

1970 No. 1941

**DIPLOMATIC AND INTERNATIONAL IMMUNITIES
AND PRIVILEGES**

**The European Commission and Court of Human Rights
(Immunities and Privileges) Order 1970**

Laid before Parliament in draft

*Made - - - - 17th December 1970
Coming into Operation On dates to be notified
in the London, Edin-
burgh and Belfast
Gazettes*

At the Court at Buckingham Palace, the 17th day of December 1970

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been laid before Parliament in accordance with section 10 of the International Organisations Act 1968(a) (hereinafter referred to as the Act) and has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, by virtue and in exercise of the powers conferred on Her by section 5 of the Act or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PART I

GENERAL

Citation and Entry into Force

1.—(1) This Order may be cited as the European Commission and Court of Human Rights (Immunities and Privileges) Order 1970.

(2) Parts I and II of this Order shall come into operation on the date when the Fourth Protocol to the General Agreement on Privileges and Immunities of the Council of Europe opened for signature in Paris on 16th December 1961(b) enters into force with respect to the United Kingdom, and Part III of this Order shall come into operation on the date when the European Agreement relating to Persons participating in Proceedings of the European Commission and Court of Human Rights opened for signature in London on 6th May 1969(c) enters into force with respect to the United Kingdom. These dates shall be notified in the London, Edinburgh and Belfast Gazettes.

(a) 1968 c. 48.

(b) Cmnd. 1696.

(c) Cmnd. 4447.

Interpretation

2.—(1) The Interpretation Act 1889(a) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(2) In this Order—

“the Convention” means the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4th November 1950(b);

“the Commission” means the European Commission of Human Rights established by Article 19 of the Convention or any Sub-Commission, member or members of the Commission carrying out their duties under the terms of the Convention or rules of the Commission;

“the Committee of Ministers” means the Committee of Ministers of the Council of Europe when exercising its functions under Article 32 of the Convention;

“the Court” means the European Court of Human Rights established by Article 19 of the Convention or any Chamber, judge or judges of the Court carrying out their duties under the terms of the Convention or the rules of the Court;

“judges of the Court” means judges elected under Article 39 or appointed under Article 43 of the Convention;

“persons participating in proceedings” means—

(a) agents of States parties to the European Agreement relating to Persons participating in Proceedings of the European Commission and Court of Human Rights opened for signature in Paris on 6th May 1969, and advisers and advocates assisting them;

(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 referred to in subparagraph (b) of this paragraph;

(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;

(f) any person mentioned in sub-paragraphs (a) to (e) of this paragraph who is called upon to appear before or to submit written statements to the Committee of Ministers;

“tribunal to which this Order applies” means the Commission, the Court or the Committee of Ministers.

(3) For the purposes of this Order any petition, complaint or other communication which, with a view to action to be taken by or before a tribunal to which this Order applies,—

(a) is made to the tribunal, or

(b) is made to a person through whom, in accordance with the constitution, rules or practice of the tribunal, such a communication can be received by the tribunal,

(a) 1889 c. 63.

(b) Cmnd. 8969.

shall be deemed to be proceedings before the tribunal, and the person making any such communication shall be deemed to be a party to such proceedings.

PART II
THE COURT

3. The judges of the Court, the Registrar of the Court and the Deputy Registrar of the Court shall have inviolability in respect of their documents and papers in so far as they relate to the business of the Court.

4. Except in so far as in any particular case any privilege or immunity is waived by the Court sitting in plenary session, judges of the Court, the Registrar of the Court and, when he is acting as the Registrar, the Deputy Registrar of the Court shall enjoy:—

- (a) in respect of words spoken or written and all acts done or omitted to be done by them in their official capacity, the like immunity from suit and legal process as is accorded to the head of a diplomatic mission ;
- (b) while exercising their functions and during journeys made in the exercise of their functions, the like immunity from personal arrest or detention as is accorded to the head of a diplomatic mission ;
- (c) while exercising their functions and during journeys made in the exercise of their functions, the like exemptions and privileges in respect of their personal baggage as in accordance with Article 36 in Schedule 1 to the Diplomatic Privileges Act 1964(a) are accorded to a diplomatic agent ;

provided that the provisions of paragraph (c) of this Article shall not apply to any person who is a citizen of the United Kingdom and Colonies, a British subject by virtue of section 2, 13 or 16 of the British Nationality Act 1948(b) or the British Nationality Act 1965(c), or a British protected person within the meaning of the said Act of 1948.

PART III
PERSONS PARTICIPATING IN PROCEEDINGS

5. Except in so far as in any particular case any immunity is waived by the tribunal, persons participating in proceedings shall have:—

- (a) in respect of words spoken or written and documents or other evidence submitted by them before or to a tribunal to which this Order applies (but not where such words, documents or evidence or any part thereof are communicated by them or on their behalf outside the tribunal) the like immunity from suit and legal process as is accorded to the head of a diplomatic mission ;
- (b) while passing in transit through the United Kingdom during their journeys to and from the proceedings or while in the United Kingdom for the purpose of such proceedings there, immunity from criminal proceedings and, except for the purpose of detaining a person who has escaped from legal custody, from personal arrest in respect of acts or convictions prior to the commencement of the journey, provided that their presence at the proceedings has been authorised in advance by the tribunal and that fifteen days have not elapsed from the date when their presence is no longer required by the tribunal.

W. G. Agnew.

(a) 1964 c. 81.

(b) 1948 c. 56.

(c) 1965 c. 34.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order confers immunities on the European Court of Human Rights, its judges, Registrar and Deputy Registrar, and on persons participating in proceedings before the Court, the European Commission of Human Rights or the Committee of Ministers of the Council of Europe. It also confers customs privileges on the judges, Registrar and Deputy Registrar of the Court. It will enable Her Majesty's Government to give effect—

- (i) to the Fourth Protocol to the General Agreement on Privileges and Immunities of the Council of Europe (Cmnd. 1696) ;
- (ii) to the European Agreement relating to Persons participating in Proceedings of the European Commission and Court of Human Rights (Cmnd. 4447).

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