



# No deal Brexit – what will it mean for logistics and recovering debt from European companies?

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Various media outlets have reported criticism from different sectors about the UK Government's lack of preparation for the current planned departure from the EU on 29 March 2019, in the event of a no deal scenario.

One area where there may need to be a change of tactics and approach, relates to the enforceability of UK court judgements in countries which are part of the EU. We have a number of clients who are currently suing EU counterparts, who have questions about the recognition and enforcement of UK judgement in the EC beyond March 2019, as well as how much extra time and costs might be involved in the event of a no deal Brexit.

## The current situation

1. At the moment there are various EC regulations, which deal with many aspects of legal proceedings issued within the EU. In addition there are a number of international conventions which the EC and the UK have signed, which also have an impact on legal proceedings.
2. These EC regulations give guidance as to which EC courts a claim should be brought to and whose law should be used if a dispute arises between two EC companies based in different countries, if the parties have not already discussed it at the time of entering into a contract.
3. These regulations and agreements do not necessarily prevent disagreements arising on these issues, but their intention is to assist the courts in the EC to determine those disagreements.
4. They also set out how a judgement which is obtained in one EU country is recognised and enforced in another EU country. There are certain hurdles that need to be crossed but there is an agreed scheme which allows an orderly progression across the various hurdles. The hurdles can include the registration of the judgement in the enforcement country, as well as the need for documents to be translated. The recognition and enforcement of judgements between the courts of different EU countries is therefore not an automatic process, but the regulations try to ensure it acts as a cohesive guide.

### **What happens in the event that there is no deal in March 2019?**

1. The current framework for “judicial co-operation” based on the EC regulations and agreements would legally fall away. The international conventions which EU countries and the UK have signed would be unaffected.
2. These international conventions contain a number of agreements which underpin many commercial agreements. For example, the Rome Regulation is a convention which enables contracting parties to elect which law of which country should decide their disputes. That will remain unchanged. The Hague Convention also gives contract parties the right to decide which courts should handle a dispute. That will remain unchanged.
3. However, in the event of no deal it will be for the UK Government to decide on what basis it is prepared to recognise the judgements of the EU. It might carry on recognising the judgements of the courts of the EC as usual.
4. As far as the EC are concerned, in the absence of an agreement on these issues, English judgements

obtained in the UK which are to be enforced in the EC might have to take the same path as the judgments of other countries, who have no reciprocal rights of enforcement under a treaty or regulation. In practical terms, this will often involve having to start a separate legal action, in the EC country of enforcement, and suing on the judgement that has been obtained in the UK, under the specific rules of whichever EC country enforcement is taking place. This is not an unusual procedure. USA judgements being enforced in the UK have to take this route, as do the judgements of many other countries.

5. There will potentially be extra costs and time involved in having to jump through that hoop. In reality though, enforcing a judgement in the EC is not currently without some extra costs and time and the involvement of EC lawyers to assist with the enforcement process. Whether the alteration in the UK's status will materially affect the cost of EC enforcement remains to be seen.

The UK Government produced advice in September 2017 on [handling civil legal cases that involve EU countries if there's no Brexit deal](#), but matters do not appear to have moved in since then.