

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2016 Nr. 27

A. TITEL

*Verdrag tussen het Koninkrijk der Nederlanden en de Republiek Kosovo betreffende de vestiging van de Kosovo Relocated Specialist Judicial Institution in Nederland;
Pristina, 15 februari 2016*

B. TEKST

Agreement between the Kingdom of the Netherlands and the Republic of Kosovo concerning the Hosting of the Kosovo Relocated Specialist Judicial Institution in the Netherlands

The Kingdom of the Netherlands and the Republic of Kosovo,

Referring to the Constitution of the Republic of Kosovo, as amended by Amendment No. 24 of 3 August 2015, Article 162, authorizing the establishment of Specialist Chambers and a Specialist Prosecutor's Office in order to comply with the international obligations of the Republic of Kosovo in relation to the Council of Europe Parliamentary Assembly Report Doc 12462 of 7 January 2011;

Referring to the exchange of letters between the President of the Republic of Kosovo and the High Representative of the European Union for Foreign Affairs and Security Policy dated 14 April 2014, ratified by Kosovo Law No. 04/L-274 of 15 May 2014, containing the commitment of the Republic of Kosovo to establish Specialist Chambers and a Specialist Prosecutor's Office within the Kosovo judicial system to be used for trial and appellate proceedings arising from the investigation of the Special Investigative Task Force of the Special Prosecution Office of the Republic of Kosovo related to the Council of Europe Parliamentary Assembly Report Doc 12462 of 7 January 2011 and which may be relocated to a third State subject to the conclusion of a Host State Agreement with the Host State;

Referring to Kosovo Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office establishing the Specialist Chambers within the Kosovo justice system and the Specialist Prosecutor's Office to fulfil Kosovo's international obligations undertaken in Law No. 04/L-274 in relation to allegations of certain crimes reported in the Council of Europe Parliamentary Assembly Report Doc 12462 of 7 January 2011 and which have been the subject of criminal investigation by the Special Investigative Task Force of the Special Prosecution Office of the Republic of Kosovo;

Referring to the Interim Agreement between the Kingdom of the Netherlands and the Republic of Kosovo concerning the Hosting of the Kosovo Relocated Specialist Judicial Institution in the Netherlands of 26 January 2016;

Wishing to conclude an agreement on the hosting of the Kosovo Specialist Chambers and Specialist Prosecutor's Office to ensure the smooth and efficient functioning of the Kosovo Specialist Chambers and Specialist Prosecutor's Office in the Netherlands;

Have agreed as follows:

PART I.

GENERAL PROVISIONS

Article 1.

Use of terms

For the purpose of this Agreement:

a) "the Kosovo Relocated Specialist Judicial Institution" means the relocated Specialist Chambers and Spe-

cialist Prosecutor's Office as established by Kosovo Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office adopted on 3 August 2015;

b) "Law No. 05/L-053" means Kosovo Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office adopted on 3 August 2015;

c) "Host State" means the Kingdom of the Netherlands;

d) "Parties" means the Republic of Kosovo and the Host State;

e) "judges" means the judges of the Kosovo Relocated Specialist Judicial Institution;

f) "the President" means the President of the of the Specialist Chambers referred to as such in Law No. 05/L-053;

g) "the Specialist Prosecutor" means the Specialist Prosecutor of the Specialist Prosecutor's Office referred to in Law No. 05/L-053;

h) "the Deputy Specialist Prosecutor" means the Deputy Prosecutor of the Kosovo Relocated Specialist Judicial Institution referred to in Article 4(3) of Law No. 05/L-053;

i) "the Registrar" means the Registrar of the Kosovo Relocated Specialist Judicial Institution referred to in Law No. 05/L-053;

j) "the Deputy Registrar" means the Deputy Registrar of the Kosovo Relocated Specialist Judicial Institution referred to in Article 4(3) of Law No. 05/L-053;

k) "EULEX" means the European Union Rule of Law Mission in Kosovo established by European Union Council Joint Action 2008/124/CFSP of 4 February 2008 and operating in the Republic of Kosovo pursuant to exchanges of letters between the President of the Republic of Kosovo and the High Representative of the European Union for Foreign Affairs and Security Policy dated 4 September 2012 and 14 April 2014;

l) "staff" means the staff of the Kosovo Relocated Specialist Judicial Institution including persons seconded and contracted by EULEX to work at the Kosovo Relocated Specialist Judicial Institution;

m) "witnesses", "victims" and "experts" means persons designated as such by the Kosovo Relocated Specialist Judicial Institution;

n) "counsel" means defence counsel and victims counsel;

o) "suspect" means a person referred to as such in Law No. 05/L-053;

p) "accused" means a person referred to as such in Law No. 05/L-053;

q) "interns" means undergraduates or postgraduates who, not being staff, have been accepted by the Kosovo Relocated Specialist Judicial Institution into its internship programme for the purpose of performing certain tasks on a temporary basis in the Specialist Chambers, the Specialist Prosecutor's Office or the Registry;

r) "premises" means buildings, parts of buildings and areas, including installations and facilities made available to, maintained, occupied or used by the Kosovo Relocated Specialist Judicial Institution in the Host State in connection with its functions and purposes, including the detention of a person;

s) "private servant" means domestic worker in the personal employ of a judge, the Specialist Prosecutor, the Deputy Prosecutor, the Registrar, the Deputy Registrar, or, in consultation with the Host State, staff of a comparable rank to a diplomatic agent under the Vienna Convention, whose stay in the Netherlands is tied to the stay of the judge, the Specialist Prosecutor, the Deputy Specialist Prosecutor, the Registrar, the Deputy Registrar or such staff;

t) "family member forming part of the household" means the person defined as such in the Protocol Guide of the Netherlands in accordance with the Vienna Convention on Diplomatic Relations;

u) "Ministry of Foreign Affairs" means the Ministry of Foreign Affairs of the Kingdom of the Netherlands;

v) "competent authorities" means national, provincial, municipal and other competent authorities under the laws, regulations and customs of the Host State;

w) "Vienna Convention" means the Vienna Convention on Diplomatic Relations of 18 April 1961;

x) "Interim Agreement" means the Interim Agreement between the Kingdom of the Netherlands and the Republic of Kosovo concerning the Hosting of the Kosovo Relocated Specialist Judicial Institution in the Netherlands of 26 January 2016.

Article 2.

Purpose and scope of this Agreement

This Agreement shall regulate matters relating to or arising out of the presence and the proper functioning of the Kosovo Relocated Specialist Judicial Institution in the Host State. It shall, *inter alia*, create conditions conducive to the stability and independence of the Kosovo Relocated Specialist Judicial Institution and facilitate its smooth and efficient functioning.

Article 3.

Seat of the Kosovo Relocated Specialist Judicial Institution

The Kosovo Relocated Specialist Judicial Institution shall have a seat in the Host State.

Article 4.

Hosting and jurisdiction of the Kosovo Relocated Specialist Judicial Institution

The Kingdom of the Netherlands undertakes to host the Kosovo Relocated Specialist Judicial Institution for the sole purpose, and for the duration, of the relocated criminal proceedings in the Netherlands, in accordance with Law No. 05/L-053. The jurisdiction of the Kosovo Relocated Specialist Judicial Institution is limited to these proceedings.

Article 5.

Detention in the Netherlands

1. The Host State shall allow the detention of persons, whose arrest and detention as suspects or accused is ordered by the Kosovo Relocated Specialist Judicial Institution in accordance with Law No. 05/L-053. The detention of other persons is not permitted in the Host State, except in so far as the Kosovo Relocated Specialist Judicial Institution orders:

- a) the temporary detention of witnesses transferred in custody to the premises of the Kosovo Relocated Specialist Judicial Institution;
- b) the temporary detention of witnesses in the course of their evidence, including for contempt of court;
- c) the continued detention of persons pending transfer on the basis of Articles 43 or 44 of this Agreement.

2. The Host State shall facilitate detention within the premises of the Kosovo Relocated Specialist Judicial Institution. The detention within the premises of the Kosovo Relocated Specialist Judicial Institution shall end upon the termination of this Agreement.

3. The Host State shall, in accordance with the procedures under its national law and at the request of the Kosovo Relocated Specialist Judicial Institution, arrest on its territory and surrender to the Kosovo Relocated Specialist Judicial Institution any person who has escaped detention from the premises of the Kosovo Relocated Specialist Judicial Institution or has evaded such detention during transport in the territory of the Host State.

PART II.

STATUS OF THE KOSOVO RELOCATED SPECIALIST JUDICIAL INSTITUTION

Article 6.

Juridical personality

1. The Kosovo Relocated Specialist Judicial Institution shall possess in the Host State full juridical personality. This shall, in particular, include the capacity:

- a) to contract;
- b) to acquire and dispose of movable and immovable property;
- c) to institute proceedings; and
- d) to enter into arrangements as may be necessary for the exercise of its functions and operation.

2. For the purposes of this Article, and without prejudice to the powers of the Specialist Prosecutor under Article 35 of Law No. 05/L-053, the Kosovo Relocated Specialist Judicial Institution shall be represented by the Registrar.

