

7. PROTOCOL ON THE PRIVILEGES AND IMMUNITIES OF THE EUROPEAN UNION

THE HIGH CONTRACTING PARTIES,

CONSIDERING that, in accordance with Article III-434 of the Constitution, the Union shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of its tasks,

HAVE AGREED upon the following provisions, which shall be annexed to the Treaty establishing a Constitution for Europe and to the Treaty establishing the European Atomic Energy Community:

CHAPTER I

PROPERTY, FUNDS, ASSETS AND OPERATIONS OF THE UNION

Article 1

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

Article 3

The Union, 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 Union 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 Union.

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

Article 4

The Union 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 State into which they have been imported, except under conditions approved by the government of that State.

The Union shall also be exempt from any customs duties and any prohibitions and restrictions on import and exports in respect of its publications.

CHAPTER II

COMMUNICATIONS AND LAISSEZ-PASSER

Article 5

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

Article 6

Laissez-passers in a form to be prescribed by a European regulation of the Council acting by a simple majority, 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 Union 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 of officials and the Conditions of employment of other servants of the Union.

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

CHAPTER III

MEMBERS OF THE EUROPEAN PARLIAMENT

Article 7

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

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

- (a) by their own governments, 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 European Parliament 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 European Parliament, 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 European Parliament.

Immunity cannot be claimed when a member is found in the act of committing an offence and shall not prevent the European Parliament 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 UNION*Article 10*

Representatives of Member States taking part in the work of the institutions of the Union, 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 Union.

CHAPTER V

OFFICIALS AND OTHER SERVANTS OF THE UNION*Article 11*

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

- (a) subject to the provisions of the Constitution relating, on the one hand, to the rules on the liability of officials and other servants towards the Union and, on the other hand, to the jurisdiction of the Court of Justice of the European Union in disputes between the Union and its 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 State concerned, and the right to re-export free of duty their furniture and effects, on termination of their duties in that State, subject in either case to the conditions considered to be necessary by the government of the State 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 State of their last residence or in the State of which they are nationals on the terms ruling in the home market in that State, and to re-export it free of duty, subject in either case to the conditions considered to be necessary by the government of the State concerned.

Article 12

Officials and other servants of the Union shall be liable to a tax, for the benefit of the Union, on salaries, wages and emoluments paid to them by the Union, in accordance with the conditions and procedure laid down by a European law. That law shall be adopted after consultation of the institutions concerned.

Officials and other servants of the Union shall be exempt from national taxes on salaries, wages and emoluments paid by the Union.

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 Union, officials and other servants of the Union who, solely by reason of the performance of their duties in the service of the Union, establish their residence in the territory of a Member State other than their State of domicile for tax purposes at the time of entering the service of the Union, shall be considered, both in the State of their actual residence and in the State of domicile for tax purposes, as having maintained their domicile in the latter State provided that it is a member of the Union. 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 State where they are staying shall be exempt from death duties in that State. Such property shall, for the assessment of such duty, be considered as being in the State of domicile for tax purposes, subject to the rights of third States 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 scheme of social security benefits for officials and other servants of the Union shall be laid down by a European law. That law shall be adopted after consultation of the institutions concerned.

Article 15

The categories of officials and other servants of the Union to whom Article 11, the second paragraph of Article 12, and Article 13 shall apply, in whole or in part, shall be determined by a European law. That law shall be adopted after consultation of the institutions concerned.

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 STATES ACCREDITED TO THE UNION

Article 16

The Member State in whose territory the Union has its seat shall accord the customary diplomatic privileges and immunities to missions of third States accredited to the Union.

CHAPTER VII

GENERAL PROVISIONS

Article 17

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

Each institution of the Union 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 Union.

Article 18

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

Article 19

Articles 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 Registrars and the Assistant Rapporteurs of the Court of Justice of the European Union, without prejudice to the provisions of Article 3 of the Protocol on the Statute of the Court of Justice of the European Union concerning immunity from legal proceedings of Judges and Advocates-General.

Articles 11 to 14 and Article 17 shall also apply to the members of the Court of Auditors.

Article 21

This Protocol shall also apply to the European Central Bank, to the members of its organs and to its staff, without prejudice to the Protocol on the Statute of the European System of Central Banks and of the European Central Bank.

The European Central 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. The activities of the Bank and of its organs carried on in accordance with the Statute of the European System of Central Banks and of the European Central Bank shall not be subject to any turnover tax.

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 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.

—