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**AN BILLE FÁN gCOINBHINSIÚN EORPACH UM CHEARTA  
AN DUINE, 2001  
EUROPEAN CONVENTION ON HUMAN RIGHTS BILL, 2001**

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*Mar a tionscnaíodh  
As initiated*

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**ARRANGEMENT OF SECTIONS**

**Section**

1. Interpretation.
2. Interpretation of laws.
3. Performance of certain functions in a manner compatible with Convention provisions.
4. Interpretation of Convention provisions.
5. Declaration of incompatibility.
6. Notice of proceedings under Act.
7. Amendment of Human Rights Commission Act, 2000.
8. Expenses.
9. Short title and commencement.

**SCHEDULE 1**

**CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND  
FUNDAMENTAL FREEDOMS**

**SCHEDULE 2**

**PROTOCOL TO THE CONVENTION FOR THE PROTECTION OF HUMAN  
RIGHTS AND FUNDAMENTAL FREEDOMS**

**SCHEDULE 3**

**PROTOCOL NO. 4 TO THE CONVENTION FOR THE PROTECTION OF HUMAN  
RIGHTS AND FUNDAMENTAL FREEDOMS SECURING CERTAIN RIGHTS AND  
FREEDOMS OTHER THAN THOSE ALREADY INCLUDED IN THE CONVENTION  
AND IN THE FIRST PROTOCOL THERETO**

[No. 26 of 2001]

#### SCHEDULE 4

PROTOCOL NO. 6 TO THE CONVENTION FOR THE PROTECTION OF HUMAN  
RIGHTS AND FUNDAMENTAL FREEDOMS CONCERNING THE ABOLITION  
OF THE DEATH PENALTY

#### SCHEDULE 5

PROTOCOL NO. 7 TO THE CONVENTION FOR THE PROTECTION OF HUMAN  
RIGHTS AND FUNDAMENTAL FREEDOMS

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ACT REFERRED TO

Human Rights Commission Act, 2000

2000, No. 9



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# BILL

5 *entitled*

AN ACT TO ENABLE FURTHER EFFECT TO BE GIVEN,  
SUBJECT TO THE CONSTITUTION, TO CERTAIN PRO-  
VISIONS OF THE CONVENTION FOR THE PROTEC-  
TION OF HUMAN RIGHTS AND FUNDAMENTAL FREE-  
DOMS DONE AT ROME ON THE 4th DAY OF  
10 NOVEMBER 1950 AND CERTAIN PROTOCOLS  
THERETO, TO AMEND THE HUMAN RIGHTS COM-  
MISSION ACT, 2000, AND TO PROVIDE FOR RELATED  
MATTERS.

15 BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act unless the context otherwise requires— Interpretation.

“the Convention” means the Convention for the Protection of  
Human Rights and Fundamental Freedoms done at Rome on the 4th  
day of November, 1950 (the text of which, in the English language,  
20 is, for convenience of reference, set out in *Schedule 1* to this Act), as  
amended by Protocol No. 11 done at Strasbourg on the 11th day of  
May, 1994;

“Convention provisions” means, subject to any derogation which the  
State may make pursuant to Article 15 of the Convention, Articles  
25 2 to 14 of the Convention and the following protocols thereto as  
construed in accordance with Articles 16 to 18 of the Convention:

- (a) the Protocol to the Convention done at Paris on the 20th  
day of March, 1952;
- 30 (b) Protocol No. 4 to the Convention securing certain rights and  
freedoms other than those already included in the  
Convention and in the First Protocol thereto done at  
Strasbourg on the 16th day of September, 1963;
- (c) Protocol No. 6 to the Convention concerning the abolition  
of the death penalty done at Strasbourg on the 28th day  
35 of April, 1983;
- (d) Protocol No. 7 to the Convention done at Strasbourg on the  
22nd day of November, 1984;

(the texts of which protocols, in the English language, are, for convenience of reference, set out in *Schedules 2, 3, 4 and 5* respectively, to this Act);

“declaration of incompatibility” means a declaration under *section 5*; 5

“European Court of Human Rights” shall be construed in accordance with *section 4*;

“functions” includes powers and duties and references to the performance of functions includes, as respects powers and duties, references to the exercise of the powers and the performance of the 10 duties;

“Minister” means the Minister for Justice, Equality and Law Reform;

“organ of the State” includes a tribunal or any other body (other than the President or the Oireachtas or either House of the 15 Oireachtas or a Committee of either such House or a Joint Committee of both such Houses or a court) which is established by law or through which any of the legislative, executive or judicial powers of the State are exercised;

“rule of law” includes common law; 20

“statutory provision” means any provision of an Act of the Oireachtas or of any order, regulation, rule, licence, bye-law or other like document made, issued or otherwise created thereunder or any statute, order, regulation, rule, licence, bye-law or other like document made, issued or otherwise created under a statute which continued in force by virtue of Article 50 of the Constitution. 25

(2) In this Act—

- (a) a reference to any enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended or extended by or under any 30 subsequent enactment including this Act,
- (b) a reference to a section is a reference to a section of this Act unless it is indicated that reference to some other enactment is intended,
- (c) a reference to a subsection, paragraph or subparagraph is a 35 reference to a subsection, paragraph or subparagraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended.

Interpretation of laws.

**2.—(1)** In interpreting and applying any statutory provision or rule of law, a court shall, in so far as is possible, subject to the rules of law relating to such interpretation and application, do so in a manner compatible with the State’s obligations under the Convention provisions. 40

(2) This section applies to any statutory provision or rule of law 45 in force immediately before the passing of this Act or any such provision coming into force thereafter.

3.—(1) Subject to any statutory provision (other than this Act) or rule of law, every organ of the State shall perform its functions in a manner compatible with the State's obligations under the Convention provisions.

Performance of certain functions in a manner compatible with Convention provisions.

5 (2) A person who has suffered injury, loss or damage as a result of a contravention of *subsection (1)*, may, if no other remedy in damages is available, institute proceedings to recover damages in respect of the contravention in the High Court (or, subject to *subsection (3)*, in the Circuit Court) and the Court may award to the person such  
10 damages (if any) as it considers appropriate.