Article 7.

Privileges, immunities and facilities

The Kosovo Relocated Specialist Judicial Institution shall enjoy, in the territory of the Host State, such privileges, immunities and facilities as are necessary for the fulfillment of its purposes.

Article 8.

Inviolability of the premises

1. The premises shall be inviolable. The competent authorities shall ensure that the Kosovo Relocated Specialist Judicial Institution is not dispossessed and/or deprived of any part of its premises without its express consent.

2. The competent authorities shall not enter the premises to perform any official duty, except with the express consent, or at the request of the Registrar, or a staff member designated by him or her. Judicial actions and the service or execution of legal process, including the seizure of private property, cannot be enforced on the premises except with the consent of, and in accordance with conditions approved by, the Registrar, or a staff member designated by him or her.

3. In case of fire or other emergency requiring prompt protective action, or in the event that the competent authorities have reasonable cause to believe that such an emergency has occurred or is about to occur on the premises, the consent of the Registrar, or a staff member designated by him or her, to any necessary entry into the premises shall be presumed if neither of them can be contacted in time.

4. Subject to paragraphs 1, 2 and 3 of this Article, the competent authorities shall take the necessary action to protect the premises against fire or other emergency.

5. The Kosovo Relocated Specialist Judicial Institution shall prevent its premises from being used as a refuge by persons who are avoiding arrest or the proper administration of justice under any law of the Host State.

Article 9.

Protection of the premises and their vicinity

1. The competent authorities shall take all effective and adequate measures to ensure the security and protection of the Kosovo Relocated Specialist Judicial Institution and to ensure that the tranquility of the Kosovo Relocated Specialist Judicial Institution is not disturbed by the intrusion of persons or groups from outside the premises or by disturbances in their immediate vicinity, and shall provide to the premises the appropriate protection as may be required.

2. If so requested by the Registrar, the competent authorities shall, in consultation with the Registrar, to the extent it is deemed necessary, provide adequate protection, including police protection, for the preservation of law and order on the premises or in the immediate vicinity thereof, and for the removal of persons therefrom.

3. The competent authorities shall take all reasonable steps to ensure that the amenities of the premises are not prejudiced and that the purposes for which the premises are required are not obstructed by any use made of the land or buildings in the vicinity of the premises.

4. The Kosovo Relocated Specialist Judicial Institution shall take all reasonable steps to ensure that the amenities of the land in the vicinity of the premises are not prejudiced by any use made of the land or buildings in the premises.

5. The Kosovo Relocated Specialist Judicial Institution shall provide the competent authorities with all information relevant to the security and protection of the premises.

Article 10.

Law and authority on the premises

1. The premises shall be under the control and authority of the Kosovo Relocated Specialist Judicial Institution, as provided in this Agreement.

2. Except as otherwise provided in this Agreement, the laws and regulations of the Host State shall apply on the premises.

3. The Kosovo Relocated Specialist Judicial Institution shall have the power to make its own rules and regulations, operative within its premises, including on the conditions applicable to its staff, as are necessary for the carrying out of its functions. The Kosovo Relocated Specialist Judicial Institution shall promptly inform the competent authorities upon the adoption of such regulations. No laws or regulations of the Host State which are inconsistent with regulations of the Kosovo Relocated Specialist Judicial Institution under this paragraph shall, to the extent of such inconsistency, be applicable within the premises.

4. The Kosovo Relocated Specialist Judicial Institution may expel or exclude persons from the premises for violation of the applicable rules or regulations and shall inform the competent authorities, if possible, in advance of such measures.

5. Subject to the rules and regulations referred to in paragraph 3 of this Article, and consistent with the laws and regulations of the Host State, only staff of the Kosovo Relocated Specialist Judicial Institution authorized by the Registrar shall be allowed to carry arms on the premises.
6. The Registrar, or a staff member designated by him or her, shall notify the Host State of the name and identity of staff of the Kosovo Relocated Specialist Judicial Institution authorized by the Registrar to carry arms on the premises, as well as the name, type, calibre and serial number of the arm or arms at his or her disposition.
7. Any dispute as to whether a rule or regulation of the Kosovo Relocated Specialist Judicial Institution comes within the ambit of this Article or as to whether a law or regulation of the Host State is inconsistent with a regulation of the Kosovo Relocated Specialist Judicial Institution under this Article shall be settled promptly by the procedure set out in Article 50 of this Agreement. Pending such settlement, the rule or regulation of the Kosovo Relocated Specialist Judicial Institution shall apply and the law or regulation of the Host State shall be inapplicable on the premises to the extent that the Kosovo Relocated Specialist Judicial Institution claims it to be inconsistent with its rule or regulation.

Article 11.

Public services for the premises

1. The competent authorities shall secure, upon the request of the Registrar or a staff member designated by him or her, on fair and equitable conditions, the public services needed by the Kosovo Relocated Specialist Judicial Institution such as, but not limited to, postal, telephone, telegraphic services, any other means of communication, electricity, water, gas, sewage, collection of waste, fire protection, local transportation and cleaning of public streets including snow removal.
2. In cases where the services referred to in paragraph 1 of this Article are made available to the Kosovo Relocated Specialist Judicial Institution by the competent authorities, or where the prices thereof are under their control [and not subject to existing contracts with private parties], the rates for such services shall not exceed the lowest comparable rates accorded to essential agencies and organs of the Host State.
3. In case of any interruption or threatened interruption of any such services, the Kosovo Relocated Specialist Judicial Institution shall be accorded the priority given to essential agencies and organs of the Host State, and the Host State shall take steps accordingly to ensure that the work of the Kosovo Relocated Specialist Judicial Institution is not prejudiced.
4. Upon request of the competent authorities, the Registrar, or staff member designated by him or her, shall make suitable arrangements to enable duly authorized representatives of the appropriate public services to inspect, repair, maintain, reconstruct and relocate utilities, conduits, mains and sewers on the premises under conditions which shall not unreasonably disturb the carrying out of the functions of the Kosovo Relocated Specialist Judicial Institution.
5. Underground constructions may be undertaken by the competent authorities on the premises only after consultation with the Registrar, or a staff member designated by him or her, and under conditions which shall not disturb the carrying out of the functions of the Kosovo Relocated Specialist Judicial Institution.

Article 12.

Flag, emblem and markings

The Kosovo Relocated Specialist Judicial Institution shall be entitled to display a flag, emblem and markings at its premises and on vehicles and other means of transportation used for official purposes.

Article 13.

Funds, assets and other property

1. The funds, assets and other property of the Kosovo Relocated Specialist Judicial Institution, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process.
2. Funds, assets and other property of the Kosovo Relocated Specialist Judicial Institution, wherever located and by whomsoever held, shall be immune from search, seizure, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.
3. The Kosovo Relocated Specialist Judicial Institution may expressly waive the immunity from jurisdiction in respect of legal proceedings of the funds, assets and other property of the Kosovo Relocated Specialist

Judicial Institution. Such a waiver shall not be held to imply waiver of immunity in respect of the execution of the judgement, for which a separate waiver shall be necessary.

4. To the extent necessary to carry out the functions of the Kosovo Relocated Specialist Judicial Institution, funds, assets and other property of the Kosovo Relocated Specialist Judicial Institution, wherever located and by whomsoever held, shall be exempt from restrictions, regulations, control or moratoria of any nature.

5. Any immunities accorded to the funds, assets and other property of the Kosovo Relocated Specialist Judicial Institution in accordance with this Article shall be without prejudice to any immunities and privileges accorded to funds, assets and other property of the Republic of Kosovo pursuant to international law and the law of the Host State.

Article 14.

Inviolability of archives, documents and materials

1. The archives of the Kosovo Relocated Specialist Judicial Institution, and all papers, documents and materials in whatever form, being sent to or from the Kosovo Relocated Specialist Judicial Institution, held by the Kosovo Relocated Specialist Judicial Institution or belonging to it, wherever located and by whomsoever held, shall be inviolable.

2. The termination or absence of such inviolability shall not affect protective measures that the Judges or the Registrar may have ordered or may order or the Specialist Prosecutor's Office may have put or may put in place with regard to documents and material made available to or used by the Specialist Chambers or the Specialist Prosecutor's Office.

Article 15.

Facilities in respect of communications

1. The Kosovo Relocated Specialist Judicial Institution shall enjoy in the territory of the Host State for the purposes of its official communications and correspondence treatment not less favourable than that accorded by the Host State to any intergovernmental organization or diplomatic mission in the matter of priorities, rates and taxes applicable to mail and the various forms of communication and correspondence.

2. No censorship shall be applied to the official communications or correspondence of the Kosovo Relocated Specialist Judicial Institution. Such immunity from censorship shall extend to printed matter, photographic and electronic data communications as well as any other forms of communications as may be used by the Kosovo Relocated Specialist Judicial Institution.

3. The Kosovo Relocated Specialist Judicial Institution shall have the right to operate all appropriate means of communication, including electronic means of communication, and shall have the right to use codes or ciphers for its official communications and correspondence. The official communications and correspondence of the Kosovo Relocated Specialist Judicial Institution shall be inviolable.

