THE “BREXIT” CASE BEFORE THE CONSTITUTIONAL JUDGES OF THE UNITED KINGDOM. SOME COMMENTS FROM ABROAD[[1]](#footnote-1)\*

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My first words today are to ask all of you a lot of excuses, and particularly to our British colleges, for making these remarks. Although I have thought in Cambridge many years ago matters of Comparative Constitutional Law, it is clear that I am not a British Constitutional Law expert. To be benevolent with myself, I perhaps can say that these remarks are only made by a British citizen from abroad. After my Venezuelan Passport was taken away for political reasons, thanks to my Grandfather, who was British, I have been able to travel with my British Passport.

My remarks refers exclusively to the constitutional issues discussed in the *Brexit case*, that is the two important decisions issued by the British Courts related to the United Kingdom’s withdrawal from the European Union as a result of the referendum held on this matter on June 23, 2016, The decisions where the High Court of Justice ruling of November 2, 2016, and the Supreme Court of the United Kingdom decision of January 24, 2017,[[3]](#footnote-3) confirming both that regional economic and political integration has always been a process developed hand in hand between international with constitutional law.[[4]](#footnote-4)

That implies that decisions like the one adopted by the British Government to withdrawal from the European Union, could not be issued ignoring or bypassing the principles of British Constitutional Law, particularly the ones derived from the principles of separation of powers between Parliament and the Executive Branch of the Government, of parliamentary sovereignty and of the limitations of the Crown’s prerogative powers on regulatory matters.

As was stated by the High Court of Justice in its decision of November 3, 2016,

“the United Kingdom has its own form of constitutional law […]. Some of it is written, in the form of statutes, which have particular constitutional importance. Some of it is reflected in fundamental rules of law recognised by both Parliament and the courts. These are established and well-recognized legal rules which govern the exercise of public power and which distribute decision-making authority between different entities in the State and define the extent of their respective powers.”

For such purpose, as in all constitutional States, the courts have judicial review power, as was said by the High Court, the:

“constitutional duty fundamental to the rule of law in a democratic state to enforce the rules of constitutional law in the same way as the courts enforce other laws.”

And it was precisely based on these statement that the High Court decided that the Government, in exercising the Crown’s prerogative powers and without the intervention and prior decision of Parliament, could not decide to serve notice on the European Union, under Article 50 of its Treaty, on the United Kingdom’s withdrawal from said Union, even pursuant to the people’s recommendation expressed in the referendum of June 23, 2016, which was carried out with the approval of Parliament (*European Union Referendum Act 2015*).[[5]](#footnote-5)

To decide upon these constitutional matter, the High Court confirmed that in the United Kingdom, as a constitutional democracy, the bodies of the State are all subordinated to the rule of law, of course including the courts, recognizing the existence of a constitutional jurisdiction in the United Kingdom.[[6]](#footnote-6) That is why, the High Court, in order to decide on the *Brexit* case, exercise its powers of judicial review,[[7]](#footnote-7) that is, applied:

“the constitutional law of the United Kingdom to determine whether the Crown has prerogative powers to give notice under Article 50 of the Treaty on the European Union to trigger the process for withdrawal from the European Union.”

From a comparative law approach therefore, the *Brexit* case (*Gina Miller* *et al. v the* *Secretary of State for Exiting the European Union*) before the High Court was no other than a typical constitutional proceeding or judicial review of the constitutionality of the Government’s decision,[[8]](#footnote-8) to give notice to the European Union of the United Kingdom´s withdrawal therefrom.

For such purpose, the High Court founded its decision considering that the *European Communities Act* of 1972 (ECA 1972),[[9]](#footnote-9) as was decided in another decision issued that same year since 1972 (House of Lords in R v Secretary of State for Transport, ex p. Factortame Ltd [1990] 2 AC 85), was a “constitutional statute” which granted a direct and prevailing effect to the law of the European Union over the primary domestic or national legislation, The Government was subjected to such legislation, which “could only be repealed or amended by express language in a subsequent statute or by necessary implication from the provisions of such a statute.” of 2003 (Thoburn v Sunderland City Council [2003] QB 151 (DC) at [62]), not having Crown’s prerogative powers in order to modify it.