(3) The damages recoverable under this section in the Circuit Court shall not exceed the amount standing prescribed, for the time being by law, as the limit of that Court's jurisdiction in tort.

15 (4) Nothing in this section shall be construed as creating a criminal offence.

(5) (a) Proceedings under this section shall not be brought in respect of any contravention of *subsection (1)* which arose more than 1 year before the commencement of the proceedings.

20 (b) The period referred to in *paragraph (a)* may be extended by order made by the Court if it considers it appropriate to do so in the interests of justice.

4.—Judicial notice shall be taken of the Convention provisions and of—

Interpretation of Convention provisions.

25 (a) any declaration, decision, advisory opinion or judgment of the European Court of Human Rights established under the Convention on any question in respect of which that Court has jurisdiction,

30 (b) any decision or opinion of the European Commission of Human Rights so established on any question in respect of which it had jurisdiction,

(c) any decision of the Committee of Ministers established under the Statute of the Council of Europe on any question in respect of which it has jurisdiction,

35 and a court shall, when applying and interpreting the Convention provisions, take due account of the principles laid down by those declarations, decisions, advisory opinions and judgments.

5.—(1) In any proceedings, the High Court, or the Supreme Court when exercising its appellate jurisdiction, may, having regard to the provisions of *section 2*, on application to it in that behalf by a party, or of its own motion, and where no other legal remedy is adequate and available, make a declaration (referred to in this Act as "a declaration of incompatibility") that a statutory provision or rule of law is incompatible with the State's obligations under the Convention  
45 provisions.

Declaration of incompatibility.

(2) A declaration of incompatibility—

(a) shall not affect the validity, continuing operation or enforcement of the statutory provision or rule of law in respect of which it is made, and

(b) shall not prevent a party to the proceedings concerned from making submissions or representations in relation to matters to which the declaration relates in any proceedings before the European Court of Human Rights. 5

(3) The Taoiseach shall cause a copy of any order containing a declaration of incompatibility to be laid before each House of the Oireachtas within the next 21 days on which that House has sat after the making of the order. 10

(4) Where—

(a) a declaration of incompatibility is made,

(b) a party to the proceedings concerned makes an application in writing to the Attorney General for compensation in respect of an injury or loss or damage suffered by him or her as a result of the incompatibility concerned, and 15

(c) the Government, in their discretion, consider that it may be appropriate to make an *ex gratia* payment of compensation to that party (“a payment”), 20

the Government may request an adviser appointed by them to advise them as to the amount of such compensation (if any) and may, in their discretion, make a payment of the amount aforesaid or of such other amount as they consider appropriate in the circumstances. 25

(5) In advising the Government on the amount of compensation for the purposes of *subsection (4)*, an adviser shall take appropriate account of the principles and practice applied by the European Court of Human Rights in relation to affording just satisfaction to an injured party under Article 41 of the Convention. 30

Notice of  
proceedings under  
Act.

6.—(1) Before a court decides whether to make a declaration of incompatibility the Attorney General shall be given notice of the proceedings in accordance with rules of court.

(2) The Attorney General shall thereupon be entitled to appear in the proceedings and to become a party thereto as regards the issue of the declaration of incompatibility. 35

Amendment of  
Human Rights  
Commission Act,  
2000.

7.—The Human Rights Commission Act, 2000 is hereby amended—

(a) in section 5—

(i) in subsection (1), by the substitution of “14” for “eight”, and 40

(ii) in subsection (2), by the substitution of “7” for “4” in each place where it occurs,

and

(b) in section 11, by the substitution in subsection (3)(b) for “such force;” of: 45

“such force, and

(c) the rights, liberties and freedoms conferred on, or guaranteed to, persons by the Convention provisions within the meaning of the *European Convention on Human Rights Act, 2001*;"

5     **8.**—The expenses incurred by the Minister for Finance in the Expenses.  
administration of this Act shall be paid out of moneys provided by  
the Oireachtas and the expenses incurred by any other Minister of  
the Government in the administration of this Act shall, to such  
extent as may be sanctioned by the Minister for Finance, be paid out  
10 of moneys provided by the Oireachtas.

9.—(1) This Act may be cited as the European Convention on Short title and  
Human Rights Act, 2001. commencement.

(2) This Act (other than *paragraph (a) of section 7*) shall come  
into operation on such day not later than 6 months after its passing  
15 as the Minister may appoint by order.

CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND  
FUNDAMENTAL FREEDOMS

Rome, 4.XI.1950

THE GOVERNMENTS SIGNATORY HERETO, being members 5  
of the Council of Europe,

Considering the Universal Declaration of Human Rights proclaimed  
by the General Assembly of the United Nations on 10th December  
1948;

Considering that this Declaration aims at securing the universal and 10  
effective recognition and observance of the Rights therein declared;

Considering that the aim of the Council of Europe is the achieve-  
ment of greater unity between its members and that one of the  
methods by which that aim is to be pursued is the maintenance and  
further realisation of human rights and fundamental freedoms; 15

Reaffirming their profound belief in those fundamental freedoms  
which are the foundation of justice and peace in the world and are  
best maintained on the one hand by an effective political democracy  
and on the other by a common understanding and observance of the  
human rights upon which they depend; 20

Being resolved, as the governments of European countries which are  
like-minded and have a common heritage of political traditions, ide-  
als, freedom and the rule of law, to take the first steps for the collec-  
tive enforcement of certain of the rights stated in the Universal Dec-  
laration, 25

Have agreed as follows:

Article 1<sup>1</sup>

Obligation to respect human rights

The High Contracting Parties shall secure to everyone within their  
jurisdiction the rights and freedoms defined in Section I of this 30  
Convention.

Section I<sup>1</sup>

Rights and freedoms

Article 2<sup>1</sup>

Right to life 35

- 1 Everyone's right to life shall be protected by law. No one shall  
be deprived of his life intentionally save in the execution of a  
sentence of a court following his conviction of a crime for which  
this penalty is provided by law.
- 2 Deprivation of life shall not be regarded as inflicted in contra- 40  
vention of this article when it results from the use of force which  
is no more than absolutely necessary:

<sup>1</sup> Heading added according to the provisions of Protocol No. 11 (ETS No. 155).



