

**ECONOMIC COMMUNITY
OF
WEST AFRICAN STATES**



**PROTOCOL
RELATING TO THE GENERAL CONVENTION ON PRIVILEGES
AND IMMUNITIES OF ECOWAS**

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**GENERAL CONVENTION ON PRIVILEGES
AND IMMUNITIES OF THE ECONOMIC
COMMUNITY OF WEST AFRICAN STATES**

ECONOMIC COMMUNITY OF WEST AFRICAN STATES

Whereas paragraph 2 of Article 60 of the Treaty establishing the ECOWAS, hereinafter referred to as "the Treaty", provides that the Community shall have in the territory of each Member State the legal capacity required for the performance of its functions;

Whereas paragraph 4 of Article 60 of the Treaty provides that the privileges and immunities to be granted to the officials of the Community and in Member States shall be the same as are accorded to diplomatic persons at the Headquarters of the Community in the Member States. Similarly, the privileges and immunities granted to the Secretariat at the Headquarters of the Community shall be the same as granted to the Diplomatic Secretariat at the Headquarters of the Community and in the Member States; and

Whereas Article 42 of the Protocol relating to the Fund for Co-operation, Compensation and Development, hereinafter referred to as the "Fund", provides that the immunities and privileges to be granted to the officials of the FUND shall be those provided for under paragraph 4 of Article 60 of the Treaty.

Consequently, the High Contracting Parties have adopted the following Convention.

ARTICLE 1

Definitions

In this Convention, the following expressions shall have the meanings assigned to them hereunder:

- a) the "**Treaty**" means the Treaty of the Economic Community of West African States;
- b) the "**Community**" means the Economic Community of West African States and it includes the Fund for Co-operation, Compensation and Development and all other institutions as defined in Article 4 of the Treaty.
- c) "**Fund**" means the Fund for Co-operation, Compensation and Development as established under Article 50 of the Treaty.
- d) "**Community Officials**" means an Official entitled to the privileges and immunities stated in this Convention;
- e) "**Member State**" or "**Member States**" means a Member State or Member States of the *Community*,
- f) "**Council**" means the Council of Ministers established by Article 6 of the Treaty.

ARTICLE 2

Juridical Personality

The Community shall possess juridical personality. It shall have the capacity:

- (a) to contract;
- (b) to acquire and dispose of immovable and movable property;
- (c) to institute legal proceedings.

ARTICLE 3

Property, Funds & Assets

1. The Community, its premises, buildings, assets and other property wherever located and by whomsoever held, shall enjoy immunity for every form of legal process except in so far as in any particular case it has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution. Provided that actions may be brought against the Fund as provided in paragraph 2 of Article 39 of the Protocol relating to the Fund.
2. Subject to the provisions of Article 41 of the Protocol relating to the Fund, the premises and buildings of the Community shall be inviolable. The property and assets of the Community, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and from any other form of interference whether by executive, administrative, judicial or legislative action.
3. The archives of the Community and in general all documents belonging to it or held by it shall be inviolable wherever located.
4. Without being restricted by financial controls, regulations or moratoria of any kind:
 - (a) the Community may hold funds, gold or currency of any kind and account in any currency;
 - (b) the Community shall be free to transfer its funds, gold or currency from one country to the other, or within any country and to convert any currency held by it into any other currency.
5. It is provided however, that in exercising its rights under paragraph 4 above, the Community shall pay due regard to any representations made by the Government of any Member State in so far as it is considered that effect can be given to such representations without detriment to the interests of the Community.

ARTICLE 4

Tax Exemptions

1. The Community, its income, assets and properties shall be exempt:
 - (a) from all direct taxes, except that the ECOWAS will not claim exemption from taxes or dues which are no more than charges for public utility services;
 - (b) from all import and export duties, prohibitions and restrictions on imports and exports in respect of articles imported or exported by the Community for its official purposes. It is provided, however, that articles imported under such exemptions shall not be sold or otherwise disposed of in the country into which they were imported except under conditions agreed upon by the appropriate authorities of the Government of that country;
 - (c) from customs duties, prohibitions and restrictions of import and exports in respect of its publications.
2. The Community shall be exempt from excise duties and from taxes which are payable on the purchase of moveable and immovable property which form part of the price to be paid. Member States shall make appropriate administrative arrangements for the remission of the amount of duty or tax if such duty or tax has been charged.

ARTICLE 5

Facilities in Respect of Communications

1. The Community shall enjoy in the territory of each Member for its official correspondence treatment not less favourable than that accorded by the Government of that Member to any other international organisation as well as any Government, including its diplomatic mission in the matters of priorities, rates and taxes on mails, cables, telegrams, radiograms, telephotos, telephone and other communications, as well as press rates for information to the press and radio. All official correspondence and other official communications of the Community shall not be subject to censorship.
2. The Community shall have the right have the right to use codes and to despatch and receive its official correspondence either by courier or in sealed bags which shall have the same immunities and privileges as diplomatic couriers and bags.

