

THE HIGH COURT

2016 No. XXXXP

Between

MEP UK

Plaintiff

v

,

EUROPEAN UNION,

THE EUROPEAN COUNCIL,

THE COUNCIL

THE EUROPEAN COMMISSION

IRELAND AND THE ATTORNEY GENERAL

Defendants

DRAFT

STATEMENT OF CLAIM

Delivered this day of 2016 by

McGarr Solicitors of 12 City Gate, LowerBridge St. Dublin 8

PARTIES

1. The Plaintiff is a citizen of the European Union pursuant to Article 20 of the Treaty on the Functioning of the European Union (TFEU”), and is a national and citizen of the United Kingdom of Great Britain and Northern Ireland (UK) for the purposes of Aliens Act 1935 and the Aliens (Exemption) Order, 1999 (S.I. No. 97/1999). Further the Plaintiff is a Member of the European Parliament, for the UK constituency of ****.

2. The First to Fourth Named Defendants are the European Union and those of its institutions, established by Article 13 of the Treaty of European Union (TEU), which are under an obligation in law in connection with the facts herein, and having an address for service at Rue de la Loi/Wetstraat 175, B-1048 Bruxelles, Belgium.
 - (a) The European Union (“the Union”) is founded with legal personality pursuant to Article 47 TEU, and is answerable at law for the actions of the Second to Fourth Named Defendants.
 - (b) The European Council consist of the Heads of State or Government of the Member States, together with its President and the President of the Commission, which meets meet twice every six months or when the situation so requires (Article 15 TEU)
 - (c) The Council (of European Union), pursuant to Article 16 TEU, jointly with the European Parliament, exercises legislative functions, and carries out policy-making and coordinating functions as laid down in the Treaties. It consists of arepresentative of each Member State at ministerial level, who may commit the government of the Member State in question and cast its vote.
 - (d) The European Commission is, by Article 17, under an obligation ensure the application of the Treaties, and of measures adopted by the institutions pursuant to them. It may exercise coordinating, executive and management functions, as laid down in the Treaties and, with the exception of the common foreign and security policy, and other cases provided for in the Treaties, it shall ensure the Union’s external representation.
3. The Fifth Named Defendant, Ireland, is a member of the European Union, and is answerable at law for the actions of the its representative on the European Council. The Fifth Named Defendant is the law officer of the State designated by

the Constitution of Ireland and is joined in her representative capacity in respect of the challenge sounding in paragraph 17 (g) hereof and also for the purposes of effecting service on the Fourth Named Defendant.

PRELIMINARY

4. Article 50 TEU provides for the withdrawal of a member State from the Union, and, in conjunction with Article 218 and 207 TEU, regulates the process of withdrawal, and the negotiation and conclusion of an agreement with that State, setting out the arrangements for its withdrawal.

5. The process of a withdrawal is commenced by:
 - (a) A decision to withdraw, taken by a member state in accordance with its constitutional requirements.
 - (b) Receipt by the European Council of notification of the decision and intention to withdraw.

6. On 23 June 2016 the UK held a referendum, authorised by European Union Referendum Act 2015 (UK), for citizens that were qualified to vote therein, on “whether the United Kingdom should remain a member of the European Union”. The result of the referendum was a majority voting ‘Leave the European Union’. (“Brexit”).

7. For the purposes of Article 50 TEU, in the premises
 - (a) the result of the referendum was (or has been deemed to be) a decision by the UK to withdraw (“the Withdrawal Decision”).

(b) Between 24 June and 20 October 2016, the European Council received (or is deemed to have received) notification of the decision by the UK to withdraw

Particulars

The European Council through its President Donald Tusk asked the Prime Minister of the UK to explain her remarks on the subject of Brexit made to the UK Conservative Party conference in October 2016. Those remarks conclusively stated that the UK would leave the EU.

On 2 October 2016 (Brussels), at a meeting of the European Council, the Prime Minister of the UK informed declared “The UK is leaving the EU.”

8. In reliance upon the Withdrawal Decision, and/or the notification of it, and as required by Article 50 TEU the process of withdrawal has continued.

Particulars

On 25 June 2016, the European Council President announced the appointment of Didier Seeuws (B) to lead the negotiations at the head of a special taskforce at the Council, as required by Article 50 TEU and or Article 218(3).

