



TECHNICAL NOTE: FUNCTIONALITY AND PROTOCOL 7

Article

Issue

N/A

General Approach to Functionality

The Union is invited to clarify whether it considers that the extent of privileges and immunities granted under the Withdrawal Agreement should differ depending upon whether or not the Withdrawal Agreement confers, or continues to confer, upon the Union functions in or in respect of the United Kingdom.

Articles 1 to 5

Provisions relating to Institutions and Agencies

The Union is asked to confirm that it agrees that the scope of these protections will reduce after exit so as to be linked solely to any functions that may be conferred, or continue to be conferred, by the Withdrawal Agreement. It is asked to clarify how it considers that provision could be made to allow for transition to an EU delegation to the UK after exit. To the extent that it considers any wider application of privileges and immunities for the Union in the UK in respect of aspects of the Union's competences which it will no longer exercise in or in respect of the UK after exit, the Union is asked to clarify why such application is necessary.

Article 6

Laissez-Passer

The Union is asked to clarify what assurance it can offer that, if the United Kingdom continues to recognise EU laissez-passer as valid travel documents, these will be used into and out of the UK only for official business, either in connection with any functions that may be conferred upon, or continue to be conferred upon, the Union, pursuant to the withdrawal agreement, or otherwise for the purpose of conducting official business between the UK and the EU.

Alternatively, is the Union's position that the UK should continue to recognise EU laissez-passer into and out of the UK in respect of all members and servants of the institutions of the Union to whom they are issued?

Articles 7-9

Privileges and Immunities of MEPS

On the basis that the UK will cease to have any Members of the European Parliament on exit day, the European Union is invited to clarify how and why it is envisaged that provisions equivalent to these will continue to apply to the United Kingdom after exit.

If the Union envisages any continued protection for MEPs after exit, other than in respect of opinions expressed or votes cast while the UK was a Member State, it is asked to clarify how such protection is connected with the functions that may be conferred, or continue to be conferred upon the Union under the Withdrawal Agreement

Article 10

Privileges and Immunities of Representatives of Member States

The United Kingdom recognises that this provision should continue to apply in respect of representatives, advisers and experts taking part in the work of any institutions, agencies, or bodies based in the United Kingdom until such time as they cease to be based in the United Kingdom.

The United Kingdom also recognises that this provision should continue to apply in respect of representatives, advisers, and experts of the United Kingdom taking part in the work of the European Union, in the territory of another Member State, to the extent that provision is made for such continued participation in the Withdrawal Agreement.

However, the European Union is invited to clarify the extent to which this Article is envisaged to have any broader continued application to other representatives, advisers and experts taking part in its work outside the UK. To the extent that the UK ceases to participate in the work of the institutions, the European Union is invited to clarify how it is envisaged that this provision will continue to apply to the United Kingdom after exit.

Articles 11 to 15

Privileges and Immunities of Union officials and other servants

The Union is asked to clarify whether it envisages that protections equivalent to these provisions of Protocol 7 will continue to apply only to those officials who are exercising any functions that may be conferred, or continue to be conferred, upon the Union in or in respect of the UK. If it considers that these privileges and immunities should continue to apply to a wider range of officials, it is asked to clarify why this is considered to be necessary.

The Union is asked to clarify whether it envisages that British nationals employed by the Union, or retired officials of the Union with British nationality, will continue to pay, after exit, the tax referred to in Article 12 of Protocol 7. If the Union considers that British nationals should continue to pay that tax, the Union is asked to confirm that it accepts that a necessary corollary of such payment is that those British nationals should continue to benefit from the Unions' social security scheme. The Union is asked to confirm whether it has considered what adjustments need to be made to its social security system to ensure its continued application to those affected.

Article 16

Privileges and Immunities for the UK Permanent Representation to the EU

The Union is asked to confirm that it accepts that, to the extent that the Withdrawal Agreement confers upon, or continues to confer upon, the Union any functions in or in respect of the United Kingdom, that the UK's permanent mission to the Union should continue to enjoy the same diplomatic privileges and immunities as a permanent mission of a Member State. The Union is asked to clarify what assurances it can afford to the United Kingdom that the United Kingdom's representation to the EU will continue to enjoy those privileges and immunities.

Articles 17 and 18

General Provisions on Application of Privileges and Immunities

These provisions provide for the waiver of privileges and immunities, and

require the institutions of the Union to cooperate with the responsible authorities of the Member States concerned when applying the Protocol. The European Union is invited to confirm that it envisages these provisions applying to the United Kingdom, in respect of any continuing privileges and immunities, as if it was a Member State.

Articles 19 and 20

***Extension of Privileges and Immunities of officials to certain senior
functionaries***

The Union is asked to clarify whether it accepts that privileges and immunities should be afforded to these individuals only to the extent that the Withdrawal Agreement confers or continues to confer upon these officials functions in or in respect of the United Kingdom, and to the extent necessary to support those functions.