ARTICLE 6

Representatives of Member States

1. Representatives of Member States to the institutions as well as to the Technical and

Specialised Commissions of the Community and to conferences convened by the Community, shall, while exercising their functions, and during their travel to and from the place of meeting, enjoy the following privileges and immunities:

- (a) immunity from personal arrest or detention and from any official interrogation as well as from inspection or seizure of their personal baggage;
 - (b) immunity from legal process of every kind in respect of words spoken, written or acts done by them in the exercise of their functions;
 - (c) inviolability for all their papers and documents and 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, aliens' registration and from national obligations in the state 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 foreign governments on temporary official missions;
 - (f) the same immunities and facilities in respect of their personal and official baggage as are accorded to diplomatic envoys;
 - (g) such other privileges, immunities and facilities not inconsistent with the foregoing as diplomatic envoys enjoy, except that they shall have no right to claim exemption from customs duties on goods imported (otherwise than as part of their personal baggage) or from excise duties or sales taxes.
2. In order to secure, for the representatives of Member States to the institutions as well as to the Technical and Specialised Commissions of the Community and to conferences convened by the Community, complete freedom of speech and 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 the representatives of Member States.
 3. Where the incidence of any form of taxation depends upon residence, periods during which the representatives of Member States to the institutions as well as to the Technical and Specialised Commissions of the Community and to conferences convened by the Community, are present in a state for the discharge of their duties, shall not be considered as periods of residence.
 4. Privileges and immunities are accorded to the Representatives of Member States not for personal benefit of the individuals themselves but in order to safeguard the independent exercise of their functions in connection with the Community. Consequently, a Member State not only has the right but is under a duty to waive the immunity of its representative in any case where in the opinion of the Member State, the immunity would impede the course of justice, and it can be waived without

prejudice to the purpose for which the immunity is accorded.

5. The provisions of paragraphs 1, 2 and 3 of this Article are not applicable as between a representative and the authorities of the state of which he is a national or of which he is or has been the representative.
6. In this Article, the expression "representatives" shall be deemed to include all delegates, deputy delegates, advisers technical experts and secretaries of delegations.

ARTICLE 7

Officials of the Community

1. The Executive Secretary shall specify the categories of officials to which the provisions of this Article and Article 8 shall apply. He shall submit these categories to the Council for approval. Thereafter, these categories shall be communicated to the Government of all Member States. The names of the officials included in these categories shall from time to time be made known to the Governments of Member States.
2. Community Officials have the same privileges and immunities as diplomatic persons at the headquarters of the Community and at the headquarters of the Fund as well as in all Member States. Consequently, Member States undertake to give the same recognition and facilities to the Executive Secretary of the Executive Secretariat and the Managing Director of the Fund as are given to Heads of Diplomatic Missions.
3. In keeping with paragraph 2 of this Article, Community officials particularly have the following privileges and immunities:
 - (a) the person of the Community official is inviolable. He shall not be liable to any form of arrest and detention, and Member States shall treat him with due respect and shall take all appropriate steps to prevent any attack on his personal freedom or dignity.
 - (b) the private residence of the Community official enjoys the same inviolability and protection as the premises of the headquarters of the Community. His papers, correspondence and except as provided in paragraphs 3(k) of this Article his property shall likewise enjoy inviolability.
 - (c) the Community official shall enjoy immunity from criminal jurisdiction in all the Member States. He shall also enjoy immunity from civil and administrative jurisdiction in all the Member States, except in the case of:
 - (i) a real action relating to private immovable property situated in the territory of a Member State, unless he holds it on behalf of the Community for the purposes of the Executive Secretariat or the Fund or any other institution of the Community,

- (ii) an action relating to succession in which the official is involved as executor, administrator, heir or legatee as a private person and not on behalf of the Community or any of its institutions,
 - (iii) an action relating to any professional or commercial activity exercised by the official in the Member State outside his official functions.
- (d) no measures of execution may be taken in respect of a Community official except in the cases coming under subparagraphs 3 (c)(i), (ii) and (iii) of Article 7 and provided that the measures concerned can be taken without infringing the inviolability of his person or of his residence;
 - (e) the Community official shall not be obliged to give evidence as a witness in any legal proceedings;
 - (f) he shall be exempt from taxation on the salaries and emoluments paid to him by the Community;
 - (g) he shall be immune from national service obligations;
 - (h) he shall be immune together with his spouse and relatives residing with and dependent on him from immigration restrictions and alien registration;
 - (i) the immunity of a Community official may be waived by the Executive Secretary on behalf of the Community;
 - (j) the initiation of proceedings by a Community official shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim;
 - (k) Waiver of immunity from jurisdiction in respect of civil or administrative proceedings shall not be held to imply waiver of immunity in respect of the execution of the judgment, for which a separate waiver shall be necessary.
4. Community Officials are members of Staff of the Community entitled to privilege and immunities. They shall be the professional international civil servants as defined in the Staff Rules and Regulations of the Community, and such other persons as the Executive Secretary may designate from time to time.

