

No. 11213

MULTILATERAL

European Agreement relating to persons participating in proceedings of the European Commission and Court of Human Rights. Done at London on 6 May 1969

Authentic texts: English and French.

Registered by the Council of Europe, acting on behalf of the Contracting Parties in accordance with Resolution 54(6) adopted on 3 April 1954 by the Committee of Ministers of the Council of Europe, on 12 July 1971.

MULTILATÉRAL

Accord européen concernant les personnes participant aux procédures devant la Commission et la Cour européennes des droits de l'Homme. Fait à Londres le 6 mai 1969

Textes authentiques: anglais et français.

Enregistré par le Conseil de l'Europe, agissant au nom des Parties contractantes conformément à la résolution 54(6) adoptée le 3 avril 1954 par le Comité des ministres du Conseil de l'Europe, le 12 juillet 1971.

EUROPEAN AGREEMENT¹ RELATING TO PERSONS PARTICIPATING IN PROCEEDINGS OF THE EUROPEAN COMMISSION AND COURT OF HUMAN RIGHTS

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

Having regard to the Convention for the Protection of Human Rights and Fundamental Freedoms, signed at Rome on 4th November 1950² (hereinafter referred to as “the Convention”);

Considering that it is expedient for the better fulfilment of the purposes of the Convention that persons taking part in proceedings before the European Commission of Human Rights (hereinafter referred to as “the Commission”) or the European Court of Human Rights (hereinafter referred to as “the Court”) shall be accorded certain immunities and facilities;

Desiring to conclude an Agreement for this purpose,
Have agreed as follows:

Article 1

1. The persons to whom this Agreement applies are:
- (a) agents of the Contracting Parties and advisers and advocates assisting them;

¹ Came into force on 17 April 1971, i.e. one month after the date on which the following five member States of the Council of Europe had deposited their instrument of ratification with the Secretary-General of the Council of Europe, in accordance with article 8 (1):

<i>State</i>	<i>Date of deposit</i>
Norway	1 July 1970
Luxembourg	10 Septembre 1970
Cyprus	23 November 1970
United Kingdom of Great Britain and Northern Ireland	24 February 1971
Belgium	16 March 1971

Subsequently, the Agreement came into force for the following State one month after the deposit of its instrument of ratification, in accordance with article 8 (2):

<i>State</i>	<i>Date of deposit</i>
Malta	30 April 1971 (With effect from 1 June 1971.)

² United Nations, *Treaty Series*, vol. 213, p. 221.

- (b) persons taking part in proceedings instituted before the Commission under Article 25 of the Convention, whether in their own name or as representatives of one of the applicants enumerated in the said Article 25;
- (c) barristers, solicitors or professors of law, taking part in proceedings in order to assist one of the persons enumerated in sub-paragraph (b) above;
- (d) persons chosen by the delegates of the Commission to assist them in proceedings before the Court;
- (e) witnesses, experts and other persons called upon by the Commission or the Court to take part in proceedings before the Commission or the Court.

2. For the purposes of this Agreement, the terms “Commission” and “Court” shall include a Sub-Commission or Chamber, or members of either body carrying out their duties under the terms of the Convention or of the rules of the Commission or of the Court, as the case may be; and the term “taking part in proceedings” shall include making communications with a view to a complaint against a State which has recognised the right of individual petition under Article 25 of the Convention.

3. If, in the course of the exercise by the Committee of Ministers of its functions under Article 32 of the Convention, any person mentioned in paragraph 1 of this Article is called upon to appear before, or to submit written statements to the Committee of Ministers, the provisions of this Agreement shall apply in relation to him.

Article 2

1. The persons referred to in paragraph 1 of Article 1 of this Agreement shall have immunity from legal process in respect of oral or written statements made, or documents or other evidence submitted by them before or to the Commission or the Court.

2. This immunity does not apply to the communication, outside the Commission or the Court, by or on behalf of any person entitled to immunity under the preceding paragraph, of any such statements, documents or evidence or any part thereof submitted by that person to the Commission or the Court.

Article 3

1. The Contracting Parties shall respect the right of the persons referred to in paragraph 1 of Article 1 of this Agreement to correspond freely with the Commission and the Court.

