

Brexit: EU to have power to punish UK at will during transition

Exclusive: Brussels could impose sanctions if it believes law infringed, leaked document says.



Brussels will have the power to punish the UK at will during the Brexit transition period by closing off parts of the single market to British companies, according to a leaked legal document drawn up by the EU.

The 27 remaining member states want to be able to act against the UK without having to go through the potentially lengthy process of bringing cases to the European court of Justice, should Brussels come to the judgment that Britain has infringed EU law.

The use of focused sanctions to “suspend certain benefits ... of the internal market”, would give the EU the freedom to punish the UK without prematurely terminating the transition period and risking damage to its economic interests.

Sanctions the EU could feasibly impose include tariffs on goods, the enforcement of customs checks or the suspension of the single air aviation agreement, which gives UK carriers the right to fly between Britain and the continent.

The document does not stipulate what acts by the UK would lead to sanctions, but the EU has made it clear it is concerned that the British government could infringe the rights of its nationals living in the UK after Brexit.

The development will inevitably fuel the concerns held by some over the terms of the 21-month transition period following Brexit day on 29 March 2019, during

which the UK will effectively stay in the single market and customs union without any say on new regulations.

Theresa May's apparent acceptance of most of the EU's demands has already prompted accusations from the Tory MP Jacob Rees-Mogg that the UK will be a "vassal state".

The EU's leaked position paper, entitled Transitional Arrangements in the Withdrawal Agreement, lays out in legal language the EU's terms for the transition period, including its insistence that British officials and politicians will play no role in decision-making institutions after 29 March 2019.

The document says that only in exceptional cases will the UK be allowed to sit in on parts of meetings.

Even then, British officials will have to leave the room once the relevant part of discussions have come to an end. "The chair of the meeting concerned shall clearly identify the agenda points for which their attendance is allowed," the document notes. The UK will also be blocked from having access to "sensitive information".

The document states that the UK will merely be "consulted" on fishing in its waters during the transition period, in a clear indication of the EU's intention that the current quotas will remain in force.

The demand for a "mechanism" to punish the UK where it is thought to have infringed EU law during the transition period is likely to cause the most consternation among Brexiters.

The demand is contained in the final footnote in the document, which is to form the centrepiece of this week's EU-UK negotiations in Brussels.

It states the future withdrawal agreement "should provide for a mechanism allowing the union to suspend certain benefits deriving for the United Kingdom from participation in the internal market where it considers that referring the matter to the court of justice of the European Union would not bring in appropriate time the necessary remedies".

The two most contentious issues, until now, were thought to be the UK's lack of a veto in the application of sensitive new laws and May's insistence that EU

nationals arriving in the UK during the transition period will be treated differently to those who are already in the country.

Officials from the UK and the EU will engage in four days of talks, beginning on Tuesday, led by the most senior officials from each side, Sabine Weyand, the bloc's deputy chief negotiator, and Downing Street's senior Brexit adviser, Olly Robbins.

A UK government spokesperson said: "This is a draft document produced by the EU that simply reflects their stated directives. The secretary of state set out the UK's position in his speech in Teesside last month.

"Together these provide a solid foundation for the negotiations on the implementation period which have begun this week with the aim of reaching agreement by March's European council meeting."

Source: <https://www.theguardian.com/politics/2018/feb/06/brexit-eu-power-punish-uk-transition-period-sanctions>

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