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Trade, Labor and EU Law Perspectives

Statutory Interpretation and the Role of the Courts after Brexit

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Please find below the journal abstract of “Statutory Interpretation and the Role of the Courts after Brexit” by Martin Brenncke, published in *European Public Law*, issue 4, volume 25 (2019) edited by Patrick Birkinshaw.

This article evaluates the impact of the European Union (Withdrawal) Act 2018 on statutory interpretation and on the role of the courts in the United Kingdom. The Act’s new interpretative obligations create a myriad of issues that will occupy litigants and courts in the future. I explain how the complexities of the Act should be disentangled and how courts should exercise their policy choices under the terms of the Act. I show that the assumption that Brexit is a clear break from EU law is in several respects contradicted by the detail of the legislative scheme. The European Union (Withdrawal) Act 2018 (EUWA)’s strong theme of legal continuity has the consequence that domestic law will remain considerably intertwined and aligned with EU law after exit day. I also demonstrate that the 2018 Act adjusts the relationship between the courts and Parliament in a way that is not foreseen. EU membership has shaped this relationship and Brexit does not mean that it is profoundly restructured. The Act has the potential to strengthen rather than weaken the institutional and constitutional position of the courts.

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