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General Secretariat

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**LIMITE**

**UK**

**WORKING PAPER**

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**NOTE**

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From:	General Secretariat of the Council
To:	Delegations
Subject:	Selection of candidates for the list of arbitrators who may be called to serve in arbitration panels established under the Withdrawal Agreement (Article 171)

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Following the presentation made at the Working Party on the UK on Friday 3 July 2020, delegations will find attached a note relating to the selection of candidates for the list of arbitrators who may be called to serve in arbitration panels established under the Withdrawal Agreement (Article 171).

The note detailing the selection procedure is accompanied by a template for declaration of interests as well as a privacy statement on protection of personal data.

The deadline for submitting applications is set for Friday 4 September 2020.

**Selection of candidates for the list of arbitrators who may be called to serve in arbitration panels established under the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community**

The Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community<sup>1</sup> (‘Withdrawal agreement’) sets out, in the framework of its dispute settlement provisions, that an arbitration panel is established to resolve any dispute regarding the interpretation and application of the provisions of the Agreement between the Parties.

In accordance with the provisions of the Withdrawal Agreement, the members of the arbitration panels called to resolve such disputes are to be nominated for each dispute from amongst the persons included in a list of arbitrators that the Joint Committee would establish.

The Joint Committee should establish a list of 25 persons who are willing and able to serve as members of an arbitration panel under the Withdrawal Agreement by no later than the end of the transition period.

The EU and the UK should each propose 10 persons to be included in the list of arbitrators under the Withdrawal Agreement. 5 additional persons should be proposed jointly by the EU and the UK; these 5 persons will act as chairpersons of arbitration panels.

**Following the presentation made in the Working Party on the UK on Friday 3rd July, the European Commission/UKTF is therefore inviting Member States to submit applications on behalf of persons interested in serving as arbitrators in disputes under the Withdrawal Agreement.**

Through this selection procedure, the Commission will create a Union pool of 30 persons possessing the required qualities and expertise to serve as arbitrators in arbitration panels established under the Withdrawal Agreement (‘Union pool of arbitrators’). The persons to be included in the first list of 25 persons on a proposal from the Union will be selected from this pool. The remaining persons in the pool may be proposed for inclusion in the list of 25 at a later stage, if necessary to replace persons who are no longer fulfilling the criteria. The members of an arbitration panel must be independent, serve in their individual capacity and must comply with the Code of Conduct set out in Part B of Annex IX to the Withdrawal Agreement.

**Member States are invited to inform the Commission/UKTF of interested persons, who wish to be considered for inclusion in the Union pool of arbitrators by 4 September 2020. A maximum of 2 applications by Member State will be taken into account.**

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<sup>1</sup> OJ L 29, 31.1.2020, p. 7.

## **What criteria should the candidates fulfil?**

Candidates shall fulfil the criteria set out in Article 171(2) of the Withdrawal Agreement. They shall:

- have an independence beyond doubt;
- possess the qualifications required for appointment to the highest judicial office in their respective countries or are jurisconsults of recognized competence;
- possess specialised knowledge or experience of Union law and public international law; and
- not be members, officials or other servants of the Union institutions, of the government of a Member State, or of the government of the United Kingdom.

Applications from candidates who do not fulfil all the above-listed criteria can under no circumstance be successful. Candidates shall also have excellent written and oral communication skills and a clear ability to operate fluently in English<sup>2</sup>.

The selection procedure intends to establish a pool of arbitrators which is as diverse and representative as possible; therefore, all qualified candidates from diverse backgrounds and across all abilities are encouraged to submit their application.

## **How to apply?**

Member States are invited to submit the applications of candidates directly to the European Commission/Task Force for Relations with the United Kingdom (Cc GSC UKTF Secretariat: [secretariat.wpuk@consilium.europa.eu](mailto:secretariat.wpuk@consilium.europa.eu)) via the following mailbox: [UKTF-JOINT-COMMITTEE@ec.europa.eu](mailto:UKTF-JOINT-COMMITTEE@ec.europa.eu).

All applications shall consist of a curriculum vitae, a cover letter and a declaration of potential conflicts of interest. Where possible, applicants are encouraged to submit their application in English. The conflict of interest shall relate to any recent (within 5 years) or existing links to governmental or other organisations. A further conflict of interest declaration would also be required when a selected person is asked to sit in an arbitration panel established for a specific case.

Member States are requested to provide candidates with the attached privacy statement and template for declaration on conflict of interest.

