

Treaty establishing a Single Council and a Single Commission of the European Communities-Protocol on the privileges and immunities (Brussels, 8 April 1965)

Caption: Protocol annexed to the Treaties establishing the European Community and the European Atomic Energy Community by the Treaty establishing a single Council and a single Commission of the European Communities of 8 April 1965.

Source: Official Journal of the European Communities (OJEC). 13.07.1967, No 152. [s.l.]. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:11965F:EN:HTML>. "Treaty establishing a single Council and a single Commission of the European Communities", p. 13.

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Last updated: 21/05/2014

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THE HIGH CONTRACTING PARTIES,

CONSIDERING that, in accordance with Article 28 of the Treaty establishing a single Council and a single Commission of the European Communities, these Communities and the European Investment Bank shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of their tasks ,

HAVE AGREED upon the following provisions, which shall be annexed to this Treaty :

Chapter I - Property, funds, assets and operations of the European Communities

Article 1

The premises and buildings of the Communities shall be inviolable. They shall be exempt from search, requisition, confiscation or expropriation. The property and assets of the Communities shall not be the subject of any administrative or legal measure of constraint without the authorisation of the court of justice.

Article 2

The archives of the Communities shall be inviolable.

Article 3

The Communities, their assets, revenues and other property shall be exempt from all direct taxes.

The Governments of the Member States shall, wherever possible, take the appropriate measures to remit or refund the amount of indirect taxes or sales taxes included in the prices of movable or immovable property, where the Communities make, for their official use, substantial purchases the price of which includes taxes of this kind. These provisions shall not be applied, however, so as to have the effect of distorting competition within the Communities.

No exemption shall be granted in respect of taxes and dues which amount merely to charges for public utility services.

Article 4

The Communities shall be exempt from all customs duties, prohibitions and restrictions on imports and exports in respect of articles intended for their official use: articles so imported shall not be disposed of, whether or not in return for payment, in the territory of the country into which they have been imported, except under conditions approved by the Government of that country.

The Communities shall also be exempt from any customs duties and any prohibitions and restrictions on imports and exports in respect of their publications.

Article 5

The European Coal and Steel Community may hold currency of any kind and operate accounts in any currency.

Chapter II - Communications and laissez-passer

Article 6

For their official communications and the transmission of all their documents, the institutions of the Communities shall enjoy in the territory of each Member State the treatment accorded by that State to diplomatic missions.

Official correspondence and other official communications of the institutions of the Communities shall not be subject to censorship.

Article 7

1. Laissez-passer in a form to be prescribed by the Council, which shall be recognised as valid travel documents by the authorities of the Member States, may be issued to members and servants of the institutions of the Communities by the Presidents of these institutions. These laissez-passer shall be issued to officials and other servants under conditions laid down in the staff regulations of officials and the conditions of employment of other servants of the Communities.

The Commission may conclude agreements for these laissez-passer to be recognised as valid travel documents within the territory of third countries.

2. The provisions of Article 6 of the Protocol on the privileges and immunities of the European Coal and Steel Community shall, however, remain applicable to members and servants of the institutions who are at the date of entry into force of this Treaty in possession of the laissez-passer provided for in that article, until the provisions of paragraph 1 of this article are applied.

Chapter III - Members of the Assembly

Article 8

No administrative or other restriction shall be imposed on the free movement of members of the Assembly travelling to or from the place of meeting of the Assembly.

Members of the Assembly shall, in respect of customs and exchange control, be accorded:

(a) by their own Government, the same facilities as those accorded to senior officials travelling abroad on temporary official missions;

(b) by the Governments of other Member States, the same facilities as those accorded to representatives of foreign Governments on temporary official missions.

Article 9

Members of the Assembly shall not be subject to any form of inquiry, detention or legal proceedings in respect of opinions expressed or votes cast by them in the performance of their duties.

Article 10

During the sessions of the Assembly, its members shall enjoy:

- (a) in the territory of their own State, the immunities accorded to members of their Parliament;
- (b) in the territory of any other Member State, immunity from any measure of detention and from legal proceedings.

Immunity shall likewise apply to members while they are travelling to and from the place of meeting of the Assembly.

Immunity cannot be claimed when a member is found in the act of committing an offence and shall not prevent the Assembly from exercising its right to waive the immunity of one of its members.

Chapter IV - Representatives of Member States taking part in the work of the institutions of the European Communities

Article 11

Representatives of Member States taking part in the work of the institutions of the Communities, their advisers and technical experts shall, in the performance of their duties and during their travel to and from the place of meeting, enjoy the customary privileges, immunities and facilities.

This article shall also apply to members of the advisory bodies of the Communities.

