VERŻJONI ELETTRONIKA

L.N. 257 of 2014

DIPLOMATIC IMMUNITIES AND PRIVILEGES ACT (CAP. 191)
Application of Part III of the Diplomatic Immunities and Privileges Act (European Stability Mechanism) Order, 2014

BY VIRTUE of the powers granted by article 5 of the Diplomatic Immunities and Privileges Act, the Minister for Foreign Affairs has made the following order:

Citation.

1. The title of this Order is the Application of Part III of the Diplomatic Immunities and Privileges Act (European Stability Mechanism) Order, 2014.

Interpretation.

2. In this Order unless the context otherwise requires:

Cap. 523

"European Stability Mechanism" and "Treaty" shall have the same meaning assigned to them under the Participation and Granting of Financial Stability Support under the European Stability Act.

Immunities and Privileges of Officials of the European Stability Mechanism. Cap. 191

3. (1) The European Stability Mechanism shall enjoy the immunities and privileges set out in Part I of the Second Schedule to the Diplomatic Immunities and Privileges Act to the extent provided in the Treaty and in the Schedule to this Order and shall have the legal capacities of a juridical person.

(2) The Chairperson of the Board of Governors, Governors, alternate Governors, Directors, alternate Directors, the Managing Director and other staff members of the European Stability Mechanism shall enjoy the immunities and privileges set out in the Schedule to this Order.

SCHEDULE
(Articles of the Treaty Establishing the European Stability Mechanism)

ARTICLE 32
Legal status, privileges and immunities

1. To enable the European Stability Mechanism to fulfil its purpose, the legal status and the privileges and immunities set out in this paragraph shall be accorded to the ESM in

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the territory of each ESM Member. The ESM shall endeavour to obtain recognition of its legal status and of its privileges and immunities in other territories in which it performs functions or holds assets.

2. The ESM shall have full legal personality; it shall have full legal capacity to:

   (a) acquire and dispose of movable and immovable property;
   (b) contract;
   (c) be a party to legal proceedings; and
   (d) enter into a headquarter agreement and/or protocols as necessary for ensuring that its legal status and its privileges and immunities are recognised and enforced.

3. The ESM, its property, funding and assets, wherever located and by whomsoever held, shall enjoy immunity from every form of judicial process except to the extent that the ESM expressly waives its immunity for the purpose of any proceedings or by the terms of any contract, including the documentation of the funding instruments.

4. The property, funding and assets of the ESM shall, wherever located and by whomsoever held, be immune from search, requisition, confiscation, expropriation or any other form of seizure, taking or foreclosure by executive, judicial, administrative or legislative action.

5. The archives of the ESM and all documents belonging to the ESM or held by it, shall be inviolable.

6. The premises of the ESM shall be inviolable.

7. The official communications of the ESM shall be accorded by each ESM Member and by each state which has recognised the legal status and the privileges and immunities of the ESM, the same treatment as it accords to the official communications of an ESM Member.

8. To the extent necessary to carry out the activities provided for in this Treaty, all property, funding and assets of the ESM shall be free from restrictions, regulations, controls and moratoria of any nature.

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9. The ESM shall be exempted from any requirement to be authorised or licensed as a credit institution, investment services provider or other authorised licensed or regulated entity under the laws of each ESM Member.

ARTICLE 35
Immunities of Persons

1. In the interest of the ESM, the Chairperson of the Board of Governors, Governors, alternate Governors, Directors, alternate Directors, as well as the Managing Director and other staff members shall be immune from legal proceedings with respect to acts performed by them in their official capacity and shall enjoy inviolability in respect of their official papers and documents.

2. The Board of Governors may waive to such extent and upon such conditions as it determines any of the immunities conferred under this Article in respect of the Chairperson of the Board of Governors, a Governor, an alternate Governor, a Director, and alternate Director or the Managing Director.

3. The Managing Director may waive any such immunity in respect of any member of the staff of the ESM other than himself or herself.

4 - *omissis*

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