



Brexit plans lack clarity on court provision for state aid rules – St Gallen ICF

28 April 2017 | 20:51 BST

- State aid issue likely to pose ‘major difficulty’ in Brexit negotiation process – lawyers
- ‘You won’t get anything of any value’ without proper judicial mechanisms – former judge

The absence of judicial mechanisms to enforce state aid rules is a fundamental empty space in the Brexit white paper, lawyers agreed on Thursday (27 April) in St Gallen.

The UK will not get a Brexit deal of any quality without solid state aid provisions, said Sven Nordberg, a former European Commission (EC) director and European Free Trade Association (EFTA) court judge. Nordberg was speaking at the St Gallen International Competition Law Forum in Switzerland.

In a discussion after the panel Competition Law and Economics Post Brexit, EFTA Court President Carl Baudenberger and Andreas von Bonin, a competition partner at Freshfields Bruckhaus Deringer, agreed that state aid could be a major difficulty during the Brexit negotiation process.

During the panel, Thomas Hoehn, a senior advisor at Mazars, had said that state aid will be the biggest, most dramatic impact of Brexit in the area of competition law, which would allow the UK to support industries or activities without regard to EU state aid rules.

The UK will never get a deal of any quality without solid state aid provisions, replied Nordberg, now a senior adviser at Kreab, an international communications consulting firm.

“You won’t get anything of any value if you don’t have institutions, the proper mechanisms of judicial quality. This is the big empty space in the white paper. They only discuss arbitration provisions in international agreement between contracting partners, but there is no space for individuals and companies to raise issues. This is a huge issue,” Nordberg said.

On 2 February, the UK government published the white paper, an official policy document setting out its Brexit plans.

“Wherever state aid is policed in the national context like in Serbia, Albania, it doesn’t work. You would need to have a supranational structure,” von Bonin said.

Anneli Howard, a barrister at Monckton Chambers and former Référéndaire at the European Court of Justice, agreed that a purely national court would not work. There will have to be some supranational mechanism, through arbitration or enabling direct action from individuals and undertakings,” she said.

by Simon Van Dorpe in St Gallen



Sector: Other
Topics: State Aid & Public Programs, Agencies, Policy Developments

Grade: Confirmed

Agencies

European Court Of Justice
European Commission
Government Of UK
EFTA Court - Court Of The European Free Trade Association

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