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WORKING DOCUMENT

From: Presidency
To: Trade Policy Committee (Deputies)
     Trade Policy Committee (Services and Investment)
     Working Party on the United Kingdom

Subject: Procedure for the appointment of representatives nominated by the Council and Member States for the Selection Panel assisting the Commission in the selection of adjudicators of investment courts and trade agreements: Call for applications for candidates for the Selection Panel
Procedure for the appointment of representatives nominated by the Council and Member States for the Selection Panel assisting the Commission in the selection of adjudicators of investment courts and trade agreements: Call for applications for candidates for the Selection Panel

1. On 16 December 2020 the Commission adopted a decision setting up a selection panel to assist the Commission in the selection of candidates to perform the duties of members or international investment courts and tribunals. The selection panel may also assist the Commission in the selection of candidates as members of rosters or other tribunals established pursuant to trade and investment agreements to which the Union is a party.

2. The aim of this decision is to ensure a rigorous process for the selection of arbitrators through the establishment of an independent selection panel.

3. The procedure for selecting the nominees of the Council and of Member States in the Commission’s selection panel was set out in note ST 6660/21 + COR 1 and endorsed by the Permanent Representatives Committee on 21 April 2021.

4. In the annex, Delegations will find the call for candidates for the selection panel.

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Procedure for the appointment of representatives nominated by the Council and Member States in the Selection Panel assisting the Commission in the selection of adjudicators of investment courts and trade agreements: Call for applications for candidates for the Selection Panel

On 16 December 2020 the Commission adopted a decision\(^2\) establishing a panel of independent experts (Selection Panel) in charge of assisting the Commission in selecting candidates for the roles of trade arbitrators, investment adjudicators and sustainable development experts for dispute settlement mechanisms under EU trade and investment agreements. This is part of an effort to establish objective and high quality selection procedures that will improve the enforcement of EU agreements by establishing gender-balanced lists of highly qualified adjudicators. The selection panel will also be used for the selection of the adjudicators for the Trade and Cooperation Agreement (TCA) between the UK and EU.

The Selection Panel is a standing body composed of 4 members appointed by the Commission. These members are nominated by the Commission\(^3\), the Council of the European Union, the Member States, and the European Parliament, respectively.

Member States are now being invited to submit their nominations to fulfil the role of the two nominees to the Selection Panel: one from the Council and one from the Member States respectively. Each Member State is asked not to submit more than two candidates.

Member States are invited to submit the applications of the interested individuals by 23:00 hours (Brussels time) on 18 June 2021.

Member States shall make potential candidates aware of the text of Article 4 of Commission decision C(2020) 8905 final and of the fact that successful candidates will be asked by the Commission to sign a declaration of independence and absence of conflicts of interest.

What criteria should the candidates fulfil?

Candidates should be individuals of recognised competence and independence. They should have the nationality of an EU Member State and fall within one of the following categories:

• former judges, including former members of international tribunals set up pursuant to bilateral or multilateral treaties to which the Union is a party,
• current or former members of national or international courts and tribunals,
• jurisconsults or academics of high standing.

Only applications from candidates who fulfil the above-listed criteria will be accepted.

\(^2\) C(2020)8905/F1 - EN (europa.eu).
\(^3\) Selection panel: adjudicators (europa.eu)
Candidates should be independent, impartial and not take instructions from any organisation or government.

How to apply?

Candidates should submit their applications directly to their national administration, which will forward the application to the General Secretariat of the Council (coreper.2@consilium.europa.eu) by the deadline indicated above and in full respect of the conditions outlined above.

Applications should consist of:
• a cover letter indicating the candidate’s motivations for applying to the role of member of the selection panel;
• a curriculum vitae indicating the EU nationality of the candidate, any other nationalities.

Late or incomplete applications will not be considered.

Assessment procedure

The Presidency will submit the list of candidates to the Antici group, accompanied with an initial assessment carried out by the GSC of their eligibility.

Member State delegations in the Antici group will select, by secret ballot paper, one candidate for the Council and one for the Member States. The selection assessment will be made based on the candidates’ curricula vitae and cover letters.

Once the two candidates are selected through the secret ballot by the Antici group, the Council will be invited to approve the selection of its nominee while a Conference of the Representatives of the Governments of the Member States will be convened to confirm the selection of the nominee on behalf of the Member States.

Personal data provided for the purposes of this procedure will be processed in accordance with 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, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC.  

Candidates will be asked by the Commission to sign a declaration of independence and absence of conflicts of interest.

Appointment

The successful Council and Member States’ nominees, as well as the nominees of the European Parliament and the Commission, will be appointed to the Selection Panel by the Commission and their names will be announced on the Commission’s website.

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Members of the Selection Panel will be appointed for a non-renewable period of six years. However, the terms of two of the first four members to be determined by lot by the Commission will be appointed for a non-renewable period of nine years.

Members of the Selection Panel will be appointed in their personal capacity and act independently and in the public interest.

In appointing members of the panel, the Commission will ensure gender balance.

Members of the Selection Panel will receive reimbursement for travel and subsistence expenses during the exercise of their functions, and will be entitled to a daily allowance for the work. For questions concerning these matters, candidates may contact TRADE-F-CANDIDATES-PANELS@ec.europa.eu.