



## **Sixth Protocol to the General Agreement on Privileges and Immunities of the Council of Europe<sup>\*</sup>**

Strasbourg, 5.III.1996

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The member States of the Council of Europe, signatories hereto,

Having regard to the Convention for the Protection of Human Rights and Fundamental Freedoms, signed at Rome on 4 November 1950 (hereinafter referred to as "the Convention");

Having regard to Protocol No. 11 to the Convention, restructuring the control machinery established thereby, signed at Strasbourg on 11 May 1994 (hereinafter referred to as "Protocol No. 11 to the Convention"), which establishes a permanent European Court of Human Rights (hereinafter referred to as "the Court") to replace the European Commission and Court of Human Rights;

Also having regard to Article 51 of the Convention which specifies that judges are entitled, during the discharge of their functions, to the privileges and immunities provided for in Article 40 of the Statute of the Council of Europe and in the agreements made thereunder;

Recalling the General Agreement on Privileges and Immunities of the Council of Europe, signed at Paris on 2 September 1949, (hereinafter referred to as "the General Agreement"), and its Second, Fourth and Fifth Protocols;

Considering that a new Protocol to the General Agreement is advisable to accord privileges and immunities to the judges of the Court,

Have agreed as follows:

### **Article 1**

In addition to the privileges and immunities specified in Article 18 of the General Agreement, judges shall be accorded in respect of themselves, their spouses and minor children the privileges and immunities, exemptions and facilities accorded to diplomatic envoys in accordance with international law.

### **Article 2**

For the purposes of this Protocol, the term "judges" means judges elected in accordance with Article 22 of the Convention as well as any *ad hoc* judge appointed by a State Party concerned in pursuance of Article 27, paragraph 2, of the Convention.

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<sup>(\*)</sup> The Sixth Protocol consolidates into one instrument the relevant provisions of the Fourth and Fifth Protocols. It is applicable to the «new» Court which started to function on 1 November 1998.

### **Article 3**

In order to secure for the judges complete freedom of speech and complete independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer engaged in the discharge of such duties.

### **Article 4**

Privileges and immunities are accorded to judges not for the personal benefit of the individuals themselves but in order to safeguard the independent exercise of their functions. The plenary Court alone shall be competent to waive the immunity of judges; it has not only the right, but is under a duty, to waive the immunity of a judge in any case where, in its opinion, the immunity would impede the course of justice, and where it can be waived without prejudice to the purpose for which the immunity is accorded.

### **Article 5**

- 1 The provisions of Articles 1, 3 and 4 of this Protocol shall apply to the Registrar of the Court and a Deputy Registrar formally notified as Acting Registrar to the States Parties to the Convention.
- 2 The provisions of Article 3 of this Protocol and Article 18 of the General Agreement shall apply to a Deputy Registrar of the Court.
- 3 The privileges and immunities referred to in paragraphs 1 and 2 of this Article are accorded to the Registrar and a Deputy Registrar not for the personal benefit of the individuals themselves but to facilitate the discharge of their duties. The plenary Court alone shall be competent to waive the immunity of its Registrar and a Deputy Registrar; it has not only the right, but is under a duty, to waive such immunity in any case where, in its opinion, the immunity would impede the course of justice, and where it can be waived without prejudice to the purpose for which the immunity is accorded.
- 4 The Secretary General of the Council of Europe shall be competent to waive, with the agreement of the President of the Court, the immunity of other staff members of the registry in accordance with the provisions of Article 19 of the General Agreement and having due regard to the considerations set out in paragraph 3.

### **Article 6**

- 1 Documents and papers of the Court, judges and registry, in so far as they relate to the business of the Court, shall be inviolable.
- 2 The official correspondence and other official communications of the Court, judges and the registry may not be held up or subjected to censorship.

### **Article 7**

- 1 This Protocol shall be open for signature by member States of the Council of Europe signatories to the General Agreement, which may express their consent to be bound by:
  - a signature without reservation as to ratification, acceptance or approval; or
  - b signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval.

- 2 Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

#### **Article 8**

- 1 This Protocol shall enter into force on the first day of the month following the expiration of a period of one month after the date on which three Parties to the General Agreement have expressed their consent to be bound by the Protocol in accordance with the provisions of Article 7 or on the date of entry into force of Protocol No. 11 to the Convention, whichever is the later.
- 2 As regards any State Party to the General Agreement which shall subsequently sign this Protocol without reservation in respect of ratification, acceptance or approval or which shall ratify, accept or approve it, this Protocol shall enter into force one month after the date of such signature or after the date of deposit of the instrument of ratification, acceptance or approval.

#### **Article 9**

- 1 Any State may, at the time of its signature without reservation in respect of ratification, of its ratification or at any time thereafter, declare, by notification addressed to the Secretary General of the Council of Europe, that the present Protocol shall extend to all or any of the territories for whose international relations it is responsible and where the Convention and its Protocols apply.
- 2 The Protocol shall extend to the territory or territories named in the notification as from the thirtieth day after the receipt of this notification by the Secretary General of the Council of Europe.
- 3 Any declaration made pursuant to paragraph 1 may, in respect of any territory specified in such declaration, be withdrawn or modified by a notification addressed to the Secretary General. The withdrawal or modification shall become effective on the first day of the month following the expiration of one month after the receipt of notification by the Secretary General.

#### **Article 10**

The Secretary General of the Council of Europe shall notify the member States of the Council of:

- a any signature;
- b the deposit of any instrument of ratification, acceptance or approval;
- c any date of entry into force of this Protocol in accordance with Articles 8 and 9;
- d any other act, notification or communication relating to this Protocol.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Strasbourg, this 5th day of March 1996, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe.