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# Sixth Protocol to the General Agreement on Privileges and Immunities of the Council of Europe

Strasbourg, 5 March 1996

[The United Kingdom instrument of ratification was deposited on 9 November 2001 and the Protocol entered into force for the United Kingdom on 10 December 2001]

*Presented to Parliament  
by the Secretary of State for Foreign and Commonwealth Affairs  
by Command of Her Majesty  
March 2005*

Cm 6493

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## **SIXTH PROTOCOL TO THE GENERAL AGREEMENT ON PRIVILEGES AND IMMUNITIES OF THE COUNCIL OF EUROPE**

The Sixth Protocol consolidates into one instrument the relevant provisions of the Fourth and Fifth Protocols. It is applicable to the «new» Court which started to function on 1 November 1998.

The member States of the Council of Europe, signatories hereto,

Having regard to the Convention for the Protection of Human Rights and Fundamental Freedoms, signed at Rome on 4 November 1950<sup>1</sup> (hereinafter referred to as "the Convention");

Having regard to Protocol No. 11 to the Convention, restructuring the control machinery established thereby, signed at Strasbourg on 11 May 1994<sup>2</sup> (hereinafter referred to as "Protocol No. 11 to the Convention"), which establishes a permanent European Court of Human Rights (hereinafter referred to as "the Court") to replace the European Commission and Court of Human Rights;

Also having regard to Article 51 of the Convention which specifies that judges are entitled, during the discharge of their functions, to the privileges and immunities provided for in Article 40 of the Statute of the Council of Europe and in the agreements made thereunder;

Recalling the General Agreement on Privileges and Immunities of the Council of Europe, signed at Paris on 2 September 1949<sup>3</sup>, (hereinafter referred to as "the General Agreement"), and its Second<sup>4</sup>, Fourth<sup>5</sup> and Fifth<sup>6</sup> Protocols;

Considering that a new Protocol to the General Agreement is advisable to accord privileges and immunities to the judges of the Court,

Have agreed as follows:

### ARTICLE 1

In addition to the privileges and immunities specified in Article 18 of the General Agreement, judges shall be accorded in respect of themselves, their spouses and minor children the privileges and immunities, exemptions and facilities accorded to diplomatic envoys in accordance with international law.

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<sup>1</sup> Treaty Series No. 71 (1953) Cmd 8969

<sup>2</sup> Treaty Series No. 33 (1999) Cm 4353

<sup>3</sup> Treaty Series No. 34 (1953) Cmd 8852

<sup>4</sup> Treaty Series No. 50 (1958) Cmnd 579

<sup>5</sup> Treaty Series No. 58 (1971) Cmnd 4739

<sup>6</sup> Treaty Series No. 96 (1991) Cm 1764

## ARTICLE 2

For the purposes of this Protocol, the term "judges" means judges elected in accordance with Article 22 of the Convention as well as any *ad hoc* judge appointed by a State Party concerned in pursuance of Article 27, paragraph 2, of the Convention.

## ARTICLE 3

In order to secure for the judges complete freedom of speech and complete independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer engaged in the discharge of such duties.

## ARTICLE 4

Privileges and immunities are accorded to judges not for the personal benefit of the individuals themselves but in order to safeguard the independent exercise of their functions. The plenary Court alone shall be competent to waive the immunity of judges; it has not only the right, but is under a duty, to waive the immunity of a judge in any case where, in its opinion, the immunity would impede the course of justice, and where it can be waived without prejudice to the purpose for which the immunity is accorded.

## ARTICLE 5

1. The provisions of Articles 1, 3 and 4 of this Protocol shall apply to the Registrar of the Court and a Deputy Registrar formally notified as Acting Registrar to the State Parties to the Convention.
2. The provisions of Article 3 of this Protocol and Article 18 of the General Agreement shall apply to a Deputy Registrar of the Court.
3. The privileges and immunities referred to in paragraphs 1 and 2 of this Article are accorded to the Registrar and a Deputy Registrar not for the personal benefit of the individuals themselves but to facilitate the discharge of their duties. The plenary Court alone shall be competent to waive the immunity of its Registrar and a Deputy Registrar; it has not only the right, but is under a duty, to waive such immunity in any case where, in its opinion, the immunity would impede the course of justice, and where it can be waived without prejudice to the purpose for which the immunity is accorded.
4. The Secretary General of the Council of Europe shall be competent to waive, with the agreement of the President of the Court, the immunity of other staff

members of the registry in accordance with the provisions of Article 19 of the General Agreement and having due regard to the considerations set out in paragraph 3.