On 29 June and 15 September the European Council/EU27 met in the absence of UK Head of Government. Meeting 2016 without the participation of a member state in those meetings would, but for Article 50 TEU, be contrary to, inter alia, Article 10 TFEU, Article 235 TFEU and Article 4 (2) TEU. The European Council proposes to meet again on 15 December 2016 to the exclusion, again, of the UK representative.

At those meetings the European Council set guidelines for the conduct of negotiations, as required by Article 50. These guidelines include:

There is a need to organise the withdrawal of the UK from the EU in an orderly fashion.

It is up to the British government to notify the European Council of the UK's intention to withdraw from the Union. This should be done as quickly as possible. There can be no negotiations of any kind before this notification has taken place.

... the European Council will adopt guidelines for the negotiations of an agreement with the UK. In the further process the European Commission and the European Parliament will play their full role in accordance with the Treaties.

Any agreement, which will be concluded with the UK as a third country, will have to be based on a balance of rights and obligations. Access to the Single Market requires acceptance of all four freedoms.

On 27 July 2016, the European Commission appointed Michel Barnier as Chief Negotiator in charge of the Preparation and Conduct of the Negotiations with the United Kingdom under Article 50 and or Article 207 TEU.

On 8 September 2016, the European Parliament appointed Guy Verhofstadt as its European Parliament representative for Brexit negotiations, as required by the guidelines set by the European Council.

9. Notwithstanding the carrying out of the foregoing steps pursuant to Article 50, the following steps have not been carried out, as required by Article 218:
 - (a) The Commission has not submitted recommendations to the Council.
 - (b) The Council has not adopted a decision authorizing the opening of negotiations.

10. It is reported that at various times UK Ministers have sought to negotiate with their counterparts in other member States, and with the Union appointed negotiators. The Commission's Chief Negotiator, and various heads of state or government of member states, have emphasised the Union's refusal to negotiate

and that negotiations will not commence until a letter is received from the British Government. The Taoiseach has informed the public that it will be difficult to conclude an agreement within two years.

11. The Fifth Named Defendant and its representatives and Ministers have endorsed the exclusion of the UK from the meetings of the European Council and have taken part in the said meetings and justified the exclusion of the UK by reference to the terms of Article 50 TEU.
12. In the premises, the Article 50 process has commenced, and the Union is refusing to negotiate an agreement with the UK.
13. Once commenced, withdrawal is by operation of law, pursuant to Article 50 TEU: the Treaties cease to apply to the State in question from the date of entry into force of a withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period. process of withdrawal concludes by operation of law.
14. In the premises:
 - (a) the period of two years prescribed by Article 50 TEU has commenced and will conclude between 24 June and 20 October 2018.
 - (b) an agreement will not be concluded, or presently it is not likely that an agreement will be concluded within two years.
 - (c) There is no express power to revoke a notification made pursuant to Article 50.

IMPORT OF THESE PROCEEDINGS

15. Further and alternatively, the Plaintiff in these proceedings seeks to;
- (a) Impugn the compatibility with European Union law of the refusal by the Defendants to commence negotiations with the UK on its withdrawal from the EU; and
 - (b) Impugn the holding of meetings of the European Council in the absence of the UK representative;
 - (c) Impugn the misrepresentations of the First to Fourth Named Defendants to the effect that negotiations pursuant to Article 50 (2) TEU may not commence until the UK delivers a formal letter declaring its intention to leave the EU;
 - (d) Impugn the general position of First to Fourth Named Defendants to the effect that the service of notification pursuant to Article 50 (2) is irrevocable;
 - (e) Impugn the breach of duty of the First to Fourth Named Defendant recited in paragraphs [24, 25, 26, 27, 51, 52, 53, 54, 55, 56, 57 and 58] herein;
 - (f) Impugn the breach of duty of the Second Named Defendant recited in paragraphs [34, 35, 36, 37, 38, 39, 51, 52, 53, 54, 55, 56, 57 and 58] herein;
 - (g) Impugn the part played by the Fifth Named Defendant with the Second Named Defendant as pleaded herein and the breach of duty of the Fifth Named Defendant recited in paragraphs [44, 45 and 46] herein;
 - (h) Assert the proposition that the provisions of Article 50 TEU cannot be invoked to remove fundamental Treaty rights enjoyed by Union citizens or Member States and that the provisions of Article 50 are complete and definitive as to the consequential effects upon Union citizens or Member States in the circumstances of its operation;
 - (i) Assert the proposition that a notification made and received pursuant to Article 50 may be revoked, and that on such revocation Article 50(3) disapplies.