4. The Kosovo Relocated Specialist Judicial Institution shall have the right to dispatch and receive correspondence and other materials or communications by courier or in sealed bags, which shall enjoy the same privileges, immunities and facilities as diplomatic couriers and bags.

5. The Kosovo Relocated Specialist Judicial Institution shall have the right to operate radio and other telecommunication equipment on any frequencies allocated to it by the Host State in accordance with its national procedures. The Host State shall endeavour to allocate to the Kosovo Relocated Specialist Judicial Institution, to the extent possible, frequencies for which it has applied.

6. For the fulfillment of its purposes and efficient discharge of its responsibilities, the Kosovo Relocated Specialist Judicial Institution shall have the right to publish freely and without restrictions within the Host State in conformity with this Agreement.

Article 16.

Freedom of financial assets from restrictions

1. Without being subject to any financial controls, regulations, notification requirements in respect of financial transactions, or moratoria of any kind, the Kosovo Relocated Specialist Judicial Institution may freely:

- a) purchase any currency, hold and use it;
- b) operate accounts in any currency;
- c) purchase, hold and use funds, securities and gold; and

d) transfer its funds, securities, gold and currencies to or from the Host State, to or from any other country, or within the Host State and convert any currency held by it in any other currency.

2. The Kosovo Relocated Specialist Judicial Institution shall enjoy treatment not less favourable than that accorded by the Host State to any intergovernmental organization or diplomatic mission in respect of rates of exchange for its financial transactions.

Article 17.

Exemption from taxes and duties for the Kosovo Relocated Specialist Judicial Institution and its property

1. Within the scope of its official activities, the Kosovo Relocated Specialist Judicial Institution, its assets, income and other property shall be exempt from all direct taxes, whether levied by national, provincial or local authorities which include, *inter alia*, income tax and corporation tax.

2. Within the scope of its official activities, the Kosovo Relocated Specialist Judicial Institution shall be exempt from:

- a) import and export taxes and duties (*belastingen bij invoer en uitvoer*);
- b) motor vehicle tax (*motorrijtuigenbelasting*);
- c) tax on passenger motor vehicles and motorcycles (*belasting van personenauto's en motorrijwielen*);
- d) value added tax (*omzetbelasting*) paid on goods and services supplied on a recurring basis or involving considerable expenditure;
- e) excise duties (*accijnzen*) included in the price of alcoholic beverages and hydrocarbons such as fuel oils and motor fuels;
- f) real property transfer tax (*overdrachtsbelasting*);
- g) insurance tax (*assurantiebelasting*);
- h) energy tax (*energiebelasting*);
- i) tax on mains water (*belasting op leidingwater*);
- j) any other taxes and duties of a substantially similar character as the taxes provided for in this paragraph, levied in the Host State subsequent to the date of signature of this Agreement.

3. The exemptions provided for in paragraph 2, subparagraphs d), e), f), g), h), i) and j) of this Article may be granted by way of a refund. These exemptions shall be applied in accordance with the formal requirements of the Host State. These requirements, however, shall not affect the general principles laid down in paragraph 2 of this Article.

4. Goods acquired or imported under the terms set out in paragraph 2 of this Article shall not be sold, let out, given away or otherwise disposed of, except in accordance with conditions agreed upon with the Host State.

5. The Kosovo Relocated Specialist Judicial Institution shall not claim exemption from taxes which are, in fact, no more than charges for public utility services provided at a fixed rate according to the amount of services rendered and which can be specifically identified, described and itemized.

Article 18.

Exemption from import and export restrictions

The Kosovo Relocated Specialist Judicial Institution shall be exempted from all restrictions on imports and exports in respect of articles imported or exported by the Kosovo Relocated Specialist Judicial Institution for its official use or in respect of its publications.

PART III.

PRIVILEGES, IMMUNITIES AND FACILITIES ACCORDED TO PERSONS UNDER THIS AGREEMENT

Article 19.

Privileges, immunities and facilities of the judges, the Specialist Prosecutor, the Deputy Specialist Prosecutor, the Registrar and the Deputy Registrar

1. The judges, the Specialist Prosecutor, the Deputy Specialist Prosecutor, the Registrar and the Deputy Registrar together with members of their family forming part of their household who do not have Dutch nationality or permanent residence status in the Host State, shall enjoy the same privileges, immunities and facilities as are accorded by the Host State to heads of diplomatic missions in conformity with the Vienna Convention. They shall, *inter alia*, enjoy:

- a) personal inviolability, including immunity from personal arrest or detention or any other restriction of their liberty;

- b) immunity from criminal, civil and administrative jurisdiction;
- c) inviolability of all papers, documents in whatever form and materials;
- d) exemption from national service obligations;
- e) exemption from immigration restrictions and alien registration;
- f) exemption from taxation on salaries, emoluments and allowances paid in respect of the employment of the judges, the Specialist Prosecutor and the Registrar with the Kosovo Relocated Specialist Judicial Institution;
- g) the same facilities in respect of currency and exchange facilities as are accorded to diplomatic agents;
- h) the same immunities and facilities in respect of their official and personal baggage as are accorded to diplomatic agents;
- i) together with members of their family forming part of the household, the same repatriation facilities in time of international crisis as are accorded to diplomatic agents under the Vienna Convention;
- j) the right of unimpeded entry into, exit from or movement within the Host State, as appropriate and for purposes of the Kosovo Relocated Specialist Judicial Institution.

2. With respect to the inheritance and gift tax, which depends upon residence, periods during which the judges, the Specialist Prosecutor, the Deputy Specialist Prosecutor, the Registrar and the Deputy Registrar are present in the Host State for the discharge of their functions shall not be considered as periods of residence.

3. The judges, the Specialist Prosecutor, the Deputy Specialist Prosecutor, the Registrar and the Deputy Registrar shall, after the expiry of their terms of office, continue to be accorded immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in their official capacity.

4. The Host State shall not be obliged to exempt from income tax pensions or annuities paid to former judges, Specialist Prosecutors, Deputy Specialist Prosecutors, Registrars, Deputy Registrars and the members of their family forming part of their household.

5. Persons referred to in this Article who are nationals or permanent residents of the Host State shall enjoy only the following privileges, immunities and facilities to the extent necessary for the independent performance of their functions:

- a) immunity from personal arrest or detention or any other restriction of their liberty;
- b) immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in the performance of their functions for the Kosovo Relocated Specialist Judicial Institution, which immunity shall continue to be accorded even after they have ceased to perform their functions for the Kosovo Relocated Specialist Judicial Institution;
- c) inviolability of all papers, documents in whatever form and materials relating to the performance of their functions for the Kosovo Relocated Specialist Judicial Institution;
- d) exemption from taxation on salaries, emoluments and allowances paid to them in respect of their employment with the Kosovo Relocated Specialist Judicial Institution;
- e) for the purpose of their communications with the Kosovo Relocated Specialist Judicial Institution the right to receive and send papers in whatever form;
- f) the right to import free of duties and taxes, except payments for services, their furniture and effects at the time of first taking up their post in the Host State.

6. Persons referred to in paragraph 5 of this Article shall not be subjected by the Host State to any measure which may affect the free and independent performance of their functions for the Kosovo Relocated Specialist Judicial Institution.

Article 20.

Privileges, immunities and facilities of staff

1. Staff shall enjoy such privileges, immunities and facilities as are necessary for the independent performance of their functions. They shall be accorded:

- a) immunity from personal arrest or detention or any other restriction of their liberty and from inspection or seizure of their official baggage;
- b) immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in their official capacity, which immunity shall continue to be accorded even after termination of their employment with the Kosovo Relocated Specialist Judicial Institution;
- c) inviolability of all official papers, documents in whatever form and materials;
- d) exemption from taxation on salaries, emoluments and allowances paid to them in respect of their employment with the Kosovo Relocated Specialist Judicial Institution;
- e) exemption from national service obligations;
- f) together with members of their family forming part of their household, exemption from immigration restrictions and alien registration;
- g) the same privileges in respect of currency and exchange facilities as are accorded to the officials of comparable rank of diplomatic missions established in the Host State;

- h) together with members of their family forming part of their household, the same repatriation facilities in time of international crisis as are accorded to diplomatic agents under the Vienna Convention;
- i) the right to import free of duties and taxes, except payments for services, their furniture and effects at the time of first taking up their post in the Host State, and to re-export their furniture and effects free of duties and taxes to their country of destination.

2. In addition to the privileges, immunities and facilities listed in paragraph 1 of this Article, staff of comparable rank to diplomatic agents, together with members of their family forming part of their household who are not nationals or permanent residents of the Host State, shall be accorded the same privileges, immunities and facilities as the Host State accords to diplomatic agents of the diplomatic missions established in the Host State in conformity with the Vienna Convention.

