

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2018 Nr. 59

A. TITEL

*Notawisseling houdende een verdrag tussen het Koninkrijk der Nederlanden en Montenegro inzake de privileges en immuniteiten van verbindingsofficieren die door Montenegro bij Europol gedetacheerd worden;
's-Gravenhage, 17 april 2018*

Voor een overzicht van de verdragsgegevens, zie verdragsnummer 012338 in de Verdragenbank.

B. TEKST

Nr. I

MINISTRY OF FOREIGN AFFAIRS OF MONTENEGRO

Podgorica, 13 March 2018

No. 015/1-35/1

The Ministry of Foreign Affairs of Montenegro presents its compliments to the Ministry of Foreign Affairs of the Kingdom of Netherlands and has the honor to propose that, through the exchange of diplomatic notes, to be concluded the Agreement between Montenegro and the Kingdom of the Netherlands on Privileges and Immunities of Liaison Officers Seconded From Montenegro to the Headquarters of EUROPOL, with the following content:

“Montenegro and the Kingdom of the Netherlands (hereinafter referred to as “the Contracting Parties”) based on provisions of Article 63 paragraph 2 of the Regulation (EU) 2016/794 Of The European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) establishing the European Police Office (EUROPOL) and stating that the privileges and immunities are necessary for proper performance of the tasks of liaison officers at EUROPOL,

Have agreed as follows:

Article 1

Definitions

For the needs of this Agreement:

- a) “Liaison officer” shall mean any official seconded to the headquarters of EUROPOL in accordance with article 8 of the Regulation (EU) 2016/794 of 11 May;
- b) “Government” shall mean the Government of the Kingdom of the Netherlands;
- c) “authorities of the Host State” shall mean those State, municipal and other authorities of the Kingdom of the Netherlands appearing in the context and in accordance with the application of laws and customs of the Kingdom of the Netherlands;
- d) “Seconding State” shall mean Montenegro;
- e) “archives of the Liaison officer” shall mean all written records, correspondence, documented records, computers and media data, photographs, films, video and music recordings belonging to or possessed by the liaison officer, and any other similar material which according to the unanimous opinion of the Seconding State and the Government constitutes a part of the archives of the liaison officer;

- f) "family member belonging to the household" shall mean the person defined as such in the Protocol Guide of the Kingdom of the Netherlands in accordance with the Vienna Convention;
- g) "Vienna Convention" shall mean the Vienna Convention on Diplomatic Relations of April 18, 1961.

Article 2

Privileges and Immunities

1. In accordance with the provisions of this Agreement, the Liaison officer and the family members belonging to the household, and who are not nationals of the Netherlands and who do not have permanent residence in the territory of the Kingdom of the Netherlands, shall enjoy, to the extent necessary for the independent performance of their functions, the privileges and immunities as accorded to diplomatic agents of the diplomatic missions in accordance with the Vienna Convention on Diplomatic Relations.
2. The immunities granted to the persons mentioned in paragraph 1 of this Article shall not be applicable in regard of:
 - (i) civil procedures (complaints) by third parties for damage, including bodily injuries or death caused in traffic accidents provoked by any such person, and without prejudice to Regulation (EU) 2016/794 of 11 May 2016, or
 - (ii) criminal and civil jurisdiction over actions committed outside the limits of performing 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 Seconding State and the persons referred to in paragraph 1 of this Article.

Article 3

Entrance, Stay and Departure

1. The Government shall facilitate, if necessary, the entrance, stay and departure of Liaison officers and family members belonging to their household.
2. This article shall not prevent the requirement of reasonable evidence to establish that the persons claiming the treatment under this article are truly the persons referred to in paragraph 1 of this Article.
3. The visas which may be necessary for the persons referred to in this article shall be issued without any compensation in the shortest possible period.

Article 4

Employment

Without prejudice to the applicable rules of the European Union with regard to citizens of a member state of the European Union, the European Economic Area, or Switzerland or their family members, family members belonging to the household of the Liaison officer shall be exempt from the obligation of obtaining a work permit for the duration of the secondment of the Liaison officer.

Article 5

Inviolability of Archives

The archives of the Liaison officer, regardless of their location and the fact in whose possession they are, shall be inviolable.

Article 6

Personal Protection

The authorities of the Host State shall, if this has been requested by the Seconding State, take all reasonable steps in accordance with its national legislation, in order to ensure the necessary safety and protection of both the Liaison officer and the family members belonging to the household in case their security is endangered due to the performance of tasks of the Liaison officer at EUROPOL.

Article 7

Facilities and Immunities in Respect of Communication

1. The Government shall permit the Liaison officer to communicate freely and without the 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 send and receive official correspondence, and other types of communication service via courier or sealed shipments that are subject to the same privileges and immunities provided to diplomatic couriers and diplomatic bags.
2. The Liaison officer shall, as long as it is compatible with the International Telecommunication Convention of 6 November 1982, for his/her official communications enjoy treatment not less favourable than that which the Kingdom of the Netherlands accords to other international organisations or governments, in conjunction with the use of communication via e-mail, telegraph, telex, radio-television, fax, telephone, satellite or otherwise.