- a in defence of any person from unlawful violence;
- b in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- c in action lawfully taken for the purpose of quelling a riot or insurrection.

### Article 3<sup>1</sup>

#### Prohibition of torture

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

### Article 4<sup>1</sup>

#### Prohibition of slavery and forced labour

- 1 No one shall be held in slavery or servitude.
- 2 No one shall be required to perform forced or compulsory labour.
- 3 For the purpose of this article the term “forced or compulsory labour” shall not include:
  - a any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;
  - b any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;
  - c any service exacted in case of an emergency or calamity threatening the life or well-being of the community;
  - d any work or service which forms part of normal civic obligations.

### Article 5<sup>1</sup>

#### Right to liberty and security

- 1 Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
  - a the lawful detention of a person after conviction by a competent court;
  - b the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
  - c the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when

<sup>1</sup> Heading added according to the provisions of Protocol No. 11 (ETS No. 155).

- it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
- d the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority; 5
  - e the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;
  - f the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person 10 against whom action is being taken with a view to deportation or extradition.
- 2 Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him. 15
  - 3 Everyone arrested or detained in accordance with the provisions of paragraph 1.c of this article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial. 20
  - 4 Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful. 25
  - 5 Everyone who has been the victim of arrest or detention in contravention of the provisions of this article shall have an enforceable right to compensation.

#### Article 6<sup>1</sup>

##### Right to a fair trial 30

- 1 In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from 35 all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice 40 the interests of justice.
- 2 Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
- 3 Everyone charged with a criminal offence has the following minimum rights: 45

<sup>1</sup> Heading added according to the provisions of Protocol No. 11 (ETS No. 155).

- a to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
- 5 b to have adequate time and facilities for the preparation of his defence;
- c to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
- 10 d to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
- e to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

15 Article 7<sup>1</sup>

No punishment without law

- 1 No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that
- 20 was applicable at the time the criminal offence was committed.
- 2 This article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of
- 25 law recognised by civilised nations.

Article 8<sup>1</sup>

Right to respect for private and family life

- 1 Everyone has the right to respect for his private and family life, his home and his correspondence.
- 30 2 There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of
- 35 health or morals, or for the protection of the rights and freedoms of others.

Article 9<sup>1</sup>

Freedom of thought, conscience and religion

- 1 Everyone has the right to freedom of thought, conscience and
- 40 religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

<sup>1</sup> Heading added according to the provisions of Protocol No. 11 (ETS No. 155).

- 2 Freedom to manifest one's religion or beliefs shall be subject only  
to such limitations as are prescribed by law and are necessary  
in a democratic society in the interests of public safety, for the  
protection of public order, health or morals, or for the protection  
of the rights and freedoms of others. 5

#### Article 10<sup>1</sup>

##### Freedom of expression

- 1 Everyone has the right to freedom of expression. This right shall  
include freedom to hold opinions and to receive and impart infor- 10  
mation and ideas without interference by public authority and  
regardless of frontiers. This article shall not prevent States from  
requiring the licensing of broadcasting, television or cinema  
enterprises.
- 2 The exercise of these freedoms, since it carries with it duties and 15  
responsibilities, may be subject to such formalities, conditions,  
restrictions or penalties as are prescribed by law and are neces-  
sary in a democratic society, in the interests of national security,  
territorial integrity or public safety, for the prevention of disorder  
or crime, for the protection of health or morals, for the protection  
of the reputation or rights of others, for preventing the disclosure 20  
of information received in confidence, or for maintaining the  
authority and impartiality of the judiciary.

#### Article 11<sup>1</sup>

##### Freedom of assembly and association

- 1 Everyone has the right to freedom of peaceful assembly and to 25  
freedom of association with others, including the right to form  
and to join trade unions for the protection of his interests.
- 2 No restrictions shall be placed on the exercise of these rights  
other than such as are prescribed by law and are necessary in a 30  
democratic society in the interests of national security or public  
safety, for the prevention of disorder or crime, for the protection  
of health or morals or for the protection of the rights and free-  
doms of others. This article shall not prevent the imposition of  
lawful restrictions on the exercise of these rights by members of 35  
the armed forces, of the police or of the administration of the  
State.

#### Article 12<sup>1</sup>

##### Right to marry

Men and women of marriageable age have the right to marry and to  
found a family, according to the national laws governing the exercise 40  
of this right.

#### Article 13<sup>1</sup>

##### Right to an effective remedy

Everyone whose rights and freedoms as set forth in this Convention  
are violated shall have an effective remedy before a national 45  
authority notwithstanding that the violation has been committed by  
persons acting in an official capacity.

<sup>1</sup> Heading added according to the provisions of Protocol No. 11 (ETS No. 155).

## Article 14<sup>1</sup>

### Prohibition of discrimination

5 The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

## Article 15<sup>1</sup>

### Derogation in time of emergency

10 1 In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations  
15 under international law.

2 No derogation from Article 2, except in respect of deaths resulting from lawful acts of war, or from Articles 3, 4 (paragraph 1) and 7 shall be made under this provision.

3 Any High Contracting Party availing itself of this right of derogation shall keep the Secretary General of the Council of Europe fully informed of the measures which it has taken and the reasons therefor. It shall also inform the Secretary General of the Council of Europe when such measures have ceased to operate and the provisions of the Convention are again being fully executed.  
20

## 25 Article 16<sup>1</sup>

### Restrictions on political activity of aliens

Nothing in Articles 10, 11 and 14 shall be regarded as preventing the High Contracting Parties from imposing restrictions on the political activity of aliens.

## 30 Article 17<sup>1</sup>

### Prohibition of abuse of rights

Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms  
35 set forth herein or at their limitation to a greater extent than is provided for in the Convention.

## Article 18<sup>1</sup>

### Limitation on use of restrictions on rights

40 The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed.

<sup>1</sup> Heading added according to the provisions of Protocol No. 11 (ETS No. 155).

