

IN THE SUPREME COURT OF THE UNITED KINGDOM

**R (on the application of Miller) (Appellant) v  
The Prime Minister (Respondent)  
Cherry and others (Respondents) v Advocate  
General for Scotland (Appellant) (Scotland)**

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EXHIBIT UKSC/JFB/12 OF JULIAN BRENNAN, RE CONTEMPT OF COURT

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## Boris Johnson's breaches of S. 4 of the Fraud Act 2006 and the negotiations to be conducted on 5 December 2020



04/12/2020

Gmail - Important letter for the Commission President personally



Julian Brennan <julianfraserbrennan@gmail.com>

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## Important letter for the Commission President personally

1 message

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**Julian Brennan** <julianfraserbrennan@gmail.com>

4 December 2020 at 15:24

To: ec-president-vdl@ec.europa.eu

Cc: Bjoern.SEIBERT@ec.europa.eu, Stephanie.Riso@ec.europa.eu

Please see the attached. Julian Brennan



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**Letter to the Commission President, 3 December 2020 (with appendices).pdf**

4694K

# Borishgate Ltd

3 Byland Road, Skelton TS12 2NJ  
borishgate@email.com  
(Company Number 12308841)

My Ref: CI/BM58/ch22.am

3 December 2020

Ursula von der Leyen  
President of the European Commission  
Rue de la Loi / Wetstraat 200  
1049 Brussels  
Belgique/België

Dear Madam President

## **Immediate referral to the Heads of State and of Government of the EU Member States**

Twenty eight days from the time this letter is being written will be 31 December 2020. Twenty eight days from your receipt of it will be 1 January 2021. Your intention is that the "IP Completion Day" will come into being. Mine is that it does not, until it can do so properly in accordance with both UK and EU Law; and thereby give true effect to the result of the referendum held on 23 June 2016. Leaving the European Union is the democratic mandate of the voters of this country.

The European Union has not acted in compliance with Article 50 TEU. Had it done so it would have addressed the failures of the UK Government to act in accordance with its legal duties and obligations. You chose to disregard Boris Johnson's illegality and allowed a "treaty" that was Null to be ratified and concluded. This is nothing to do with the withdrawal negotiations or with the current trade talks. It is about the European Commission failing to comply with its legal duties in relation to the withdrawal process under Article 50 TEU. In the final analysis it is down to you personally due to you failing to act on the basis of the correct legal presumption on 30 September 2020.

The issue you need to consider very carefully is that you have seen fit to take upon yourself the risk of chaos and loss that threatens the wellbeing of the continent of Europe and its peoples. People talked of the "worst case scenario" being a "No Deal Brexit"; but that was wrong. What one should always do when considering any "worst case" - when everyone involved is content with the end result - is to ask a further question. And it is this: What if this is not the actual worst case, what might that be? The posing of this question pushes people to think harder and to find a better answer, or to be doubly certain of the previous answer. In this instance the actual worst case scenario is this: A UK withdrawal from the EU without any deal, with Brexit being unlawful and the unlawfulness becoming known about afterwards; meaning that on top of the chaos involved will come very many huge financial claims for compensation due to the harm and loss caused by the European Union failing to complete the withdrawal Article 50 process according to law. On top of the financial and economic risks that were foreseeable (and were foreseen) on 1 November 2019, now add the economic effects of Covid-19, and the possible social and political consequences which could result from this mess. The scale of harm doesn't bear thinking about.

