

## Protocol on the Statute of the Court of Justice of the European Coal and Steel Community (18 April 1951) - consolidated version 1997

**Caption:** Version including the text of the Protocol of 18 April 1951 as last amended by Article 7 of the Treaty of Amsterdam of 2 October 1997.

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## Treaty establishing the European Coal and Steel Community Protocol on the Statute of the Court of Justice of the European Coal and Steel Community

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[Version including the text of the Protocol of 18 April 1951 as last amended by Article 7 of the Treaty of Amsterdam of 2 October 1997 (OJ C 340 of 10.11.1997, p. 1)]

THE HIGH CONTRACTING PARTIES,

DESIRING to lay down the Statute of the Court of Justice provided for in Article 45 of this Treaty,

HAVE AGREED as follows:

#### **Article 1**

The Court of Justice established by Article 7 of the Treaty shall be constituted and shall function in accordance with the provisions of this Treaty and of this Statute.

### **TITLE I JUDGES AND ADVOCATES GENERAL**

#### **Article 2**

Before taking up his duties each Judge shall, in open court, take an oath to perform his duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

#### **Article 3**

The Judges shall be immune from legal proceedings. After they have ceased to hold office, they shall continue to enjoy immunity in respect of acts performed by them in their official capacity, including words spoken or written.

The Court, sitting in plenary session, may waive the immunity.

Where immunity has been waived and criminal proceedings are instituted against a Judge, he shall be tried, in any of the Member States, only by the Court competent to judge the members of the highest national judiciary.

Articles 12 to 15 and 18 of the Protocol on the privileges and immunities of the European Communities shall apply to the Judges, Advocates General, Registrar and Assistant Rapporteurs of the Court of Justice, without prejudice to the provisions relating to immunity from legal proceedings of Judges which are set out in the preceding paragraphs.

#### **Article 4**

The Judges may not hold any political or administrative office.

They may not engage in any occupation, whether gainful or not, unless exemption is exceptionally granted by the Council.

When taking up their duties, they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom, in particular the duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits.

Any doubt on this point shall be settled by decision of the Court.

#### **Article 5**

Apart from normal replacement, or death, the duties of a Judge shall end when he resigns.

Where a Judge resigns, his letter of resignation shall be addressed to the President of the Court for transmission to the President of the Council. Upon this notification a vacancy shall arise on the bench.

Save where Article 6 applies, a Judge shall continue to hold office until his successor takes up his duties.

#### **Article 6**

A Judge may be deprived of his office or of his right to a pension or other benefits in its stead only if, in the unanimous opinion of the Judges and Advocates General of the Court, he no longer fulfils the requisite conditions or meets the obligations arising from his office. The Judge concerned shall not take part in any such deliberations.

The Registrar of the Court shall communicate the decision of the Court to the President of the European Parliament and to the President of the Commission and shall notify it to the President of the Council.

In the case of a decision depriving a Judge of his office, a vacancy shall arise on the bench upon this latter notification.

#### **Article 7**

A Judge who is to replace a member of the Court whose term of office has not expired shall be appointed for the remainder of his predecessor's term.

#### **Article 8**

The provisions of Articles 2 to 7 shall apply to the Advocates General.

### **TITLE II ORGANISATION**

#### **Article 9**

The Registrar shall take an oath before the Court to perform his duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

#### **Article 10**

The Court shall arrange for replacement of the Registrar on occasions when he is prevented from attending the Court.

#### **Article 11**

Officials and other servants shall be attached to the Court to enable it to function. They shall be responsible to the Registrar under the authority of the President.

#### **Article 12**

On a proposal from the Court, the Council may, acting unanimously, provide for the appointment of Assistant Rapporteurs and lay down the rules governing their service. The Assistant Rapporteurs may be required, under conditions laid down in the Rules of Procedure, to participate in preparatory inquiries in cases pending before the Court and to cooperate with the Judge who acts as Rapporteur.

The Assistant Rapporteurs shall be chosen from persons whose independence is beyond doubt and who possess the necessary legal qualifications; they shall be appointed by the Council. They shall take an oath before the Court to perform their duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

#### **Article 13**

The Judges, the Advocates General and the Registrar shall be required to reside at the place where the Court has its seat.