## Section II<sup>1</sup>

### European Court of Human Rights

#### Article 19

##### Establishment of the Court

To ensure the observance of the engagements undertaken by the High Contracting Parties in the Convention and the Protocols thereto, there shall be set up a European Court of Human Rights, hereinafter referred to as “the Court”. It shall function on a permanent basis. 5

#### Article 20 10

##### Number of judges

The Court shall consist of a number of judges equal to that of the High Contracting Parties.

#### Article 21

##### Criteria for office 15

- 1 The judges shall be of high moral character and must either possess the qualifications required for appointment to high judicial office or be jurisconsults of recognised competence.
- 2 The judges shall sit on the Court in their individual capacity.
- 3 During their term of office the judges shall not engage in any activity which is incompatible with their independence, impartiality or with the demands of a full-time office; all questions arising from the application of this paragraph shall be decided by the Court. 20

#### Article 22 25

##### Election of judges

- 1 The judges shall be elected by the Parliamentary Assembly with respect to each High Contracting Party by a majority of votes cast from a list of three candidates nominated by the High Contracting Party. 30
- 2 The same procedure shall be followed to complete the Court in the event of the accession of new High Contracting Parties and in filling casual vacancies.

#### Article 23

##### Terms of office 35

- 1 The judges shall be elected for a period of six years. They may be re-elected. However, the terms of office of one-half of the judges elected at the first election shall expire at the end of three years.

<sup>1</sup> Heading added according to the provisions of Protocol No. 11 (ETS No. 155).

- 2 The judges whose terms of office are to expire at the end of the initial period of three years shall be chosen by lot by the Secretary General of the Council of Europe immediately after their election.
- 5 3 In order to ensure that, as far as possible, the terms of office of one-half of the judges are renewed every three years, the Parliamentary Assembly may decide, before proceeding to any subsequent election, that the term or terms of office of one or more judges to be elected shall be for a period other than six years but not more than nine and not less than three years.
- 10 4 In cases where more than one term of office is involved and where the Parliamentary Assembly applies the preceding paragraph, the allocation of the terms of office shall be effected by a drawing of lots by the Secretary General of the Council of Europe immediately after the election.
- 15 5 A judge elected to replace a judge whose term of office has not expired shall hold office for the remainder of his predecessor's term.
- 6 The terms of office of judges shall expire when they reach the age of 70.
- 20 7 The judges shall hold office until replaced. They shall, however, continue to deal with such cases as they already have under consideration.

#### Article 24

#### 25 Dismissal

No judge may be dismissed from his office unless the other judges decide by a majority of two-thirds that he has ceased to fulfil the required conditions.

#### Article 25

#### 30 Registry and legal secretaries

The Court shall have a registry, the functions and organisation of which shall be laid down in the rules of the Court. The Court shall be assisted by legal secretaries.

#### Article 26

#### 35 Plenary Court

The plenary Court shall

- a elect its President and one or two Vice-Presidents for a period of three years; they may be re-elected;
- b set up Chambers, constituted for a fixed period of time;
- 40 c elect the Presidents of the Chambers of the Court; they may be re-elected;
- d adopt the rules of the Court, and
- e elect the Registrar and one or more Deputy Registrars.

## Article 27

### Committees, Chambers and Grand Chamber

- 1 To consider cases brought before it, the Court shall sit in committees of three judges, in Chambers of seven judges and in a Grand Chamber of seventeen judges. The Court's Chambers shall set up committees for a fixed period of time. 5
- 2 There shall sit as an *ex officio* member of the Chamber and the Grand Chamber the judge elected in respect of the State Party concerned or, if there is none or if he is unable to sit, a person of its choice who shall sit in the capacity of judge. 10
- 3 The Grand Chamber shall also include the President of the Court, the Vice-Presidents, the Presidents of the Chambers and other judges chosen in accordance with the rules of the Court. When a case is referred to the Grand Chamber under Article 43, no judge from the Chamber which rendered the judgment shall sit in the Grand Chamber, with the exception of the President of the Chamber and the judge who sat in respect of the State Party concerned. 15

## Article 28

### Declarations of inadmissibility by committees 20

A committee may, by a unanimous vote, declare inadmissible or strike out of its list of cases an application submitted under Article 34 where such a decision can be taken without further examination. The decision shall be final.

## Article 29 25

### Decisions by Chambers on admissibility and merits

- 1 If no decision is taken under Article 28, a Chamber shall decide on the admissibility and merits of individual applications submitted under Article 34.
- 2 A Chamber shall decide on the admissibility and merits of inter-State applications submitted under Article 33. 30
- 3 The decision on admissibility shall be taken separately unless the Court, in exceptional cases, decides otherwise.

## Article 30

### Relinquishment of jurisdiction to the Grand Chamber 35

Where a case pending before a Chamber raises a serious question affecting the interpretation of the Convention or the protocols thereto, or where the resolution of a question before the Chamber might have a result inconsistent with a judgment previously delivered by the Court, the Chamber may, at any time before it has rendered its judgment, relinquish jurisdiction in favour of the Grand Chamber, unless one of the parties to the case objects. 40



## Article 31

### Powers of the Grand Chamber

The Grand Chamber shall

- 5       a   determine applications submitted either under Article 33 or Article 34 when a Chamber has relinquished jurisdiction under Article 30 or when the case has been referred to it under Article 43; and
- b   consider requests for advisory opinions submitted under Article 47.

## 10                                   Article 32

### Jurisdiction of the Court

- 1   The jurisdiction of the Court shall extend to all matters concerning the interpretation and application of the Convention and the protocols thereto which are referred to it as provided in Articles 15   33, 34 and 47.
- 2   In the event of dispute as to whether the Court has jurisdiction, the Court shall decide.

## Article 33

### Inter-State cases

- 20 Any High Contracting Party may refer to the Court any alleged breach of the provisions of the Convention and the protocols thereto by another High Contracting Party.

## Article 34

### Individual applications

- 25 The Court may receive applications from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective 30 exercise of this right.