This is what faces Europe right now. You ignore legal reality; you decide you know best; and you refuse to place the issues before others to whom you are accountable. You failed to take account that my first report to the European Union was made as a Human Rights Defender (recognised at the time by the European Union, as well as by the UK Government and Judiciary). This a role I

held formally from 9 February 2005 to 1 May 2019. Your unwillingness to inform the Heads of State and of Government of the Member States disregards the fact that the European Union exists by virtue of Article 1 of the Treaty on European Union. That is an international treaty entered into by the EU Member States and by which they conferred competences to attain objectives they have in common. You have allowed - and are allowing - the Commission to act in breach of Article 17(1) TEU. The coming into force of the "IP Completion Day" on 1 January 2021 will not be legal. No Member State has conferred any competence on the Union, or on any of its Institutions, to act illegally in breach of the enforceable rights of citizens of the European Union. The Treaties do not "belong" to the EU; they are instruments through which the Member States allow certain things to occur, none of which includes the European Commission President being able to cause harm and loss by wilfully disregarding: (a) the control over the Commission by the Court of Justice of the European Union, in respect of its oversight of the application of Union law; and (b) the Commission's responsibility to the European Parliament. You have had little or no regard to Article 2 TEU.

I refer you to my letter of 29 September 2020 to you; and, in relation to that correspondence, to Appendices A & B to this letter; respectively my letter of 31 January 2020 to you, and my letter of 30 January 2020 to the UK Prime Minister (which was referred to in my letter of 31/1/20 and was available to you at pages 1-3 of Exhibit JFB/ABdFJ/140). Also attached are the first three pages of Exhibit 140, so context is understood.

Yours faithfully

A handwritten signature in blue ink that reads "Julian Brennan". The signature is written in a cursive style with a large, stylized initial 'J'.

**Julian Brennan**

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**Appendix A to letter of 3 December 2020 (6pp)**

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**From:** Julian Brennan  
**Sent:** 31 January 2020 11:07  
**To:** ec-president-vdl@ec.europa.eu  
**Cc:** Bjoern.SEIBERT@ec.europa.eu; Stephanie.Riso@ec.europa.eu  
**Subject:** RE: URGENT CORRESPONDENCE FOR URSULA VON DER LEYEN

Urgent and important letter, and enclosure, for the Commission President attached.  
Julian Brennan

31 January 2020

Ursula von der Leyen  
President of the European Commission  
European Commission  
Rue de la Loi / Wetstraat 200  
1049 Brussels  
Belgique/België

*Sent by e-mail to [ec-president-vdl@ec.europa.eu](mailto:ec-president-vdl@ec.europa.eu) and by e-mail to Head of Cabinet, Bjoern Seibert, and Deputy Head of Cabinet, Stéphanie Riso, for the personal and most urgent attention of the Commission President*

Dear President von der Leyen

**Upholding the Law / Legal liability for breaches of EU law**

I write further to my letter of 28 January with regard to the European Commission's failure to act in accordance with its duties under Article 17(1) of the Treaty of European Union and ensure the application of the Treaties (see attached). That failure to act has permitted the conclusion of an invalid treaty which, ostensibly, is due to come into force at 12.00 tonight (European Central Time). In reality that will not be so (however people regard the event) as the legal basis for the UK's withdrawal is an act that will not have "occurred" in law. The treaty is Null. That was so prior to "ratification" by the European Parliament.

The UK's Article 50(1) decision and its Article 50(2) notification were Null on 28 March 2019; the "notification" delivered to President Tusk on 29 March 2017 had no legal force in the European Union. Prime Minister Boris Johnson acted illegally on 24 January 2020 when he signed the treaty. You were informed of these facts on 29 January ahead of the European Parliament deciding to give its consent for conclusion. At the very least you should have informed the European Parliament or the Council not to act so the matter could be referred to the Court of Justice of the European Union for a ruling. I was/am entirely willing to make a detailed written submission to the Commission and/or the ECJ to explain the facts and the law so the Court can deliver an Opinion/Judgment. There is no conflict of interest for me, as doing so serves both my country's national interest and the general interest of the Union. As I suggested in my previous letter, the economic consequences of getting withdrawal wrong are bad for both the UK and the EU. An unlawful withdrawal will (sooner or later) cause harm and loss to citizens across all current 28 EU Member States, as well as to people and businesses in EFTA States and in those countries/trading blocks with which the EU has trade agreements.