ARTICLE 8

Experts on Mission for the Community

- 1. Experts (other than officials coming within the scope of Article 7 performing missions for the Community) shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions, including time spent on journeys in connection with their missions. In particular, they shall be accorded:
 - (a) immunity from personal arrest or detention as well as any official

interrogation and from inspection or seizure of their personal baggage except where he is caught in the actual commission of an offence and the Member State concerned shall immediately inform the Executive Secretary;

- (b) in respect of words spoken or written and acts done by them in the course of the performance of their mission, immunity from legal process shall continue to be accorded notwithstanding that the persons concerned are no longer employed on missions for the Community;
 - (c) inviolability for all official correspondence;
 - (d) the same facilities in respect of exchange restrictions as are accorded to representatives of foreign governments on temporary official missions.
2. Privileges and immunities are granted to experts in the interests of the Community and not for the personal benefit of the individuals themselves. The Executive Secretary shall have the right and the duty to waive the immunity of any expert in any case where, in his opinion, the immunity would impede the course of justice and it can be waived without prejudice to the interests of the Community.

ARTICLE 9

Community Laissez-Passer

1. The Community may issue Community Laissez-Passer to its officials. The Laissez-Passer shall be recognised and accepted as valid travel document by the authorities of Member States.
2. The Community may conclude agreements for this Laissez-passer to be recognised as valid travel documents within the territories of the Member States of the OAU and within the territories of other countries.

ARTICLE 10

Settlement of Disputes

All disputes that may arise between the Community on the one hand and a Member State on the other hand, regarding the interpretation or application of this Convention shall be referred to the Tribunal of the Community as established by Article 11(1) of the Treaty and the decision of the Tribunal shall be final.

ARTICLE 11

1. This Convention shall enter into force provisionally upon the signature of Heads of State and Government and definitively upon ratification by at least seven (7) signatory States in accordance with the constitutional procedures applicable for each signatory State.
2. This present Convention shall be subject to ratification and the instrument of ratification shall be deposited with the Executive Secretary.
3. Any member State may accede to this Convention and the Instrument of accession shall be deposited with the Executive Secretary.

**IN FAITH WHEREOF, WE THE HEADS OF STATE AND GOVERNMENT IN
THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES, HAVE SIGNED
THIS CONVENTION**

**DONE AT LAGOS THIS 22ND DAY OF APRIL 1978 IN SINGLE ORIGINAL IN THE
ENGLISH AND FRENCH LANGUAGES BOTH TEXTS BEING EQUALLY AUTHENTIC**

Signed

H.E. Colonel Mathieu KEREKOU
President of People's Republic of Benin

Signed

H.E. Alhaji Sir Dauda K. JAWARA
President of the Republic of Gambia

Signed

H.E. Mr. Aristides PEREIRA
President of the Republic of Cape Verde

Signed

H.E. Major General George YawBOAKAYE
*For and on behalf of the Head of State and
Chairman of the Supreme Military Council of
Republic of GHANA*

Signed

Mr. Ismael TOURE
*Minister of the Economy and Finance
For and on behalf of the Head of State and
Commander-in-Chief of the People's Revolutionary
Armed Forces of the Republic of Guinea, President
Ahmed Serou TOURE*

Intendant Militaire Moussa TONDI

*Minister of Finance for and on behalf of the
Supreme Military Council of the Republic of Niger*

Signed

H.E. Mr. Luiz CABRAL
President of the Republic of Guinea Bissau

Signed

H.E. Lt. General Olusegun OBASANJO
*Head of the Federal Military Government,
Commander-in-Chief of the Federal Republic of
Nigeria*

Signed

H.E. Mr. Felix HOUPHOUET-BOIGNY
President of the Republic of IVORY-COAST

Signed

H.E. Mr. Leopold Sedar SENGHOR
President of the Republic of Senegal

Signed

H.E. Dr. William R. TOLBERT, Jr.
President of the Republic of Liberia

Signed

H.E. Dr. Siaka STEVENS
President of the Republic of Sierra Leone

Mr. Founেকে KEITA

Minister of Finance and Commerce, of the Republic of Mali, for and on behalf of the Chairman of the Military Committee of National Liberation, President of the Republic of Mali

Signed

H.E. General Gnassingbe EYADEMA
President of the Republic of TOGO

Signed

H.E. Mr. Moktar Ould DADDAH
President of the Islamic Republic of Mauritania

Signed

H.E. General A. Sangoule LAMIZANA
President of the Republic of Upper Volta