2. As regards persons under detention, the exercise of this right shall in particular imply that :

- (a) if their correspondence is examined by the competent authorities, its despatch and delivery shall nevertheless take place without undue delay and without alteration ;
- (b) such persons shall not be subject to disciplinary measures in any form on account of any communication sent through the proper channels to the Commission or the Court ;
- (c) such persons shall have the right to correspond, and consult out of hearing of other persons, with a lawyer qualified to appear before the courts of the country where they are detained in regard to an application to the Commission, or any proceedings resulting therefrom.

3. In application of the preceding paragraphs, there shall be no interference by a public authority except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, for the detection or prosecution of a criminal offence or for the protection of health.

Article 4

1. (a) The Contracting Parties undertake not to hinder the free movement and travel, for the purpose of attending and returning from proceedings before the Commission or the Court, of persons referred to in paragraph 1 of Article 1 of this Agreement whose presence has in advance been authorised by the Commission or the Court.

(b) No restrictions shall be placed on their movement and travel other than such as are in accordance with the law and necessary in a democratic society in the interests of national security or public safety, for the maintenance of *ordre public*, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

2. (a) Such persons shall not, in countries of transit and in the country where the proceedings take place, be prosecuted or detained or be subjected to any other restriction of their personal liberty in respect of acts or convictions prior to the commencement of the journey.

(b) Any Contracting Party may at the time of signature or ratification of this Agreement declare that the provisions of this paragraph will not apply to its own nationals. Such a declaration may be withdrawn at any time by means of a notification addressed to the Secretary General of the Council of Europe.

3. The Contracting Parties undertake to re-admit on his return to their territory any such person who commenced his journey in the said territory.

4. The provisions of paragraphs 1 and 2 of this Article shall cease to apply when the person concerned has had for a period of 15 consecutive days from the date when his presence is no longer required by the Commission or the Court the opportunity of returning to the country from which his journey commenced.

5. Where there is any conflict between the obligations of a Contracting Party resulting from paragraph 2 of this Article and those resulting from a Council of Europe Convention or from an extradition treaty or other treaty concerning mutual assistance in criminal matters with other Contracting Parties, the provisions of paragraph 2 of this Article shall prevail.

Article 5

1. Immunities and facilities are accorded to the persons referred to in paragraph 1 of Article 1 of this Agreement solely in order to ensure for them the freedom of speech and the independence necessary for the discharge of their functions, tasks or duties, or the exercise of their rights in relation to the Commission and the Court.

2. (a) The Commission or the Court, as the case may be, shall alone be competent to waive, in whole or in part, the immunity provided for in paragraph 1 of Article 2 of this Agreement; they have not only the right but the duty to waive immunity in any case where, in their opinion, such immunity would impede the course of justice and waiver in whole or in part would not prejudice the purpose defined in paragraph 1 of this Article.

(b) The immunity may be waived by the Commission or by the Court, either *ex officio* or at the request, addressed to the Secretary General of the Council of Europe, of any Contracting Party or of any person concerned.

(c) Decisions waiving immunity or refusing the waiver shall be accompanied by a statement of reasons.

3. If a Contracting Party certifies that waiver of the immunity provided for in paragraph 1 of Article 2 of this Agreement is necessary for the purpose of proceedings in respect of an offence against national security, the Com-

mission or the Court shall waive immunity to the extent specified in the certificate.

4. In the event of the discovery of a fact which might, by its nature, have a decisive influence and which at the time of the decision refusing waiver of immunity was unknown to the author of the request, the latter may make a new request to the Commission or the Court.

Article 6

Nothing in this Agreement shall be construed as limiting or derogating from any of the obligations assumed by the Contracting Parties under the Convention.

Article 7

1. This Agreement shall be open to signature by the member States of the Council of Europe, who may become Parties to it either by:

- (a) signature without reservation in respect of ratification or acceptance, or
- (b) signature with reservation in respect of ratification or acceptance, followed by ratification or acceptance.

2. Instruments of ratification or acceptance shall be deposited with the Secretary General of the Council of Europe.

Article 8

1. This Agreement shall enter into force one month after the date on which five member States of the Council shall have become Parties to the Agreement, in accordance with the provisions of Article 7.

2. As regards any member States who shall subsequently sign the Agreement without reservation in respect of ratification or acceptance or who shall ratify or accept it, the Agreement shall enter into force one month after the date of such signature or after the date of deposit of the instrument of ratification or acceptance.

Article 9

1. Any Contracting Party may at the time of signature or when depositing its instrument of ratification or acceptance, specify the territory or territories to which this Agreement shall apply.