## **Assessment procedure**

The European Commission/Task Force for Relations with the United Kingdom will assess the applications received by the deadline of 4 September 2020 and select those candidates, that best fulfil the requirements laid down in the Withdrawal Agreement. The assessment shall be

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<sup>2</sup> In this respect, it is recalled that according to Rule 40 of Annex IX of the Withdrawal Agreement on the rules of procedure for dispute settlement, the language of proceedings before arbitration panels shall be English.

conducted on the basis of the candidates' applications and may include interviews with the short-listed candidates. The Working Party on the UK will be kept informed throughout the procedure and the results of the assessment consisting of a list of selected persons composing the Union pool of arbitrators will be published on the webpage of the Task Force for Relations with the United Kingdom.

Please note that the European Commission/Task Force for Relations with the United Kingdom will not reimburse the candidates' travel expenses for attending interviews with the selection panel. With regard to this matter, the respective Member State authorities may be contacted.

Questions can be addressed to [UKTF-JOINT-COMMITTEE@ec.europa.eu](mailto:UKTF-JOINT-COMMITTEE@ec.europa.eu)

Declaration of interests (DOI) form for persons applying to be included in the list of arbitrators who may be called to serve in arbitration panels established under the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community

Legal basis:

Article 171 of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (the Withdrawal agreement)

Definitions:

**"Conflict of interest"** means any situation where an individual has an interest that may compromise or be reasonably perceived to compromise the individual's capacity to act independently and in the public interest when providing advice to the Commission in relation to the subject of the work performed by the expert group or sub-group in question.

**"Immediate family member"** means the individual's spouse, children and parents. "Spouse" includes a partner with whom the individual has a registered non marital regime. "Children" means the child(ren) the individual and the spouse have in common, the own child(ren) of the individual and the own child(ren) of the spouse.

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**Please answer each of the questions below. If the answer to any of the questions is "yes", please provide details on relevant interests and circumstances, as appropriate.**

**If you do not do so, your DOI form will be considered incomplete and, therefore, your application to be appointed as a member of an expert group or sub-group in a personal capacity shall be rejected.**

First name:

Family name:

**1 EMPLOYMENT**

	<i>Within the past 5 years, were you employed or have you had any other professional relationship with a Union institution, a government of a Member State or the government of the United Kingdom, or held any non-remunerated post in any of the above?</i>	<b>yes</b>	<b>no</b>
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<b>1a</b>	<b>Employment</b>	<input type="checkbox"/>	<input type="checkbox"/>
<b>1b</b>	<b>Other professional relationship</b>	<input type="checkbox"/>	<input type="checkbox"/>
<b>1c</b>	<b>Non-remunerated post</b>	<input type="checkbox"/>	<input type="checkbox"/>

<b>Activity</b>	<b>Time period (from... until month/year)</b>	<b>Name of entity or body</b>	<b>Description</b>

**2 INTERESTS OF IMMEDIATE FAMILY MEMBERS**

**yes**      **no**

<b>2a</b>	<i>To your knowledge, are there any interests of your immediate family members which could be seen as undermining your inclusion in the list of persons who may be called to serve as arbitrators in arbitration panels under the Withdrawal agreement?</i>	<input type="checkbox"/>	<input type="checkbox"/>
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<b>Interests</b>	<b>Time period (from... until month/year)</b>	<b>Name of legal entity or body</b>	<b>Description</b>

<b>2b</b>	If interests of your immediate family members are declared, it is your responsibility to inform them about the collection and publication of information on their interests included in the DOI and to provide them with the privacy statement attached to the call for selection, and this at the latest when you file the DOI form with the		
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	Commission.
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**3 OTHER RELEVANT INFORMATION**

**yes      no**

	<i>Are there any other elements that could be seen as undermining your independence in case of inclusion in the list of persons who may be called to serve as arbitrators under the Withdrawal agreement?</i>	<input type="checkbox"/>	<input type="checkbox"/>
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Description:

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**I hereby declare on my honour that the information disclosed in this form is true and complete to the best of my knowledge.**

**Should there be any change to the above information, including as regards upcoming activities, I will promptly notify the competent Commission department and complete a new DOI form describing the changes in question.**

**I am informed that my personal data are stored, processed and published by the Commission in accordance with Regulation (EU) 2018/1725<sup>1</sup>.**

**I have been provided with the corresponding privacy statement which provides further information on how the Commission processes my personal data.**

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

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<sup>1</sup> Regulation (EU) 2018/1725 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data.



EUROPEAN COMMISSION  
Task Force for the Relations with the United Kingdom

## **PROTECTION OF YOUR PERSONAL DATA**

**This privacy statement provides information about the processing and the protection of your personal data.**

**Processing operation:** *Selection procedure for drawing up lists of suitable persons who may be called to serve in arbitration panels established under the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community*

**Data Controller:** *Task Force for Relations with the United Kingdom (UKTF), Directorate A, Unit for coordination, planning and administrative support*

**Record reference:**

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## **1. Introduction**

The European Commission (hereafter ‘the Commission’) is committed to protect your personal data and to respect your privacy. The Commission collects and further processes personal data pursuant to [Regulation \(EU\) 2018/1725](#) of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data (repealing Regulation (EC) No 45/2001).

