

ECJ Rules That Article 50 Notice of Intention to Leave the EU Can Be Unilaterally Revoked

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On December 10, the European Court of Justice (ECJ), in the case of *Wightman and Others v. Secretary of State for Exiting the European Union*, ruled that the notice of an intention to leave the European Union, once properly submitted, can be unilaterally revoked, rather than requiring the consent of all other EU Member States.

On March 29, 2017, the UK notified the European Council of its intention to withdraw from the EU under Article 50 of the Treaty of the European Union (TEU), triggering a two-year period for the UK and EU to negotiate an agreement on the terms of the UK's withdrawal. A judicial review was brought in the Scottish Court of Session in December 2018 by members of the Scottish, UK and European Parliaments, seeking clarification as to whether notification of the UK's intention to withdraw could be revoked unilaterally. The Scottish Court of Session asked the ECJ to interpret Article 50 of the TEU to determine the issue.

The ECJ stated in its ruling that notification of intention to withdraw is not itself definitive or irrevocable. If the Member State in question decides to remain, in accordance with its own constitutional requirements, it may revoke its notice of withdrawal up until the actual time of withdrawal (such time being the expiration of the two-year negotiation period or, if earlier, when a withdrawal agreement goes into effect). Such revocation would need to be unequivocal, unconditional and be made by a written notice addressed to the European Council.

The ruling, therefore, clarifies that the UK could, after a parliamentary vote, withdraw its Article 50 notice prior to March 29, 2019 (Exit Day), and remain in the EU.

The full judgment is available [here](#).

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