#### **Article 14**

The Court shall remain permanently in session. The duration of the judicial vacations shall be determined by the Court with due regard to the needs of its business.

#### **Article 15**

Decisions of the Court shall be valid only when an uneven number of its members is sitting in the deliberations. Decisions of the full Court shall be valid if nine members are sitting. Decisions of the Chambers consisting of three or five Judges shall be valid only if three Judges are sitting. Decisions of the Chambers consisting of seven Judges shall be valid only if five Judges are sitting. In the event of one of the Judges of a Chamber being prevented from attending, a Judge of another Chamber may be called upon to sit in accordance with conditions laid down in the Rules of Procedure.

#### **Article 16**

No Judge or Advocate General may take part in the disposal of any case in which he has previously taken part as agent or adviser or has acted for one of the parties, or in which he has been called upon to pronounce as a Member of a court or tribunal, of a commission of inquiry or in any other capacity.

If, for some special reason, any Judge or Advocate General considers that he should not take part in the judgment or examination of a particular case, he shall so inform the President. If, for some special reason,

the President considers that any Judge or Advocate General should not sit or make submissions in a particular case, he shall notify him accordingly.

Any difficulty arising as to the application of this Article shall be settled by decision of the Court.

A party may not apply for a change in the composition of the Court or of one of its Chambers on the grounds of either the nationality of a Judge or the absence from the Court or from the Chamber of a Judge of the nationality of that party.

#### **Article 17**

(repealed)

#### **Article 18**

(repealed)

#### **Article 19**

(repealed)

### **TITLE III PROCEDURE**

#### **Representation of and assistance to the parties**

#### **Article 20**

The States and the institutions of the Community shall be represented before the Court by an agent appointed for each case; the agent may be assisted by a lawyer entitled to practise before a court of a Member State.

Undertakings and all other natural or legal persons must be assisted by a lawyer entitled to practise before a court of a Member State.

Such agents and lawyers shall, when they appear before the Court, enjoy the rights and immunities necessary to the independent exercise of their duties under conditions laid down in rules drawn up by the Court and submitted for the approval of the Council, acting unanimously.

As regards such lawyers who appear before it, the Court shall have the powers normally accorded to courts of law, under conditions laid down in those rules.

University teachers being nationals of a Member State whose law accords them a right of audience shall have the same rights before the Court as are accorded by this Article to lawyers entitled to practise before a court of a Member State.

## **Stages of procedures**

### **Article 21**

The procedure before the Court shall consist of two parts: written and oral.

The written procedure shall consist of the communication to the parties and to the institutions of the Community whose decisions are in dispute of applications, statements of case, defences and observations, and of replies, if any, as well as of all papers and documents in support or of certified copies of them.

Communications shall be made by the Registrar in the order and within the time laid down in the Rules of Procedure.

The oral procedure shall consist of the reading of the report presented by a Judge acting as Rapporteur, the hearing by the Court of witnesses, experts, agents, and lawyers entitled to practise before a court of a Member State and of the submissions of the Advocate General.

## **Applications**

### **Article 22**

A case shall be brought before the Court by a written application addressed to the Registrar. The application shall contain the name and address of the party and the description of the signatory, the subject-matter of the dispute, the submissions and a brief statement of the grounds on which the application is based.

The application shall be accompanied, where appropriate, by the decision the annulment of which is sought or, in the case of proceedings against an implied decision, by documentary evidence of the date on which the request was lodged. If the documents are not submitted with the application, the Registrar shall ask the party concerned to produce them within a reasonable period, but in that event the rights of the party shall not lapse even if such documents are produced after the time-limit for bringing proceedings.

## **Transmission of documents**

### **Article 23**

Where proceedings are instituted against a decision of one of the institutions of the Community, that institution shall transmit to the Court all the documents relating to the case before the Court.

## **Preparatory inquiries**

### **Article 24**

The Court may require the parties, their representatives or agents or the governments of the Member States to produce all documents and to supply all information which the Court considers desirable. Formal note

shall be taken of any refusal.

