

Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community

PART SIX

**INSTITUTIONAL AND FINAL PROVISIONS**

*TITLE I*

***CONSISTENT INTERPRETATION AND APPLICATION***

*Article 158*

**References to the Court of Justice of the European Union concerning Part Two**

1 Where, in a case which commenced at first instance within 8 years from the end of the transition period before a court or tribunal in the United Kingdom, a question is raised concerning the interpretation of Part Two of this Agreement, and where that court or tribunal considers that a decision on that question is necessary to enable it to give judgment in that case, that court or tribunal may request the Court of Justice of the European Union to give a preliminary ruling on that question.

However, where the subject matter of the case before the court or tribunal in the United Kingdom is a decision on an application made pursuant to Article 18(1) or (4) or pursuant to Article 19, a request for a preliminary ruling may be made only where the case commenced at first instance within a period of 8 years from the date from which Article 19 applies.

2 The Court of Justice of the European Union shall have jurisdiction to give preliminary rulings on requests pursuant to paragraph 1. The legal effects in the United Kingdom of such preliminary rulings shall be the same as the legal effects of preliminary rulings given pursuant to Article 267 TFEU in the Union and its Member States.

3 In the event that the Joint Committee adopts a decision under Article 132(1), the period of eight years referred to in the second subparagraph of paragraph 1 shall be automatically extended by the corresponding number of months by which the transition period is extended.

*Article 159*

**Monitoring of the implementation and application of Part Two**

1 In the United Kingdom, the implementation and application of Part Two shall be monitored by an independent authority (the "Authority") which shall have powers equivalent to those of the European Commission acting under the Treaties to conduct inquiries on its own initiative concerning alleged breaches of Part Two by the administrative authorities of the United Kingdom and to receive complaints from Union citizens and their family members for the purposes of conducting such inquiries. The Authority shall also have the right, following such complaints, to bring a legal action before a competent court or tribunal in the United Kingdom in an appropriate judicial procedure with a view to seeking an adequate remedy.

2 The European Commission and the Authority shall each annually inform the specialised Committee on citizens' rights referred to in point (a) of Article 165(1) on the implementation and application of Part Two in the Union and in the United Kingdom, respectively. The information provided shall, in particular, cover measures taken to implement or comply with Part Two and the number and nature of complaints received.

3 The Joint Committee shall assess, no earlier than 8 years after the end of the transition period, the functioning of the Authority. Following such assessment, it may decide, in good faith, pursuant to point (f) of Article 164(4) and Article 166, that the United Kingdom may abolish the Authority.

#### *Article 160*

### **Jurisdiction of the Court of Justice of the European Union concerning certain provisions of Part Five**

Without prejudice to Article 87 of this Agreement, Articles 258, 260 and 267 TFEU shall apply in respect of the interpretation and application of applicable Union law referred to in Article 136 and Article 138(1) or (2) of this Agreement. To this effect, any reference made in Articles 258, 260 and 267 TFEU to a Member State shall be understood as including the United Kingdom.

#### *Article 161*

### **Procedures before the Court of Justice of the European Union**

1 Where a court or tribunal of a Member State refers a question concerning the interpretation of this Agreement to the Court of Justice of the European Union for a preliminary ruling, the decision of the national court or tribunal containing that question shall be notified to the United Kingdom.

2 The provisions of Union law governing procedures brought before the Court of Justice of the European Union in accordance with Article 267 TFEU shall apply *mutatis mutandis* to requests for a ruling of the Court of Justice of the European Union made pursuant to Article 158 of this Agreement.

The provisions of Union law governing the procedure before the Court of Justice of the European Union shall apply in respect of the proceedings before the Court of Justice of the European Union and requests for preliminary rulings made in accordance with Article 160 of this Agreement.

3 In the cases brought before the Court of Justice of the European Union in accordance with paragraph 1 and Articles 158 and 160 of this Agreement and Article 12 of the Protocol on the Sovereign Base Areas:

- a the United Kingdom may participate in the proceedings before the Court of Justice of the European Union in the same way as a Member State;
- b lawyers authorised to practise before the courts or tribunals of the United Kingdom shall be entitled to represent or assist any parties to such proceedings before the Court of Justice of the European Union; in such cases those lawyers shall in every respect be treated as lawyers authorised to practise before courts of Member States representing or assisting a party before the Court of Justice of the European Union.

*Article 162*

**Participation of the European Commission in cases pending in the United Kingdom**

Where the consistent interpretation and application of this Agreement so requires, the European Commission may submit written observations to the courts and tribunals of the United Kingdom in pending cases where the interpretation of the Agreement is concerned. The European Commission may, with the permission of the court or tribunal in question, also make oral observations. The European Commission shall inform the United Kingdom of its intention to submit observations before formally making such submissions.

*Article 163*

**Regular dialogue and exchange of information**

In order to facilitate the consistent interpretation of this Agreement and in full deference to the independence of courts, the Court of Justice of the European Union and the United Kingdom's highest courts shall engage in regular dialogue, analogous to the dialogue in which the Court of Justice of the European Union engages with the highest courts of the Member States.