3. In addition to the privileges, immunities and facilities listed in paragraph 1 of this Article, staff of comparable rank to administrative and technical staff of diplomatic missions, together with members of their family forming part of their household who are not nationals or permanent residents of the Host State, shall be accorded by the Host State the same privileges, immunities and facilities as the Host State accords to members of the administrative and technical staff of diplomatic missions established in the Host State, in conformity with the Vienna Convention, provided that the immunity from criminal jurisdiction and personal inviolability shall not extend to acts performed outside the course of their official duties.

4. With respect to the inheritance and gift tax, which depends upon residence, periods during which staff are present in the Host State for the discharge of their functions shall not be considered as periods of residence.

5. The Host State shall not be obliged to exempt from income tax pensions or annuities paid to former staff and the members of their family forming part of their household.

6. Persons referred to in this Article who are nationals or permanent residents of the Host State shall enjoy only the following privileges, immunities and facilities to the extent necessary for the independent performance of their functions:

- a) immunity from personal arrest or detention or any other restriction of their liberty;
- b) immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in the performance of their functions for the Kosovo Relocated Specialist Judicial Institution, which immunity shall continue to be accorded even after they have ceased to perform their functions for the Kosovo Relocated Specialist Judicial Institution;
- c) inviolability of all papers, documents in whatever form and materials relating to the performance of their functions for the Kosovo Relocated Specialist Judicial Institution;
- d) exemption from taxation on salaries, emoluments and allowances paid to them in respect of their employment with the Kosovo Relocated Specialist Judicial Institution;
- e) for the purposes of their communications with the Kosovo Relocated Specialist Judicial Institution the right to receive and send papers in whatever form;
- f) the right to import free of duties and taxes, except payments for services, their furniture and effects at the time of first taking up their post in the Host State.

7. Persons referred to in paragraph 6 of this Article shall not be subjected by the Host State to any measure which may affect the free and independent performance of their functions at the Kosovo Relocated Specialist Judicial Institution.

Article 21.

Personnel recruited locally and not otherwise covered by this Agreement

1. Personnel recruited locally in the Host State by the Kosovo Relocated Specialist Judicial Institution and not otherwise covered by this Agreement shall be accorded immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity for the Kosovo Relocated Specialist Judicial Institution. Such immunity shall continue to be accorded even after termination of their employment with the Kosovo Relocated Specialist Judicial Institution. During their employment, they shall also be accorded such other facilities as may be necessary for the independent performance of their functions for the Kosovo Relocated Specialist Judicial Institution.

2. The terms and conditions of the employment of personnel recruited locally by the Kosovo Relocated Specialist Judicial Institution and not otherwise covered by this Agreement shall be in accordance with the relevant resolutions, decisions, regulations, rules and policies of the Kosovo Relocated Specialist Judicial Institution.

Article 22.

Interns

1. Without prejudice to the applicable rules of the European Union in regard to citizens of a member state of the European Union, the Ministry of Foreign Affairs shall register interns for a maximum period of twelve (12) months, provided that the Registrar supplies the Ministry of Foreign Affairs with a declaration signed by the intern, accompanied by adequate proof, to the effect that:
 - a) the intern entered the Host State in accordance with the applicable immigration procedures;
 - b) the intern has sufficient financial means for living expenses and for repatriation, as well as sufficient medical insurance (including coverage of costs of hospitalization for at least the duration of the internship plus one month) and third party liability insurance, and shall not be a charge on the public purse of the Host State;
 - c) the intern shall not engage in gainful employment in the Host State during his or her internship other than as an intern for the Kosovo Relocated Specialist Judicial Institution;
 - d) the intern shall not bring any family members to reside with him or her in the Host State other than in accordance with the applicable immigration procedures including entitlement to do so as citizens of a member state of the European Union; and
 - e) the intern shall leave the Host State within fifteen (15) days after the end of the internship unless he/she is otherwise entitled to stay in the Netherlands in accordance with the applicable immigration legislation.
2. The Kosovo Relocated Specialist Judicial Institution shall not incur liability for damage resulting from non-fulfillment of the conditions of the declaration referred to in paragraph 1 of this Article by interns registered in accordance with that paragraph.
3. Interns shall not enjoy privileges, immunities and facilities, except:
 - a) immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity for the Kosovo Relocated Specialist Judicial Institution, which immunity shall continue to be accorded even after termination of the internship with the Kosovo Relocated Specialist Judicial Institution for activities carried out on its behalf;
 - b) inviolability of all papers, documents in whatever form and materials relating to the performance of their functions for the Kosovo Relocated Specialist Judicial Institution.

Article 23.

Experts

1. Experts performing functions for the Kosovo Relocated Specialist Judicial Institution shall be accorded the following privileges, immunities and facilities to the extent necessary for the independent performance of their functions, subject to production of the document referred to in paragraph 2 of this Article:
 - a) immunity from personal arrest or detention or any other restriction of their liberty in respect of acts or convictions prior to their entry into the territory of the Host State;
 - b) immunity from seizure of their personal baggage;
 - c) immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in the course of the performance of their functions for the Kosovo Relocated Specialist Judicial Institution, which immunity shall continue to be accorded even after the termination of their functions;
 - d) inviolability of all papers, documents in whatever form and materials relating to the performance of their functions for the Kosovo Relocated Specialist Judicial Institution;
 - e) for the purposes of their communications with the Kosovo Relocated Specialist Judicial Institution, the right to receive and send papers and documents in whatever form and materials relating to the performance of their functions for the Kosovo Relocated Specialist Judicial Institution by courier or in sealed bags;
 - f) exemption from inspection of their personal baggage, unless there are serious grounds for believing that the baggage contains articles the import or export of which is prohibited by law or controlled by the quarantine regulations of the Host State; an inspection in such a case shall be conducted in the presence of the expert concerned;
 - g) the same privileges in respect of currency and exchange facilities as are accorded to representatives of foreign Governments on temporary official missions;
 - h) the same repatriation facilities in time of international crisis as are accorded to diplomatic agents under the Vienna Convention;
 - i) exemption from immigration restrictions and alien registration in relation to their functions as specified in the document referred to in paragraph 2 of this Article.
2. Experts shall be provided by the Kosovo Relocated Specialist Judicial Institution with a document certifying that they are performing functions for the Kosovo Relocated Specialist Judicial Institution on a temporary basis and specifying a time period for which their functions will last, which shall not exceed the duration of this Agreement. Such document shall be withdrawn prior to its expiry if the expert is no longer performing

functions for the Kosovo Relocated Specialist Judicial Institution, or if the expert's presence at the seat of the Kosovo Relocated Specialist Judicial Institution is no longer required.

3. With the exception of paragraph 1(c) of this Article, the privileges, immunities and facilities referred to in paragraph 1 of this Article shall cease to apply after fifteen (15) consecutive days following the date on which the presence of the expert concerned is no longer required by the Kosovo Relocated Specialist Judicial Institution.

4. Experts who are nationals or permanent residents of the Host State shall enjoy only the following privileges, immunities and facilities to the extent necessary for the independent performance of their functions for the Kosovo Relocated Specialist Judicial Institution:

- a) immunity from personal arrest or detention or any other restriction of their liberty;
- b) immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in the performance of their functions, which immunity shall continue to be accorded even after they have ceased to perform their functions;
- c) inviolability of all papers, documents in whatever form and materials relating to the performance of their functions;
- d) for the purpose of their communications with the Kosovo Relocated Specialist Judicial Institution the right to receive and send papers in whatever form.

5. Experts shall not be subjected by the Host State to any measure which may affect the independent performance of their functions for the Kosovo Relocated Specialist Judicial Institution.

Article 24.

Counsel and persons assisting counsel

1. Counsel shall enjoy the following privileges, immunities and facilities to the extent necessary for the free and independent exercise of their functions, subject to the procedure referred to in paragraph 2 of this Article and subject to the notification procedure required under Article 33 of this Agreement:

- a) immunity from personal arrest or detention or any other restriction of their liberty in respect of acts or convictions prior to their entry into the territory of the Host State;
- b) immunity from seizure of their personal baggage;
- c) immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in their official capacity, which immunity shall continue to be accorded even after they have ceased to perform their functions for the Kosovo Relocated Specialist Judicial Institution;
- d) inviolability of all papers, documents in whatever form and materials relating to the performance of their functions;
- e) for the purposes of communications in pursuance of their functions as counsel, the right to receive and send papers and documents in whatever form;
- f) together with members of their family forming part of their household, exemption from immigration restrictions and alien registration;
- g) exemption from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles the import or export of which is prohibited by law or controlled by the quarantine regulations of the Host State; an inspection in such a case shall be conducted in the presence of the counsel concerned;
- h) the same privileges in respect of currency and exchange facilities as are accorded to representatives of foreign Governments on temporary official missions;
- i) together with members of their family forming part of the household, the same repatriation facilities in time of international crisis as are accorded to diplomatic agents under the Vienna Convention.

2. Upon appointment of counsel in accordance with Law No. 05/L-053, rules, regulations and policies of the Kosovo Relocated Specialist Judicial Institution, counsel shall be provided with a certificate under the signature of the Registrar for the period required for the performance of their functions. This certificate shall be withdrawn if the power or mandate is terminated prior to the expiry of the certificate.

