

16 (1999) Nr. 1

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1999 Nr. 73

A. TITEL

Notawisseling tussen de Nederlandse en de Oostenrijkse Regering houdende een verdrag inzake voorrechten en immuniteiten te verlenen aan verbindingsofficieren die vanwege de Oostenrijkse Regering bij Europol te 's-Gravenhage worden tewerkgesteld; Wenen, 9 februari/18 maart 1999

B. TEKST

Nr. I

993/1999

The Embassy of the Kingdom of the Netherlands presents its compliments to the Ministry of Foreign Affairs of the Federal Republic of Austria and has the honour to propose with reference to article 41, paragraph 2 of the Convention based on Article K.3 of the Treaty on European Union, on the establishment of a European Police Office (Europol Convention, 26 July 1995) that the privileges and immunities necessary for the proper performance of the tasks of the liaison officers at Europol be agreed upon as set out in the Attachment.

If this proposal is acceptable to the Ministry of Foreign Affairs of the Federal Republic of Austria, the Embassy proposes that this note and the affirmative note of the Ministry of Foreign Affairs shall constitute an Agreement between the Kingdom of the Netherlands and the Federal Republic of Austria, which shall enter into force on the first day of the month following the day on which both Parties have informed each other in writing that the legal requirements for entry into force have been complied with.

Attachment

1. *Definitions*

In this Agreement:

- a) "Liaison officer" means: any official seconded to Europol in accordance with Article 5 of the Europol Convention;
- b) "Government" means the Government of the Kingdom of the Netherlands;
- c) "Host State authorities" means such State, municipal or other authorities of the Kingdom of the Netherlands as may be appropriate in the context of and in accordance with the laws and customs applicable in the Kingdom of the Netherlands;
- d) "Member State" means the Federal Republic of Austria;
- e) "Archives of the liaison officer" means all records, correspondence, documents, manuscripts, computer and media data, photographs, films, video and sound recordings belonging to or held by the liaison officer, and any other similar material which in the unanimous opinion of the Member State and the Government forms part of the archives of the liaison officer.

2. *Privileges and immunities*

1. Subject to the provisions of this Agreement, the liaison officer and members of his family who form part of his household and do not possess Dutch nationality, shall enjoy in and vis-à-vis the Kingdom of the Netherlands the same privileges and immunities as are conferred on members of the diplomatic staff by the Vienna Convention on Diplomatic Relations of 18 April 1961.

2. The immunity granted to persons mentioned in paragraph 1 of this Article shall not extend to either:

- (i) civil action by a third party for damages, including personal injury or death, arising from a traffic accident caused by any such person, and is without prejudice to Article 32 of the Europol Convention; or
- (ii) criminal and civil jurisdiction over acts performed outside the course of their official duties.

3. The obligations of Sending States and their personnel that apply under the Vienna Convention to members of the diplomatic staff, shall apply to the persons referred to in paragraph 1 of this Article.

3. *Entry, stay and departure*

1. The Government shall facilitate, if necessary, the entry, stay and departure of the liaison officer and members of his family forming part of the household.

2. This Article shall not prevent the requirement of reasonable evidence to establish that persons claiming the treatment provided for under this Article come within the classes described in paragraph 1 of this Article.

3. Visas which may be required by persons referred to in this Article shall be granted without charge and as promptly as possible.

4. *Employment*

Members of the family forming part of the household of the liaison officer not having the nationality of an EU Member State shall be exempt from the obligation to obtain working permits for the duration of the secondment of the liaison officer.

5. *Inviolability of archives*

The archives of the liaison officer wherever located and by whomsoever held shall be inviolable.

6. *Personal Protection*

The Host State authorities shall, if so requested by the Member State, take all reasonable steps in accordance with their national laws to ensure the necessary safety and protection of the liaison officer, as well as members of his family who form part of his household, whose security is endangered due to the performance of the tasks of the liaison officer at Europol.

7. *Facilities and immunities in respect of communication*

1. The Government shall permit the liaison officer to communicate freely and without a need for special permission, for all official purposes, and shall protect the right of the liaison officer to do so. The liaison officer shall have the right to use codes and to dispatch and receive official correspondence and other official communications by courier or in sealed bags which shall be subject to the same privileges and immunities as diplomatic couriers and bags.

2. The liaison officer shall, as far as may be compatible with the International Telecommunications Convention of 6 November 1982, for his official communications enjoy treatment not less favourable than that accorded by the Kingdom of the Netherlands to any international organisation or government, in the matter of priorities for communication by

mail, cable, telegraph, telex, radio, television, telephone, fax, satellite, or other means.

8. *Notification*

1. The Member State shall promptly notify the Government of the name of the liaison officer, his arrival and his final departure or the termination of his secondment as well as the arrival and final departure of the members of the family forming part of the household and, where appropriate, the fact that a person has ceased to form part of the household.

