Options for dispute resolution after Brexit

**European Court of Justice**

The EU’s own court interprets the withdrawal deal for both sides.

- Easily negotiable
- ECJ would not be neutral in disputes between UK and EU member states
- Crosses the Prime Minister’s red lines on ECJ jurisdiction

**EFTA Court**

The EFTA Court with UK judges added interprets the withdrawal deal for UK. The ECJ interprets it for EU.

- Could resolve citizens’ rights issue
- EU already accepts the EFTA court
- EFTA court interferes less in domestic law than the ECJ
- EFTA Court’s close relationship with the ECJ may cross the Prime Minister’s red lines

**New EFTA-style court**

A new UK-only court, modelled on EFTA, interprets the withdrawal deal for the UK. The ECJ interprets it for the EU.

- Allows the UK to ‘take back control’
- Unlikely to threaten EU legal autonomy
- Brussels unlikely to accept UK ‘marking its own homework’
- Disruptive to UK courts system – UK Supreme Court no longer highest in the land

**New joint court**

A court with UK and EU judges interprets the withdrawal deal for both sides.

- Would put the UK and EU on equal footing
- ECJ has rejected a similar proposal for a joint EU-EFTA court in the past

**Joint committees**

Committees of diplomats and ministers resolve disputes.

- Would not cross the Prime Minister’s red lines
- EU highly unlikely to accept as it is dissatisfied with the function of this system in Switzerland
- Bad for legal certainty, because disagreements can linger for years

**Arbitration**

A new panel of arbitrators is convened to resolve each dispute.

- Could work for UK-EU future partnership and parts of the withdrawal deal not related to EU law
- ECJ likely to reject arbitration for parts of the deal related to EU law
- High cost if caseload is big
- Less transparent and consistent than a court, so worse for legal certainty