The consequences of the Commission not acting in accordance with its Article 17 legal duties are very serious: should there be no change of course there will be adverse consequences for all EU citizens who lawfully chose to live in an EU Member State other than their own, and numerous businesses of all types will face unlawful harm. These are just two general examples where harm and loss could lead to legal claims for compensatory damages. As things stand legal liability will fall on the European Union due to various failures of the Commission over the Article 50 agreement negotiations and Brexit.



I previously put to the [then] President of the Commission, Jean-Claude Juncker, that in pursuit of its responsibility to promote the general interest of the Union, the Commission not only had to oversee the Article 50 negotiations. A further "appropriate initiative" would have been to set up a small task force with "compliance" oversight responsibilities so as to ensure that the overall process complied with EU law. It was not sufficient solely to ensure legal compliance in respect of administrative/procedural steps and substantive agreement issues. The General Secretariat of the EU rejected my view that everything in the Article 50 process - from the time of receipt of the UK's instrument of notification to withdrawal - had to be checked in law. What I put has to be so due to the serious adverse consequences that any fatal failure to comply with Article 50 would have post withdrawal. For example, at some point in the future the EU-27 will have to enter into a new treaty (if only to define new boundaries and territorial scope and to remove various references to the UK etc); any such treaty will require ratification according to each individual state's own constitutional requirements. However, a new treaty would be impossible if the UK's departure was in breach of EU law: the legal basis for withdrawal could conflict with the terms of certain countries' written constitutions. The Kingdom of Spain is such an example. What might seem like a minor issue could potentially have near catastrophic consequences; that is potentially the case right now. The wording of the "treaty" is such that everything is based on a non-existent legal notification. The devastating effects for everyone due to this fatal error, and the EU's continuing acceptance of it, lead me to write to you in these terms even at this "eleventh hour".

The legal responsibility, under Article 50 TEU, for concluding an agreement sits with the EU. Knowingly allowing the UK to withdraw from the EU unlawfully would place all liability for what follows as a consequence. I suggest it is in everyone's best interests for withdrawal to be "paused" today, for there to be a clarification on the law (if necessary), and for any legal problems to be "ironed out" so as to allow for the UK's earliest possible legal withdrawal. With goodwill and mutual co-operation between the parties, and a touch of pragmatism, I think that could be achieved by 29 March 2020. The two months time difference - whilst no doubt frustrating to many - would avoid vast problems. I urge such a course of action because the issue of the UK Prime Minister's legal authority will almost certainly arise in two potential Judicial Review cases which are likely to follow the UK Government's decisions on capital expenditure for HS2 and on Huawei's inclusion in the UK's 5G infrastructure. Both are extremely contentious, and the "duty of candour" will apply as soon as legal proceedings are notified. That could be very soon. Also, a number of former Westminster MPs have a cause of action in respect of losses caused by Boris Johnson acting unlawfully over the General Election; him subsequently not disclosing information to them as required by law; and, consequently, him acting in breach of section 3 of the Fraud Act 2006. Of course, there is currently an issue regarding the issue of the Brexit 50 pence piece, which I wrote to the Prime Minister about yesterday. Please see **Exhibit JFB/ABdFJ/140**. (**Note:** I will send the other enclosures to this letter by separate e-mail later this morning. They are: **Exhibits JFB/ABdFJ/28; 30; 31; 41; 55; 100; 133; 136-139.**)

In conclusion I highlight two issues: (1) Under Article 1(1) TEU the High Contracting Parties conferred competences on the European Union to "attain objectives they have in common". The conclusion of an unlawful agreement under Article 50 is not such an objective. Under Article 5 the Union can only act "within the limits of the competences conferred upon it by the Member States". No EU institution has the power to act outside the limits of its powers conferred on it within the treaties. Neither the EU nor any of its institutions has the legal power to act contrary to law, or to neglect to act in accordance with its legal duties. (2) As I have said previously, the UK Prime Minister has acted in bad faith with the European Union and in breach of Article 4(3) TEU. Those breaches of EU law would have been grounds for legal intervention if that were found out post-withdrawal. That is not the case in this instance,

however, as the information I am have provided and am providing - including complete access to the information posted on the Internet on and via [www.borisgate.uk](http://www.borisgate.uk) means Boris Johnson's dishonesty has no material effect on "your" lack of knowledge.

