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## Brexit: High Court rules that parliamentary approval is required

In a case of fundamental constitutional importance, the High Court ruled this morning that the UK Government has no power to invoke Article 50 of the Treaty of the European Union to withdraw from the European Union, without an Act of Parliament.

The High Court held that the Government cannot, by exercise of prerogative powers, override the rights of UK citizens conferred by the enactment by Parliament of the European Communities Act 1972. In making this decision, reliance was placed by the High Court on the constitutional principle of Parliamentary sovereignty: that unless Parliament legislates to the contrary, the Government's prerogative power does not extend to amending domestic law enacted by Parliament, which the Government has accepted will be an effect of triggering Article 50.

The Government has indicated that it will appeal against the judgment. A "leapfrog" process bypassing the Court of Appeal and appealing straight to the Supreme Court is underway, with the High Court having already issued a certificate permitting this process. If leave to appeal is granted, the Supreme Court has indicated that it will hear the case from 5 to 8 December 2016, with a larger than usual panel of judges. The average waiting time for Supreme Court judgments is two to four months, but we would expect that the judgment will be handed down on an expedited basis given its importance.

In the meantime, the decision that Parliament faces will be challenging, with many people suggesting that the results of the democratic referendum should not be blocked by Parliament. Today's ruling means that businesses need to prepare for a potential delay from the original March timeline for invoking Article 50. In general, the legal and commercial uncertainty surrounding Brexit continues and financial institutions, asset managers, companies and investors, among others, will need to continue to follow developments and plan accordingly.

The judgment ((Gina Miller & Dos Santos) v Secretary of State for Exiting the European Union [2016] EWHC 2768 (Admin)) is available [here](#), a summary [here](#) and the case page [here](#).

If you have any questions on this Alert or Brexit-related queries, then please contact your usual Ropes & Gray contact or reach out to our UK Asset Management team.

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