

Treaty establishing the EAEC — Protocol on the privileges and immunities of the EAEC (Brussels, 17 April 1957)

Caption: Signed on 25 March 1957 in Rome by the representatives of Belgium, the Federal Republic of Germany (FRG), France, Italy, Luxembourg and the Netherlands, the Treaty establishing the European Atomic Energy Community (EAEC or Euratom) includes a Protocol — signed in Brussels on 17 April 1957 — which establishes the privileges and immunities of Euratom.

Source: Treaty establishing the European Atomic Energy Community (EURATOM) and connected documents. Luxembourg: Publishing Services of the European Communities, [s.d.]. 222 p. "Protocol on the privileges and immunities".

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Last updated: 05/11/2015

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THE HIGH CONTRACTING PARTIES TO THE TREATY ESTABLISHING THE EUROPEAN ATOMIC ENERGY COMMUNITY,

CONSIDERING that, in accordance with Article 191 of this Treaty, the Community shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of its tasks, under the conditions laid down in a separate Protocol,

HAVE DESIGNATED as their Plenipotentiaries to draw up this Protocol:

HIS MAJESTY THE KING OF THE BELGIANS:

Baron J. Ch. SNOY et d'OPPUERS, Secretary-General of the Ministry of Economic Affairs, Head of the Belgian Delegation to the Intergovernmental Conference;

THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY:

Professor Dr. Carl Friedrich OPHÜLS, Ambassador of the Federal Republic of Germany, Head of the German Delegation to the Intergovernmental Conference;

THE PRESIDENT OF THE FRENCH REPUBLIC:

Mr. Robert MARJOLIN, Professor of Law, Deputy Head of the French Delegation to the Intergovernmental Conference;

THE PRESIDENT OF THE ITALIAN REPUBLIC:

Mr. V. BADINI CONFALONIERI, Under-Secretary of State in the Ministry of Foreign Affairs, Head of the Italian Delegation to the Intergovernmental Conference;

HER ROYAL HIGHNESS THE GRAND DUCHESS OF LUXEMBOURG:

Mr. Lambert SCHAUS, Ambassador of the Grand Duchy of Luxembourg, Head of the Luxembourg Delegation to the Intergovernmental Conference;

HER MAJESTY THE QUEEN OF THE NETHERLANDS:

Mr. J. LINTHORST HOMAN, Head of the Netherlands Delegation to the Intergovernmental Conference;

WHO, having exchanged their Full Powers, found in good and due form,

HAVE AGREED on the following provisions, which shall be annexed to the Treaty establishing the European Atomic Energy Community.

Chapter 1

PROPERTY, FUNDS, ASSETS AND OPERATIONS OF THE COMMUNITY

Article 1

The premises and buildings of the Community shall be inviolable. They shall be exempt from search, requisition, confiscation or expropriation. The property and assets of the Community 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 Community shall be inviolable.

Article 3

The Community, its 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 price of movable or immovable property, where the Community makes, for its 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 Community.

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

Article 4

The Community shall be exempt from all customs duties, prohibitions and restrictions on imports and exports in respect of articles intended for its 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 Community shall also be exempt from any customs duties and any prohibitions and restrictions on imports and exports in respect of its publications.

Chapter 2

COMMUNICATIONS AND LAISSEZ-PASSER

Article 5

For their official communications and the transmission of all their documents, the institutions of the Community 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 Community shall not be subject to censorship.

Article 6

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 Community by the Presidents of these institutions. These laissez-passers shall be issued to officials and other servants under conditions laid down in the Staff Regulations and Conditions of Employment provided for in Article 186 of this Treaty.

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

Chapter 3

MEMBERS OF THE ASSEMBLY

Article 7

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 8

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 9

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 4

REPRESENTATIVES OF MEMBER STATES TAKING PART IN THE WORK OF THE INSTITUTIONS OF THE COMMUNITY

Article 10

Representatives of Member States taking part in the work of the institutions of the Community, 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 Community*

Chapter 5

OFFICIALS AND OTHER SERVANTS OF THE COMMUNITY

Article 11

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

Community referred to in Article 186 of this Treaty shall:

- (a) subject to the provisions of Articles 152 and 188 of this Treaty, 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 from the country of their last residence or from the country of which they are nationals, 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 12

Officials and other servants of the Community shall be liable to a tax for the benefit of the Community on salaries, wages and emoluments paid to them by the Community, in accordance with the conditions and procedure laid down by the Council, acting on proposals submitted by the Commission within one year of the entry into force of this Treaty.

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

Article 13

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 Community, officials and other servants of the Community who, solely by reason of the performance of their duties in the service of the Community, 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 Community, 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 Community. 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 preceding 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 14

The Council shall, acting unanimously on a proposal which the Commission shall make within one year of the entry into force of this Treaty, lay down the scheme of social security benefits for officials and other servants of the Community.

Article 15

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 Community to whom the provisions of Article 11, the second paragraph of Article 12 and Article 13 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 6

PRIVILEGES AND IMMUNITIES OF MISSIONS ACCREDITED TO THE COMMUNITY

Article 16

The Member State in whose territory the Community has its seat shall accord the customary diplomatic immunities to missions of third countries accredited to the Community.

Chapter 7

GENERAL PROVISIONS

Article 17

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

Each institution of the Community 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 Community.

Article 18

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

Article 19

Article 11 to 14 and Article 17 shall apply to members of the Commission.

Article 20

Articles 11 to 14 and Article 17 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 Protocol on the Statute of the Court of Justice concerning immunity from legal proceedings of Judges and Advocates-General.

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

Done at Brussels this seventeenth day of April in the year one thousand nine hundred and fifty-seven.

J. Ch. SNOY et d'OPPUERS.
C. P. OPHÜLS.
Robert MARJOLIN
Vittorio BADINI
Lambert SCHAUS
J. LINTHORST HOMAN