This privacy statement explains the reason for the processing of your personal data, the way we collect, handle and ensure protection of all personal data provided, how that information is used and what rights you have in relation to your personal data. It also specifies the contact details of the responsible Data Controller with whom you may exercise your rights, the Data Protection Officer and the European Data Protection Supervisor.

The information in relation to the processing operation entitled “*Selection procedure for drawing up lists of suitable persons who may be called to serve in arbitration panels established under the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community*”, which is undertaken by the UKTF, is presented below.

For achieving the purpose of this processing operation, in some cases it might be necessary that the UKTF shares your application with Member States’ or the United Kingdom’s administrations to be able to take a decision on the selection of suitable persons to be included in the list of arbitrators.

## **2. Why and how do we process your personal data?**

Purpose of the processing operation: the UKTF collects and uses your personal information, through your Member State’s administration, to carry out the procedures for the selection and drawing up of lists of suitable persons who may be called to serve in arbitration panels established under the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (hereafter the Withdrawal Agreement). The processing covers the entire selection process, including the following stages:

- identifying experts to serve as member of the selection panel;
- carrying out the selection procedures to draw up lists of suitable candidates willing and able to serve as arbitrators under the Withdrawal Agreement;
- carrying out the internal and international decision-making procedures for appointing arbitrators under the Withdrawal Agreement.

Your personal data will not be used for an automated decision-making including profiling.

## **3. On what legal ground(s) do we process your personal data**

We process your personal data, because:

- processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Union institution or body;
- processing is necessary for compliance with a legal obligation to which the controller is subject;

The basis for the selection procedure is to be found in Article 171 of the Withdrawal Agreement, which sets up a dispute settlement procedure involving resolution of disputes by recourse to arbitration (see Part Six Title III).<sup>1</sup>

We also process special categories of personal data – namely data concerning health – because:

- the data subject has given explicit consent to the processing of those personal data for one or more specified purposes.

Specifically, candidates are asked to indicate whether they have a disability or medical condition that requires offering adequate accommodation measures for the interviews (provided these are conducted in person and not via electronic means) so that candidates can undergo the selection process under the best circumstances possible, given their needs. The data concerning health provided by candidates covers several categories, including temporary medical conditions, permanent medical conditions, disability, pregnancy, etc.

#### **4. Which personal data do we collect and further process?**

In order to carry out this processing operation the UKTF collects mainly the following data:

- personal data allowing identification of the candidates, including first name(s), family name(s) currently used, family name(s) at birth, date of birth, gender, citizenship(s), main language, type and number of identification document, copy of identification document with all personal data contained therein, national identification number, e-mail address;
- personal data of candidates required to enable contact and the practical organisation of interviews: address, postcode, city, country, telephone number(s), languages of correspondence;
- data provided by candidates concerning special needs (in particular, indication of medical conditions and/or disability);
- data concerning family, social and professional relationships that might constitute conflict of interest;
- personal data of candidates required to allow evaluation in light of the eligibility and/or selection criteria fixed in the calls for applications, and to assess motivation: educational background, details of professional and academic experience, academic writings or other professional works of the candidates, motivation letters, expertise and technical skills, knowledge of languages;
- data concerning the assessment of candidates' qualifications, skills and competencies (scores and comments by the selection panel).

#### **5. How long do we keep your personal data?**

The UKTF only keeps your personal data for the time necessary to fulfil the purpose of collection or further processing. In particular:

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<sup>1</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:C:2019:384I:FULL&from=EN>

- individual files of candidates that have not passed the selection are retained for a period of 2 years from the date in which the candidate is excluded from the selection;
- individual files of candidates that have passed the selection and have been included in the lists of suitable candidates, are retained for as long as necessary for the purpose of populating the list of arbitrators under the Withdrawal Agreement and in any case 5 years after a person is removed from that list;
- Background files containing personal data and documenting the organisation of the selection process or the process for identifying panel members, are retained for a period of 10 years starting from the moment in which such procedures are closed.

After this administrative retention period, files can be transferred to the Historical Archives of the Commission for historical purposes (for the processing operation concerning the Historical Archives, please see Record of Processing DPR-EC-00837 - Management and long-term preservation of the Commission's archives [former notifications: DPO-3871-3 and DPO-2806]).