2. Any Contracting Party may, when depositing its instrument of ratification or acceptance or at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend this Agreement

to any other territory or territories specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings.

3. Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn according to the procedure laid down in Article 10 of this Agreement.

Article 10

1. This Agreement shall remain in force indefinitely.

2. Any Contracting Party may, insofar as it is concerned, denounce this Agreement by means of a notification addressed to the Secretary General of the Council of Europe.

3. Such denunciation shall take effect six months after the date of receipt by the Secretary General of such notification. Such a denunciation shall not have the effect of releasing the Contracting Parties concerned from any obligation which may have arisen under this Agreement in relation to any person referred to in paragraph 1 of Article 1.

Article 11

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

- (a) any signature without reservation in respect of ratification or acceptance;
- (b) any signature with reservation in respect of ratification or acceptance;
- (c) the deposit of any instrument of ratification or acceptance;
- (d) any date of entry into force of this Agreement in accordance with Article 8 thereof;
- (e) any declaration received in pursuance of the provisions of paragraph 2 of Article 4 and of paragraphs 2 and 3 of Article 9;
- (f) any notification of withdrawal of a declaration in pursuance of the provisions of paragraph 2 of Article 4 and any notification received in pursuance of the provisions of Article 10 and the date on which any denunciation takes effect.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Agreement.

DONE at London, this 6th day of May 1969, in the English and French languages, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each of the signatory States.

For the Government
of the Republic of Austria:

Pour le Gouvernement
de la République d'Autriche :

For the Government
of the Kingdom of Belgium:

Pour le Gouvernement
du Royaume de Belgique :

sous réserve de ratification ou d'acceptation ¹

PIERRE HARMEL

For the Government
of the Republic of Cyprus:

Pour le Gouvernement
de la République de Chypre:

with reservation in respect of ratification or acceptance ²

Paris, 2nd July 1970

P. MODIMOS

For the Government
of the Kingdom of Denmark:

Pour le Gouvernement
du Royaume de Danemark :

with reservation in respect of ratification or acceptance²

POUL HARTLING

For the Government
of the French Republic:

Pour le Gouvernement
de la République française :

For the Government
of the Federal Republic
of Germany:

Pour le Gouvernement
de la République fédérale
d'Allemagne :

with reservation in respect of ratification or acceptance²

WILLY BRANDT

For the Government
of the Kingdom of Greece:

Pour le Gouvernement
du Royaume de Grèce :

For the Government
of the Icelandic Republic:

Pour le Gouvernement
de la République islandaise :

¹ With reservation in respect of ratification or acceptance.

² Sous réserve de ratification ou d'acceptation.

For the Government
of Ireland:

Pour le Gouvernement
d'Irlande :

with reservation in respect of ratification or acceptance¹

Paris, 12th December 1969

P. J. HILLERY

For the Government
of the Italian Republic:

Pour le Gouvernement
de la République italienne :

For the Government of the
Grand Duchy of Luxembourg:

Pour le Gouvernement du
Grand-Duché de Luxembourg :

sous réserve de ratification ou d'acceptation²

GASTON THORN

For the Government
of Malta:

Pour le Gouvernement
de Malte :

with reservation in respect of ratification or acceptance¹

GEORGE BORG OLIVIER

For the Government
of the Kingdom of the Netherlands:

Pour le Gouvernement
du Royaume des Pays-Bas :

sous réserve de ratification ou d'acceptation²

Strasbourg, 15 décembre 1970

F. J. GELDERMAN

For the Government
of the Kingdom of Norway:

Pour le Gouvernement
du Royaume de Norvège :

with reservation in respect of ratification or acceptance¹

JOHN LYNG

¹ Sous réserve de ratification ou d'acceptation.

² With reservation in respect of ratification or acceptance.

For the Government
of the Kingdom of Sweden:

Pour le Gouvernement
du Royaume de Suède :

with reservation in respect of ratification or acceptance¹

TORSTEN NILSSON

For the Government
of the Swiss Confederation:

Pour le Gouvernement
de la Confédération suisse :

For the Government
of the Turkish Republic:

Pour le Gouvernement
de la République turque :

For the Government
of the United Kingdom of
Great Britain and Northern Ireland:

Pour le Gouvernement
du Royaume-Uni de
Grande-Bretagne et d'Irlande du
Nord :

with reservation in respect of ratification or acceptance¹

FREDERICK MULLEY

¹ Sous réserve de ratification ou d'acceptation.