ACORD GENERAL CU PRIVIRE LA PRIVILEGIILE ȘI IMUNITĂȚILE CONSILIULUI EUROPEI*

ÎNTOCMIT LA PARIS LA 2 SEPTEMBRIE 1949

GENERAL AGREEMENT ON PRIVILEGES AND IMMUNITIES OF THE COUNCIL OF EUROPE,

DONE AT PARIS ON SEPTEMBER 2, 1949

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* *În vigoare pentru Republica Moldova din 2 octombrie 1997*

The Governments of the Kingdom of Belgium, the Kingdom of Denmark , the French Republic, the Kingdom Greece, the Irish Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of Netherlands, the Kingdom of Norway, the Kingdom of Sweden, the Turkish Republic and United Kingdom of Great Britain and Northern Ireland;

Whereas under the provisions of Article 40, paragraph (a) , of the Statute, the Council of Europe representatives of Members and the Secretariat shell enjoy in the territories of its Members such privileges and immunities as are necessary for the exercise of their duties;

Whereas under the provisions of paragraph (b)of the above-mentioned Article, the Members of the Council have undertaken o enter into an agreement for the purpose of fulfilling the provisions of the said paragraph;

Whereas in pursuance of the above-mentioned paragraph (b), the Committee of Ministers has recommended to Member Governments the acceptance of the following provisions;

Have agreed as follows:

PART 1

PERSONALITY-CAPACITY

Article 1

The Council of Europe shall possess juridical personality. It shall have the capacity to conclude contracts, to acquire and dispose of movable and immovable property and to institute legal proceedings.

In these matters the Secretary-General shall act on behalf of the Council of Europe.

Article 2

The Secretary-General shall co-operate at all times with the competent authorities of the Member o facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities, exemptions and facilities enumerated in the present Agreement.

PART 2

PROPERTY, FUNDS AND ASSETS

Article 3

The Council, its property and assets, wheresoever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as in any particular case, the Committee of Ministers has expressly authorized the waiver of this immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution or detention of property.

Article 4

The buildings and premises of the Council shall be inviolable. Its property and assets, weresoever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other from of interference whether by administrative, judicial or legislative action.

Article 5

The archives of the Council, and in general all documents belonging to it or held by it, shall be inviolable wheresoever located.

Article 6

Without being restricted by financial controls, regulations or financial moratoria of any kind:

(a) the Council may hold currency of any kind and operate accounts in any currency;

(b) the Council may freely transfer its funds from one country o another or within any country covert any currency held by it into any other currency;

(c) In exercising its rights under sub-paragraphs (a) and (b) above, the Council of Europe shall pay due regard to any representations made by the Government of a Member and shall defer to such representations in so far as it considers this can be done without detriment o the interests of the Council.

Article 7

The Council, its assets, income and other property shall be exempt:

(a) from all direct taxes; the Council will not, however, claim exemption from rates, taxes or dues which are no more than charges for public utility services;

(b) from all customs duties and prohibitions and restrictions on imports and exports in respect of articles required by the Council for its official use; articles imported under such exemption will not be sold in the country into which they are imported, except under conditions approved by the Government of that country;

(c) from all customs duties, and restrictions on imports and exports in respect of its publications.

PART 3

COMMUNICATIONS

Article 8

The Committee of Ministers and the Secretary-General shall enjoy in the territory of each Member, for their official communications, treatment at least as favourable as that accorded by that Member to the diplomatic missions of any other Government.

No censorship shall be applied to the official correspondence and other official communications of the Committee of Ministers and of the Secretariat.

PART 4

REPRESENTATIVES OF MEMBERS TO THE COMMITTIE OF MINISTERS

Article 9

Representatives at the Committee of Ministers shall, while exercising their functions and during their journeys to and from the place of meeting, enjoy the following privileges and immunities:

(a) Immunity from personal arrest or detention and from seizure of their personal baggage, and, in respect of words spoken or written and all acts done by them in their official capacity, immunity from legal process of every kind.

(b) Inviolability for all papers and documents.

(c) The right to use codes and to receive papers or correspondence by courier or in sealed bags.

(d) Exemption in respect of themselves and their spouses from immigration restrictions or aliens registrations in the State which they are visiting or through which they are passing in the exercise of their functions.

(e) The same facilities in respect of currency or exchange restrictions as are accorded to representatives of comparable rank of diplomatic missions.

(f) The same immunities and facilities in respect of their personal baggage as are accorded to members of comparable rank of diplomatic missions.

