceedings



The CJEU

- **Statute of the Court, Article 19, para.4:**

“Only a lawyer authorised to practise before a court of a Member State or of another State which is a party to the Agreement on the European Economic Area may represent or assist a party before the Court.”

- **Amending the Statute: Article 281 TFEU**

“The European Parliament and the Council [...] may amend the provisions of the Statute [...]. The European Parliament and the Council shall act either at the request of the Court of Justice and after consultation of the Commission, or on a proposal from the Commission and after consultation of the Court of Justice.”

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