- (j) Assert the incapacity of the the Defendants to exempt themselves, their servants or agents from the full effects of Union law notwithstanding the outcome of the UK referendum, an outcome of no legal significance;
- (k) Assert that Acquired Rights on UK nationals, either generally or in the specific context of the Ireland – UK Dimension, continue and are preserved in European Union law notwithstanding the withdrawal of the UK from the Union.
- (l) Seek the vindication of the Plaintiff’s rights as recited in paragraph 16 herein and provided for in Article 20 TFEU and the restoration of those rights and the remediation of their current attenuated status;

THE IRELAND – UK DIMENSION

16. Ireland and the UK are parties to (or are otherwise committed to support) a series of agreements (together “the Belfast Agreement”), that is to say:
- (a) Agreement Between The Government Of Ireland And The Government Of The United Kingdom Of Great Britain And Northern Ireland, signed in Belfast 10 April 1998 (“the British-Irish Agreement”)
 - (b) Agreement Between The Government Of Ireland And The Government Of The United Kingdom Of Great Britain And Northern Ireland Establishing Implementation Bodies, done at Dublin on 8 March 1999
 - (c) The Northern Ireland Peace Agreement, 1999

Particulars

The object of these agreements is to enable the parties to strive in every practical way towards reconciliation and rapprochement within the framework of democratic and agreed arrangements. Further the Northern Ireland Assembly and the North/South Council are so closely inter-related that the success of each depends on that of the other.

Paragraph 3 of Strand Two of the Belfast Agreement directs the parties to meet “in an appropriate format to consider institutional or cross-sectoral matters including in relation to the EU and to resolve disagreement”

Paragraph 17 of Strand Two of the Belfast Agreement requires that, *“Arrangements [are] to be made to ensure that the views of the Council are taken into account and represented appropriately at relevant EU meetings.”*

These interlocking and interdependent agreements present solemn, mutual and binding obligations on Ireland and the UK, as partners in the European Union, with regard to the status of Northern Ireland, which obligations are established, maintained and preserved in Bunrecht na hEireann, and primary legislation in the UK.

Ireland and the UK have undertaken to enable and not to hinder:

- (a) The holding of British and Irish Citizenship by persons born in Northern Ireland
- (b) The right of self-determination
- (c) The retention of the union with Great Britain or the bringing about of a united Ireland
- (d) Respect for equality of civil, political and social rights, and fundamental human rights

Further the agreements provide for unitary and singular implementation bodies for the island of Ireland in respect of activities that, hitherto, had been the responsibility of relevant bodies in each of Ireland and Northern Ireland; which bodies have subsequently been established.

17. Separately the islands of Ireland and Great Britain form a common travel area that is
 - (a) Maintained and preserved in Ireland by S.I. No. 97/1999 - Aliens (Exemption) Order, 1999

- (b) Consistent with Protocol (No 19) to the TEU On The Schengen Acquis Integrated Into The Framework Of The European Union
- (c) Protocol (No 20) On The Application Of Certain Aspects Of Article 26 Of The Treaty On The Functioning Of The European Union To The United Kingdom And To Ireland

Particulars

The TEU (Protocol 19) takes into account the fact that Ireland and the UK do not participate in all the provisions of the Schengen acquis; and that provision should, however, be made to allow those Member States to accept other provisions of this acquis in full or in part.

Ireland and the UK may at any time request to take part in some or all of the provisions of the Schengen acquis.

The TEU (Protocol 20) also has express regard to the existence for many years of special travel arrangements between the United Kingdom and Ireland.

The TEU expressly reserves to the UK and Ireland the right to continue to make arrangements between themselves relating to the movement of persons between their territories ("the Common Travel Area"), while fully respecting the rights of persons European citizens, and their dependants. Accordingly, as long as they maintain such arrangements, the provisions of Article 1 of this Protocol shall apply to Ireland under the same terms and conditions as for the United Kingdom. Nothing in Articles 26 and 77 of the Treaty on the Functioning of the European Union, in any other provision of that Treaty or of the Treaty on European Union or in any measure adopted under them, shall affect any such arrangements.