#### **Article 25**

The Court may at any time entrust any individual, body, authority, committee or other organisation it chooses with the task of holding an inquiry or giving an expert opinion; to this end it may compile a list of individuals or bodies approved as experts.

#### **Hearing to be public**

#### **Article 26**

The hearing in court shall be public, unless the Court decides otherwise for serious reasons.

#### **Minutes**

#### **Article 27**

Minutes shall be made of each hearing and signed by the President and the Registrar.

#### **Hearings**

#### **Article 28**

The case list shall be established by the President.

Witnesses may be heard under conditions laid down in the Rules of Procedure. They may be heard on oath.

During the hearings the Court may also examine experts, persons entrusted with holding an inquiry, and the parties themselves. The latter, however, may address the Court only through their representatives or their lawyers.

Where it is established that a witness or expert has concealed facts or falsified evidence on any matter on which he has testified or been examined by the Court, the Court is empowered to report the misconduct to the Minister for Justice of the State of which the witness or expert is a national, in order that he may be subjected to the relevant penal provisions of the national law.

With respect to defaulting witnesses the Court shall have the powers generally granted to courts and tribunals, under conditions laid down in rules drawn up by the Court and submitted for the approval of the Council, acting unanimously.

#### **Secrecy of the deliberations of the Court**

#### **Article 29**



The deliberations of the Court shall be and shall remain secret.

## **Judgments**

### **Article 30**

Judgments shall state the reasons on which they are based. They shall contain the names of the Judges who took part in the deliberations.

### **Article 31**

Judgments shall be signed by the President, the Judge acting as Rapporteur and the Registrar. They shall be read in open court.

## **Costs**

### **Article 32**

The Court shall adjudicate upon costs.

## **Summary procedure**

### **Article 33**

The President of the Court may, by way of summary procedure, which may, in so far as necessary, differ from some of the rules contained in this Statute and which shall be laid down in the Rules of Procedure, adjudicate upon applications to suspend execution, as provided for in the second paragraph of Article 39 of this Treaty, or to prescribe interim measures in pursuance of the last paragraph of Article 39, or to suspend enforcement in accordance with the third paragraph of Article 92.

Should the President be prevented from attending, his place shall be taken by another Judge under conditions laid down in the rules provided for in Article 18 of this Statute.

The ruling of the President or of the Judge replacing him shall be provisional and shall in no way prejudice the decision of the Court on the substance of the case.

## **Intervention**

### **Article 34**

Natural or legal persons establishing an interest in the result of any case submitted to the Court may intervene in that case.

Submissions made in an application to intervene shall be limited to supporting or requesting the rejection of the submissions of one of the parties.

### **Judgment by default**

#### **Article 35**

Where the defending party in proceedings in which the Court has unlimited jurisdiction, after having been duly summoned, fails to file written submissions in defence, judgment shall be given against that party by default. An objection may be lodged against the judgment within one month of it being notified. The objection shall not have the effect of staying enforcement of the judgment by default unless the Court decides otherwise.

### **Third-party proceedings**

#### **Article 36**

Natural or legal persons and the institutions of the Community may, in cases and under conditions to be determined by the Rules of Procedure, institute third-party proceedings to contest a judgment rendered without their being heard.

### **Interpretation**

#### **Article 37**

If the meaning or scope of a judgment is in doubt, the Court shall construe it on application by any party or any institution of the Community establishing an interest therein.

### **Revision of a judgment**

#### **Article 38**

An application for revision of a judgment may be made to the Court only on discovery of a fact which is of such a nature as to be a decisive factor, and which, when the judgment was given, was unknown to the Court and to the party claiming the revision.

The revision shall be opened by a judgment of the Court expressly recording the existence of a new fact, recognising that it is of such a character as to lay the case open to revision and declaring the application admissible on this ground.

No application for revision may be made after the lapse of 10 years from the date of the judgment.

### **Time-limits**

**Article 39**

The proceedings provided for in Articles 36 and 37 of this Treaty must be instituted within the time-limit of one month provided for in the last paragraph of Article 33.

Periods of grace based on considerations of distance shall be laid down in the Rules of Procedure.