3. With respect to the inheritance and gift tax, which depends upon residence, periods during which counsel are present in the Host State for the discharge of their functions shall not be considered as periods of residence.

4. Persons referred to in this Article who are nationals or permanent residents of the Host State shall enjoy only the following privileges, immunities and facilities to the extent necessary for the independent performance of their functions before the Kosovo Relocated Specialist Judicial Institution:

- a) immunity from personal arrest or detention or any other restriction of their liberty;
- b) immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in the performance of their functions, which immunity shall continue to be accorded even after they have ceased to perform their functions for the Kosovo Relocated Specialist Judicial Institution;

- c) inviolability of all papers, documents in whatever form and materials relating to the performance of their functions;
 - d) for the purpose of their communications in pursuance of their functions as counsel, the right to receive and send papers in whatever form.
5. Counsel shall not be subjected by the Host State to any measure which may affect the free and independent performance of their functions for the Kosovo Relocated Specialist Judicial Institution.
6. This Article shall be without prejudice to such disciplinary rules as may be applicable to counsel.
7. The provisions of this Article shall apply, *mutatis mutandis*, to persons assisting counsel, recognised by the Registrar as such, in accordance with the relevant rules, regulations and policies of the Kosovo Specialist Judicial Institution.

Article 25.

Witnesses

1. Witnesses shall enjoy the following privileges, immunities and facilities to the extent necessary for their appearance before the Kosovo Relocated Specialist Judicial Institution for purposes of giving evidence, subject to the production of the document referred to in paragraph 2 of this Article and subject to the notification procedure required under Article 33 of this Agreement:
- a) immunity from personal arrest or detention or any other restriction of their liberty in respect of acts or convictions prior to their entry into the territory of the Host State;
 - b) immunity from seizure of their personal baggage unless there are serious grounds for believing that the baggage contains articles the import or export of which is prohibited by law or controlled by the quarantine regulations of the Host State;
 - c) immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in the course of their appearance or testimony, which immunity shall continue to be accorded even after their appearance or testimony before the Kosovo Relocated Specialist Judicial Institution;
 - d) inviolability of all papers and documents in whatever form and materials relating to their appearance or testimony;
 - e) exemption from immigration restrictions and alien registration when they travel for purposes of their appearance or testimony;
 - f) for the purpose of their communications with the Kosovo Relocated Specialist Judicial Institution and with defence counsel in connection with their appearance or testimony, the right to receive and send papers in whatever form; and
 - g) the same repatriation facilities in time of international crisis as are accorded to diplomatic envoys under the Vienna Convention.
2. Witnesses shall be provided by the Registrar with a document certifying that their appearance is required by the Kosovo Relocated Specialist Judicial Institution and specifying a time period during which such appearance is necessary. This certificate shall be withdrawn prior to its expiry if the witness' appearance before the Kosovo Relocated Specialist Judicial Institution or his or her presence at the seat of the Kosovo Relocated Specialist Judicial Institution is no longer required.
3. The privileges, immunities and facilities referred to in paragraph 1 of this Article, except for that referred to in paragraph 1(c) of this Article, shall cease to apply after fifteen (15) consecutive days following the date on which the presence of the witness concerned is no longer required by the Kosovo Relocated Specialist Judicial Institution, provided that such witness had an opportunity to leave the Host State during that period.
4. Witnesses who are nationals or permanent residents of the Host State shall enjoy only the following privileges, immunities and facilities to the extent necessary for their appearance or testimony before the Kosovo Relocated Specialist Judicial Institution:
- a) immunity from personal arrest or detention or any other restriction of their liberty;
 - b) immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in the course of their appearance or testimony, which immunity shall continue to be accorded even after their appearance or testimony before the Kosovo Relocated Specialist Judicial Institution;
 - c) inviolability of all official papers and documents in whatever form and materials;
 - d) for the purpose of their communications with the Kosovo Relocated Specialist Judicial Institution and with counsel in connection with their appearance or testimony, the right to receive and send papers in whatever form.
5. Witnesses shall not be subjected by the Host State to any measure which may affect their appearance or testimony before the Kosovo Relocated Specialist Judicial Institution.

6. Witnesses who are not nationals or permanent residents of the Host State and whose appearance before the Kosovo Relocated Specialist Judicial Institution or their presence at the seat of the Kosovo Relocated Specialist Judicial Institution is no longer required, shall be obliged to leave the Host State. The Registrar shall take all necessary measures to arrange the relocation without delay to third States of witnesses who for security reasons cannot return to their home countries or their countries of permanent residence after appearing or testifying before the Kosovo Relocated Specialist Judicial Institution.

Article 26.

Victims

1. Victims participating in the proceedings in accordance with Article 22 of Law No. 05/L-053 shall enjoy the following privileges, immunities and facilities to the extent necessary for their appearance before the Kosovo Relocated Specialist Judicial Institution, subject to the production of the document referred to in paragraph 2 of this Article and subject to the notification procedure required under Article 33 of this Agreement:

- a) immunity from personal arrest or detention or any other restriction of their liberty in respect of acts or convictions prior to their entry into the territory of the Host State;
- b) immunity from seizure of their personal baggage unless there are serious grounds for believing that the baggage contains articles the import or export of which is prohibited by law or controlled by the quarantine regulations of the Host State;
- c) immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in the course of their appearance before the Kosovo Relocated Specialist Judicial Institution, which immunity shall continue to be accorded even after their appearance before the Kosovo Relocated Specialist Judicial Institution;
- d) inviolability of all papers, documents in whatever form and materials relating to their participation in proceedings before the Kosovo Relocated Specialist Judicial Institution;
- e) exemption from immigration restrictions or alien registration when they travel to and from the Kosovo Relocated Specialist Judicial Institution for purposes of their appearance.

2. Victims shall be provided by the Registrar with a document certifying their participation in the proceedings of the Kosovo Relocated Specialist Judicial Institution and specifying a time period for that participation. Such document shall be withdrawn prior to its expiry if the victim is no longer participating in the proceedings of the Kosovo Relocated Specialist Judicial Institution, or if the victim's presence at the seat of the Kosovo Relocated Specialist Judicial Institution is no longer required.

3. The privileges, immunities and facilities referred to in paragraph 1 of this Article shall cease to apply after fifteen (15) consecutive days following the date on which the presence of the victim concerned is no longer required by the Kosovo Relocated Specialist Judicial Institution, provided such victim had an opportunity to leave the Host State during that period.

4. Victims who are nationals or permanent residents of the Host State shall enjoy no privileges, immunities and facilities, except, to the extent necessary for their appearance before the Kosovo Relocated Specialist Judicial Institution, immunity from legal process in respect of words spoken or written and all acts performed by them in the course of their appearance before the Kosovo Relocated Specialist Judicial Institution, which immunity shall continue to be accorded even after their appearance before the Kosovo Relocated Specialist Judicial Institution.

5. Victims shall not be subjected by the Host State to any measure which may affect their appearance before the Kosovo Relocated Specialist Judicial Institution.

Article 27.

Other persons, excluding accused and suspects, required to be present at the seat of the Kosovo Relocated Specialist Judicial Institution

1. Other persons, excluding accused and suspects, required to be present at the seat of the Kosovo Relocated Specialist Judicial Institution shall, to the extent necessary for the proper functioning of the Kosovo Relocated Specialist Judicial Institution, be accorded the following privileges, immunities and facilities subject to production of the document referred to in paragraph 2 of this Article and subject to the notification procedure required under Article 33 of this Agreement:

- a) immunity from personal arrest or detention or any other restriction of their liberty in respect of acts or convictions prior to their entry into the territory of the Host State;
- b) immunity from seizure of their personal baggage unless there are serious grounds for believing that the baggage contains articles the import or export of which is prohibited by law or controlled by the quarantine regulations of the Host State;

- c) immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in the course of their presence at the seat of the Kosovo Relocated Specialist Judicial Institution, which immunity shall continue to be accorded even after their presence at the seat of the Kosovo Relocated Specialist Judicial Institution;
- d) inviolability of all papers, documents in whatever form and materials relating to their presence at the seat of the Kosovo Relocated Specialist Judicial Institution;
- e) exemption from immigration restrictions and alien registration when they travel to and from the Kosovo Relocated Specialist Judicial Institution for purposes of their presence at the seat of the Kosovo Relocated Specialist Judicial Institution.

2. Persons referred to in this Article shall be provided by the Registrar with a document certifying that their presence is required at the seat of the Kosovo Relocated Specialist Judicial Institution and specifying a time period during which such presence is necessary. Such document shall be withdrawn prior to its expiry if their presence at the seat of the Kosovo Relocated Specialist Judicial Institution is no longer required.

3. With the exception of paragraph 1(c) of this Article, the privileges, immunities and facilities referred to in paragraph 1 of this Article shall cease to apply after fifteen (15) consecutive days following the date on which the presence of such other person concerned, excluding accused and suspects, is no longer required by the Kosovo Relocated Specialist Judicial Institution.