Therefore, in the case, the judicial review proceeding was directed to question the possibility for the Government to decide on the United Kingdom’s withdrawal from the European Union, and it was initiated by a British citizen through what we call in Latin America, an *acción popular de constitucionalidad de las leyes*,[[10]](#footnote-10) that is an *actio populari*, which does not require any particular standing. That is, an action for judicial review that in tis case could be brought by any resident or citizen of the country, alleging that the challenged governmental act might affected its interest, for instance, related to freedom of movement; access to public services, or immigration status.

In the *Brexit* case, the justiciable matter, independently of the merits or demerits of the decision to exit the European Union which the Court deemed to be “a political issue”[[11]](#footnote-11) beyond its jurisdiction, was ultimately to determine whether under the constitutional law of the United Kingdom, the Government, in exercising the Crown’s prerogative powers and without Parliament’s intervention, could serve, pursuant to Article 50 of the Treaty on the European Union, the official notice of the governmental decision to exit the same.

For the purpose of deciding the case, the High Court analyzed the “constitutional principles” of the United Kingdom, highlighting what has been considered to be the most fundamental rule of the UK’s constitution: “that Parliament is sovereign and, as such, can make and unmake any law it chooses;” being one of the aspects of Parliament’s sovereignty, that the Government cannot exercise its prerogative powers to repeal legislation enacted by Parliament.

The Court deemed that this principle was of the utmost importance when analyzing the context of the general rule on which the Government sought to base its argument in this case, which was the executive branch’s competence, in exercising Royal prerogative powers to conduct international relations and enter into, or denounce treaties on matters deemed to fall within the scope of such prerogative powers.

The High Court deemed that such a general rule actually exists, but is only valid on the international scope, not having such prerogative any effect on the domestic law established in the legislation enacted by Parliament; not being possible for the Government to alter such legislation without the intervention of Parliament.

The main allegation of the Government allegation in the case, was that it should be assumed that Parliament, when enacting the ECA 1972, had the intention to consider that the Crown would retain its prerogative powers to decide on the United Kingdom’s exiting the Treaties on the European Community, and to decide whether the law of the European Union should continue to be in effect in the sphere of the domestic law of the United Kingdom.

The High Court did not accept this reasoning, considering that there were no grounds for this in the European Community Act of 1972, dismissing the Government allegations and accepting the arguments brought forth by the plaintiffs, on the basis not only of the language used by Parliament in the 1972 Acts, but on the constitutional principle of Parliament’s sovereignty, and on the Crown’s lack of power to change domestic law by exercising its prerogative powers.

Based on these arguments, the High Court of Justice decided that the Government of the United Kingdom had no power based on the Royal prerogative power to serve the notice provided in Article 50 of the Treaty on the European Union for the United Kingdom to exit the European Union.

In any case, from the Continental and Latin American law point of view, the High Court of Justice decision, is a precise lesson on the contemporary constitutional law principles of the United Kingdom, particularly with regard to the rules governing the relationship between the Legislative and Executive powers, established on the basis of the constitutional principles of parliamentary sovereignty and the prerogative power of the Crown.

On the principle of the sovereignty of Parliament, and of the “supreme” character of its primary legislation, the High Court considered it as to be the primary rule of the United Kingdom’s constitutional law, meaning that only Parliament can enact and change the laws, and that there are no laws above primary legislation, except the cases in which Parliament itself has expressly provided that this be otherwise; as was precisely the case of the European Community Act of 1972, in which precedence is granted to the law of the European Union over the acts of Parliament.

