

PROTOCOL 7

ON THE LEGAL CAPACITY, PRIVILEGES AND IMMUNITIES OF THE EFTA COURT

PART I

THE EFTA COURT

Article 1

The EFTA Court shall possess legal personality. It shall in particular have the capacity to contract, to acquire and dispose of movable and immovable property, and to be a party to legal proceedings.

Article 2

1. Within the scope of its official activities, the Court shall have immunity from jurisdiction and execution, except:
 - (a) in so far as it has expressly waived such immunity in a particular case;
 - (b) in respect of a civil action by a third party for damage arising from an accident caused by a vehicle or other means of transport belonging to or operated on behalf of the Court or in respect of a traffic offence involving such means of transport;
 - (c) in the event of the attachment, pursuant to a decision by the administrative or judicial authorities, of the salaries and emoluments, including pension rights, owed by the Court to a Judge, the Registrar, an official or other servant or to a former Judge, Registrar, official or other servant;
 - (d) in respect of a counterclaim directly connected with judicial proceedings initiated by the Court.

2. The property of the Court, wherever located, shall be immune:
 - (a) from any form of requisition, confiscation or expropriation;
 - (b) from any form of sequestration and administrative or provisional judicial constraint, except in the cases provided for in the preceding paragraph.

Article 3

The archives of the Court and all documents belonging to it or held by it shall be inviolable wherever located.

Article 4

1. Without being restricted by financial controls, regulations or moratoria of any kind the Court may:
 - (a) hold funds or currency of any kind and operate accounts in any currency;
 - (b) freely transfer its funds or currency from one country to another or within any country and convert any currency held by it into any other currency.
2. In exercising its rights under paragraph 1 of this Article the Court shall pay due regard to any representations made by any State Party to this Protocol and shall give effect to such representations in so far as it is considered possible to do so without detriment to the interests of the Court.

Article 5

1. The Court, its assets, income and other property shall be exempt:
 - (a) from all direct taxes; the Court shall not, however, claim exemption from rates, taxes or dues which are in fact charges for public utility services;
 - (b) from customs duties and prohibitions and restrictions on imports and exports in respect of articles directly imported or exported by the Court for its official use. Articles imported under such exemption shall not be sold in the territory of the State into which they were imported except under conditions agreed with the Government of that State;
 - (c) from customs duties and prohibitions and restrictions on imports and exports in respect of its publications.
2. When purchases or services of substantial value and necessary for the exercise of the official activities of the Court are made or used by the Court and when the price of such purchases and services includes taxes or duties, the State Party to this Protocol that has levied the taxes or duties shall take appropriate measures to grant exemption from such taxes or duties or to provide for their reimbursement, if they are identifiable.

Article 6

1. The Court shall enjoy in the territory of each State Party to this Protocol, for its official communications, treatment not less favourable than that accorded by the Government of that State to any other comparable international organization, in the matter of priorities, rates and taxes for posts and telecommunications and press rates for information to the press and radio.
2. No censorship shall be applied to the official correspondence and other official communications of the Court.
3. The Court shall have the right to use codes and to dispatch and receive correspondence by courier or in sealed bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

PART II

THE JUDGES, THE REGISTRAR, THE OFFICIALS AND OTHER SERVANTS OF THE COURT

Article 7

1. 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.
2. The Court, sitting in plenary session, may waive the immunity.
3. Where immunity has been waived and criminal proceedings are instituted against a Judge, he shall be tried, in any of the EFTA States, only by the Court competent to judge the members of the highest national judiciary.

Article 8

1. The Judges, the Registrar, the officials and other servants of the Court shall enjoy the following privileges and immunities:
 - (a) inviolability for all their official papers and documents;
 - (b) exemption from all obligations in respect of national service, including military service;
 - (c) together with members of their families forming part of their households, exemption from all measures restricting immigration and from aliens' registration formalities;
 - (d) together with members of their families forming part of their households, the same facilities as to repatriation, in time of international crisis, as are normally accorded to staff members of international organizations;
 - (e) the same treatment in respect of currency and exchange regulations as is normally accorded to staff members of international organizations;
 - (f) exemption from all national income tax on their salaries and emoluments paid to them by the Court, excluding pensions and other similar benefits paid by the Court. The States Parties to this Protocol reserve the right to take those salaries and emoluments into account when assessing the amount of tax to be applied to income from other sources.
2. In addition to the privileges and immunities provided for above, the Registrar, the officials and other servants shall enjoy immunity from jurisdiction, even after they have left the service of the Court, in respect of acts, including words written or spoken, done by them in the exercise of their function. This immunity shall, however, not apply in the case of a traffic offence committed by the Registrar, an official or other servant, nor in the case of damage caused by a vehicle or other means of transport belonging to or driven by him.
3. The Court shall specify the classes of officials and other servants to whom paragraphs 1 and 2 applies and shall inform the EFTA States of its decision. The names of the officials and other servants included in these classes shall regularly be made known to the EFTA States.

Article 9

In addition to the privileges and immunities provided for in Article 8(1), the Judges shall enjoy:

- (a) immunity from civil and administrative jurisdiction and execution enjoyed by diplomatic agents, except in the case of damage caused by a vehicle or other means of transport belonging to or driven by him;
- (b) the same customs facilities as regards his personal luggage as are accorded to diplomatic agents.

PART III**GENERAL PROVISIONS****Article 10**

1. The Court has a duty to waive its immunity in all cases where reliance upon it would impede the course of justice and it can be waived without prejudicing the interests of the Court.
2. Privileges and immunities are granted to the Registrar, the officials and other servants of the Court in the interests of the Court and not for the personal benefit of the individuals themselves. The Court shall have the right, and is under a duty, to waive the immunity of the Registrar, an official or other servant in any case where, in its opinion, the immunity would impede the course of justice and could be waived without prejudice to the interests of the Court.

Article 11

No State Party to this Protocol shall be obliged to accord the privileges and immunities referred to in Article 8(1)(b), (c) and (d) to its own nationals or permanent residents.

Article 12

The provisions of this Protocol shall not prejudice the right of each State Party to this Protocol to take all precautionary measures necessary in the interest of its security.

Article 13

If any State Party to this Protocol considers that there has been an abuse of a privilege or immunity conferred by this Protocol, consultations shall be held between that State and the Court to determine whether any such abuse has occurred, and, if so, to ensure that no repetition occurs. A State which considers that any person has abused any privilege or immunity granted to him under this Protocol may require him to leave its territory.