No right shall be prejudiced in consequence of the expiry of a time-limit if the party concerned proves the existence of unforeseeable circumstances or of force majeure.

**Periods of limitation****Article 40**

Proceedings provided for in the first two paragraphs of Article 40 of this Treaty shall be barred after a period of five years from the occurrence of the event giving rise thereto. The period of limitation shall be interrupted if proceedings are instituted before the Court or if prior to such proceedings an application is made by the aggrieved party to the relevant institution of the Community. In the latter event the proceedings must be instituted within the time-limit of one month provided for in the last paragraph of Article 33; the provisions of the last paragraph of Article 35 shall apply where appropriate.

**Special rules relating to disputes between Member States****Article 41**

Where a dispute between Member States is brought before the Court under Article 89 of this Treaty, the other Member States shall be notified forthwith by the Registrar of the subject-matter of the dispute.

Each Member State shall have the right to intervene in the proceedings.

**Article 42**

If a State intervenes in a case before the Court as provided for in the preceding Article, the interpretation contained in the judgment shall be binding upon that State.

**Proceedings by third parties****Article 43**

Decisions taken by the Commission under Article 63(2) of this Treaty must be notified to the purchaser and to the undertakings concerned; if the decision concerns all or a large number of undertakings, publication may be substituted for individual notification.

Appeals may be brought, under Article 36 of this Treaty, by any person on whom a periodic penalty

payment has been imposed under the fourth subparagraph of Article 66(5).

#### **TITLE IV THE COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES**

##### **Rules concerning the Members of the Court of First Instance and its organisation**

###### **Article 44**

Articles 2, 3, 4, 6 to 9, the first paragraph of Article 13, Article 17, the second paragraph of Article 18 and Article 19 of this Statute shall apply to the Court of First Instance and its members. The oath referred to in Article 2 shall be taken before the Court of Justice and the decisions referred to in Articles 3, 4 and 7 shall be adopted by that Court after hearing the Court of First Instance.

###### **Registrar and staff**

###### **Article 45**

The Court of First Instance shall appoint its Registrar and lay down the rules governing his service. Articles 9 and 14 of this Statute shall apply to the Registrar of the Court of First Instance *mutatis mutandis*.

The President of the Court of Justice and the President of the Court of First Instance shall determine, by common accord, the conditions under which officials and other servants attached to the Court of Justice shall render their services to the Court of First Instance to enable it to function. Certain officials or other servants shall be responsible to the Registrar of the Court of First Instance under the authority of the President of the Court of First Instance.

###### **Procedure before the Court of First Instance**

###### **Article 46**

The procedure before the Court of First Instance shall be governed by Title III of this Statute, with the exception of Articles 41 and 42.

Such further and more detailed provisions as may be necessary shall be laid down in the Rules of Procedure established in accordance with Article 32d(4) of this Treaty.

Notwithstanding the fourth paragraph of Article 21 of this Statute, the Advocate General may make his reasoned submissions in writing.

###### **Article 47**

Where an application or other procedural document addressed to the Court of First Instance is lodged by mistake with the Registrar of the Court of Justice it shall be transmitted immediately by that Registrar to the

Registrar of the Court of First Instance; likewise, where an application or other procedural document addressed to the Court of Justice is lodged by mistake with the Registrar of the Court of First Instance, it shall be transmitted immediately by that Registrar to the Registrar of the Court of Justice.

Where the Court of First Instance finds that it does not have jurisdiction to hear and determine an action in respect of which the Court of Justice has jurisdiction, it shall refer that action to the Court of Justice; likewise, where the Court of Justice finds that an action falls within the jurisdiction of the Court of First Instance, it shall refer that action to the Court of First Instance, whereupon that Court may not decline jurisdiction.

Where the Court of Justice and the Court of First Instance are seised of cases in which the same relief is sought, the same issue of interpretation is raised or the validity of the same act is called in question, the Court of First Instance may, after hearing the parties, stay the proceedings before it until such time as the Court of Justice shall have delivered judgment. Where applications are made for the same act to be declared void, the Court of First Instance may also decline jurisdiction in order that the Court of Justice may rule on such applications. In the cases referred to in this subparagraph, the Court of Justice may also decide to stay the proceedings before it; in that event, the proceedings before the Court of First Instance shall continue.