But, even in those cases, Parliament continues to be sovereign and supreme, and to have full powers to remove any authority or rank given to other laws by means of previous primary legislation; and of course, even “to abrogate the ECA 1972, if it so resolves.” Being such the powers of Parliament, as expressed by the Court, it is not possible to say in the UK that a law can be invalid because it is opposed to the electorate’s opinion. As the High Court said, referring to the referendum:

“The judges know nothing about any will of the people except in so far as that will is expressed by an Act of Parliament, and would never suffer the validity of a statute to be questioned on the grounds of its having been passed or being kept alive in opposition to the wishes of the electors.”[[12]](#footnote-12)

As to the powers of the Crown pursuant to its “regal prerogative,” the Court (citing a 1965 decision of the House of Lord), considered it as “a relic of a past age, not lost by disuse, but only available for a case not covered by statute,” descanting any possibility for the Crown to exercise its prerogative powers to replace primary legislation. These prerogative powers, the High Court said are subjected to “constitutional limits” in the sense that they can be used only when they are recognized by the common law, being its exercise effective only within the limits acknowledged thereby. So beyond these limits, the Crown has no power to alter laws, whether they be part of common law or the legislation.

This subordination of the Crown, and particularly that of the executive Government, to the law, according to the High Court is the foundation of the rule of law in the United Kingdom, established since the agreement reached after the Glorious Revolution of 1688, expressed by Sir Edward Coke in 1610 (The Case of Proclamations (1610)12 Co, Rep. 74), in the sense that “The King by his proclamation or other ways cannot change any part of the common law, or statute law, or the customs of the realm,” and that “the King hath no prerogative, but that which the law of the land allows him;” and confirmed in the Bill of Rightsof 1688.

That is, summarizing, and quoting a 1916 ruling by the *Privy Council* (in The Zamora [1916] 2 AC 77, at 90), as follows:

“The idea that the King in Council, or indeed any branch of the Executive, has power to prescribe or alter the law to be administered by the Courts of law in this country is out of harmony with the principles of our Constitution.”

And if it is true that according to modern statutes, “various branches of the Executive have power to make the rules having the force of statutes,” all such rules “derive their validity from the statute which creates the power, and not from the executive body by which they are made.”

It was based on these principles that the High Court, after analyzing the matter of the Crown’s power to make and unmake treaties, and its reduced effects in the international sphere and no effects on domestic law, went to exercise its constitutional oversight over the Executive’s intention to issue the notice provided in Article 50 of the Treaty on the European Union, without the intervention of Parliament, for which the Court set a series of criteria on constitutional interpretation.

The first one, the classical criterion of the presumption of constitutionality of Parliament’s acts, that is, the presumption that “Parliament legislates in conformity with constitutional principles and not to undermine or override them,” and that is what must be derived or inferred from the words used by Parliament. Therefore, there was not need, as argued by the Secretary of State, to find an express and clear language that evidenced that Parliament had the intention to remove the Crown’s prerogative power to take the necessary steps for the United Kingdom to withdraw from the European Communities and the Treaty on the European Community.

In making this allegation, in the Court’s view, the Secretary of State did not assign in his analysis of the European Community Act of 1972, any value to the constitutional principle that only when Parliament legislates otherwise, the Crown’s prerogative powers cannot be used to amend the law of the land.

Consequently, the High Court dismissed the allegations of the Secretary of State on the grounds of two constitutional principles. First, the constitutional principle that the Crown has no prerogative power to alter domestic legislation, considering that it would have been surprising if Parliament, as the sovereign body under the Constitution, should have intended to leave to the choice of the Crown, in exercising its prerogative powers, to allow the Community Treaties to continue in place or to have the United Kingdom withdraw therefrom.

The High Court added, quoting a 1995 decision of the House of Lords (Lord Browne-Wilkinson put it in R v Secretary of State for the Home Department, ex p. Fire Brigades Union [1995] 2 AC 513 at 552E), that “It is for Parliament, not the executive, to repeal legislation,” [being the constitutional history of the UK, “the history of the prerogative powers of the Crown being made subject to the overriding powers of the democratically elected legislature as the sovereign body.”

In the High Court also deemed it relevant to highlight the character of the 1972 European Community Act as a “statute of special constitutional significance,” considering unlikely that Parliament intended to leave their continued existence in the hands of the Crown through the exercise of its prerogative powers; that is, the High Court considered that it was “ not plausible to suppose that Parliament intended that the Crown be able, through its own unilateral action pursuant to its prerogative powers, to eliminate” the effect of such Act.

