

# TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

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JAARGANG 2001 Nr. 148

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A. TITEL

*Notawisseling tussen de regering van het Koninkrijk der Nederlanden en het Internationaal Joegoslavië Tribunaal (ICTY) houdende een verdrag inzake de toevoeging van artikel XV bis aan het Verdrag tussen het Koninkrijk der Nederlanden en de Verenigde Naties betreffende de zetel van het ICTY, met betrekking tot de mogelijkheid voor gezinsleden van functionarissen van het Tribunaal om in Nederland betaald werk te verrichten;  
's-Gravenhage, 20 juli 2001*

B. TEKST

Nr. I

MINISTERIE VAN BUITENLANDSE ZAKEN  
TREATIES DIVISION  
DJZ/VE-696/01

The Hague, 20 July 2001

The Ministry of Foreign Affairs of the Kingdom of the Netherlands presents its compliments to the International Criminal Tribunal for the former Yugoslavia (hereinafter the International Tribunal) and, with reference to the discussions between the Ministry and the International Tribunal regarding employment opportunities of members of the families forming part of the household of the officials of the International Tribunal, has the honour to propose that a new Article XV *bis* be inserted after Article XV of the Agreement between the Kingdom of the Netherlands and the United Nations concerning the Headquarters of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, New York, 29 July 1994, reading as follows:

## “Article XV bis

*Employment of Family Members of Officials*

1. Members of the family forming part of the household of the officials of the Tribunal shall be authorised to engage in gainful employment in the Netherlands for the duration of the term of office of the officials concerned.

2. The following persons are members of the family forming part of the household in the sense of paragraph 1:

- a) the spouses or registered partners of the officials of the Tribunal;
- b) children of the officials of the Tribunal who are under the age of 18;
- c) children of the officials of the Tribunal aged 18 or over, but not older than 27, provided that they formed part of the official’s household prior to their first entry into the Netherlands and still form part of this household, and that they are unmarried, financially dependent on the Tribunal official concerned and are attending education in the Netherlands.

3. Persons mentioned in paragraph 2 of this Article who obtain gainful employment shall have no immunity from criminal, civil or administrative jurisdiction with respect to matters arising in the course of or in connection with such employment, provided that measures of execution are taken without infringing the inviolability of their person or of their residence, if they are entitled to such inviolability.

4. In case of the insolvency of a person aged under 18 with respect to a claim arising out of gainful employment of that person under this Article, the immunity of the official of whose family the person concerned is a member shall be waived by the Tribunal for the purpose of settlement of the claim, in accordance with the provisions of the applicable international legal instrument regarding waiver, in particular with Article V, section 20 of the Convention on the Privileges and Immunities of the United Nations and Article XV, paragraph 5 of the Agreement between the Kingdom of the Netherlands and the United Nations concerning the Headquarters of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991.

5. The employment referred to in paragraph 1 of this Article shall be in accordance with Netherlands legislation, including fiscal and social security legislation.”

If the above proposal is acceptable to the United Nations, the Ministry has the honour to propose that this Note and the affirmative Note in reply of the International Tribunal shall constitute an Agreement between the Kingdom of the Netherlands and the United Nations, which shall enter into force on the date of receipt of the affirmative reply.

The Ministry of Foreign Affairs of the Kingdom of the Netherlands avails itself of this opportunity to renew to the International Criminal Tribunal for the former Yugoslavia the assurances of its highest consideration.

*United Nations-ICTY  
Churchillplein 1  
2517 JW Den Haag*

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#### **Interpretative declaration**

The Ministry of Foreign Affairs of the Kingdom of the Netherlands and the International Criminal Tribunal for the former Yugoslavia agree that, since the concept of “partners” is not a term used within the framework of the United Nations Staff Regulations and Rules, the grant of rights by the Government of the Kingdom of the Netherlands to partners of the Judges, the Prosecutor, the Registrar and officials of the International Tribunal would take place outside the terms of the Headquarters Agreement.

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Nr. II

UNITED NATIONS-ICTY

The Hague, 20 July 2001

The International Criminal Tribunal for the former Yugoslavia (hereinafter the International Tribunal) presents its compliments to the Ministry of Foreign Affairs of the Kingdom of the Netherlands and has the honour to acknowledge the receipt of the latter's *Note Verbale* no. DJK/VE-696/01 of 20 July, which reads as follows:

(Zoals in Nr. I)

The International Tribunal has further the honour to confirm that the foregoing is acceptable to the United Nations, and that the Ministry's Note and this reply shall constitute an Agreement between the United Nations and the Kingdom of the Netherlands on this matter, which shall enter into force on the date of receipt of this affirmative reply.

The International Criminal Tribunal for the former Yugoslavia avails itself of this opportunity to renew to the Ministry of Foreign Affairs of

the Kingdom of the Netherlands the assurances of its highest consideration.

*To the Ministry of Foreign Affairs of the  
Government of the Kingdom of the Netherlands  
The Hague*

D. PARLEMENT

Het in de nota's vervatte verdrag behoeft ingevolge artikel 7, onderdeel a, van de Rijkswet goedkeuring en bekendmaking verdragen niet de goedkeuring van de Staten-Generaal.

G. INWERKINGTREDING

De bepalingen van het in de nota's vervatte verdrag zijn ingevolge het in de op één na laatste alinea van nota II gestelde op 20 juli 2001 in werking getreden.

Wat het Koninkrijk der Nederlanden betreft, geldt het verdrag alleen voor Nederland.

J. GEGEVENS

Van het op 26 juni 1945 te San Francisco tot stand gekomen Handvest der Verenigde Naties – de organisatie van de Verenigde Naties wordt onder meer genoemd in de eerste alinea van nota Nr. I – zijn de gewijzigde Engelse en Franse tekst geplaatst in *Trb.* 1979, 37 en de herziene vertaling in *Trb.* 1987, 113. Zie ook, laatstelijk, *Trb.* 1998, 145.

Van het op 21 november 1947 te New York tot stand gekomen Verdrag nopens de voorrechten en immuniteiten van de gespecialiseerde organisaties, naar welk Verdrag in paragraaf 4 van nota Nr. I wordt verwezen, zijn tekst en vertaling geplaatst in *Stb.* 1949 J 67. Zie ook, laatstelijk, *Trb.* 1994, 211.

Van het op 29 juli 1994 te New York tot stand gekomen Verdrag tussen het Koninkrijk der Nederlanden en de Verenigde Naties betreffende de zetel van het Internationaal Tribunaal voor de vervolging van personen verantwoordelijk voor ernstige schendingen van het internationaal humanitair recht op het grondgebied van het voormalige Joegoslavië sedert 1991, naar welk Verdrag onder meer in de eerste alinea van Nota Nr. I wordt verwezen, is de tekst geplaatst in *Trb.* 1994, 189. Zie ook *Trb.* 2001, 150.

In overeenstemming met artikel 19, tweede lid, van de Rijkswet goedkeuring en bekendmaking verdragen heeft de Minister van Buitenlandse

Zaken bepaald dat het onderhavige verdrag zal zijn bekendgemaakt in Nederland op de dag na de datum van uitgifte van dit Tractatenblad.

Uitgegeven de *zevenentwintigste* augustus 2001.

*De Minister van Buitenlandse Zaken,*

J. J. VAN AARTSEN