



Protocol No. 5 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending Articles 22 and 40 of the Convention^{*}

Strasbourg, 20.I.1966

The governments signatory hereto, being members of the Council of Europe,

Considering that certain inconveniences have arisen in the application of the provisions of Articles 22 and 40 of the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4th November 1950 (hereinafter referred to as "the Convention") relating to the length of the terms of office of the members of the European Commission of Human Rights (hereinafter referred to as "the Commission") and of the European Court of Human Rights (hereinafter referred to as "the Court");

Considering that it is desirable to ensure as far as possible an election every three years of one half of the members of the Commission and of one third of the members of the Court;

Considering therefore that it is desirable to amend certain provisions of the Convention,

Have agreed as follows:

Article 1

In Article 22 of the Convention, the following two paragraphs shall be inserted after paragraph 2:

- "3 In order to ensure that, as far as possible, one half of the membership of the Commission shall be renewed every three years, the Committee of Ministers may decide, before proceeding to any subsequent election, that the term or terms of office of one or more members to be elected shall be for a period other than six years but not more than nine and not less than three years.
- 4 In cases where more than one term of office is involved and the Committee of Ministers applies the preceding paragraph, the allocation of the terms of office shall be effected by the drawing of lots by the Secretary General, immediately after the election."

Article 2

In Article 22 of the Convention, the former paragraphs 3 and 4 shall become respectively paragraphs 5 and 6.

(*) The original text of the Convention had been amended according to the text of Protocol No. 5 which entered into force on 21 December 1970. All provisions which had been amended by this Protocol are replaced by Protocol No. 11 (ETS No. 155), as from the date of its entry into force, on 1 November 1998.

Article 3

In Article 40 of the Convention, the following two paragraphs shall be inserted after paragraph 2:

- "3 In order to ensure that, as far as possible, one third of the membership of the Court shall be renewed every three years, the Consultative Assembly may decide, before proceeding to any subsequent election, that the term or terms of office of one or more members to be elected shall be for a period other than nine years but not more than twelve and not less than six years.
- 4 In cases where more than one term of office is involved and the Consultative Assembly applies the preceding paragraph, the allocation of the terms of office shall be effected by the drawing of lots by the Secretary General immediately after the election."

Article 4

In Article 40 of the Convention, the former paragraphs 3 and 4 shall become respectively paragraphs 5 and 6.

Article 5

- 1 This Protocol shall be open to signature by members of the Council of Europe, signatories to the Convention, who may become Parties to it by:
- a signature without reservation in respect of ratification or acceptance;
 - b signature with reservation in respect of ratification or acceptance, followed by ratification or acceptance.

Instruments of ratification or acceptance shall be deposited with the Secretary General of the Council of Europe.

- 2 This Protocol shall enter into force as soon as all Contracting Parties to the Convention shall have become Parties to the Protocol, in accordance with the provisions of paragraph 1 of this article.
- 3 The Secretary General of the Council of Europe shall notify the members of the Council of:
- a any signature without reservation in respect of ratification or acceptance;
 - b any signature with reservation in respect of ratification or acceptance;
 - c the deposit of any instrument of ratification or acceptance;
 - d the date of entry into force of this Protocol in accordance with paragraph 2 of this article.

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

Done at Strasbourg, this 20th day of January 1966, in English and in French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General shall transmit certified copies to each of the signatory governments.