18. In the premises:

- (a) where the intended acts of the Fifth Named Defendant may impact on Northern Ireland, and its obligations derived from the Belfast Agreement

and the common travel area, it is under an obligation to act with concurrence with the UK

- (b) the Fifth Named Defendant is constrained by Bunreacht na hEireann, and the Belfast Agreement on entering into a consensus in the European Council in the absence of concurrence with the UK.
- (c) Specifically, the Fifth Named Defendant may not enter into any consensus within the European Council or endorse any agreement that will cause, permit or enable a diminution in rights arising from the Belfast Agreement.

THE PLAINTIFF'S INTEREST

- 19. The Plaintiff brings these proceedings for declaratory relief pursuant to the TEU, the TFEU and the Charter of Fundamental Rights of the European Union ("CFREU"). Further it is an un-enumerated right pursuant to Bunreacht na hEireann, and an express and implied right pursuant to Article 274 TEU and Article 267 TFEU, that the Plaintiff may litigate these claims before the Irish courts.

- 20. As a citizen of the European Union the Plaintiff has acquired, and in some cases, exercised rights ("Acquired Rights") pursuant to EU law.
 - a) The right to citizenship of the EU (Article 20 TFEU);
 - b) Under citizenship, the right to the benefits provided for in the Treaties (Article 20 (2) TFEU);
 - c) The right to move, reside and work freely in the EU;
 - d) The right to free movement of capital and services;
 - e) The right of freedom of establishment;
 - f) The right to stand and vote for election to the European Parliament;

- g) The right to seek selection as a candidate for election to the European Parliament;
- h) The right to seek a reference to the CJEU pursuant to Article 267 TFEU when litigating questions of EU law;
- i) Rights to non-discrimination; (Articles 10, 17, 18 and 45 TFEU, Article 21 CFREU);
- j) The right to equal treatment on grounds of nationality (Article 45 TFEU);

21. In addition the Plaintiff is entitled to rely upon, in the enforcement of the rights enumerated above, the European acquis and the general principles of Union law, including the principles legal certainty, proportionality, transparency, and good administration.

22. Finally, the Plaintiff has a legitimate expectation that his rights, and the enforcement of those rights, are protected. Further the Plaintiff has a reasonable expectation that the First and Second Named Defendants, their servants or agents will exercise their extensive power over him in a transparent, consistent and predictable manner in accordance with a number of specific policies, laws and procedures which are open, public and available.

Particulars

23. The foregoing rights and expectations manifest as obligations on each and all the Defendants to

- (a) accord to the Plaintiff his Acquired Rights and entitlements and to avoid and refrain from actions calculated to directly or indirectly deprive him of those rights or obstruct the Plaintiff's access to them.

- (b) conform to and comply with the provisions of Article 10 TFEU wherein, inter alia, the Plaintiff's right to participate in the democratic life of the Union is assured;
- (c) conform to and comply with the provisions of Article 235 TFEU and Article 4 (2) TEU wherein, inter alia, the Plaintiff's right to affect the decisions of the European Council through the vote of his Member State is assured;
- (d) conform to and comply with the provisions of Article 4 (2) TEU wherein, inter alia, the Plaintiff's right to equality for his Member State, his and its national identity and respect for the essential State functions of his Member State are assured;
- (e) avoid discriminating, expressly or by implication, against the Plaintiff in breach of Articles 10, 17, 18 and 45 TFEU and Article 21 CFREU;
- (f) provide the Plaintiff with good administration avoid discriminating, expressly or by implication, against the Plaintiff in breach of Articles 10, 17, 18 and 45 TFEU and Article 21 CFREU;

24. The First to Fourth Defendants have the obligation to exercise prudence and due diligence in carrying out their duties, which include, but are not limited to, the implementation, administration and enforcement of the laws and policies of the EU.

25. The First and Second Named Defendants, their servants or agents owe a duty of care to the Plaintiff, which includes adhering to the First Defendant's laws and policies applicable to the Plaintiff, his fellow EU citizens in the UK and particularly the provisions of Article 50 TEU. The First and Second Named Defendants, their servants or agents were deficient in carrying out their duties.

26. Persons representing or purporting to represent the Defendants, and commentators, have dictated that:
- (a) Acquired Rights shall cease on and from the date of withdrawal of a member State.
 - (b) The continuation of Acquired Rights depends and is conditional upon the Union and the UK concluding an agreement.

