

K oznámeniu č. 705/2004 Z. z.**PROTOCOL****drawn up on the basis of Article K.3 of the Treaty on European Union, on the interpretation, by way of preliminary rulings, by the Court of Justice of the European Communities of the Convention on the protection of the European Communities' financial interests**

THE HIGH CONTRACTING PARTIES,

HAVE AGREED on the following provisions, which shall be annexed to the Convention:

Article 1

The Court of Justice of the European Communities shall have jurisdiction, pursuant to the conditions laid down in this Protocol, to give preliminary rulings on the interpretation of the Convention on the protection of the European Communities' financial interests and the Protocol to that Convention drawn up on 27 September 1996,¹⁾ hereinafter referred to as 'the first Protocol'.

Article 2

1. By a declaration made at the time of the signing of this Protocol or at any time thereafter, any Member State shall be able to accept the jurisdiction of the Court of Justice of the European Communities to give preliminary rulings on the interpretation of the Convention on the protection of the European Communities' financial interests and the first Protocol to that Convention pursuant to the conditions specified in either paragraph 2 (a) or paragraph 2 (b).

2. A Member State making a declaration pursuant to paragraph 1 may specify that either:

- (a) any court or tribunal of that State against whose decisions there is no judicial remedy under national law may request the Court of Justice of the European Communities to give a preliminary ruling on a question raised in a case pending before it and concerning the interpretation of the Convention on the protection of the European Communities' financial interests and the first Protocol thereto if that court or tribunal considers that a decision on the question is necessary to enable it to give judgment, or
- (b) any court or tribunal of that State may request the Court of Justice of the European Communities to give a preliminary ruling on a question raised in a case pending before it and concerning the interpretation of the Convention on the protection of the European Communities' financial interests and

the first Protocol thereto if that court or tribunal considers that a decision on the question is necessary to enable it to give judgment.

Article 3

1. The Protocol on the Statute of the Court of Justice of the European Communities and the Rules of Procedure of that Court of Justice shall apply.

2. In accordance with the Statute of the Court of Justice of the European Communities, any Member State, whether or not it has made a declaration pursuant to Article 2, shall be entitled to submit statements of case or written observations to the Court of Justice of the European Communities in cases which arise pursuant to Article 1.

Article 4

1. This Protocol shall be subject to adoption by the Member States in accordance with their respective constitutional requirements.

2. Member States shall notify the depositary of the completion of their respective constitutional requirements for adopting this Protocol and communicate to him any declaration made pursuant to Article 2.

3. This Protocol shall enter into force 90 days after the notification, referred to in paragraph 2, by the Member State which, being a member of the European Union on the date of adoption by the Council of the Act drawing up this Protocol, is the last to fulfil that formality. However, it shall at the earliest enter into force at the same time as the Convention on the protection of the European Communities' financial interests.

Article 5

1. This Protocol shall be open to accession by any State that becomes a member of the European Union.

2. Instruments of accession shall be deposited with the depositary.

¹⁾ OJ No C 313, 23. 10. 1996, p. 1.

3. The text of this Protocol in the language of the acceding State, drawn up by the Council of the European Union, shall be authentic.

4. This Protocol shall enter into force with respect to any State that accedes to it 90 days after the date of deposit of its instrument of accession, or on the date of the entry into force of this Protocol if the latter has not yet come into force when the said period of 90 days expires.

Article 6

Any State that becomes a member of the European Union and accedes to the Convention on the protection of the European Communities' financial interests in accordance with Article 12 thereof shall accept the provisions of this Protocol.

Article 7

1. Amendments to this Protocol may be proposed by any Member State, being a High Contracting Party. Any

proposal for an amendment shall be sent to the depositary, who shall forward it to the Council.

2. Amendments shall be established by the Council, which shall recommend that they be adopted by the Member States in accordance with their respective constitutional requirements.

3. Amendments thus established shall enter into force in accordance with the provisions of Article 4.

Article 8

1. The Secretary-General of the Council of the European Union shall act as depositary of this Protocol.

2. The depositary shall publish in the Official Journal of the European Communities the notifications, instruments or communications concerning this Protocol.

Done at Brussels, this twenty-ninth day of November in the year one thousand nine hundred and ninety-six, in a single original in the Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian, Portuguese, Spanish and Swedish languages, each text being equally authentic.