#### ARTICLE 6

1. Documents and papers of the Court, judges and registry, in so far as they relate to the business of the Court, shall be inviolable.
2. The official correspondence and other official communications of the Court, judges and the registry may not be held up or subjected to censorship.

#### ARTICLE 7

1. This Protocol shall be open for signature by member States of the Council of Europe signatories to the General Agreement, which may express their consent to be bound by:
  - (a) signature without reservation as to ratification, acceptance or approval;  
or
  - (b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval.
2. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

#### ARTICLE 8

1. This Protocol shall enter into force on the first day of the month following the expiration of a period of one month after the date on which three Parties to the General Agreement have expressed their consent to be bound by the Protocol in accordance with the provisions of Article 7 or on the date of entry into force of Protocol No. 11 to the Convention, whichever is the later.
2. As regards any State Party to the General Agreement which shall subsequently sign this Protocol without reservation in respect of ratification, acceptance or approval or which shall ratify, accept or approve it, this Protocol shall enter into force one month after the date of such signature or after the date of deposit of the instrument of ratification, acceptance or approval.

## ARTICLE 9

1. Any State may, at the time of its signature without reservation in respect of ratification, of its ratification or at any time thereafter, declare, by notification addressed to the Secretary General of the Council of Europe, that the present Protocol shall extend to all or any of the territories for whose international relations it is responsible and where the Convention and its Protocols apply.
2. The Protocol shall extend to the territory or territories named in the notification as from the thirtieth day after the receipt of this notification by the Secretary General of the Council of Europe.
3. Any declaration made pursuant to paragraph 1 may, in respect of any territory specified in such declaration, be withdrawn or modified by a notification addressed to the Secretary General. The withdrawal or modification shall become effective on the first day of the month following the expiration of one month after the receipt of notification by the Secretary General.

## ARTICLE 10

The Secretary General of the Council of Europe shall notify the member States of the Council of:

- (a) any signature;
- (b) the deposit of any instrument of ratification, acceptance or approval;
- (c) any date of entry into force of this Protocol in accordance with Articles 8 and 9;
- (d) any other act, notification or communication relating to this Protocol.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Strasbourg, this 5th day of March 1996, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe.

## RATIFICATIONS, ACCESSIONS, EFFECTIVE DATES AND ECLARATIONS

<i>State</i>	<i>Action</i>	<i>Date</i>	<i>Effective Date</i>
Albania	Signature Ratification	04 Jun 1998 s 04 Jun 1998 s	01 Nov 1998
Andorra	Signature Ratification	24 Nov 1998 24 Nov 1998	25 Dec 1998
Armenia	Signature Ratification	25 Jun 2001 18 Jun 2002	19 Jul 2002
Austria	Signature Ratification	25 Feb 1998 15 Jul 1998	01 Nov 1998
Azerbaijan	Signature	22 Oct 2003	
Belgium	Signature Ratification	01 Apr 1998 29 Jun 2000	30 Jul 2000
Bosnia and Herzegovina	Signature	03 Oct 2003	
Bulgaria	Signature Ratification	03 Jul 2000 31 May 2001	01 Jul 2001
Croatia	Signature Ratification	11 Oct 1997 11 Oct 1997	01 Nov 1998
Cyprus	Signature Ratification	12 Jan 1999 09 Feb 2000	10 Mar 2000
Czech Republic	Signature Ratification	10 Oct 1997 24 Jun 1998	01 Nov 1998
Denmark	Signature Ratification	05 Mar 1996 28 Aug 1998	01 Nov 1998
Estonia	Signature Ratification	29 May 1998 16 Dec 1998	17 Jan 1999
Finland	Signature Ratification	19 Jun 1998 19 Jun 1998	01 Nov 1998
France	Signature Ratification <sup>1</sup>	31 Mar 1998 17 Nov 1998	18 Dec 1998