Particulars

The First named Defendant misrepresented the legal entitlements of the Defendant and his fellow EU citizens of the UK by alleging that;

- a) Notification to the European Council under Article 59 (2) TEU was required to be in writing;
- b) Notification to the European Council under Article 59 (2) TEU was irrevocable;

The First named Defendant misrepresented the legal entitlements of the Defendant and his fellow EU citizens of the UK by publicly implying that;

- a) The phrase “...in accordance with its own constitutional requirement...” in Article 50 (1) TEU does not refer to “...withdraw...” in that Article, such that the UK Parliament would no longer be free to reverse any prior decision to withdraw from the EU, as opposed to the unfettered freedom to decide to withdraw.

27. In the absence of contradiction by any of the Defendants the Plaintiff faces the following consequences on the withdrawal of the UK from the EU (by operation of law)
- (a) On a date earlier than *** 2019 the Plaintiff will be deprived of the opportunity to discharge his obligations as a Member of the European Parliament for a full term.

(b) On any date, the Plaintiff's is at risk of being deprived of his Acquired Rights which will be rendered nugatory from the date of withdrawal of the UK unless declared otherwise, and or the European Union grants, either unilaterally or by way of agreement with the UK, to the Plaintiff, either generally or specifically, the right to continue exercising his acquired rights after the Date of Withdrawal.

28. The risk of deprivation to the Plaintiff is increased by:

- (a) the Union's refusal to negotiate any agreement with the UK, including an agreement extending the time prescribed by Article 50,
- (b) the elapse of time to date in which to conclude an agreement, and the difficult of concluding.
- (c) The absence of an express power or provision in the Treaties to revoke a notification to withdraw made pursuant to Article 50
- (d) The absence of any express power or entitlement providing for the enjoyment of Acquired Rights after a member state withdraws from the Union or certainty.
- (e) Alternatively an absence of legal certainty and or transparency in relation to the foregoing.
- (f) A mistake in law or misrepresentation of law or fact that Acquired Rights are not preserved and continue by citizens/nationals of a member state that withdraws from the Union.

29. The Plaintiff will suffer loss and damage unless

- (a) as a matter of EU law, a notification made pursuant to Article 50 is revocable.
- (b) as a matter of EU law Acquired Rights of British nationals are preserved and continue notwithstanding the withdrawal of the UK.

- (c) The rights and provisions of the Belfast Agreement, the common travel area, and an open border between are respected.

DEFAULTS OF THE DEFENDANTS

30. Specifically, the First to Fourth Named Defendants were deficient in their duties in that:
- a. They acted without justification;
 - b. They failed or refused to adhere to the provisions of Article 50 TEU;
 - c. They failed or refused to adhere to the provisions of Article 10 TFEU;
 - d. They failed or refused to adhere to the provisions of Article 235 TEU;
 - e. They failed or refused to adhere to the provisions of Article 4 (2) TEU;
 - f. They refused or failed to honour the Third Defendant's law and policies;
 - g. They discriminated against the Plaintiff.
31. The meetings, on 29 June 2016 and again on 16 September 2016, of the European Council to the exclusion of the UK are ultra vires the powers of the Second Named Defendant, in violation of Article 10 TFEU, Article 235 TFEU and Article 4 (2) TEU, and;
- (a) an impermissible repudiation of the general principles of EU law and the rights recited in paragraph 16 hereof;
 - (b) a departure from, and contrary to, the requirements of legal certainty;
 - (c) In breach of the Plaintiffs' right and entitlement to good administration;
 - (d) without legal effect as against the Plaintiff;
32. The meetings of the European Council to the exclusion of the UK is, effectively, a repudiation of and/or in breach of Articles 20, 21, 39 (1), 40, 41, 45 and 47 of the

CFREU, Article 10 TFEU, Article 235 TFEU and Article 4 (2) TEU, the General Principles of Law of the European Union and in violation, actually and potentially, of the legal rights of the Plaintiff as recited in paragraph 16 above.