## Article 35

### Admissibility criteria

- 1   The Court may only deal with the matter after all domestic remedies have been exhausted, according to the generally recognised 35 rules of international law, and within a period of six months from the date on which the final decision was taken.
- 2   The Court shall not deal with any application submitted under Article 34 that
  - a   is anonymous; or

b is substantially the same as a matter that has already been examined by the Court or has already been submitted to another procedure of international investigation or settlement and contains no relevant new information.

- 3 The Court shall declare inadmissible any individual application submitted under Article 34 which it considers incompatible with the provisions of the Convention or the protocols thereto, manifestly ill-founded, or an abuse of the right of application. 5
- 4 The Court shall reject any application which it considers inadmissible under this Article. It may do so at any stage of the proceedings. 10

#### Article 36

##### Third party intervention

- 1 In all cases before a Chamber of the Grand Chamber, a High Contracting Party one of whose nationals is an applicant shall have the right to submit written comments and to take part in hearings. 15
- 2 The President of the Court may, in the interest of the proper administration of justice, invite any High Contracting Party which is not a party to the proceedings or any person concerned who is not the applicant to submit written comments or take part in hearings. 20

#### Article 37

##### Striking out applications

- 1 The Court may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that 25
- a the applicant does not intend to pursue his application; or
  - b the matter has been resolved; or
  - c for any other reason established by the Court, it is no longer justified to continue the examination of the application. 30

However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the protocols thereto so requires.

- 2 The Court may decide to restore an application to its list of cases if it considers that the circumstances justify such a course. 35

#### Article 38

##### Examination of the case and friendly settlement proceedings

- 1 If the Court declares the application admissible, it shall
- a pursue the examination of the case, together with the representatives of the parties, and if need be, undertake an investigation, for the effective conduct of which the States concerned shall furnish all necessary facilities; 40

- b place itself at the disposal of the parties concerned with a view to securing a friendly settlement of the matter on the basis of respect for human rights as defined in the Convention and the protocols thereto.

5 2 Proceedings conducted under paragraph 1.b shall be confidential.

## Article 39

### Finding of a friendly settlement

If a friendly settlement is effected, the Court shall strike the case out of its list by means of a decision which shall be confined to a brief  
10 statement of the facts and of the solution reached.

## Article 40

### Public hearings and access to documents

- 1 Hearings shall be in public unless the Court in exceptional circumstances decides otherwise.
- 15 2 Documents deposited with the Registrar shall be accessible to the public unless the President of the Court decides otherwise.

## Article 41

### Just satisfaction

If the Court finds that there has been a violation of the Convention  
20 or the protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.

## Article 42

### 25 Judgments of Chambers

Judgments of Chambers shall become final in accordance with the provisions of Article 44, paragraph 2.

## Article 43

### Referral to the Grand Chamber

- 30 1 Within a period of three months from the date of the judgment of the Chamber, any party to the case may, in exceptional cases, request that the case be referred to the Grand Chamber.
- 2 A panel of five judges of the Grand Chamber shall accept the request if the case raises a serious question affecting the interpretation or application of the Convention or the protocols thereto,  
35 or a serious issue of general importance.
- 3 If the panel accepts the request, the Grand Chamber shall decide the case by means of a judgment.

## Article 44

### Final judgments

- 1 The judgment of the Grand Chamber shall be final.
- 2 The judgment of a Chamber shall become final
  - a when the parties declare that they will not request that the case be referred to the Grand Chamber; or 5
  - b three months after the date of the judgment, if reference of the case to the Grand Chamber has not been requested; or
  - c when the panel of the Grand Chamber rejects the request to refer under Article 43. 10
- 3 The final judgment shall be published.

## Article 45

### Reasons for judgments and decisions

- 1 Reasons shall be given for judgments as well as for decisions declaring applications admissible or inadmissible. 15
- 2 If a judgment does not represent, in whole or in part, the unanimous opinion of the judges, any judge shall be entitled to deliver a separate opinion.

## Article 46

### Binding force and execution of judgments 20

- 1 The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties.
- 2 The final judgment of the Court shall be transmitted to the Committee of Ministers, which shall supervise its execution.

## Article 47 25

### Advisory opinions

- 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 I of the Convention and the protocols thereto, or with any other question which 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. 30 35
- 3 Decisions of the Committee of Ministers to request an advisory opinion of the Court shall require a majority vote of the representatives entitled to sit on the Committee.

## Article 48

### Advisory jurisdiction of the Court

5 The Court shall decide whether a request for an advisory opinion submitted by the Committee of Ministers is within its competence as defined in Article 47.

## Article 49

### Reasons for advisory opinions

- 1 Reasons shall be given for advisory opinions of the Court.
- 10 2 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.
- 3 Advisory opinions of the Court shall be communicated to the Committee of Ministers.

## Article 50

### 15 Expenditure on the Court

The expenditure on the Court shall be borne by the Council of Europe.

## Article 51

### Privileges and immunities of judges

- 20 The judges shall be entitled, during the exercise 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.

## Section III<sup>1, 2</sup>

### 25 Miscellaneous provisions

## Article 52<sup>1</sup>

### Inquiries by the Secretary General

- 30 On receipt of a request from the Secretary General of the Council of Europe any High Contracting Party shall furnish an explanation of the manner in which its internal law ensures the effective implementation of any of the provisions of the Convention.

## Article 53<sup>1</sup>

### Safeguard for existing human rights

- 35 Nothing in this Convention shall be construed as limiting or derogating from any of the human rights and fundamental freedoms which may be ensured under the laws of any High Contracting Party or under any other agreement to which it is a Party.

<sup>1</sup> Heading added according to the provisions of Protocol No. 11 (ETS No. 155).

<sup>2</sup> The articles of this section are renumbered according to the Provisions of Protocol No. 11 (ETS No. 155).

## Article 54<sup>1</sup>

### Powers of the Committee of Ministers

Nothing in this Convention shall prejudice the powers conferred on the Committee of Ministers by the Statute of the Council of Europe.