Importantly, and wrongly in my view, the EU decided to conclude the treaty after it had been made aware that Boris Johnson had acted illegally in relation to the "withdrawal agreement". Boris Johnson's signature nullified the "treaty" which by your signature, and that of the European Council President Michel, the 2019-2024 Commission thought could be brought into existence. Adter this was known the Commission allowed other institutions to proceed in breach of EU law. I think you need to act.

Yours sincerely

A handwritten signature in blue ink that reads "Julian Brennan". The signature is written in a cursive style with a large, stylized initial 'J'.

**Julian Brennan**

cc:     **The Rt Hon Jacob Rees- Mogg, Lord President of the Council**

## Consolidated version of the Treaty on European Union

### TITLE III

#### PROVISIONS ON THE INSTITUTIONS

##### *Article 17*

1. The Commission shall promote the general interest of the Union and take appropriate initiatives to that end. It shall ensure the application of the Treaties, and of measures adopted by the institutions pursuant to them. It shall oversee the application of Union law under the control of the Court of Justice of the European Union. It shall execute the budget and manage programmes. It shall exercise coordinating, executive and management functions, as laid down in the Treaties. With the exception of the common foreign and security policy, and other cases provided for in the Treaties, it shall ensure the Union's external representation. It shall initiate the Union's annual and multiannual programming with a view to achieving interinstitutional agreements.

2. Union legislative acts may only be adopted on the basis of a Commission proposal, except where the Treaties provide otherwise. Other acts shall be adopted on the basis of a Commission proposal where the Treaties so provide.

3. The Commission's term of office shall be five years.

The members of the Commission shall be chosen on the ground of their general competence and European commitment from persons whose independence is beyond doubt.

In carrying out its responsibilities, the Commission shall be completely independent. Without prejudice to Article 18(2), the members of the Commission shall neither seek nor take instructions from any Government or other institution, body, office or entity. They shall refrain from any action incompatible with their duties or the performance of their tasks.

4. The Commission appointed between the date of entry into force of the Treaty of Lisbon and 31 October 2014, shall consist of one national of each Member State, including its President and the High Representative of the Union for Foreign Affairs and Security Policy who shall be one of its Vice-Presidents.

5. As from 1 November 2014, the Commission shall consist of a number of members, including its President and the High Representative of the Union for Foreign Affairs and Security Policy, corresponding to two thirds of the number of Member States, unless the European Council, acting unanimously, decides to alter this number.

The members of the Commission shall be chosen from among the nationals of the Member States on the basis of a system of strictly equal rotation between the Member States, reflecting the demographic and geographical range of all the Member States. This system shall be established unanimously by the European Council in accordance with Article 244 of the Treaty on the Functioning of the European Union.

6. The President of the Commission shall:

(a) lay down guidelines within which the Commission is to work;

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*Status: This is the revised version from EUR-Lex dated 01/05/2019. There are no timeline of changes available for treaties, instead, previous dated versions from EUR-Lex (as pdf) can be accessed via the More Resources menu. This treaty was originally signed in Maastricht in 1992 (The Maastricht Treaty).*

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- (b) decide on the internal organisation of the Commission, ensuring that it acts consistently, efficiently and as a collegiate body;
- (c) appoint Vice-Presidents, other than the High Representative of the Union for Foreign Affairs and Security Policy, from among the members of the Commission.

A member of the Commission shall resign if the President so requests. The High Representative of the Union for Foreign Affairs and Security Policy shall resign, in accordance with the procedure set out in Article 18(1), if the President so requests.

7. Taking into account the elections to the European Parliament and after having held the appropriate consultations, the European Council, acting by a qualified majority, shall propose to the European Parliament a candidate for President of the Commission. This candidate shall be elected by the European Parliament by a majority of its component members. If he does not obtain the required majority, the European Council, acting by a qualified majority, shall within one month propose a new candidate who shall be elected by the European Parliament following the same procedure.