Moreover, the High Court considered that the constitutional character of the Act was so significant that that Parliament is deemed to have made it exempt from the operation of the usual doctrine of implied repeal by enacting the subsequent inconsistent legislation,[[13]](#footnote-13) considering that its provisions could only be repealed if Parliament clearly state such repeal in a subsequent legislation. Thus, it cannot “thought to be likely that Parliament nonetheless intended that its legal effects could be removed by the Crown through the use of its prerogative powers.”

The second constitutional principle referred to by the Court in deciding was the already mentioned principle that the conduct of international relations is a matter for the Crown through the use of its prerogative powers, without the interference of Parliament, but not having such powers effect on domestic law.

In the case of the European Community Act, according to the High Court, and according to the constitutional principles analyzed, it was clear that Parliament’s intention when enacting it, introducing the law of the European Union into domestic law, was that this could not be undone by the Crown through its prerogative powers. On the contrary, rejecting the allegations made by the Secretary of State, the High Court considered that the enactment of the ECA 1972 precluded the Crown’s prerogative powers to decide on the United Kingdom’s exiting the Treaties on the Community and to affect the rights of citizens thereunder by serving the notice set in Article 50 of the Treaty.

Finally, referring to the 2015 Referendum Act of the European Union, the High Court, verifying that it did not grant statutory power to the Crown to exit from the European Union, considered that it had to be interpreted in light of the basic constitutional principles of Parliamentary sovereignty and representative democracy applied in the United Kingdom, leading to the conclusion that a “referendum on any topic can only be advisory for the lawmakers in Parliament unless very clear language to the contrary is used in the referendum legislation in question.” Of course, such language was not found in the text of the Referendum Act of 2015, which although being of political importance, was “intended only to be advisory.” From it, consequently, the Secretary of State could not derive any power under the Crown’s prerogative, to issue the notice for the United Kingdom to exit the European Union.

The decision of the High Court of Justice of November 3, 2016, after being appealed by the Government, was confirmed by the Supreme Court of the United Kingdom in a judgment issued by a majority of 8 to 3, on February 24, 2016 (Case: *R (on the application of Miller an another) v Secretary of State for Exiting the European Union)* ( [2017 UKSC 5) (UKSC 2016/0196),[[14]](#footnote-14) ratifying that in this case, it was necessary that an Act of Parliament authorize the Ministers to give notice of the decision on the United Kingdom’s exit from the European Union.

Among the arguments expressed by the Supreme Court, one of the most relevant from the constitutional law point of view, was the one refer to the “vital difference” between the changes that may occur in the law of the United Kingdom as a result of changes in the law of the European Union, and the changes that may result from exiting the Treaties on the European Union. In this latter case, the unavoidable result would be a fundamental change in the constitutional framework of the United Kingdom, for this would imply the elimination of the sources of law of the European Union in the domestic sphere, as well as the elimination of certain domestic rights enjoyed by the residents of the United Kingdom. In the opinion of the Supreme Court, such a change in the constitution of the United Kingdom could be only be effected through parliamentary legislation, not being possible for the Government to decide to exit the Treaties of the European Union without Parliament’s prior authorization.

Of course, as decided by the High Court, when Parliament enacted the ECA 1972, it could have authorized the ministers to decide on the United Kingdom’s exit from the Treaties on the European Union, in which case, however, this possibility would have to be clearly set forth in the express text of the Law, which did not occur.

Finally, the Supreme Court, in its decision, also referred to the 2016 referendum, considering that while it was an event of great political importance, its legal meaning was that established by Parliament in the Law that authorized it, and the Law merely provided for it to be carried out, but did not specify its consequences. Therefore, the Supreme Court deemed that the changes in law required for implementing the results of the referendum could only be made in the sole manner permitted by the constitution of the United Kingdom, that is, by means of legislation.