## Article 55<sup>1</sup>

5

### Exclusion of other means of dispute settlement

The High Contracting Parties agree that, except by special agreement, they will not avail themselves of treaties, conventions or declarations in force between them for the purpose of submitting, by way of petition, a dispute arising out of the interpretation or application of this Convention to a means of settlement other than those provided for in this Convention. 10

## Article 56<sup>1</sup>

### Territorial application

- 1 Any State may at the time of its ratification or at any time thereafter declare by notification addressed to the Secretary General of the Council of Europe that the present Convention shall, subject to paragraph 4 of this Article, extend to all or any of the territories for whose international relations it is responsible. 15
- 2 The Convention 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. 20
- 3 The provisions of this Convention shall be applied in such territories with due regard, however, to local requirements. 25
- 4 Any State which has made a declaration in accordance with paragraph 1 of this article may at any time thereafter declare on behalf of one or more of the territories to which the declaration relates that it accepts the competence of the Court to receive applications from individuals, non-governmental organisations or groups of individuals as provided by Article 34 of the Convention. 30

## Article 57<sup>1</sup>

### Reservations

- 1 Any State may, when signing this Convention or when depositing its instrument of ratification, make a reservation in respect of any particular provision of the Convention to the extent that any law then in force in its territory is not in conformity with the provision. Reservations of a general character shall not be permitted under this article. 35
- 2 Any reservation made under this article shall contain a brief statement of the law concerned. 40

<sup>1</sup> Heading added according to the provisions of Protocol No. 11 (ETS No. 155).

## Article 58<sup>1</sup>

### Denunciation

- 1 A High Contracting Party may denounce the present Convention  
5 only after the expiry of five years from the date on which it  
became a party to it and after six months' notice contained in a  
notification addressed to the Secretary General of the Council of  
Europe, who shall inform the other High Contracting Parties.
- 2 Such a denunciation shall not have the effect of releasing the  
10 High Contracting Party concerned from its obligations under this  
Convention in respect of any act which, being capable of consti-  
tuting a violation of such obligations, may have been performed  
by it before the date at which the denunciation became effective.
- 3 Any High Contracting Party which shall cease to be a member of  
15 the Council of Europe shall cease to be a Party to this Convention  
under the same conditions.
- 4<sup>2</sup> The Convention may be denounced in accordance with the pro-  
visions of the preceding paragraphs in respect of any territory to  
which it has been declared to extend under the terms of Article  
56.

## 20 Article 59<sup>1</sup>

### Signature and ratification

- 1 This Convention shall be open to the signature of the members  
of the Council of Europe. It shall be ratified. Ratifications shall  
25 be deposited with the Secretary General of the Council of  
Europe.
- 2 The present Convention shall come into force after the deposit  
of ten instruments of ratification.
- 3 As regards any signatory ratifying subsequently, the Convention  
30 shall come into force at the date of the deposit of its instrument  
of ratification.
- 4 The Secretary General of the Council of Europe shall notify all  
the members of the Council of Europe of the entry into force of  
the Convention, the names of the High Contracting Parties who  
35 have ratified it, and the deposit of all instruments of ratification  
which may be effected subsequently.

Done at Rome this 4th day of November 1950, in English and  
French, both texts being equally authentic, 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  
40 the signatories.

<sup>1</sup> Heading added according to the provisions of Protocol No. 11 (ETS No. 155).

<sup>2</sup> Text amended according to the provisions of Protocol No. 11 (ETS No. 155).

PROTOCOL TO THE CONVENTION FOR THE PROTECTION OF HUMAN  
RIGHTS AND FUNDAMENTAL FREEDOMS<sup>1</sup>

Paris, 20.III.1952

THE GOVERNMENTS SIGNATORY HERETO, being members 5  
of the Council of Europe,

Being resolved to take steps to ensure the collective enforcement of  
certain rights and freedoms other than those already included in  
Section I of the Convention for the Protection of Human Rights  
and Fundamental Freedoms signed at Rome on 4 November 1950 10  
(hereinafter referred to as “the Convention”),

Have agreed as follows:

Article 1

Protection of property

Every natural or legal person is entitled to the peaceful enjoyment 15  
of his possessions. No one shall be deprived of his possessions except  
in the public interest and subject to the conditions provided for by  
law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the  
right of a State to enforce such laws as it deems necessary to control 20  
the use of property in accordance with the general interest or to  
secure the payment of taxes or other contributions or penalties.

Article 2

Right to education

No person shall be denied the right to education. In the exercise of 25  
any functions which it assumes in relation to education and to teach-  
ing, the State shall respect the right of parents to ensure such edu-  
cation and teaching in conformity with their own religious and philo-  
sophical convictions.

Article 3

30

Right to free elections

The High Contracting Parties undertake to hold free elections at  
reasonable intervals by secret ballot, under conditions which will  
ensure the free expression of the opinion of the people in the choice  
of the legislature. 35

<sup>1</sup> Headings of articles added and text amended according to the provisions of  
Protocol No. 11 (ETS No. 155).



## Article 4<sup>1</sup>

### Territorial application

5 Any High Contracting Party may at the time of signature or ratification or at any time thereafter communicate to the Secretary General of the Council of Europe a declaration stating the extent to which it undertakes that the provisions of the present Protocol shall apply to such of the territories for the international relations of which it is responsible as are named therein.

10 Any High Contracting Party which has communicated a declaration in virtue of the preceding paragraph may from time to time communicate a further declaration modifying the terms of any former declaration or terminating the application of the provisions of this Protocol in respect of any territory.

15 A declaration made in accordance with this article shall be deemed to have been made in accordance with paragraph 1 of Article 56 of the Convention.

## Article 5

### Relationship to the Convention

20 As between the High Contracting Parties the provisions of Articles 1, 2, 3 and 4 of this Protocol shall be regarded as additional articles to the Convention and all the provisions of the Convention shall apply accordingly.

## Article 6

### Signature and ratification

25 This Protocol shall be open for signature by the members of the Council of Europe, who are the signatories of the Convention; it shall be ratified at the same time as or after the ratification of the Convention. It shall enter into force after the deposit of ten instruments of ratification. As regards any signatory ratifying subsequently, the Protocol shall enter into force at the date of the deposit of its instrument of ratification.

The instruments of ratification shall be deposited with the Secretary General of the Council of Europe, who will notify all members of the names of those who have ratified.