33. On or about 26 June 2016 and 3 October 2016 the Second Named Defendant stipulated any notification from the UK under Article 50 (2) was required to be in writing.
34. On or about 3 October 2016 the Second and or Third Named Defendants wrongfully declined to open negotiations pursuant to Article 50, with the UK; The refusal by the Second to Fourth Second Named Defendants to negotiate with the UK and the Fifth Named Defendant's role therein is a breach of Articles 20, 21, 39 (1), 40,, 41, 45 and 47 of the CFREU and Article 50 of the TEU and in breach of the rights of the Plaintiff as recited in paragraph 16 herein
35. In breach of its duties as the guardian of the Treaties, the Fourth Named Defendant failed to challenge or restrain the wrongful actions of the First Named Defendant pleaded at paragraphs 24 and 51 herein;
36. In breach of its duties as the guardian of the Treaties, the Second Named Defendant has asserted that the service of notification pursuant to Article 50 (2) is irrevocable;
37. In breach of its duties as the guardian of the Treaties, the Second Named Defendant has acted, since the UK referendum, on an assumption that it is exempt from the full effects of Union law;

38. In breach of its duties as the guardian of the Treaties and its obligations to safeguard and secure the Plaintiff's pleaded rights herein, the Second Named Defendant has weakened those rights;
39. The Fourth Named Defendant as a Member State of the European Union and as a member of the First Named Defendant, wrongfully and actively agreed, confirmed, endorsed and assisted in the adoption of the wrongful actions pleaded in paragraph 16 herein to the detriment, actual and potential, of the Plaintiff and the consequentl attenuation of his rights pleaded in paragraph 16 herein.
40. Furthermore and/or in the alternative and without prejudice to the foregoing the Plaintiff asserts that the said actions or omissions of the Fourth Named Defendant are a repudiation, expressly and implicitly, of and in breach of the Belfast Agreement and the Belfast Agreement/British-Irish Agreement of 1998.
41. Furthermore and/or in the alternative and without prejudice to the foregoing if necessary the Plaintiff asserts that the said actions or omissions of the Fourth Named Defendant are in breach of the European Convention on Human Rights as transposed into domestic law through the provisions of Section 3 of the European Convention on Human Rights Act 2003.

Particulars

- a. The meetings of the European Council to the exclusion of the UK and the Fourth Named Defendant's role therein fail to respect the Plaintiffs' rights under the Convention. The Plaintiff relies on Articles 6 and 14 of the Convention and Article 1 (1) of the 12th Protocol to the Convention and provided for in Section 3 of the European Convention on Human Rights Act 2003.

- i. The meetings of the European Council to the exclusion of the UK and the Fourth Named Defendant's role therein are incompatible with EU law and unnecessary in a democratic society;
 - ii. The meetings of the European Council to the exclusion of the UK and the Fourth Named Defendant's role therein are not objectively justified;
 - iii. The meetings of the European Council to the exclusion of the UK and the Fourth Named Defendant's role therein offend the principle of proportionality;
- b. The meetings of the European Council to the exclusion of the UK and the Fourth Named Defendant's role therein are an unjustifiable interference with the right not to be discriminated against as set out in Article 14 ECHR and Protocol No. 12, Article 1 (1) ECHR and provided for in Section 3 of the European Convention on Human Rights Act 2003.
- c. The meetings of the European Council to the exclusion of the UK and the Fourth Named Defendant's role therein are a breach of the Plaintiff's right to the determination of his civil rights and obligations in a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law as set out in Article 6 ECHR and provided for in Section 3 of the European Convention on Human Rights Act 2003

42. Since the refusal of the First and Second Named Defendants to commence negotiations with the UK and the Fourth Named Defendant's role therein, the Plaintiff and his fellow UK citizens have been deprived of their right to the commencement of negotiations with the Second Named Defendant and particularly deprived of the benefit of the full period of time to be allocated to negotiations under Article 50 (2) TEU.

WAIVER OF DAMAGES

43. The Plaintiff waives any right to compensation (which is not admitted) against the Defendants, jointly or severally arising from the matters pleaded herein.

REFERENCE TO THE CJEU

44. These proceedings raise novel points of interpretation of European Union law as pleaded in the foregoing paragraphs:
- (a) These points are not *acte clair* and it will be necessary to have the ruling of the Court of Justice of the European Union on them in order for the court to determine the issues that arise.
 - (b) The issues to be adjudicated on are set forth in the Schedule hereto.
 - (c) These points will require to be ruled on eventually and it is desirable to have a ruling thereon from the Court of Justice of the European Union in early course.