The outcome of this entire constitutional proceeding carried out before the Courts competent to exercise the Constitutional Jurisdiction in the United Kingdom was, therefore, that the exit from the Treaties on the European Union could only be decided by an act of Parliament, and that the political recommendation expressed in the 2016 referendum had no constitutional legal effect.

This was the criterion set forth in their decisions both by the High Court of Justice and the Supreme Court of the United Kingdom, in the proceeding for judicial review or constitutional control, rejecting the possibility for the Executive to have any competence to make this decision without Parliament’s prior authorization.

The outcome of the judicial decisions was that on March 16, 2017, at the request of the Government the Parliament passed the *European Union (Notification of Withdrawal) Act 2017*, conferring “power on the Prime Minister to notify, under Article 50(2) of the Treaty on European Union, the United Kingdom’s intention to withdraw from the EU.”[[15]](#footnote-15) The Prime Minister interpreted such Act of Parliament, as she explained in the letter dated 29 of March 2017 that she sent to Donald Rusk, President of the European Union, triggering Article 50 of the European Union Treaty,[[16]](#footnote-16) as an Act that “confirmed the result of the referendum by voting with clear and convincing majorities in both of its Houses for the European Union (Notification of Withdrawal) Bill.” That was what n her statement to parliament that same day she began by saying that “On 23 June last year, the people of the United Kingdom voted to leave the European Union,’ explaining that although “that decision was no rejection of the values we share as fellow Europeans,” and that “the referendum was a vote to restore, as we see it, our national self-determination,” she insisted that the government was acting “on the democratic will of the British people, ” and that “the United Kingdom is leaving the European Union” “ in accordance with the wishes of the British people.”[[17]](#footnote-17) The 2017 Act was fallowed this year by the European Union (Withdrawal) Act 2018, devoted to repeal the European Communities Act 1972, on exit day, and also to make other provision in connection with the withdrawal of the United Kingdom from the EU.[[18]](#footnote-18)

In any case, due to the emphasis that was given by the Prime Minster in supporting the government decision to exit the European Union to the will of the people as expressed in the 2016 Referendum, a group of British citizens residing in other Member States of the European Union (Susan Wilson & Others Complains representing some associations named *Bremain in Spain*, *Fair Deal Forum, British in Italy, and Brexpats*), filed last month (13 of August 2018) before the High Court of Justice (Queen's Bench Division, Administrative Court) a new claim for Judicial Review against the Prime Minister; seeking from the Court to declare that “the Referendum result” as well as the “Decision and Notification are vitiated by reason of corrupt and illegal practices in the Referendum.”[[19]](#footnote-19)

As stated in the Complaint:

“The Prime Minister and the Secretary of State have repeatedly stated the basis for the Prime Minister’s decision to withdraw the UK from the EU was that a majority of those who voted in the referendum voted in favour of leaving the EU and the Government had promised to honour the result of the referendum. 60. It follows that the basis for the Prime Minister’s decision to withdraw and notify was her understanding that there had been a lawful, free and fair vote which had produced a result of 51.89% of those voting, voting in favour of the UK leaving the EU (or 34.73% of the voting public, turnout according to the Electoral Commission).” [[20]](#footnote-20)

The Claimants argued that the Prime Minister was obliged to exercise its powers according to the *European Union (Withdrawal) 2017 and 2018 Acts*, in a “lawfully and rationally” way, subjected to “public law principles, in accordance with: (i) the principle of legality; (ii) common law principles of constitutionality;” and “in accordance with the UK’s constitutional requirements” and among them, the “well established principles which value and seek to preserve the integrity of democracy, including the voting process, as well as lawful decision-making.”

In the case of the Referendum, the Claimants argued that “it is now clear that it was not conducted in accordance with the UK’s constitutional requirements, including the express statutory provisions regulating campaigning in the Referendum,” basing its arguments on two recent (May and July 2018) *Reports by the Electoral Commission,* [[21]](#footnote-21) referred to “corrupt and illegal practices” followed in the process of the Referendum.