35 Done at Paris on the 20th day of March 1952, in English and French, both texts being equally authentic, 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 governments.

<sup>1</sup> Text amended according to the provisions of Protocol No. 11 (ETS No. 155).

PROTOCOL NO. 4 TO THE CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS SECURING CERTAIN RIGHTS AND FREEDOMS OTHER THAN THOSE ALREADY INCLUDED IN THE CONVENTION AND IN THE FIRST PROTOCOL THERETO<sup>1</sup>

5

Strasbourg, 16.IX.1963

THE GOVERNMENTS SIGNATORY HERETO, being members of the Council of Europe,

Being resolved to take steps to ensure the collective enforcement of certain rights and freedoms other than those already included in Section 1 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 Articles 1 to 3 of the First Protocol to the Convention signed at Paris on 20th March 1952,

10

15

Have agreed as follows:

#### Article 1

##### Prohibition of imprisonment for debt

No one shall be deprived of his liberty merely on the ground of inability to fulfil a contractual obligation.

20

#### Article 2

##### Freedom of movement

- 1 Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence. 25
- 2 Everyone shall be free to leave any country, including his own.
- 3 No restrictions shall be placed on the exercise of these rights other than such as are in accordance with law and are 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. 30
- 4 The rights set forth in paragraph 1 may also be subject, in particular areas, to restrictions imposed in accordance with law and justified by the public interest in a democratic society. 35

#### Article 3

##### Prohibition of expulsion of nationals

- 1 No one shall be expelled, by means either of an individual or of a collective measure, from the territory of the State of which he is a national. 40
- 2 No one shall be deprived of the right to enter the territory of the state of which he is a national.

<sup>1</sup> Headings of articles added and text amended according to the provisions of Protocol No. 11 (ETS No. 155).

## Article 4

### Prohibition of collective expulsion of aliens

Collective expulsion of aliens is prohibited.

## Article 5

### 5 Territorial application

- 1 Any High Contracting Party may, at the time of signature or  
ratification of this Protocol, or at any time thereafter, communi-  
cate to the Secretary General of the Council of Europe a declar-  
ation stating the extent to which it undertakes that the provisions  
10 of this Protocol shall apply to such of the territories for the inter-  
national relations of which it is responsible as are named therein.
- 2 Any High Contracting Party which has communicated a declar-  
ation in virtue of the preceding paragraph may, from time to time,  
communicate a further declaration modifying the terms of any  
15 former declaration or terminating the application of the pro-  
visions of this Protocol in respect of any territory.
- 3<sup>1</sup> A declaration made in accordance with this article shall be  
deemed to have been made in accordance with paragraph 1 of  
Article 56 of the Convention.
- 20 4 The territory of any State to which this Protocol applies by virtue  
of ratification or acceptance by that State, and each territory to  
which this Protocol is applied by virtue of a declaration by that  
State under this article, shall be treated as separate territories for  
the purpose of the references in Articles 2 and 3 to the territory  
25 of a State.
- 5<sup>2</sup> Any State which has made a declaration in accordance with para-  
graph 1 or 2 of this Article may at any time thereafter declare on  
behalf of one or more of the territories to which the declaration  
relates that it accepts the competence of the Court to receive  
30 applications from individuals, non-governmental organisations or  
groups of individuals as provided in Article 34 of the Convention  
in respect of all or any of Articles 1 to 4 of this Protocol.

## Article 6<sup>2</sup>

### Relationship to the Convention

- 35 As between the High Contracting Parties the provisions of Articles  
1 to 5 of this Protocol shall be regarded as additional articles to  
the Convention, and all the provisions of the Convention shall apply  
accordingly.

## Article 7

### 40 Signature and ratification

- 1 This Protocol shall be open for signature by the members of the  
Council of Europe who are the signatories of the Convention; it  
shall be ratified at the same time as or after the ratification of  
the Convention. It shall enter into force after the deposit of five  
45 instruments of ratification. As regards any signatory ratifying sub-  
sequently, the Protocol shall enter into force at the date of the  
deposit of its instrument of ratification.

<sup>1</sup> Text amended according to the provisions of Protocol No. 11 (ETS No. 155).

<sup>2</sup> Text added according to the provisions of Protocol No. 11 (ETS No. 155).

2 The instruments of ratification shall be deposited with the Secretary General of the Council of Europe, who will notify all members of the names of those who have ratified.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol. 5

Done at Strasbourg, this 16th day of September 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. 10

5                                  Strasbourg, 28.IV.1983

10 Considering that the evolution that has occurred in several member States of the Council of Europe expresses a general tendency in favour of abolition of the death penalty;

Have agreed as follows:

## 15 Abolition of the death penalty

## Article 2

20 A State may make provision in its law for the death penalty in  
respect of acts committed in time of war or of imminent threat of  
war; such penalty shall be applied only in the instances laid down in  
the law and in accordance with its provisions. The State shall  
communicate to the Secretary General of the Council of Europe the  
25 relevant provisions of that law.

## Prohibition of derogations

30 Article 4<sup>2</sup>

No reservation may be made under Article 57 of the Convention in respect of the provisions of this Protocol.

<sup>1</sup> Headings of articles added and text amended according to the provisions of Protocol No. 11 (ETS No. 155).

<sup>2</sup>Text amended according to the provisions of Protocol No. 11 (ETS No. 155).

## Article 5

### Territorial application

- 1 Any State may at the time of signature or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Protocol shall apply. 5
- 2 Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory specified in the declaration. In respect of such territory the Protocol shall enter into force on the first day of the month following the date of receipt 10 of such declaration by the Secretary General.
- 3 Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month 15 following the date of receipt of such notification by the Secretary General.

## Article 6

### Relationship to the Convention

As between the States Parties the provisions of Articles 1 and 5 of 20 this Protocol shall be regarded as additional articles to the Convention and all the provisions of the Convention shall apply accordingly.

## Article 7

### Signature and ratification

The Protocol shall be open for signature by the member States of 25 the Council of Europe, signatories to the Convention. It shall be subject to ratification, acceptance or approval. A member State of the Council of Europe may not ratify, accept or approve this Protocol unless it has, simultaneously or previously, ratified the Convention. Instruments of ratification, acceptance or approval shall be 30 deposited with the Secretary General of the Council of Europe.