4. Persons referred to in this Article who are nationals or permanent residents of the Host State shall enjoy no privileges, immunities and facilities, except, to the extent necessary for their presence at the seat of the Kosovo Relocated Specialist Judicial Institution, immunity from legal process in respect of words spoken or written and all acts performed by them in the course of their presence at the seat of the Kosovo Relocated Specialist Judicial Institution. Such immunity shall continue to be accorded even after their presence at the seat of the Kosovo Relocated Specialist Judicial Institution is no longer required.

5. Persons referred to in this Article shall not be subjected by the Host State to any measures which may affect their presence at the seat of the Kosovo Relocated Specialist Judicial Institution.

Article 28.

Employment of Family members of the judges, the Specialist Prosecutor, the Deputy Specialist Prosecutor, the Registrar, the Deputy Registrar and staff

1. Members of the family forming part of the household of a judge, Specialist Prosecutor, Deputy Specialist Prosecutor, Registrar, Deputy Registrar or member of the staff shall be authorized to engage in gainful employment in the Host State for the duration of the term of office of the judge, Specialist Prosecutor, Deputy Specialist Prosecutor, Registrar, Deputy Registrar or member of the staff concerned.

2. Members of the family forming part of the household of a judge, Specialist Prosecutor, Deputy Specialist Prosecutor, Registrar, Deputy Registrar, or member of the staff who obtain gainful employment shall enjoy no immunity from criminal, civil or administrative jurisdiction with respect to matters arising in the course of or in connection with such employment. However, any measures of execution shall be taken without infringing the inviolability of their person or of their residence, if they are entitled to such inviolability.

3. In case of the insolvency of a person aged under 18 with respect to a claim arising out of gainful employment of that person, the immunity of the judges, the Specialist Prosecutor, the Deputy Specialist Prosecutor, the Registrar, the Deputy Registrar and staff of whose family the person concerned is a member shall be waived for the purpose of settlement of the claim, in accordance with the provisions of Article 30 of this Agreement.

4. The employment referred to in paragraph 1 of this Article shall be in accordance with the legislation of the Host State, including fiscal and social security legislation.

Article 29.

Exceptions to immunities

The immunity granted to persons mentioned in Article 19, paragraph 1; Article 20, paragraphs 1 to 3 and paragraph 6; Article 21; Article 22, paragraph 3, Article 23, paragraphs 1 and 4, Article 24, paragraphs 1 and 4, shall not extend to any civil action by a third party for damages, including personal injury or death, arising from a traffic accident caused by any such person.

PART IV.

WAIVER OF PRIVILEGES, IMMUNITIES AND FACILITIES

Article 30.

Waiver of privileges, immunities and facilities provided for in Articles 19, 20, 21, 22, 23, 24, 25, 26 and 27

1. The privileges, immunities and facilities provided for in Articles 19, 20, 21, 22, 23, 24, 25, 26 and 27 of this Agreement are granted in the interests of the Kosovo Relocated Specialist Judicial Institution and not for the personal benefit of the persons themselves.
2. The immunity of any person granted under this Agreement shall be waived as set out in Law No. 04/L-274 of the Republic of Kosovo in any particular case where the immunity would impede the course of justice and can be waived without prejudice to
 - a. the purpose for which it is accorded; or
 - b. the interests of the Kosovo Relocated Specialist Judicial Institution.

PART V.

COOPERATION BETWEEN THE KOSOVO RELOCATED SPECIALIST JUDICIAL INSTITUTION AND THE HOST STATE

SECTION 1: GENERAL

Article 31.

General cooperation between the Kosovo Relocated Specialist Judicial Institution and the Host State

1. Whenever this Agreement imposes obligations on the competent authorities, the ultimate responsibility for the fulfilment of such obligations shall rest with the Government of the Host State.
2. The Host State shall promptly inform the Registrar of the office designated to serve as the official contact point and to be primarily responsible for all matters in relation to this Agreement, as well as of any subsequent changes in this regard.
3. The Registrar, or a staff member designated by him or her, shall serve as the official contact point for the Host State, and shall be primarily responsible for all matters in relation to this Agreement. The Host State shall be informed promptly about this designation and of any subsequent changes in this regard.

Article 32.

Cooperation with the competent authorities

1. The Kosovo Relocated Specialist Judicial Institution shall cooperate at all times with the competent authorities to facilitate the proper administration of justice, the enforcement of the laws of the Host State, to secure the observance of police regulations and to prevent the occurrence of any abuse in connection with the privileges, immunities and facilities accorded under this Agreement.
2. The Kosovo Relocated Specialist Judicial Institution and the Host State shall cooperate on security matters, taking into account the public order and national security of the Host State.
3. Without prejudice to their privileges, immunities and facilities, it is the duty of all persons enjoying such privileges, immunities and facilities to respect the laws and regulations of the Host State. They also have the duty not to interfere in the internal affairs of the Host State.
4. The Kosovo Relocated Specialist Judicial Institution shall cooperate with the competent authorities responsible for health, safety at work, electronic communications and fire prevention.
5. The Kosovo Relocated Specialist Judicial Institution shall observe all security directives as agreed with the Host State, as well as all directives of the competent authorities responsible for fire prevention regulations.

Article 33.

Notification and Identification Cards

1. The Registrar shall promptly, and no later than ten (10) days prior to the date of their arrival, notify the Host State of the presence in the Host State of witnesses, victims and other persons as referred to in Article 27 of this Agreement. If in exceptional circumstances the ten (10) days prior notification is not possible, the Registrar shall consult the Ministry of Foreign Affairs immediately.
2. The Registrar shall promptly, and no later than eight (8) days after the date of their first arrival in the Host State, notify the Host State of:
 - a) the presence of the judges, the Specialist Prosecutor, the Deputy Specialist Prosecutor, the Registrar, the Deputy Registrar and staff;
 - b) the presence of interns;
 - c) the presence of experts;
 - d) the presence of counsel and persons assisting counsel;
 - e) the presence of members of the family forming part of the household of the persons referred to in subparagraphs a) and d);
 - f) the presence of private servants of persons referred to in subparagraph a) of this paragraph;
 - g) the date of the arrival of the persons referred to in subparagraphs (a), (b), (c), (d), (e), and (f) of this paragraph.
3. With respect to persons referred to in paragraph 2(a), the Registrar shall promptly, but within eight (8) days, notify the Host State of their appointment. With respect to persons referred to in paragraph 2(b), the Registrar shall promptly, but within eight (8) days, notify the Host State of the acceptance of such persons into the internship programme of the Kosovo Relocated Specialist Judicial Institution.
4. The Registrar shall promptly, but within eight (8) days, notify the Host State of the hiring of experts, and the hiring of personnel recruited locally in accordance with Article 21 of this Agreement.
5. With respect to the persons referred to in paragraphs 1, 2 and 4 of this Article, the Registrar shall promptly, but within eight (8) days, notify the Host State of their final departure or the termination of their functions or their involvement with the Kosovo Relocated Specialist Judicial Institution.
6. With respect to persons referred to in paragraph 2(e) of this Article, the Registrar shall, where appropriate, promptly, but within eight (8) days, notify the Host State once a person has ceased to form part of the household.
7. With respect to persons referred to in paragraph 2(f) of this Article, the Registrar shall, where appropriate, promptly, but within eight (8) days, notify the Host State once a person is no longer employed as a private servant.
8. The Host State shall issue an identity card which shall serve to identify the holder in relation to the competent authorities, to
 - a) the judges, the Specialist Prosecutor, the Deputy Specialist Prosecutor, the Registrar, the Deputy Registrar and staff;
 - b) members of the family forming part of the household of the persons referred to in paragraph 2(a) and (d) of this Article;
 - c) private servants;
 - d) interns, provided that they have been registered in accordance with Article 22(1) of this Agreement;
 - e) experts, provided that the Ministry of Foreign Affairs has been supplied with the document referred to under Article 23(2) of this Agreement;
 - f) counsel and persons assisting counsel;
 - g) other persons who are required to be present at the seat of the Kosovo Relocated Specialist Judicial Institution, provided that the Ministry of Foreign Affairs has been supplied with the document referred to under Article 27(2) of this Agreement;
 - h) personnel recruited locally in accordance with Article 21 of this Agreement.
9. At the final departure of the persons referred to in paragraphs 2, 4 and 8(g) of this Article or when these persons have ceased to perform their functions, the identity card referred to in paragraph 8 of this Article shall be promptly, and not later than within fifteen (15) days, be returned by the Registrar to the Ministry of Foreign Affairs. In case persons who have ceased to perform their functions are not able to return the identity card referred to in paragraph 8 of this Article within the specified time period, the Ministry of Foreign Affairs shall be consulted immediately.

Article 34.

Social security regime

To the extent that the social security system of the Kosovo Relocated Specialist Judicial Institution offers coverage comparable to the coverage under the legislation of the Host State, the Kosovo Relocated Specialist Judicial Institution and its officials and members forming part of their household to whom the aforementioned scheme applies, shall be exempt from social security provisions of the Host State. Consequently, they shall not be covered against the risks described in the social security provisions of the Host State. This exemption applies to them unless they take up gainful activity in the Host State.