For all those reasons the Complaint argued that having the Prime Minister “repeatedly emphasized” that her Decision to withdraw from the EU “is based solely upon the outcome of the Referendum,” relying upon its outcome, that “factual premises” “ can now be seen to be flawed by reason of the said corrupt and illegal practices.”

Consequently, the Complaints concluded that being “now known,” that the result of the Referendum was “vitiated by corrupt and illegal practices,” then “the basis of the decision made by Prime Minister [is] thereby fundamentally undermined,” in the sense that “neither the decision nor notification under Article 50 was in accordance with the UK’s constitutional requirements,” eventually “respectfully” inviting the Court “to grant the relief sought or such relief as it may think fit.”

Nonetheless, if the High Court in its ruling of 2016 decided that in the UK a law cannot be invalid because it is opposed to the electorate’s opinion, it seems that in this new case, the outcome could be in the same line, following what was stated by the High Court in 2016, when it affirmed that:

“The judges know nothing about any will of the people except in so far as that will is expressed by an Act of Parliament, and would never suffer the validity of a statute to be questioned on the grounds of its having been passed or being kept alive in opposition to the wishes of the electors.”

Athens, September 2018

1. \* Presentation at the *Annual Reunion 2018, European Group of Public Law*, Athens September 2018 [↑](#footnote-ref-1)
2. \*\* *Simon Bolivar Professor (Past Fellow, Trinity College), University of Cambridge (1985-1986); Professeur associé, Université de Paris II (1989-1990); Adjunct professor of Laws, Columbia Law School New York (2006-2008); Vice President of the International Academy of Comparative Law (1982-2010).* [↑](#footnote-ref-2)
3. Case *Gina Miller* et al. v *the* *Secretary of State for Exiting the European Union (*(Case No: CO/3809/2016 and CO/3281/2016). See the text of the decision: <https://www.judiciary.gov.uk/judgments/r-miller-v-secretary-of-state-for-exiting-the-european-union-accessible/>; Case: *R (on the application of Miller an another) v Secretary of State for Exiting the European Union)* ( [2017 UKSC 5) (UKSC 2016/0196), in: https://www.supremecourt.uk/cases/docs/uksc-2016-0196-judgment.pdf See press information on the decision in <https://www.supremecourt.uk/cases/docs/uksc-2016-0196-press-summary.pdf>. See the comments in Allan R. Brewer-Carías, El caso ["Brexit" ante los jueces constitucionales del Reino Unido: Comentarios a la sentencia de la Alta Corte de Justicia de 3 de noviembre de 2016, confirmada por el Tribunal Supremo en sentencia del 24 de enero de 2017](http://derechoydebate.com/articulos/allan-brewer-carias-el-caso-brexit-ante-los-jueces/), en *Revista de Administración Pública*, No. 202 (enero/abril 2017) Centro de Estudios Políticos y Constitucionales, Madrid, 2017, pp. 133-156. [↑](#footnote-ref-3)
4. See Allan R. Brewer-Carías, “Constitutional Implications of Regional Economic Integration” (General Report, XV International Congress of Comparative Law, International Academy of Comparative Law, Bristol September 1998), in Allan R. Brewer-Carías, *Études de Droit Public Comparé*, Bruillant, Bruxelles, pp. 453-522. Also see Allan R. Brewer-Carías, *Las implicaciones constitucionales de la integración económica regional*,Cuadernos de la Cátedra Allan R. Brewer-Carías de Derecho Público, Universidad Católica del Táchira, Editorial Jurídica Venezolana, Caracas 1998. [↑](#footnote-ref-4)
5. See <http://www.legislation.gov.uk/ukpga/2015/36/contents/enacted/data.htm>. The question in the referendum was: “*Should the United Kingdom remain a member of the European Union or leave the European Union?*” [↑](#footnote-ref-5)