## **6. How do we protect and safeguard your personal data?**

All personal data in electronic format (e-mails, documents, databases, uploaded batches of data, etc.) are stored on the servers of the European Commission or, if applicable, on servers of the EU Member States or the United Kingdom. All processing operations by the Commission are carried out pursuant to the [Commission Decision \(EU, Euratom\) 2017/46](#) of 10 January 2017 on the security of communication and information systems in the European Commission.

The EU Member States and the United Kingdom are bound by the confidentiality obligations deriving from the General Data Protection Regulation in the EU Member States ('GDPR' [Regulation \(EU\) 2016/679](#)).

In order to protect your personal data, the Commission has put in place a number of technical and organisational measures in place. Technical measures include appropriate actions to address online security, risk of data loss, alteration of data or unauthorised access, taking into consideration the risk presented by the processing and the nature of the personal data being processed. Organisational measures include restricting access to the personal data solely to authorised persons with a legitimate need to know for the purposes of this processing operation.

## **7. Who has access to your personal data and to whom is it disclosed?**

Access to your personal data is provided to the Commission staff responsible for carrying out this processing operation and to other authorised individuals according to the "need to know" principle, including members of the selection panels, representatives of the Council and Member States and officials of the General Secretariat of the Council associated with the selection procedures. In certain circumstances, the Commission may also share the names and curricula vitae of the selected candidates with representatives of the UK, in order to agree on the selection of persons willing and able to serve as arbitrators under the Withdrawal Agreement.

In particular, data recipients include:

- Members of the selection panel for the purpose of conducting the selection procedures and assessing the candidates' eligibility and merits.

- Commission officials for the purpose of: assisting the work of the selection panel, including handling the administrative aspects of the procedure, conducting a first screening of curricula, communicating with the candidates; handling the decision-making procedures with the Council and the UK for the establishment of the list of persons willing and able to serve as arbitrators under the Withdrawal Agreement.
- Representatives of the Council of the European Union, including officials of the General Secretariat of the Council and representatives of the Member States/ Member States administration associated with the selection procedures for the purpose of carrying out the decision-making process for the selection procedures.

The information collected will not be given to any third party, except if this is required by law and for purpose for which it is required.

## **8. What are your rights and how can you exercise them?**

You have specific rights as a 'data subject' under Chapter III (Articles 14-25) of Regulation (EU) 2018/1725, in particular the right to access, your personal data and to rectify them in case your personal data are inaccurate or incomplete. Where applicable, you have the right to erase your personal data, to restrict the processing of your personal data, to object to the processing, and the right to data portability.

You have the right to object to the processing of your personal data, which is lawfully carried out pursuant to Article 5(1)(a) on grounds relating to your particular situation.

You have consented to provide certain personal data to the UKTF for the present processing operation. You can withdraw your consent at any time by notifying the Data Controller. The withdrawal will not affect the lawfulness of the processing carried out before you have withdrawn the consent.

You can exercise your rights by contacting the Data Controller, or in case of conflict the Data Protection Officer. If necessary, you can also address the European Data Protection Supervisor. Their contact information is given under Heading 9 below.

Where you wish to exercise your rights in the context of one or several specific processing operations, please provide their description (i.e. their Record reference(s) as specified under Heading 10 below) in your request.

## **9. Contact information**

### **- The Data Controller**

If you would like to exercise your rights under Regulation (EU) 2018/1725, or if you have comments, questions or concerns, or if you would like to submit a complaint regarding the collection and use of your personal data, please feel free to contact the Data Controller (UKTF, Unit for coordination, planning and administrative support) by sending an email to: [UKTF-DATA-PROTECTION-COORDINATOR@ec.europa.eu](mailto:UKTF-DATA-PROTECTION-COORDINATOR@ec.europa.eu)

### **- The Data Protection Officer (DPO) of the Commission**

You may contact the Data Protection Officer ([DATA-PROTECTION-OFFICER@ec.europa.eu](mailto:DATA-PROTECTION-OFFICER@ec.europa.eu)) with regard to issues related to the processing of your personal data under Regulation (EU) 2018/1725.

- **The European Data Protection Supervisor (EDPS)**

You have the right to have recourse (i.e. you can lodge a complaint) to the European Data Protection Supervisor ([edps@edps.europa.eu](mailto:edps@edps.europa.eu)) if you consider that your rights under Regulation (EU) 2018/1725 have been infringed as a result of the processing of your personal data by the Data Controller.

**10. Where to find more detailed information?**

The Commission Data Protection Officer (DPO) publishes the register of all processing operations on personal data by the Commission, which have been documented and notified to him. You may access the register via the following link: <http://ec.europa.eu/dpo-register>.

This specific processing operation will be included in the DPO's public register: <http://ec.europa.eu/dpo-register>.