



European Treaty Series - No. 44

**PROTOCOL No. 2 TO THE CONVENTION
FOR THE PROTECTION OF HUMAN RIGHTS
AND FUNDAMENTAL FREEDOMS,
CONFERRING UPON THE EUROPEAN COURT
OF HUMAN RIGHTS COMPETENCE TO GIVE
ADVISORY OPINIONS**

Strasbourg, 6.V.1963

Protocol No. 2 (ETS No. 44) had been an integral part of the Convention since its entry into force on 21 September 1970. However, all provisions which had been amended or added by this Protocol are replaced by Protocol No. 11 (ETS No. 155), as from the date of its entry into force, on 1 November 1998.

Preamble

The member States of the Council of Europe signatory hereto,

Having regard to the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4th November 1950 (hereinafter referred to as “the Convention”) and, in particular, Article 19 instituting, among other bodies, a European Court of Human Rights (hereinafter referred to as “the Court”);

Considering that it is expedient to confer upon the Court competence to give advisory opinions subject to certain conditions,

Have agreed as follows:

Article 1

- 1 The Court may, at the request of the Committee of Ministers, give advisory opinions on legal questions concerning the interpretation of the Convention and the Protocols thereto.
- 2 Such opinions shall not deal with any question relating to the content or scope of the rights or freedoms defined in Section 1 of the Convention and in the Protocols thereto, or with any other question which the Commission, the Court or the Committee of Ministers might have to consider in consequence of any such proceedings as could be instituted in accordance with the Convention.
- 3 Decisions of the Committee of Ministers to request an advisory opinion of the Court shall require a two-thirds majority vote of the representatives entitled to sit on the Committee.

Article 2

The Court shall decide whether a request for an advisory opinion submitted by the Committee of Ministers is within its consultative competence as defined in Article 1 of this Protocol.

Article 3

- 1 For the consideration of requests for an advisory opinion, the Court shall sit in plenary session.
- 2 Reasons shall be given for advisory opinions of the Court.
- 3 If the advisory opinion does not represent in whole or in part the unanimous opinion of the judges, any judge shall be entitled to deliver a separate opinion.
- 4 Advisory opinions of the Court shall be communicated to the Committee of Ministers.

Article 4

The powers of the Court under Article 55 of the Convention shall extend to the drawing up of such rules and the determination of such procedure as the Court may think necessary for the purposes of this Protocol.

Article 5

- 1 This Protocol shall be open to signature by member States of the Council of Europe, signatories to the Convention, who may become Parties to it by:
 - a signature without reservation in respect of ratification or acceptance;
 - b signature with reservation in respect of ratification or acceptance, followed by ratification or acceptance.

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

- 2 This Protocol shall enter into force as soon as all States Parties to the Convention shall have become Parties to the Protocol, in accordance with the provisions of paragraph 1 of this Article.
- 3 From the date of the entry into force of this Protocol, Articles 1 to 4 shall be considered an integral part of the Convention.
- 4 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 the date of entry into force of this Protocol in accordance with paragraph 2 of this Article.

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

Done at Strasbourg, this 6th day of May 1963, in English and in 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 the signatory States.