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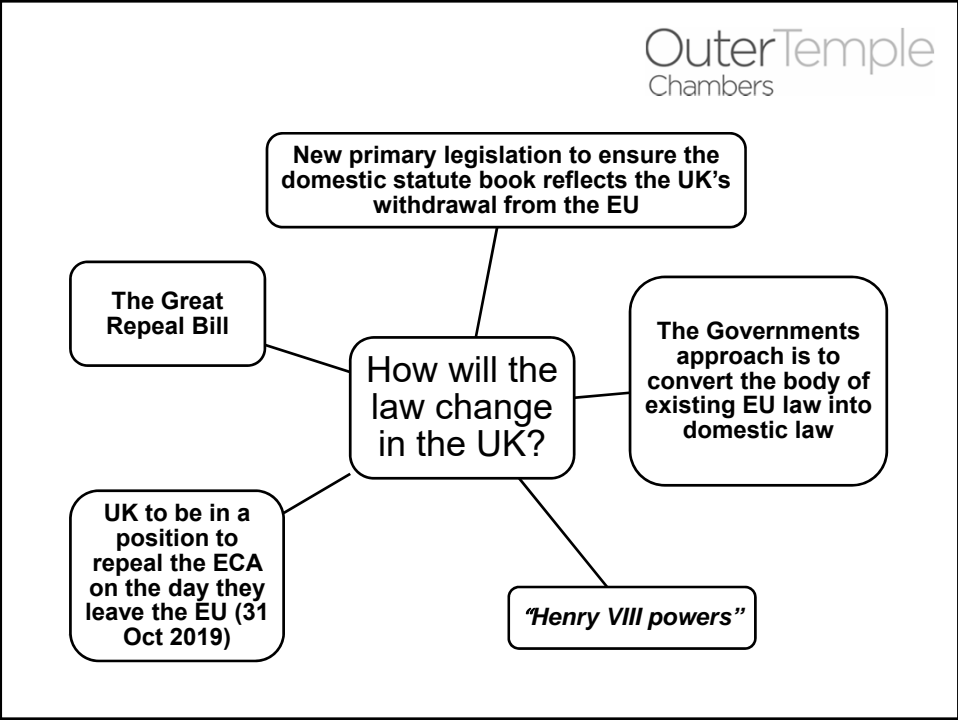
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**Once more unto the brink?
BREXIT and travel claims**

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Conflict of Laws

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- Jurisdiction
 - The Brussels I Recast Regulation (1215/2012)

- Applicable law
 - Rome I Regulation (593/2008) applicable law in contracts
 - Rome II Regulation (864/2007) applicable law in non-contractual obligations

- Recognition and enforcement of judgments
 - Brussels Recast, Lugano Convention, Hague Conventions

- Other
 - Lugano Convention
 - Hague Convention on Service and Forum

Brexit Future Partnership Paper

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Providing a cross-border civil judicial cooperation framework 22/08/17

- Seeks new bespoke agreement with all the benefits of existing arrangements within EU regarding conflict of laws (incorporating Brussels Regulation, Rome I and II), but without CJEU oversight

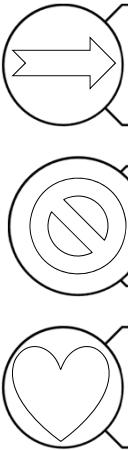
- However the UK and EU "*will need to ensure future judicial cooperation takes into account regional legal arrangements, including the fact that the CJEU will remain the ultimate arbiter of EU law within the EU*"

- The EU position paper wants Union law to continue to apply with CJEU supreme arbiter

- What if no agreement on exit?

Possible Outcomes

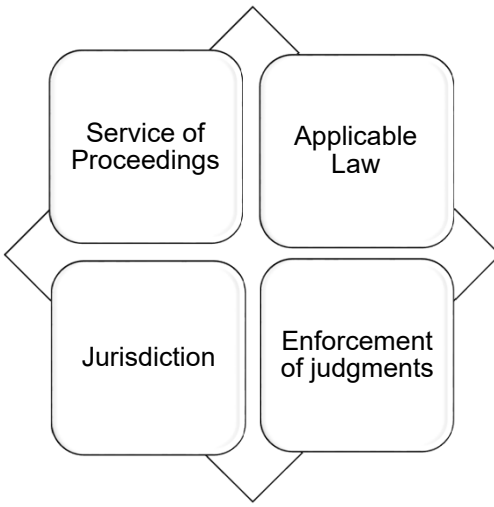
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- Transition period
- No deal scenario
- The future relationship

What will be affected?

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- Service of Proceedings
- Applicable Law
- Jurisdiction
- Enforcement of judgments

Before 31st October or not?

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- ❖ Enforcement versus jurisdiction
- ❖ Consumer, Insurance and Employment jurisdictions will be lost
- ❖ Service: section 1 Foreign Limitation Periods Act 1984?
 - ❖ Brownlie [2019] EWHC 2533 Nicol J 1.10.19
 - ❖ §47 repeats suggestion that FLPA 1984 overturned where Rome II 'applies': based on obiter comments in *Tatneft v Bogolyubov* [2017] EWCA Civ 1581

Package Travel

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UK Government,
“recognises...a need
to introduce stronger
consumer
protection...
irrespective of our
exit from the EU.”

Package Travel – insolvency worries

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- Odenbreit claim?
- Limitation and foreign law issues
- Bringing in the supplier
- Keefe v MAPFRE [2015] EWCA Civ 598
- Lackey v Mallorca Mega Resort [2019] EWHC 1028



Consumer Jurisdiction claims

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Articles 17 and 18 Brussels 1A:

- Contract concluded with a person who pursues or direct his commercial or professional activities in Member State of consumer's domicile
- Lackey
- Cole v IVI Madrid and Zurich (Birmingham DR)

Other defendants

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- Travel agency – ‘retailer or organiser’?
- Sub-supply arrangements? Convention claims/carriers?
- Section 75 Consumer Credit Act 1974
 - Credit card company jointly and severally liable
 - Transaction between £100 and £30,000
 - Cardholder only?
- Limitation issues

Road Accident Claims

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- Directive 2009/103/EC (Consolidated MID)
 - Abolition of checks on green cards
 - Harmonisation of minimum insurance cover and exceptions
 - Guarantee bodies for uninsured and unidentified vehicles
 - Direct rights against insurers
 - Claims representatives
 - Information centres
 - Compensation Bodies

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THANK YOU AND QUESTIONS PLEASE

Sarah Crowther QC

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