Article 10

In order to secure for the representatives at the Committee of Ministers 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 11

Privileges and immunities are accorded to the representatives of Members, not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the Committee of Ministers. Consequently, a Member not only has the right, but is under a duty to waive the immunity of its representative in any case were, in the opinion of the Member, 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 12

(a) The provisions of Articles 9, 10 and 11 are not applicable in relation to the authorities of a State of which the person is a national or of which he is or has been a representative.

(b) In Articles 9, 10, and 12 (a) above, the expression "representatives" shall be deemed to include all representatives , alternate representatives, advisers, technical experts and secretaries of delegations.

PART 5

REPRESENTATIVES TO THE CONSULTATIVE ASSEMBLY

Article 13

No administrative or other restriction shall be imposed on the free movement to and from the place of meeting of Representatives to the Consultative Assembly and their substitutes.

Representatives and their substitutes shall, in the matter of customs and exchange control, be accorded:

(a) by their own Government, the same facilities as those accorded to senior official travelling aboard on temporary official duty;

(b) by the Governments of other Members, the same facilities as those accorded to representatives of foreign Governments on temporary official duty.

Article 14

Representatives to the Consultative Assembly and their substitutes shall be immune from all official interrogation and from arrest and all legal proceedings in respect of words spoken or votes cast by them in the exercise of their functions.

Article 15

During the sessions of the Consultative Assembly, the Representatives to the Assembly and their substitutes, whether they be Members of Parliament or not, shall enjoy:

(a) on their national territory, the immunities accorded in those countries to Members of Parliament;

(b) on the territory of all other Member States, exemption from arrest and prosecution.

This immunity also applies when they are travelling to and from the place of meeting of the Consultative Assembly. It does not, however, apply when Representatives and their substitutes are found committing, attempting to commit, or just having committed an offence, nor in cases where the Assembly has waived the immunity.

PART 6

OFFICIALS OF THE COUNCIL

Article 16

In addition to the immunities and privileges specified in Article 18 below, the Secretary-General 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 Low.

Article 17

The Secretary-General will specify the categories of officials to which the provisions of Article 18 below shall apply. He shall communicate them to the

Governments of all Members. The names of the officials included in these categories shall from time be made known to the above mentioned Governments.

Article 18

Officials of the Council of Europe shall:

(a) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity and within the limit of their authority;

(b) be exempt from taxation on the salaries and emoluments paid to them by the Council of Europe;

(c) be immune, together with their spouses and relatives dependent on them, from immigration restrictions and aliens registration;

(d) be accorded the same privileges in respect of exchange facilities as are accorded to officials of comparable rank forming part of diplomatic missions to the Government concerned;

(e) be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crisis as diplomatic envoys;

(f) have the right to import free of duty their furniture and effects at the time of first taking up their post in the country in question, and to re-export the same free of duty to their country of domicile.

Article 19

Privileges and immunities are granted to officials in the interests of the Council of Europe and not for the personal benefit of the individuals themselves. The Secretary-General shall have the right and the duty to waive the immunity of any official in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Council of Europe. In the case of the Secretary-General and of the Deputy Secretary-General, the Committee of Ministers shall have the right to waive immunity.

PART 7

SUPPLEMENTARY AGREEMENTS

AArticle 20

The Council may conclude with any Member or Members supplementary

agreements modifying the provisions of this General Agreement, so far as that Member or those Members are concerned.

PART 8

DISPUTES

AArticle 21

Any dispute between the Council and private persons regarding supplies furnished, services rendered or immovable property purchased on behalf of the Council, shall be submitted to arbitration, as provided in an administrative order issued by the Secretary-General with the approval of the Committee of Ministers.

PART 9

FINAL PROVISIONS

Article 22

The present Agreement shall be ratified. Instruments of ratification shall be deposited with the Secretary-General. The Agreement shall come into force as soon as seven signatories have deposited their instruments of ratification.

Nevertheless, pending the entry into force of the Agreement in accordance with the provisions of the preceding paragraph, the signatories agree, in order to avoid any delay in the efficient working of the Council, to apply it provisionally from the date of signature, so far as it is possible to do so under their respective constitutional systems.

In witnwss whereof, the undersigned, being duly authorised thereto, have signed this General Agreement.

Done at Paris, this 25 september 1949, in English and French, both texts being equally authoritative, in a single copy, which shall remain deposited in the archives of the Council of Europe. The Secretary General shall transmit certified copies to each of signatory government.