6. I referred to this matter some years ago when analyzing the situation of the constitutional courts in comparative constitutional law. See Allan R. Brewer-Carías, *Constitutional Courts as Positive Legislators in Comparative Law*, Cambridge University Press, New York 2010, p. 25 [↑](#footnote-ref-6)
7. Something that had not been readily accepted some decades ago. See Allan R. Brewer-Carías, *Judicial Review in Comparative Law*, Cambridge University Press, Cambridge 1989. [↑](#footnote-ref-7)
8. See, in general, regarding constitutional proceedings: Allan R. Brewer-Carías, *Derecho Procesal Constitucional. Instrumentos para la Justicia Constitucional*, Editorial Jurídica Venezolana International, 2015. [↑](#footnote-ref-8)
9. See in http://www.legislation.gov.uk/ukpga/1972/68/contents [↑](#footnote-ref-9)
10. See Allan R. Brewer-Carías, “Acción popular de inconstitucionalidad,” in Eduardo Ferrer Mac-Gregor, Fabiola Martínez Ramírez, Giovanni A. Figueroa Mejía (Coordinadores), *Diccionario de derecho procesal constitucional y convencional*, Poder Judicial de la Federación, Consejo de la Judicatura Federal, Universidad Nacional Autónoma de México, Instituto de Investigaciones Jurídicas, Serie Doctrina Jurídica, Nº 692**,** pp. 232-233. [↑](#footnote-ref-10)
11. The Court added in its decision that the same “cannot interfere *in* the government’s policies, because government policy is not law. The policies to be applied by the executive branch of the government and the merits or demerits of the exit are matters of political opinion to be settled through a political process.” [↑](#footnote-ref-11)
12. See Case *Gina Miller* et al. v *the* *Secretary of State for Exiting the European Union (*(Case No: CO/3809/2016 and CO/3281/2016). See the text of the decision: <https://www.judiciary.gov.uk/judgments/r-miller-v-secretary-of-state-for-exiting-the-european-union-accessible/>; pp. 57 and 72.” [↑](#footnote-ref-12)
13. Quote by the Court: “see Thohurn v Sunderland City Council, at [60]-[64], and section 2(4) of the ECA 1972.” [↑](#footnote-ref-13)
14. See the text of the decision in: https://www.supremecourt.uk/cases/docs/uksc-2016-0196-judgment.pdf See press information on the decision in <https://www.supremecourt.uk/cases/docs/uksc-2016-0196-press-summary.pdf> [↑](#footnote-ref-14)
15. See in http://www.legislation.gov.uk/ukpga/2017/9/contents/enacted/data.htm [↑](#footnote-ref-15)
16. See in https://www.gov.uk/government/publications/prime-ministers-letter-to-donald-tusk-triggering-article-50/prime-ministers-letter-to-donald-tusk-triggering-article-50 [↑](#footnote-ref-16)
17. See in https://www.gov.uk/government/speeches/prime-ministers-commons-statement-on-triggering-article-50 [↑](#footnote-ref-17)
18. See in http://www.legislation.gov.uk/ukpga/2018/16/introduction/enacted [↑](#footnote-ref-18)
19. See the document on the case, Susan Wilson & Others Claimants , and The Prime Minister Defendant, Grounds For Judicial Review (Croft Solicitors) 13 August 2018 in http://www.croftsolicitors.com/wp-content/uploads/2018/08/239484-Grounds-for-Judicial-Review-and-Statement-of-Facts.pdf. See also the information in: http://www.croftsolicitors.com/croft-solicitors-are-representing-clients-in-a-court-challenge-against-brexit-on-the-ground-of-the-breaches-of-electoral-law-of-the-campaigns-during-the-2016-referendum/ [↑](#footnote-ref-19)
20. Idem. [↑](#footnote-ref-20)
21. “50.1 Report on an investigation in respect of the Leave.EU Group Limited (Concerning pre-poll transaction reports and the campaign spending return for the 2016 referendum on the UK’s membership of the European Union) dated 11 May 2018 (“the Leave.EU Report”). 50.2 Report of an investigation in respect of Vote Leave Limited, Mr Darren Grimes, BeLeave, Veterans for Britain (Concerning campaign funding and spending for the 2016 referendum on the UK’s membership of the EU), dated 17 July 2018 (“the Vote Leave & Others Report”).” In *Idem* [↑](#footnote-ref-21)