
Article 50: One page summary of written case for Supreme Court appeal

The substance of Gina Miller's arguments has not changed. In the written case we set out the fundamental arguments and also respond to specific assertions made by the Appellant (the Secretary of State for Exiting the European Union).

The summary of Gina's written case is as follows:

- This appeal raises issues of fundamental constitutional importance concerning Parliamentary sovereignty and the limits on the prerogative powers of Ministers.
- The notification of Article 50 given by royal prerogative would destroy or frustrate rights established by the European Communities Act 1972.
- Only Parliament itself could defeat the statutory rights which Parliament itself has created.
- Where Parliament has created statutory rights pursuant to the European Communities Act 1972 and in European Parliamentary Elections Act 2002, at common law the Appellant has no prerogative power to take action which will defeat those rights.
- The Court has the power and the duty to decide the questions of law, irrespective of whether the judgment finds favour with politicians and the press.
- The independence of the judiciary and the rule of law are basic principles of our constitution.
- The Appellant fails to recognise the exceptional nature of the 1972 Act in incorporating into domestic law a body of rights which are part of an international legal system, and the consequences this has for the operation of the dualist principle.
- The Appellant fails to recognise a series of fundamental principles of domestic law: i) the principle of Parliamentary sovereignty; ii) the principle that even a statutory power to later primary legislation will be narrowly construed; iii) the principle of legality and iv) the constitutional status of the 1972 Act.
- The Appellant does not contend in his written case that Parliament may decide to maintain in domestic law some rights conferred in the 1972 Act for good reason: it is no answer to the complaint that notification will lead to the defeat of statutory rights. This is because:
 - 1) Whether Parliament may step in and take action to restore rights destroyed or frustrated by the notification of Article 50 is not a matter for the Court. The Court cannot know what Parliament may or may not do in the future.
 - 2) The following process rights could not be restored: a) to seek a ruling from the Court of Justice in Luxembourg; b) to ask the European Commission to take action in relation to anti-competitive conduct within the UK; and c) to ask the European Commission to consider whether the UK has failed to carry out an obligation under the Treaties and for the Commission.
 - 3) The following substantive statutory rights could not be restored: a) the right to stand for election to the European Parliament and the right to vote for UK MEPs; and b) the right to rely on directly effective EU law rights in the English courts to interpret or override other legislation enacted by Parliament (e.g. equal pay without sex discrimination).
- It does not matter for the purposes of these proceedings how extensive the loss of rights would be once Article 50 is triggered.
- The Court cannot proceed on any assumption as to what Parliament may do with a Great Repeal Bill. The act of notification under Article 50 commits the UK to leaving the EU with the consequence that statutory rights currently enjoyed will be defeated or frustrated.

The Lead Claimant, Gina Miller, therefore invites the Court to dismiss the appeal for the following reasons:

1. Only Parliament itself could defeat the statutory rights which Parliament itself has created.
2. Where Parliament has created statutory rights in the 1972 Act and 2002 Act, at common law the Appellant has no prerogative power to take action which will defeat those rights. Clear statutory authority is required. There currently is no such authority.