SECTION 2: VISAS, PERMITS AND OTHER DOCUMENTS

Article 35.

Visas for the judges, the Specialist Prosecutor, the Deputy Specialist Prosecutor, the Registrar, the Deputy Registrar, staff, counsel and persons assisting counsel

1. The judges, the Specialist Prosecutor, the Deputy Specialist Prosecutor, the Registrar, the Deputy Registrar, staff, counsel and persons assisting counsel as notified as such by the Registrar to the Host State, shall have the right of unimpeded entry into, exit from and movement within the Host State including unimpeded access to the premises.
2. Visas, where required, shall be granted free of charge and as promptly as possible.
3. Applications for visas where required from members of the family forming part of the household of the persons referred to in paragraph 1 of this Article shall be processed by the Host State as promptly as possible and granted free of charge.

Article 36.

Visas for witnesses, victims, experts, interns, persons who need to be present at the seat of the Kosovo Relocated Specialist Judicial Institution pursuant to a summons to appear as suspects or accused and other persons required to be present at the seat of the Kosovo Relocated Specialist Judicial Institution

1. All persons referred to in Articles 22, 23, 24, 25, 26 and 27 of this Agreement, as notified as such by the Registrar to the Host State, shall have the right of unimpeded entry into, exit from and, subject to paragraph 3 and 4 of this Article, movement within the Host State, as appropriate and for the purposes of the Kosovo Relocated Specialist Judicial Institution.
2. Visas, where required, shall be granted free of charge and as promptly as possible to persons referred to in Articles 22 and 23 of this Agreement. The same facilities as referred to in paragraph 1 of this Article shall be accorded to persons accompanying witnesses and victims, who have been notified as such by the Registrar to the Host State.
3. Visas, where required, shall be granted free of charge and as promptly as possible to persons who shall be present at the seat of the Kosovo Relocated Specialist Judicial Institution pursuant to a summons to appear as a suspect or accused issued by the Kosovo Relocated Specialist Judicial Institution. The same applies to other persons referred to in Articles 25, 26, and 27 of this Agreement. These visas may be subject to territorial limitations.
4. The Host State may attach such conditions or restrictions to the visa referred to in paragraph 3 of this Article as may be necessary to prevent violations of its public order or to protect the safety of the person concerned.
5. Before applying paragraph 3 or 4 of this Article, the Host State will seek observations from the Kosovo Relocated Specialist Judicial Institution.

Article 37.

Visas for visitors of persons detained by the Kosovo Relocated Specialist Judicial Institution

1. The Host State shall make adequate arrangements by which visas for visitors of persons detained by the Kosovo Relocated Specialist Judicial Institution are processed promptly. Visas for visitors who are family members of a person detained by the Kosovo Relocated Specialist Judicial Institution shall be processed promptly and may be issued, where appropriate, free of charge or for a reduced fee.

2. Visas for the visitors referred to in paragraph 1 of this Article may be subject to territorial limitations. Visas may be refused in the event that:
 - a) the visitors referred to in paragraph 1 of this Article cannot produce documents justifying the purpose and conditions of the intended stay and demonstrating that they have sufficient means of subsistence for the period of the intended stay and sufficient means for the return to the country of origin or transfer to a third State into which they are certain to be admitted, or that they are in a position to acquire such means lawfully;
 - b) an alert has been issued against them for the purpose of refusing entry; or
 - c) they must be considered a threat to public order, national security or the international relations of any of the Contracting Parties to the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the Gradual Abolition of Checks at their Common Borders.
3. The Host State may attach such conditions or restrictions to the visa referred to in paragraph 2 of this Article as may be necessary to prevent violations of its public order or to protect the safety of the person concerned.

Article 38.

Driving licence

During their period of employment or assignment the following persons shall be allowed to obtain from the Host State a driving licence on presentation of their valid foreign driving licence or to continue to drive using their own valid foreign driving licence, provided the holder is in possession of an identity card issued by the Host State in accordance with Article 33 of this Agreement:

1. the judges, the Specialist Prosecutor, the Deputy Specialist Prosecutor, the Registrar, the Deputy Registrar and staff;
2. members of the family forming part of the household of the persons referred to in subparagraph 1 of this Article;
3. private servants of the persons referred to in subparagraph 1 of this Article;
4. counsel and persons assisting counsel and members of their family forming part of their household;
5. interns;
6. experts, if he or she is required to stay in the Host State for an uninterrupted period exceeding three (3) months.

SECTION 3: SECURITY, OPERATIONAL ASSISTANCE

Article 39.

Security, safety and protection of persons referred to in this Agreement

1. Without prejudice to the privileges, immunities and facilities provided in this Agreement, the competent authorities shall take effective and adequate action which may be required to ensure the security, safety and protection of persons referred to in this Agreement, indispensable for the proper functioning of the Kosovo Relocated Specialist Judicial Institution, free from interference of any kind.
2. The Kosovo Relocated Specialist Judicial Institution shall cooperate with the competent authorities to ensure that all persons referred to in this Agreement observe the directives necessary for their security and safety, as given to them by the competent authorities.
3. Without prejudice to their privileges, immunities and facilities, it is the duty of all persons referred to in this Agreement to observe the directives necessary for their security and safety, as given to them by the competent authorities.

Article 40.

Transport of persons detained by the Kosovo Relocated Specialist Judicial Institution

1. The transport of persons detained by the Kosovo Relocated Specialist Judicial Institution pursuant to Law No. 05/L-053 and the Rules of Procedure and Evidence from the point of arrival in the Host State to the premises of the Kosovo Relocated Specialist Judicial Institution shall, at the request of the Kosovo Relocated Specialist Judicial Institution, be carried out by the competent authorities of the Host State in consultation with the Kosovo Relocated Specialist Judicial Institution.
2. The transport of persons detained by the Kosovo Relocated Specialist Judicial Institution pursuant to Law No. 05/L-053 and the Rules of Procedure and Evidence from the premises of the Kosovo Relocated Specialist Judicial Institution to the point of departure from the Host State shall, at the request of the Kosovo Relocated

Specialist Judicial Institution, be carried out by the competent authorities of the Host State in consultation with the Kosovo Relocated Specialist Judicial Institution.

3. Any transport of persons detained by the Kosovo Relocated Specialist Judicial Institution pursuant to Law No. 05/L-053 and the Rules of Evidence in the Host State outside the premises of the Kosovo Relocated Specialist Judicial Institution shall, at the request of the Kosovo Relocated Specialist Judicial Institution, be carried out by the competent authorities of the Host State in consultation with the Kosovo Relocated Specialist Judicial Institution.

4. The Kosovo Relocated Specialist Judicial Institution shall give reasonable notice to the competent authorities of the Host State in case of a request for transport of persons referred to in this Article. Whenever possible, seventy-two (72) hours advance notice will be given.

5. Where the Host State receives a request under this Article and identifies problems in relation to the execution of the request, it shall consult with the Kosovo Relocated Specialist Judicial Institution, without delay, in order to resolve the matter. Such problems may include, *inter alia*:

- a) insufficient time and/or information to execute the request;
- b) the impossibility, despite best efforts, to make adequate security arrangements for the transport of the person or persons; or
- c) the existence of a threat to public order and security in the Host State.

6. A person detained by the Kosovo Relocated Specialist Judicial Institution pursuant to Law No. 05/L-053 and the Rules of Procedure and Evidence shall be transported directly and without impediment to the destination specified in paragraphs 1 and 2 of this Article or to any other destination as requested by the Kosovo Relocated Specialist Judicial Institution under paragraph 3 of this Article.

7. The Kosovo Relocated Specialist Judicial Institution and the Host State shall, as appropriate, make practical arrangements for the transport of persons detained by the Kosovo Relocated Specialist Judicial Institution pursuant to Law No. 05/L-053 and the Rules of Procedure and Evidence in accordance with this Article.

Article 41.

Cooperation in detention matters

Where the presence of a person in detention is required for the purpose of giving testimony or other assistance to the Kosovo Relocated Specialist Judicial Institution and where, for security reasons, such a person cannot be maintained in custody in the detention centre of the Kosovo Relocated Specialist Judicial Institution, the Kosovo Relocated Specialist Judicial Institution and the Host State shall consult and, where necessary, make arrangements to transport the person to a prison facility or other place forming part of the premises of the Kosovo Relocated Specialist Judicial Institution.

Article 42.

Provisional release

1. Persons detained by the Kosovo Relocated Specialist Judicial Institution in the Host State shall not be provisionally released in the Host State in accordance with Article 41(11) of Law No. 05/L-053, except for persons who are nationals or permanent residents of the Host State.

2. The Host State shall facilitate the transport of persons granted provisional release in accordance with Article 40 of this Agreement.

3. The Kosovo Relocated Specialist Judicial Institution and the Host State shall make practical arrangements as to the implementation of this Article.

Article 43.

