



*European Treaty Series - No. 137*

**FIFTH PROTOCOL  
TO THE GENERAL AGREEMENT  
ON PRIVILEGES AND IMMUNITIES  
OF THE COUNCIL OF EUROPE**

**Strasbourg, 18.VI.1990**

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

Considering that, under the terms of Article 59 of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as "the Convention"), signed at Rome on 4 November 1950, 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") 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 that the said privileges and immunities have been specified and defined in the Second and Fourth Protocols, signed at Paris on 15 December 1956 and 16 December 1961 respectively, to the General Agreement on Privileges and Immunities of the Council of Europe, signed at Paris on 2 September 1949;

Considering that it is necessary, in the light of changes in the operation of the Convention's control machinery, to supplement the above-mentioned General Agreement by another Protocol,

Have agreed as follows:

#### **Article 1**

- 1 Members of the Commission and members of the Court shall be exempt from taxation on salaries, emoluments and allowances paid to them by the Council of Europe.
- 2 The term "members of the Commission and members of the Court" includes members who, after having been replaced, continue to deal with cases which they already have under consideration as well as any *ad hoc* judge appointed in pursuance of the provisions of the Convention.

#### **Article 2**

- 1 This Protocol shall be open for signature by the member States of the Council of Europe, 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 No member State of the Council of Europe shall sign without reservation as to ratification, ratify, accept or approve this Protocol unless it has already ratified, or simultaneously ratifies, the General Agreement on Privileges and Immunities of the Council of Europe.
- 3 Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

**Article 3**

- 1 This Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date on which three member States of the Council of Europe have expressed their consent to be bound by the Protocol in accordance with the provisions of Article 2.
- 2 In respect of any member State which subsequently expresses its consent to be bound by it, the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of signature or of the deposit of the instrument of ratification, acceptance or approval.

**Article 4**

Pending the entry into force of this Protocol in accordance with paragraphs 1 and 2 of Article 3, the Signatories agree to apply the Protocol provisionally from the date of signature, so far as it is possible to do so under their respective constitutional systems.

**Article 5**

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 Article 3;
- 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 18th day of June 1990, 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.