The Council, by common accord with the President-elect, shall adopt the list of the other persons whom it proposes for appointment as members of the Commission. They shall be selected, on the basis of the suggestions made by Member States, in accordance with the criteria set out in paragraph 3, second subparagraph, and paragraph 5, second subparagraph.

The President, the High Representative of the Union for Foreign Affairs and Security Policy and the other members of the Commission shall be subject as a body to a vote of consent by the European Parliament. On the basis of this consent the Commission shall be appointed by the European Council, acting by a qualified majority.

8. The Commission, as a body, shall be responsible to the European Parliament. In accordance with Article 234 of the Treaty on the Functioning of the European Union, the European Parliament may vote on a motion of censure of the Commission. If such a motion is carried, the members of the Commission shall resign as a body and the High Representative of the Union for Foreign Affairs and Security Policy shall resign from the duties that he carries out in the Commission.

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**Appendix B to letter of 3 December 2020 (3pp)**

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**From:** Julian Brennan  
**Sent:** 30 January 2020 15:24  
**To:** PublicCorrespondence Mailbox  
**Cc:** BURGHART, Alex; HARRISON, Trudy; JOHNSON, Boris  
**Subject:** Urgent and important letter for the Prime Minister

Please ensure the attached two-page letter is brought to the immediate attention of the Prime Minister personally. You will see from its content that it is extremely urgent and that it concerns the public interest. Thank you. Julian Brennan

30 January 2020

The Rt Hon Boris Johnson MP  
First Lord of the Treasury  
10 Downing Street  
London SW1A 2AA

***For the personal and most urgent attention of Boris Johnson***

Dear Prime Minister

**Legal Duties re Brexit and the Royal Mint**

The website of the Royal Mint currently contains the following public announcement, under the heading "**Marking the United Kingdom's Withdrawal from the European Union**":-

"On 31 January 2020, a new 50p coin observing the United Kingdom's withdrawal from the European Union will be released. The coin will be available as gold and silver Proof editions, as well as a Brilliant Uncirculated edition and as part of a two-coin historic set. In addition, a number of gold Sovereigns will be struck on the day and these particular coins will feature a portcullis privy mark."

You are aware that due to prior breaches of sections 3 and 4 of the Fraud Act 2006 (various dishonest non-disclosures of information and various acts & omissions) caused the striking of the "Brexit" 50 pence coins by the Royal Mint. The Order in Council of 17 December 2019 in respect of the Great Seal of the Realm being affixed to the Proclamation of Her Majesty the Queen of that same day (regarding the alteration of the 8 October Proclamation on the issue of 50p coins to mark the United Kingdom's exit from the European Union) is Null in law. That is due to point 3 of the related Order in Council of 8 October 2019 being Null. You had acted illegally and deceived Her Majesty the Queen prior to 8 October - not as stated by the Supreme Court on 24 September 2019 but in ways you have not yet disclosed in accordance with your legal duties. Substantial detail was set out in my letter to you of 6 October 2019.

Your position as First Lord of the Treasury and a Lord Commissioner of Her Majesty's Treasury, and the provisions of section 4(6) & (7) of the Coinage Act 1971, meant you should have disclosed all relevant information about Brexit and the impossibility of you being able, as a Minister of the Crown, to: (a) approve, on behalf of the United Kingdom, any Withdrawal Agreement offered by the European Commission; (b) lay before Parliament any instrument for the purposes of approval and ratification of an Agreement; and (c) sign any Treaty. You acted in breach of your sworn legal duties and in breach of Article 1 of the Bill of Rights 1689 and Article 4 of the Act of Settlement 1700. The Chancellor of the Exchequer unveiled the "31 January 2020" 50p coin on 26 January, due to you signing the "treaty" on Friday the 24th. However, your criminality at the time meant your signature nullified the Treaty. Yesterday afternoon the European Parliament "ratified" an invalid treaty. The United Kingdom cannot leave the United Kingdom - as it should - until the Government and the European Commission act to remedy the various errors of law. **Leaving the EU unlawfully means in reality that we will not have left. That is contrary to the democratic will of the people of the United Kingdom.**