Release

1. Persons detained by the Kosovo Relocated Specialist Judicial Institution in the Host State shall not be released in the Host State, except for persons who are nationals or permanent residents of the Host State. The Kosovo Relocated Specialist Judicial Institution retains jurisdiction over such persons until their return and release in the country where they were originally detained on behalf of the Kosovo Relocated Specialist Judicial Institution or in Kosovo, or if they do not have rights of residency in either of those places, in a country where they are ordinarily and/or lawfully resident, or in another country which agrees to receive them, in accordance with Article 41(11) of Law No. 05/L-053. The Kosovo Relocated Specialist Judicial Institution bears the responsibility for the departure of such persons from the Host State.

2. The Kosovo Relocated Specialist Judicial Institution shall make such arrangements [as it considers appropriate] for the transfer of the person to one of the countries referred to in paragraph 1 of this Article.

3. The provisions of Article 40 of this Agreement shall apply, *mutatis mutandis*, to the transport of persons referred to in this Article within the Host State.

4. The Government of Kosovo shall take all necessary measures to protect the safety and well-being of a person referred to in this Article when he or she is released in Kosovo.

Article 44.

Enforcement of sentences

1. A sentence of imprisonment shall be served in a State designated by the Kosovo Relocated Specialist Judicial Institution from among those States with which the Kosovo Relocated Specialist Judicial Institution has arrangements for this purpose in accordance with Article 50 of Law No. 05/L-053.

2. A sentence of imprisonment shall not be served in the Host State.

Article 45.

Limitation to the exercise of jurisdiction by the Host State

1. The Host State shall not exercise its jurisdiction or proceed with a request for extradition from another State with regard to suspects or accused who appear before and who are prosecuted by the Kosovo Relocated Specialist Judicial Institution for any acts, omissions or convictions prior to their entry into the territory of the Host State except as may be provided for in the Rules of Procedure and Evidence.

2. The immunity provided for in this Article shall cease when the person referred to in paragraph 1 of this Article, having been acquitted, released or is otherwise no longer required by the Kosovo Relocated Specialist Judicial Institution and having had for a period of fifteen (15) consecutive days from that date an opportunity of leaving, has nevertheless remained in the territory of the Host State, or having left it, has returned.

Article 46.

Internal Security of the Host State

Nothing in this Agreement shall affect the right of the Host State to take such measures as it may consider necessary for the purpose of protecting its national security.

PART VI.

COSTS

Article 47.

Costs

All costs relating to the presence and functioning of the Kosovo Relocated Specialist Judicial Institution in the Host State and incurred by the Host State relating to the functioning of the Kosovo Relocated Specialist Judicial Institution in the Host State shall be borne by the Kosovo Relocated Specialist Judicial Institution in accordance with Kosovo Law No. 04/L-274 on Ratification of the International Agreement between the Republic of Kosovo and the European Union on the European Union Rule of Law Mission in Kosovo of 23 April 2014, and not by the budget of Kosovo, pursuant to Article 63(1) of Law No. 05/L-053.

PART VII.

FINAL PROVISIONS

Article 48.

Supplementary arrangements and agreements

The Kosovo Relocated Specialist Judicial Institution, within the limits of its competence pursuant to Law No. 05/L-053, and the Host State may, for the purpose of implementing this Agreement or of addressing matters not foreseen in this Agreement, make other supplementary agreements and arrangements as appropriate.

Article 49.

Settlement of disputes with third Parties

The Kosovo Relocated Specialist Judicial Institution shall make provisions for appropriate modes of settlement of:

- a) disputes arising out of contracts and other disputes of a private-law character to which the Kosovo Relocated Specialist Judicial Institution is a party;
- b) disputes involving any person referred to in this Agreement who, by reason of his or her official position or function in connection with the Kosovo Relocated Specialist Judicial Institution, enjoys immunity, if such immunity has not been waived.

Article 50.

Settlement of differences on the interpretation or application of this Agreement or its supplementary arrangements or agreements

1. The Registrar of the Kosovo Relocated Specialist Judicial Institution and representatives of the Host State will regularly consult on the implementation of this Agreement and supplementary arrangements or agreements related to the Kosovo Relocated Specialist Judicial Institution or between the Kosovo Relocated Specialist Judicial Institution and the Host State.

2. In case of a dispute regarding the application, implementation or interpretation of this Agreement, the Registrar shall forthwith notify the Ministry of Foreign Affairs of the Republic of Kosovo. In such a case, the Host State may also notify the Ministry of Foreign Affairs of the Republic of Kosovo, as appropriate.

3. If a solution of a dispute under paragraph 2 is not reached within three months after the notification thereof, the dispute shall, at the request of either Party, be referred to an arbitral tribunal of three arbitrators. The Host State shall appoint one arbitrator and the Republic of Kosovo in consultation with the Registrar of the Kosovo Relocated Specialist Judicial Institution shall appoint one arbitrator, and the two arbitrators so appointed shall appoint a third, who shall be the chairperson of the arbitral tribunal. If, within fifteen (15) days of the appointment of the two arbitrators, the third arbitrator has not been appointed, either Party may request the President of the International Court of Justice to appoint the arbitrator referred to.

4. The arbitral tribunal shall determine its own procedures, provided that any two arbitrators shall constitute a quorum for all purposes, and all decisions require the agreement of any two arbitrators.

5. The expenses, as assessed by the arbitral tribunal, shall be borne by the Kosovo Relocated Specialist Judicial Institution in accordance with Article 47 of this Agreement, and by the Host State.

6. The arbitral tribunal shall reach a decision on the difference on the basis of the provisions of this Agreement and subsequent arrangements or agreements and the applicable rules of international law. The arbitral award shall contain a statement of the reasons on which it is based and shall be final and binding on the Parties.

Article 51.

Application

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

Article 52.

Amendments

This Agreement may be amended by mutual consent of the Parties.

Article 53.

Entry into force

1. This Agreement shall enter into force on the first day of the second month after the Parties have notified each other that their constitutional requirements for entry into force of the Agreement have been complied with.

2. The Interim Agreement between the Netherlands and the Republic of Kosovo concerning the Hosting of the Kosovo Relocated Specialist Judicial Institution in the Netherlands of 26 January 2016 shall cease to have effect on the date of entry into force of this Agreement.

Article 54.

Duration and termination

1. This Agreement shall remain in force for a period of one year, after which it shall be automatically extended for consecutive periods of one year, unless the adequate and necessary funding for the costs, referred to in Article 47 of this Agreement, has not been procured. In such a case the Host State may notify the Republic of Kosovo, in writing, with a three (3) months' notice before the end of the initial period of one year or a consecutive period of one year, that it does not wish to extend the Agreement.

2. This Agreement shall cease to be in force if the seat of the Kosovo Relocated Specialist Judicial Institution is removed from the territory of the Host State or if the Kosovo Relocated Specialist Judicial Institution is dissolved pursuant to a notification of completion by the Council of the European Union to the Republic of Kosovo, except for such provisions as may be applicable in connection with the orderly termination of the operations of the Kosovo Relocated Specialist Judicial Institution at its seat in the Host State and the disposition of its property therein, as well as provisions granting immunity from legal process of every kind in respect of words spoken or written or acts done in an official capacity.

3. The provisions relating to the inviolability of the funds, assets, archives and documents of the Kosovo Relocated Specialist Judicial Institution shall survive termination of this Agreement.

4. The Host State shall be notified in a timely manner with respect to the dissolution of the Kosovo Relocated Specialist Judicial Institution.

IN WITNESS WHEREOF, the undersigned, duly authorized thereto, have signed this Agreement.

DONE at Pristina on 15 February 2016, in duplicate, in the English language.

For the Kingdom of the Netherlands,

Gerrie Willems,
Ambassador

For the Republic of Kosovo,

Hashim Thaçi,
First Deputy Prime Minister and Minister of Foreign Affairs

D. PARLEMENT

Het Verdrag behoeft ingevolge artikel 91 van de Grondwet de goedkeuring van de Staten-Generaal, alvorens het Koninkrijk aan het Verdrag kan worden gebonden.

G. INWERKINGTREDING

De bepalingen van het Verdrag zullen ingevolge artikel 53, eerste lid, van het Verdrag in werking treden op de eerste dag van de tweede maand nadat de partijen elkaar hebben medegedeeld dat aan de grondwettelijke vereisten voor de inwerkingtreding ervan is voldaan.

J. VERWIJZINGEN

Verbanden

Dit Verdrag strekt tot vervanging van:

Titel : Interim-verdrag tussen het Koninkrijk der Nederlanden en de Republiek Kosovo betreffende de vestiging van de Kosovo Relocated Specialist Judicial Institution in Nederland;
Pristina, 26 januari 2016
Tekst : *Trb.* 2016, 12 (Engels)

Laatste *Trb.* : *Trb.* 2016, 15

Overige verwijzingen

Titel : Verdrag van Wenen inzake diplomatiek verkeer;
Wenen, 18 april 1961
Tekst : *Trb.* 1962, 101 (Engels en Frans)
Trb. 1962, 159 (vertaling)
Laatste *Trb.* : *Trb.* 1994, 212

Uitgegeven de zesentwintigste februari 2016.

De Minister van Buitenlandse Zaken,

A.G. KOENDERS