

## **HIGH COURT RULES THAT UK PARLIAMENT MUST APPROVE USE OF BREXIT TREATY TRIGGER**

On 3 November 2016, the English High Court handed down its much-anticipated decision in *R (Miller) v Secretary of State for Exiting the European Union* [2016] EWHC 2768 (Admin) on the requirements for triggering Article 50 of the Lisbon Treaty.

Article 50 provides, “*Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements*”, before setting out the process for withdrawal.

The issue for the High Court was whether the Government was entitled to give notice of a decision to leave the European Union under Article 50 by exercise of the Crown’s prerogative powers without referring the decision to Parliament. Hearings took place on 13th, 17th and 18th October 2016.

In a 32 page judgment, the High Court (The Lord Chief Justice of England and Wales, Lord Thomas of Cwmgiedd; the Master of the Rolls, The Rt. Hon. Sir Terence Etherton; and Lord Justice Sales) decided that the Government did not have power under the Crown’s prerogative to give notice pursuant to Article 50 for the UK to withdraw from the European Union. The consequence of the decision is that Parliament must vote on whether the UK can commence the process of leaving the European Union. In its decision, the High Court expressly disavowed giving any view as to the merits of the European Union, which was described as a political issue.

The decision has been met with mixed reactions in the United Kingdom. The Government has already announced that it will appeal the decision. The appeal will be heard by the UK Supreme (having leapfrogged the Court of Appeal), and is expected to take place in early December 2016.

The full judgment can be read [here](#).

6<sup>th</sup> November 2016