

THE IMPACT ON LEGAL PRACTICE OF HARD BREXIT

	<i>Restrictions faced by an English lawyer in the EU today</i>	<i>Restrictions faced by non-EEA lawyers today (i.e. countries outside the single market)</i>	<i>Practical Consequences for UK lawyers of a WTO only Brexit solution</i>
Limits on ability to provide legal services without needing to open an office	None	UK lawyers would have to register a physical presence in Austria, Belgium, Bulgaria, Cyprus, Estonia, France, Finland, Germany, Hungary, Italy, Latvia and Spain in order to practise law	UK lawyers could no longer provide cross border advice from the UK to clients in 12 EU member states, including to UK citizens resident in the EU on purely UK matters
Limits on ability to give advice attracting legal professional privilege to clients	None	Communications with and advice given to clients in the EEA by non-EEA lawyers cannot be kept private. They may be obtained and used by the European Commission in competition proceedings against clients.	Businesses would no longer wish to use UK lawyers for deals between UK and EEA businesses or proceedings arising from them
Limits on ability of independent lawyers or lawyers under contract to obtain work permits	None	Economic needs tests apply to non-EEA lawyers working as independent professionals in Belgium, Bulgaria, Czech Republic, Denmark, Greece, Spain, Finland, Hungary, Italy, Latvia, Malta, Romania, Slovenia and Slovakia	UK Lawyers would only be able to obtain contracts to provide services in 14 Member States of the EU if no EEA lawyers were qualified to undertake the work required
Limits on ability to open an office	Must take one of forms permitted to local lawyers (varied ability in member states to form MDPs, have non-lawyer participation – otherwise no restrictions)	Cannot open a fully owned law office in Austria, Denmark, France and Portugal – must have local lawyers involved. Cannot go into partnership with lawyers from Bulgaria, Denmark, Estonia, France, Ireland, Latvia, Lithuania, Malta and Slovenia. Residency for foreign partners required in Sweden and Luxembourg.	UK law firms with a presence (branch or subsidiary) and US law firms operating under UK regulatory banner in 15 member states would need a different regulatory authorisation and possibly restructuring to remove UK only qualified lawyers and/or head quartering in another EU member state in order to maintain a presence in those member states.
Limits on ability to acquire right to advise on local law	None	<u>No right to requalify:</u> Austria, Greece, Croatia, Bulgaria, Cyprus, Estonia, Greece, Hungary, Lithuania, Malta, Poland, Portugal, Slovenia <u>Limited rights:</u> Belgium (reciprocity), Czech Republic, Latvia (language test); Denmark, France Germany, Netherlands, Spain (local qualifications or assessment required)	UK lawyers no longer entitled to requalify as local lawyers within the EU – i.e. ability to provide joined up services possible through EU membership cannot be replaced by acquiring local title in a majority of EU MS.

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Limits on ability to draw up contracts	None	No right to draw up a legal contract in Croatia, Cyprus, Czech Republic, Estonia, Greece, Hungary, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Romania, Slovenia and Slovakia Contracts drafted outside France and Denmark applying in those countries no longer valid	Provision of legal advice to UK businesses continuing to operate within the EU and across different member states could no longer be done without greater recourse to local lawyers. Advice to UK citizens and businesses will be more expensive and not subject to protections of UK regulated legal advice
Limits on ability to represent clients in national courts	Must be introduced by a local lawyer	No right of foreign lawyers to appear except in limited and ad hoc circumstances, following application process in Bulgaria, Cyprus, Luxembourg and Poland.	Emergency representation of e.g. UK citizens arrested in EU, of children of mixed EU nationality marriages etc. no longer possible for UK lawyers
Limits on ability to represent clients in European proceedings	None	Cannot provide any representational services before the EU courts	Any representation of UK or International clients in cases before the European courts would go to lawyers with EEA qualifications i.e. Post Brexit litigation on behalf of UK companies not in the hands of UK lawyers