#### **Article 48**

Final decisions of the Court of First Instance, decisions disposing of the substantive issues in part only, or disposing of a procedural issue concerning a plea of lack of competence or inadmissibility, shall be notified by the Registrar of the Court of First Instance to all parties as well as all Member States and the Community institutions even if they did not intervene in the case before the Court of First Instance.

#### **Appeals to the Court of Justice**

#### **Article 49**

An appeal may be brought before the Court of Justice, within two months of the notification of the decision appealed against, against final decisions of the Court of First Instance and decisions of that Court disposing of the substantive issues in part only, or disposing of a procedural issue concerning a plea of lack of competence or inadmissibility.

Such an appeal may be brought by any party which has been unsuccessful, in whole or in part, in its submissions. However, interveners other than the Member States and the Community institutions may bring such an appeal only where the decision of the Court of First Instance directly affects them.

With the exception of cases relating to disputes between the Community and its servants, an appeal may also be brought by Member States and Community institutions which did not intervene in the proceedings before the Court of First Instance. Such Member States and institutions shall be in the same position as Member States or institutions which intervened at first instance.

#### **Article 50**

Any person whose application to intervene has been dismissed by the Court of First Instance may appeal to the Court of Justice within two weeks of the notification of the decision dismissing the application.

The parties to the proceedings may appeal to the Court of Justice against any decision of the Court of First Instance made pursuant to the second or third paragraphs of Article 39 or the third paragraph of Article 92 of the Treaty within two months from their notification.

The appeal referred to in the first two paragraphs of this Article shall be heard and determined under the procedure referred to in Article 33 of this Statute.

#### **Article 51**

An appeal to the Court of Justice shall be limited to points of law. It shall lie on the grounds of lack of competence of the Court of First Instance, a breach of procedure before it which adversely affects the interests of the appellant as well as the infringement of Community law by the Court of First Instance.

No appeal shall lie regarding only the amount of the costs or the party ordered to pay them.

#### **Procedure before the Court**

#### **Article 52**

Where an appeal is brought against a decision of the Court of First Instance, the procedure before the Court of Justice shall consist of a written part and an oral part. In accordance with conditions laid down in the Rules of Procedure of the Court of Justice, having heard the Advocate General and the parties, may dispense with the oral procedure.

#### **Suspensory effect**

#### **Article 53**

Without prejudice to the second and third paragraphs of Article 39 of this Treaty, an appeal shall not have suspensory effect.

By way of derogation from Article 44 of this Treaty, decisions of the Court of First Instance declaring a general decision or a general recommendation to be void shall take effect only as from the date of expiry of the period referred to in the first paragraph of Article 49 of this Statute or, if an appeal shall have been brought within that period, as from the date of dismissal of the appeal, without prejudice, however, to the right of a party to apply to the Court of Justice, pursuant to the second and third paragraphs of Article 39 of this Treaty, for the suspension of the effects of the act which has been declared void or for the prescription of any other interim measure.

#### **The decision of the Court of Justice on the appeal**

#### **Article 54**

If the appeal is well founded, the Court of Justice shall quash the decision of the Court of First Instance. It

may itself give final judgment in the matter, where the state of the proceedings so permits, or refer the case back to the Court of First Instance for judgment.

Where a case is referred back to the Court of First Instance, that Court shall be bound by the decision of the Court of Justice on points of law.

When an appeal brought by a Member State or a Community institution, which did not intervene in the proceedings before the Court of First Instance, is well founded the Court of Justice may, if it considers this necessary, state which of the effects of the decision of the Court of First Instance which has been quashed shall be considered as definitive in respect of the parties to the litigation.

### **Rules of procedure**

#### **Article 55**

The Court of Justice shall adopt its Rules of Procedure. These shall require the unanimous approval of the Council. The Rules of Procedure shall contain all the provisions necessary for applying and, where required, supplementing this Statute.

#### **Transitional provision**

(deleted)

#### **Article 56**

(repealed)

Done at Paris this eighteenth day of April in the year one thousand nine hundred and fifty one.