Chapter V - Officials and other servants of the European Communities

Article 12

In the territory of each Member State and whatever their nationality, officials and other servants of the Communities shall:

- (a) subject to the provisions of the Treaties relating, on the one hand, to the rules on the liability of officials and other servants towards the Communities and, on the other hand, to the jurisdiction of the Court in disputes between the Communities and their officials and other servants, be immune from legal proceedings in respect of acts performed by them in their official capacity, including their words spoken or written. They shall continue to enjoy this immunity after they have ceased to hold office.
- (b) together with their spouses and dependent members of their families, not be subject to immigration restrictions or to formalities for the registration of aliens;

(c) in respect of currency or exchange regulations, be accorded the same facilities as are customarily accorded to officials of international organisations;

(d) enjoy the right to import free of duty their furniture and effects at the time of first taking up their post in the country concerned, and the right to re-export free of duty their furniture and effects, on termination of their duties in that country, subject in either case to the conditions considered to be necessary by the Government of the country in which this right is exercised;

(e) have the right to import free of duty a motor car for their personal use, acquired either in the country of their last residence or in the country of which they are nationals on the terms ruling in the home market in that country, and to re-export it free of duty, subject in either case to the conditions considered to be necessary by the Government of the country concerned.

Article 13

Officials and other servants of the Communities shall be liable to a tax for the benefit of the Communities on salaries, wages and emoluments paid to them by the Communities, in accordance with the conditions and procedure laid down by the Council, acting on a proposal from the Commission.

They shall be exempt from national taxes on salaries, wages and emoluments paid by the Communities.

Article 14

In the application of income tax, wealth tax and death duties and in the application of conventions on the avoidance of double taxation concluded between Member States of the Communities, officials and other servants of the Communities who, solely by reason of the performance of their duties in the service of the Communities, establish their residence in the territory of a Member State other than their country of domicile for tax purposes at the time of entering the service of the Communities, shall be considered, both in the country of their actual residence and in the country of domicile for tax purposes, as having maintained their domicile in the latter country provided that it is a member of the Communities. This provision shall also apply to a spouse to the extent that the latter is not separately engaged in a gainful occupation, and to children dependent on and in the care of the persons referred to in this article.

Movable property belonging to persons referred to in the first paragraph and situated in the territory of the country where they are staying shall be exempt from death duties in that country; such property shall, for the assessment of such duty, be considered as being in the country of domicile for tax purposes, subject to the rights of third countries and to the possible application of provisions of international conventions on double taxation.

Any domicile acquired solely by reason of the performance of duties in the service of other international organisations shall not be taken into consideration in applying the provisions of this article.

Article 15

The Council shall, acting unanimously on a proposal from the Commission, lay down the scheme of social security benefits for officials and other servants of the Communities.

Article 16

The Council shall, acting on a proposal from the Commission and after consulting the other institutions concerned, determine the categories of officials and other servants of the Communities to whom the provisions of Article 12, the second paragraph of Article 13, and Article 14 shall apply, in whole or in part.

The names, grades and addresses of officials and other servants included in such categories shall be communicated periodically to the Governments of the Member States.

Chapter VI - Privileges and immunities of missions of third countries accredited to the European Communities

Article 17

The Member State in whose territory the Communities have their seat shall accord the customary diplomatic immunities and privileges to missions of third countries accredited to the Communities.

Chapter VII - General provisions

Article 18

Privileges, immunities and facilities shall be accorded to officials and other servants of the Communities solely in the interests of the Communities.

Each institution of the Communities shall be required to waive the immunity accorded to an official or other servant wherever that institution considers that the waiver of such immunity is not contrary to the interests of the Communities.

Article 19

The institutions of the Communities shall, for the purpose of applying this protocol, cooperate with the responsible authorities of the Member States concerned.

Article 20

Articles 12 to 15 and Article 18 shall apply to members of the Commission.

Article 21

Articles 12 to 15 and Article 18 shall apply to the judges, the Advocates-general, the Registrar and the assistant rapporteurs of the Court of Justice, without prejudice to the provisions of Article 3 of the Protocols on the Statute of the Court of Justice concerning immunity from legal proceedings of Judges and Advocates-general.

Article 22

This Protocol shall also apply to the European Investment Bank, to the members of its organs, to its staff and

to the representatives of the Member States taking part in its activities, without prejudice to the provisions of the Protocol on the Statute of the Bank.

The European Investment Bank shall in addition be exempt from any form of taxation or imposition of a like nature on the occasion of any increase in its capital and from the various formalities which may be connected therewith in the state where the Bank has its seat. Similarly, its dissolution or liquidation shall not give rise to any imposition. Finally, the activities of the Bank and of its organs carried on in accordance with its Statute shall not be subject to any turnover tax.

IN WITNESS WHEREOF, the undersigned plenipotentiaries have signed this Protocol.

Done at Brussels, the eighth of April one thousand nine hundred and sixty-five.

Paul Henri SPAAK
Kurt SCHMÜCKER
Maurice COUVE DE MURVILLE
Amintore FANFANI
Pierre WERNER
J. M. A. H. LUNS