2. The Government shall issue to the liaison officer and members of his family forming part of the household, an identification card bearing the photograph of the holder. This card shall serve to identify the holder in relation to all Host State authorities.

9. *Settlement of Disputes*

1. Any dispute between the Member State and the Government concerning the interpretation or application of this Agreement, or any question affecting the liaison officer or the relationship between the Member State and the Government which is not settled amicably, shall be referred for final decision to a tribunal of three arbitrators, at the request of the Member State or the Government. Each party shall appoint one arbitrator. The third, who shall be chairman of the tribunal, is to be chosen by the first two arbitrators.

2. If one of the parties fails to appoint an arbitrator within two months following a request from the other party to make such an appointment, the other party may request the President of the Court of Justice of the European Communities or in his absence the Vice-President, to make such an appointment.

3. Should the first two arbitrators fail to agree upon the third within two months following their appointment, either party may request the President of the Court of Justice of the European Communities, or in his absence the Vice-President, to make such appointment.

4. Unless the parties agree otherwise, the tribunal shall determine its own procedure.

5. The tribunal shall reach its decision by a majority of votes. The Chairman shall have a casting vote. The decision shall be final and binding on the Parties to the dispute.

10. *Territorial scope*

With respect to the Kingdom of the Netherlands, this Agreement shall apply to the part of the Kingdom in Europe only.

The Embassy of the Kingdom of the Netherlands avails itself of this opportunity to renew to the Ministry of Foreign Affairs the assurances of its highest consideration.

Vienna, 9 February 1999

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Ballhausplatz 2
1014 Vienna*

Nr. II

FEDERAL MINISTRY FOR FOREIGN AFFAIRS

No. 2355.116/0038e-I.2/1999

Note Verbale

The Federal Ministry for Foreign Affairs of the Republic of Austria presents its compliments to the Embassy of the Kingdom of the Netherlands, and has the honour to confirm receipt of Note no. 993/1999 of 9 February 1999 concerning the Europol Convention, 26 July 1995 which reads as follows:

(Zoals in Nr. I)

The Ministry has the honour to inform the Embassy that the Government of the Republic of Austria agrees to the contents of the above-mentioned Note, and that the Embassy's Note and this Note expressing the agreement of the Government of the Republic of Austria shall constitute an Agreement between the Kingdom of the Netherlands and the Republic of Austria, which shall enter into force on the first day of the month following the day on which both Parties have informed each other in writing that the legal requirements for entry into force have been complied with.

Vienna, 18 March 1999

*To the Embassy of the Kingdom of the Netherlands
Vienna*

D. PARLEMENT

Het in de nota's vervatte verdrag heeft ingevolge artikel 7, onderdeel b, van de Rijkswet goedkeuring en bekendmaking verdragen niet de goedkeuring der Staten-Generaal, alvorens in werking te kunnen treden.

G. INWERKINGTREDING

De bepalingen van het in de nota's vervatte verdrag zullen ingevolge het in de tweede alinea van nota Nr. I gestelde in werking treden op de eerste dag van de maand die volgt op de datum waarop beide Partijen elkaar schriftelijk hebben medegedeeld dat de wettelijke vereisten voor de inwerkingtreding van het verdrag zijn vervuld.

J. GEGEVENS

Van de op 26 juli 1995 te Brussel tot stand gekomen Overeenkomst tot oprichting van een Europese Politiedienst (Europol-Overeenkomst), ter uitvoering van welke Overeenkomst het onderhavige verdrag strekt, zijn de Nederlandse, Engelse en Franse tekst geplaatst in *Trb.* 1995, 282; zie ook *Trb.* 1998, 209.

Van het op 17 april 1957 te Brussel tot stand gekomen Protocol betreffende het Statuut van het Hof van Justitie van de Europese Gemeenschap – naar de President van het Hof wordt in punt 9 van de Bijlage van het onderhavige verdrag verwezen – zijn de Nederlandse en Franse tekst geplaatst in *Trb.* 1957, 94; zie ook, laatstelijk, *Trb.* 1995, 182.

Van het op 18 april 1961 tot stand gekomen Verdrag van Wenen inzake diplomatiek verkeer, naar welk Verdrag in punt 2 van de Bijlage van het onderhavige verdrag wordt verwezen, zijn de Engelse en Franse tekst geplaatst in *Trb.* 1962, 101 en de vertaling in *Trb.* 1962, 159; zie ook, laatstelijk, *Trb.* 1994, 212.

Van het op 6 november 1982 te Nairobi tot stand gekomen Verdrag betreffende de telecommunicatie, met bijlagen en Protocollen, naar welk Verdrag in punt 7 van de Bijlage van het onderhavige verdrag wordt verwezen, zijn de Franse tekst alsmede de vertaling van het Facultatief Protocol geplaatst in *Trb.* 1983, 164; zie ook, laatstelijk, *Trb.* 1996, 164.

Uitgegeven de *zevenentwintigste* april 1999.

De Minister van Buitenlandse Zaken,

J. J. VAN AARTSEN