Georgia	Signature Ratification	25 May 2000 20 Jun 2000	21 Jul 2000
Germany	Signature Ratification	30 Sep 1996 02 Oct 2001	03 Nov 2001
Greece	Signature Ratification	21 May 1996 19 Mar 2001	20 Apr 2001
Hungary	Signature Ratification	06 May 1997 01 Apr 1998	01 Nov 1998
Iceland	Signature Ratification	27 Jun 1996 04 Nov 1998	05 Dec 1998
Ireland	Signature Ratification	03 Jun 1998 28 Oct 1998	01 Nov 1998
Italy	Signature Ratification	05 Mar 1996 03 Nov 1997	01 Nov 1998
Latvia	Signature Ratification	15 Jan 1998s 15 Jan 1998s	01 Nov 1998
Liechtenstein	Signature Ratification	21 Jan 1999 20 Dec 1999	21 Jan 2000
Lithuania	Signature Ratification	19 Oct 1998 22 Jun 1999	23 Jul 1999
Luxembourg	Signature Ratification	05 Mar 1996 05 Aug 1998	01 Nov 1998
Malta	Signature Ratification	03 Nov 1998 03 Jul 2002	04 Aug 2002
Moldova	Signature Ratification <sup>2</sup>	04 May 1998 27 Jun 2001	28 Jul 2001
Netherlands	Signature Ratification <sup>3</sup>	02 May 1996 21 Jan 1997	01 Nov 1998
Norway	Signature Ratification	30 Oct 1998s 30 Oct 1998s	01 Nov 1998
Poland	Signature Ratification	07 May 1999 24 Jan 2003	25 Feb 2003



Portugal	Signature	29 Apr 1997	
Romania	Signature	28 May 1998	
	Ratification	09 Apr 1999	10 May 1999
Russia	Signature	07 May 1999	
	Ratification	10 May 2001	11 Jun 2001
San Marino	Signature	07 Sep 1998	
Slovakia	Signature	09 Jun 1999	
	Ratification	24 Nov 1999	25 Dec 1999
Slovenia	Signature	07 May 1999	
	Ratification	29 Nov 2001	30 Dec 2001
Spain	Signature	05 Dec 1997	
	Ratification	21 Jan 1999	22 Feb 1999
Sweden	Signature	30 Apr 1996	
	Ratification	02 Jul 1998	01 Nov 1998
Switzerland	Signature	27 Aug 1998s	
	Ratification	27 Aug 1998s	01 Nov 1998
the former Yugoslav Republic of Macedonia	Signature	03 Apr 2001	
	Ratification	29 Nov 2002	30 Dec 2002
Turkey	Signature	15 Feb 1999	
	Ratification	17 Sep 2003	18 Oct 2003
Ukraine	Signature	03 Nov 1998	
	Ratification	17 Sep 2003	18 Oct 2003
United Kingdom	Signature	27 Oct 1999	
	Ratification <sup>4</sup>	09 Nov 2001	10 Dec 2001

Note: s: Signature without reservation as to ratification

## Reservations and Declarations

### 1. France :

At the time of ratification of the Sixth Protocol to the General Agreement, the French Republic declares that, in accordance with its usual practice regarding fiscal or customs exemptions granted to diplomatic envoys, it understands Article 1 in fine of the Protocol, as far as it grants such exemptions by assimilation of judges to diplomatic envoys, as applying neither to its nationals nor to the "permanent residents" on its territory.

### 2. Moldova :

At ratification.

The Republic of Moldova declares that the Sixth Protocol will not be applied on the territory effectively controlled by the authorities of the self-proclaimed Moldavian Dniestrian Republic until the final settlement of the conflict in this region.

### 3. Netherlands :

The Kingdom of the Netherlands accepts the said Agreement for the Kingdom in Europe, the Netherlands Antilles and Aruba.

### 4. United Kingdom :

At ratification.

Until such time as the necessary legislation is enacted, the United Kingdom reserves the right not to apply Article 1 of the Sixth Protocol in respect of the spouses and minor children of judges.

In a letter from the Permanent Representative of the United Kingdom, dated 1 October 2003, registered at the Secretariat General on 2 October 2003. Effective from 1 November 2003.

The Government of the United Kingdom declares that its ratification of the Sixth Protocol to the General Agreement on Privileges and Immunities of the Council of Europe shall be extended to the Isle of Man, for whose international relations it is responsible.

The Government of the United Kingdom confirms that the following reservation to Article 1 made on ratification of the Sixth Protocol shall also be extended to the Isle of Man :

Until such time as the necessary legislation is enacted, the United Kingdom reserves the right not to apply Article 1 of the Sixth Protocol in respect of spouses and minor children of judges.



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