You should disclose honestly and without delay all relevant facts to an emergency meeting of the Cabinet and, ahead of that, to Sajid Javid in his legal capacities as both Chancellor of the Exchequer and Master of the Mint; and, in respect of the first capacity, to the Financial Secretary to the Treasury (who has legal duties regarding the finances and management of the Royal Mint); and, in respect of the second capacity, to the Deputy Master (who, as a matter of law, may exercise all the powers and duties of the Master). As First Lord of the Treasury you will be aware that Her Majesty's Treasury has legal control concerning the volume and value of coins in circulation. You will know that any unlawful issue of coin will have an impact on face value. If you do not act today as required under law you will commit further offences of fraud in breach of sections 3 and 4 of the Fraud Act 2006. After you have spoken to the Cabinet the Chancellor must speak with the Governor of the Bank of England Mark Carney who (amongst dealing with things relating to coinage) will be able, in relation to market movements and financial stability, to liaise with ECB President, Christine Lagarde, in advance of any public announcement about the UK remaining in the EU for a temporary period at and from midnight (Brussels time) tomorrow. You must also speak with European Commission President, Ursula von der Leyen, and additionally inform UK Members of the European Parliament that, as a matter of UK and EU law, they should continue in their elected positions until further notice. You must act in good faith / honestly in all your conversations and when making any statement.

You are aware that I act in accordance with my duty of Allegiance to Her Majesty the Queen and in the public interest. I act to uphold the Rule of Law and in order to prevent crime.

Yours sincerely

A handwritten signature in blue ink that reads "Julian Brennan". The signature is written in a cursive style with a large, stylized 'J' at the beginning.

**Julian Brennan**



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**Appendix C to letter of 3 December 2020 (3pp)**

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Claim No. \_\_\_\_\_

IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION  
ROYAL COURTS OF JUSTICE

B E T W E E N:

ALEXANDER BORIS DE PFEFFEL JOHNSON

*Claimant*

- and -

JULIAN FRASER BRENNAN

*First Defendant*

- and -

BORISGATE LTD

*Second Defendant*

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EXHIBIT JFB/ABdFJ/140

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# UPHOLDING THE RULE OF LAW

## Confirmation of Liberties.

FIRST, We have granted to God, and by this our present Charter have confirmed, for Us and our Heirs for ever, that the Church of England shall be free, and shall have all her whole Rights and Liberties inviolable. We have granted also, and given to all the Freemen of our Realm, for Us and our Heirs for ever, these Liberties under-written, to have and to hold to them and their Heirs, of Us and our Heirs for ever.

Nullus liber homo capiatur vel imprisonetur, aut disseisiatur de libero tenemento suo, vel libertatibus, vel liberis consuetudinibus suis, aut utlagetur aut exulet aut aliquo modo destruatur, nec super eum ibimus, nec super eum mittemus, nisi per legale iudicium parium suorum, vel per legem terre. Nulli vendemus, nulli negabimus, aut differemus rectum vel iusticiam.

3. Les droits fondamentaux, tels qu'ils sont garantis par la Convention européenne de sauvegarde des droits de l'Homme et des libertés fondamentales et tels qu'ils résultent des traditions constitutionnelles communes aux États membres, font partie du droit de l'Union en tant que principes généraux.

## PART I

### GENERAL RESERVATIONS

#### *The Constitution*

The following aspects of the constitution are reserved matters, that is—

- (a) the Crown, including succession to the Crown and a regency,
- (b) the Union of the Kingdoms of Scotland and England,
- (c) the Parliament of the United Kingdom,
- (d) the continued existence of the High Court of Justiciary as a criminal court of first instance and of appeal,
- (e) the continued existence of the Court of Session as a civil court of first instance and of appeal.



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**Borisgate Ltd**

**3 Byland Road, Skelton TS12 2NJ**  
**(Company Number 12308841)**

**4 December 2020**