## Article 8

### Entry into force

- 1 This Protocol shall enter into force on the first day of the month following the date on which five member States of the Council of 35 Europe have expressed their consent to be bound by the Protocol in accordance with the provisions of Article 7.
- 2 In respect of any member State which subsequently expresses its consent to be bound by it, the Protocol shall enter into force on the first day of the month following the date of the deposit of the 40 instrument of ratification, acceptance or approval.

## Article 9

### Depositary functions

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

- 5       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 5 and 8;
- 10      d   any other act, notification or communication relating to this Protocol.

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

- 15   Done at Strasbourg, this 28th day of April 1983, in English and in 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.

PROTOCOL NO. 7 TO THE CONVENTION FOR THE PROTECTION OF HUMAN  
RIGHTS AND FUNDAMENTAL FREEDOMS<sup>1</sup>

Strasbourg, 22.XI.1984

The member States of the Council of Europe signatory hereto, 5

Being resolved to take further steps to ensure the collective enforcement of certain rights and freedoms by means of the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950 (hereinafter referred to as “the Convention”), 10

Have agreed as follows:

Article 1

Procedural safeguards relating to expulsion of aliens

- 1 An alien lawfully resident in the territory of a State shall not be expelled therefrom except in pursuance of a decision reached in accordance with law and shall be allowed: 15
  - a to submit reasons against his expulsion,
  - b to have his case reviewed, and
  - c to be represented for these purposes before the competent authority or a person or persons designated by that authority. 20
- 2 An alien may be expelled before the exercise of his rights under paragraph 1.a, b and c of this Article, when such expulsion is necessary in the interests of public order or is grounded on reasons of national security.

Article 2 25

Right of appeal in criminal matters

- 1 Everyone convicted of a criminal offence by a tribunal shall have the right to have his conviction or sentence reviewed by a higher tribunal. The exercise of this right, including the grounds on which it may be exercised, shall be governed by law. 30
- 2 This right may be subject to exceptions in regard to offences of a minor character, as prescribed by law, or in cases in which the person concerned was tried in the first instance by the highest tribunal or was convicted following an appeal against acquittal.

Article 3 35

Compensation for wrongful conviction

When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed, or he has been pardoned, on the ground that a new or newly discovered

<sup>1</sup> Headings of articles added and text amended according to the provisions of Protocol No. 11 (ETS No. 155).



fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to the law or the practice of the State concerned, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

#### Article 4

##### Right not to be tried or punished twice

- 1 No one shall be liable to be tried or punished again in criminal proceedings under the jurisdiction of the same State for an offence for which he has already been finally acquitted or convicted in accordance with the law and penal procedure of that State.
- 2 The provisions of the preceding paragraph shall not prevent the reopening of the case in accordance with the law and penal procedure of the State concerned, if there is evidence of new or newly discovered facts, or if there has been a fundamental defect in the previous proceedings, which could affect the outcome of the case.
- 3 No derogation from this Article shall be made under Article 15 of the Convention.

#### Article 5

##### Equality between spouses

Spouses shall enjoy equality of rights and responsibilities of a private law character between them, and in their relations with their children, as to marriage, during marriage and in the event of its dissolution. This Article shall not prevent States from taking such measures as are necessary in the interests of the children.

#### Article 6

##### Territorial application

- 1 Any State may at the time of signature or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which the Protocol shall apply and state the extent to which it undertakes that the provisions of this Protocol shall apply to such territory or territories.
- 2 Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory specified in the declaration. In respect of such territory the Protocol shall enter into force on the first day of the month following the expiration of a period of two months after the date of receipt by the Secretary General of such declaration.
- 3 Any declaration made under the two preceding paragraphs 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 a period

of two months after the date of receipt of such notification by the Secretary General.

- 4<sup>1</sup> A declaration made in accordance with this Article shall be deemed to have been made in accordance with paragraph 1 of Article 56 of the Convention. 5
- 5 The territory of any State to which this Protocol applies by virtue of ratification, acceptance or approval by that State, and each territory to which this Protocol is applied by virtue of a declaration by that State under this Article, may be treated as separate territories for the purpose of the reference in Article 1 to the 10 territory of a State.
- 6<sup>2</sup> Any State which has made a declaration in accordance with paragraph 1 or 2 of this Article may at any time thereafter declare on behalf of one or more of the territories to which the declaration relates that it accepts the competence of the Court to receive 15 applications from individuals, non-governmental organisations or groups of individuals as provided in Article 34 of the Convention in respect of Articles 1 to 5 of this Protocol.

## Article 7<sup>2</sup>

### Relationship to the Convention 20

As between the States Parties, the provisions of Articles 1 to 6 of this Protocol shall be regarded as additional Articles to the Convention, and all the provisions of the Convention shall apply accordingly.

## Article 8

### Signature and ratification 25

This Protocol shall be open for signature by member States of the Council of Europe which have signed the Convention. It is subject to ratification, acceptance or approval. A member State of the Council of Europe may not ratify, accept or approve this Protocol without previously or simultaneously ratifying the Convention. Instruments 30 of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

## Article 9

### Entry into force

- 1 This Protocol shall enter into force on the first day of the month 35 following the expiration of a period of two months after the date on which seven member States of the Council of Europe have expressed their consent to be bound by the Protocol in accordance with the provisions of Article 8.
- 2 In respect of any member State which subsequently expresses its 40 consent to be bound by it, the Protocol shall enter into force on the first day of the month following the expiration of a period of two months after the date of the deposit of the instrument of ratification, acceptance or approval.

<sup>1</sup> Text amended according to the provisions of Protocol No. 11 (ETS No. 155).

<sup>2</sup> Text added according to the provisions of Protocol No. 11 (ETS No. 155).

## Article 10

### Depositary functions

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

- 5      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 6 and 9;
- 10     d    any other act, notification or declaration relating to this Protocol.

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

- 15    Done at Strasbourg, this 22nd day of November 1984, 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.