

DECEMBER 13, 2019

## UK Election and Brexit - what happens next?

The UK general election has just taken place and has produced a more decisive result than expected, with Conservative Prime Minister Boris Johnson gaining a substantial majority of seats in the House of Commons. This has immediate implications for Brexit.



It means, first of all, that there is little chance now of a second referendum on whether the UK should leave the European Union (EU). Instead, the UK is likely to withdraw from the institutions of the EU as early as 31 January 2020.

Also important is the manner in which the UK will depart the EU. Throughout much of 2019 there was widespread concern that the UK would leave without a Withdrawal Agreement. Now the new version of the Withdrawal Agreement negotiated by the Prime Minister in October is likely to be ratified by the UK and EU parliaments before the end of January.

The Withdrawal Agreement includes among other things a transition period, during which the UK will be treated as a member state for most practical purposes. This should end on 31 December 2020, unless the

transition period is extended, which the government has vowed not to agree to under any circumstances. So for the coming year, at least, there will be almost complete continuity in terms of EU laws governing, for example, data protection, banking, dispute resolution, public procurement and the regulation of state aid in the UK.

The main purpose of the transition period is to allow time for the UK and EU to negotiate a long-term trade agreement. Whether that can be achieved within the time available is open to question. However, the transition period serves another purpose too, which is to allow the UK and EU to negotiate fall-back arrangements in specific areas should the long-term agreement not be comprehensive or ready in time. These are the kinds of arrangements that any 'third state' (country outside the EU) can benefit from if its laws broadly meet EU standards. They cover data protection, for example, as well as banking regulation and market access under so-called 'equivalence' rules. The EU has refused to negotiate these arrangements while we are still technically a member state.

Dispute resolution will also benefit in the longer term from the UK entering the Withdrawal Agreement with the EU, because it provides that UK court judgments can be enforced in the remaining member states (and vice versa) at any time, providing proceedings are commenced before the transition period ends. Arbitral awards are not directly affected by Brexit and will be enforceable in the EU in any event.

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