Article 8

Notification

1. A Seconding State shall promptly and accurately notify the Government with regards to the following: name and surname of the Liaison officer, the date of his/her arrival and final departure or the termination of his/her mandate, the arrival and final departure of family members belonging to his/her household and, where applicable, the fact that a person has ceased to be a part of the household of the Liaison officer.
2. The Government shall issue to the Liaison officer and family members belonging to his/her household ID cards (identification cards) which shall contain a photo of the cardholder. This card shall serve to identify its holder in relation to the authorities of the Host State.

Article 9

Settlement of Disputes

1. Any dispute between the Seconding State and the Government concerning the interpretation or application of this Agreement, or any question affecting the Liaison officer or the relationship between the Seconding 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 Seconding 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.

Article 10

Territorial Scope

In view of the territory of the Kingdom of the Netherlands, this Agreement shall apply exclusively to the part of the Kingdom situated in Europe.

Article 11

Entry into Force

This Agreement shall enter into force on the first day of the first month following the date of receipt of the last written notification, delivered through diplomatic channels, by which the Contracting Parties shall notify each other that the relevant internal procedures necessary for the entry into force of this Agreement have been fulfilled."

The Ministry of Foreign Affairs of Montenegro has the honor to propose, if the Kingdom of Netherlands agrees with aforementioned Agreement, that this note and the note of the Kingdom of Netherlands in reply to it shall constitute the Agreement between Montenegro and the Kingdom of the Netherlands on Privileges and Immunities of Liaison Officers Seconded From Montenegro to the Headquarters of EUROPOL, and that the date of the later note to be considered as the date of the conclusion of the Agreement.

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

*Ministry of Foreign Affairs
The Kingdom of Netherlands
The Hague*

Nr. II

MINISTRY OF FOREIGN AFFAIRS

The Hague, 17 april 2018

MinBuZa-2018.501427

The Ministry of Foreign Affairs of the Kingdom of the Netherlands presents its compliments to the Ministry of Foreign Affairs of Montenegro and has the honour to acknowledge receipt of the Montenegro's Note Verbale of 13 March 2018, reference No. 015/1-35/1 which Note reads as follows:

"The Ministry of Foreign Affairs of Montenegro presents its compliments to the Ministry of Foreign Affairs of the Kingdom of Netherlands and has the honor to propose that, through the exchange of diplomatic notes, to be concluded the Agreement between Montenegro and the Kingdom of the Netherlands on Privileges and Immunities of Liaison Officers Seconded From Montenegro to the Headquarters of EUROPOL, with the following content:

(Goals in Nr. I)

The Ministry of Foreign Affairs of Montenegro has the honor to propose, if the Kingdom of Netherlands agrees with aforementioned Agreement, that this note and the note of the Kingdom of Netherlands in reply to it shall constitute the Agreement between Montenegro and the Kingdom of the Netherlands on Privileges and Immunities of Liaison Officers Seconded From Montenegro to the Headquarters of EUROPOL, and that the date of the later note to be considered as the date of the conclusion of the Agreement.

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

The Ministry of the Kingdom of the Netherlands has the honour to inform the Ministry of Foreign Affairs of Montenegro that this proposal is acceptable to the Kingdom of the Netherlands. Hence, the Ministry has the honour to inform the Ministry of Foreign Affairs of Montenegro that the Kingdom of the Netherlands considers Montenegro's Note and this reply as together constituting an Agreement between the Kingdom of the Netherlands and Montenegro on Privileges and Immunities of Liaison Officers Seconded from Montenegro to the Headquarters of Europol ("the Agreement").

The Agreement shall enter into force on the first day of the first month following the date of receipt of the last written notification, delivered through diplomatic channels, by which the Contracting Parties shall notify each other that the relevant internal procedures necessary for entry into force of the Agreement have been fulfilled.

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

*Ministry of Foreign Affairs of Montenegro
Podgorica*

D. PARLEMENT

Het in de nota's vervatte verdrag heeft ingevolge artikel 91 van de Grondwet de goedkeuring van de Staten-Generaal, alvorens het Koninkrijk aan het in de nota's vervatte verdrag kan worden gebonden.

G. INWERKINGTREDING

De bepalingen van het in de nota's vervatte verdrag zullen ingevolge artikel 11 in werking treden op de eerste dag van de eerste maand na de datum van ontvangst van de laatste schriftelijke kennisgeving waarbij de partijen elkaar er langs diplomatieke weg van in kennis hebben gesteld dat is voldaan aan de voor de inwerkingtreding van dit in de nota's vervatte verdrag noodzakelijke vereisten van hun nationale wetgeving.

Uitgegeven de *veertiende* mei 2018.

De Minister van Buitenlandse Zaken,

S.A. BLOK