AND THE PLAINTIFF CLAIMS

1. A declaration that the notification that the UK would leave the EU, furnished to the European Council 20th October 2016, by the Prime Minister of the UK, was invalid and/or revocable within the terms of Article 50 TEU, particularly Article 50 (1) TEU;
2. Further and in the alternative a declaration that the notification that the UK would leave the EU, furnished to the European Council on 20th October 2016,

by the Prime Minister of the UK, was valid and/or revocable within the terms of Article 50 TEU;

3. A declaration that the Second Named Defendant has wrongfully excluded the UK from European Council meetings on 29th June 2016 and 16th September 2016;
4. A declaration that meetings of the European Council, in the absence of the UK are null, void and of no legal effect;
5. A declaration that the Third Named Defendant has wrongfully declined to commence negotiations, with the UK pursuant to Article 50 TEU;
6. A declaration that the Fifth Named Defendant is in breach of EU law and in breach of the Belfast Agreement;
7. A declaration that the Fifth Named Defendant is precluded in law, and by the Belfast Agreement, from entering into any consensus with the Second and or Third Named Defendants that is contrary to the object and or effect of the Belfast Agreement.
8. A declaration that Article 50 TEU does not have the effect of removing the Plaintiff's rights before the final conclusion of the process envisioned in Article 50 TEU;
9. A declaration that the First and Second Named Defendants are not exempt from any of the provisions of EU law in circumstances where a notification has been delivered pursuant to Article 50 (2) TEU;

10. A declaration that the UK is free to withdraw the notification served pursuant to Article 50 TEU on Thursday 20th October 2016 by the Prime Minister of the UK;
11. A declaration that the UK is free to withdraw any notification served pursuant to Article 50 TEU before the expiry of the period set out in Article 50;
12. A declaration that the UK is entitled to attend every meeting of the European Council;
13. A Declaration that the UK notified the European Council of a decision to leave the EU on 20th October 2016;
14. A declaration that Ireland acted in breach of the Plaintiffs' pleaded rights and entitlements in supporting or endorsing the exclusion of the UK from European Council meetings;
15. A Declaration that the Fourth Named Defendant has failed in its obligation to give effect to the provisions of European Union law, and specifically Articles 20, 21, 39 (1), 40, 41, 45 and 47 of the CFREU, Article 10 TFEU, Article 235 TFEU and Article 4 (2) TEU, the General Principles of Law of the European Union in supporting, endorsing and partaking in the exclusion of the UK from European Council meetings.
16. A Declaration that the actions of the European Council and the Fourth Named Defendant's role therein are incompatible with the Fourth Named Defendant's obligations under the European Convention for the Protection of Human Rights and Fundamental Freedoms as transposed into domestic law

through the provisions of Section 3 of the European Convention on Human Rights Act 2003.

17. If necessary, an order that the Court of Justice of the European Union be requested pursuant to Article 267 of TFEU to give a preliminary ruling pursuant to Articles 105 and/or 107 of the Rules of Procedure for Expedited Preliminary Ruling Procedure and Urgent Preliminary Ruling Procedure of the Court of Justice, in the terms of the questions set out in the Schedule hereto;
18. A Declaration that any withdrawal from the Union does not affect membership of the European Economic Area
19. A declaration that the Plaintiff has acquired rights derived from EU law
20. A declaration that the Plaintiff's acquired rights in EU law are preserved and continue notwithstanding the withdrawal of the UK from the Union.
21. Such further and other relief as to this Honorable Court shall seem meet and just;
22. Costs of the proceedings;

SCHEDULE

- A. Does the European Council have a power to accept a deficient notification under Article 50 TEU?
- B. Does the European Council have a power to validly meet to the exclusion of a Member State?
- C. Does the European Council have a power to set conditions before the commencement of negotiations with the UK?
- D. Are the actions of the First and Second Defendants in breach of the General Principles of Law of the European Union; specifically
- a. The principle of legal certainty;
 - b. The principle of proportionality;
 - c. The prohibition of discrimination laid down in Article 10 TFEU;
 - d. The prohibition of the misuse of powers;
 - e. The right to an effective remedy;
 - f. The right to good administration;
- E. Is a revocable notification under Article 50 TEU valid?
- F. Do the Acquired Rights of EU Citizens, who are nationals, citizens or residents of the UK cease on the withdrawal of the UK from the Union?

The High Court

P 2016

Between

MEP UK

Plaintiff

And

The European Union

The European Council,

The Council

The European Commission,

Ireland and The Attorney General

Defendants

STATEMENT OF CLAIM

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