

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1993 Nr. 131

A. TITEL

*Europees Verdrag aangaande de wederzijdse rechtshulp in strafzaken:
Straatsburg, 20 april 1959*

B. TEKST

De tekst van het Verdrag is geplaatst in *Trb.* 1965, 10. Zie ook *Trb.* 1969, 63.

Het Verdrag is aangevuld bij een Protocol van 17 maart 1978.

Zie voor ondertekening van het Verdrag ook *Trb.* 1969, 63, *Trb.* 1982, 7 en *Trb.* 1990, 117.

Het Verdrag is in overeenstemming met artikel 27, eerste lid, nog ondertekend voor:

het Verenigd Koninkrijk van Groot-

Brittannië en Noord-Ierland 21 juni 1991

Hongarije 19 november 1991

Tsjechoslowakije¹) 13 februari 1992

¹ Onder het volgende voorbehoud en de volgende verklaringen:

Reservation

Under the terms of Article 5.1.a and 5.1.c the execution of letters rogatory for search or seizure of property will be made on conditions that the offence motivating the letters rogatory is punishable under both the law of the requesting Party and the law of the Czech and Slovak Federal Republic and the execution of the letters rogatory is consistent with the law of the Czech and Slovak Federal Republic.

Declarations

Within the meaning of Article 15, paragraph 6 of the European Convention on Mutual Assistance in Criminal Matters, the letters rogatory relating to a criminal matter shall be addressed to the General Prosecution of the Czech and Slovak Federal Republic before the case is brought before a court and to the Ministry of Justice of the Czech Republic or the Ministry of Justice of the Slovak Republic after it has been brought before a court.

In accordance with the European Convention on Mutual Assistance in Criminal Matters, the service of a summons on an accused person who is in the territory of the Czech and Slovak Federal Republic shall be transmitted to the respective authorities of the Czech and Slovak Federal Republic at least 30 days before the date set for appearance.

The judicial authorities in charge of the implementation of the European Convention on Mutual Assistance in Criminal Matters shall be the General prosecution of the Czech and Slovak Federal Republic, the Ministry of Justice of the Czech Republic and the Ministry of Justice of the Slovak Republic.

C. VERTALING

Zie *Trb.* 1965, 10 en *Trb.* 1969, 63.

D. PARLEMENT

Zie *Trb.* 1969, 63, *Trb.* 1990, 117 en *Trb.* 1991, 79.

De in rubriek J van *Trb.* 1991, 79 afgedrukte briefwisseling tussen de Nederlandse en de Franse Regering van 23 januari/28 maart 1991 is bij brieven van 9 augustus 1991 medegegedeeld aan de Eerste en de Tweede Kamer der Staten-Generaal en aan de Staten van de Nederlandse Antillen en van Aruba.

Parlementaire goedkeuring wat betreft de Nederlandse Antillen

Bij brieven van 18 februari 1987 (Kamerstukken II 1986/87, 19 886 (R 1324), nr. 1) is het onderhavige Protocol in overeenstemming met artikel 91, juncto additioneel artikel XXI, eerste lid, onderdeel a, van de Grondwet op de voet van artikel 61, derde lid, van de Grondwet naar de tekst van 1972 overgelegd aan de Eerste en de Tweede Kamer der Staten-Generaal en in overeenstemming met artikel 24, eerste lid, van het Statuut voor het Koninkrijk aan de Staten van de Nederlandse Antillen.

De toelichtende nota die de brieven vergezelde, is ondertekend door de Minister van Buitenlandse Zaken H. VAN DEN BROEK en de Minister van Justitie F. KORTHALS ALTES.

De goedkeuring door de Staten-Generaal is op 28 maart 1987 verleend.

E. BEKRACHTIGING

Zie *Trb.* 1965, 10, *Trb.* 1969, 63¹⁾, *Trb.* 1974, 163, *Trb.* 1977, 21, *Trb.* 1982, 7, *Trb.* 1990, 117 en *Trb.* 1991, 79.

Behalve de aldaar genoemde hebben voorts nog de volgende Staten een akte van bekrachtiging nedergelegd bij de Secretaris-Generaal van de Raad van Europa:

het Verenigd Koninkrijk van Groot-Brittannië en Noord-Ierland ²⁾	29 augustus 1991
Tsjechoslowakije ³⁾	15 april 1992
Hongarije ⁴⁾	13 juli 1993

¹⁾ Zweden heeft op 11 mei 1992 de volgende wijziging aangebracht in de bij bekrachtiging gemaakte voorbehouden (voor de tekst van die voorbehouden zie *Trb.* 1969, 63, blz. 7-9).

Sweden withdraws its general reservation regarding Article 11 of the European Convention on Mutual Assistance in Criminal Matters. When requests are submitted in accordance with Article 11, Sweden will require, by virtue of the reservation made with regard to Article 2, that the offence which the request refers to is a crime under Swedish law. The other reservations which Sweden has made with regard to Article 2 will not be applied where requests are submitted under Article 11. In view of what has been stated above, Sweden is prepared to give the assistance referred to in Article 11 to the following extent.

After a request has been submitted by a foreign state, a person in custody in Sweden may be transferred to the requesting state for a hearing or confrontation in connection with a preliminary investigation or trial, if the hearing of confrontation concerns matters other than the offences committed by the person in custody. Such a request is examined by the Government.

A request for transfer shall be rejected if the person in custody does not consent to transfer. A request may also be rejected,

1. if a transfer is liable to prolong the offender's detention,
2. if the presence of the person in custody is needed at criminal proceedings pending in Sweden,
3. if the offence referred to in the request is not a crime under Swedish law or if the offence is a political or military offence, or
4. if there are other overriding grounds for not transferring the person in custody.

The request shall contain details of

1. the name of the person in custody and his place of detention,
2. the criminal offence and the time and place of the offence,
3. what the hearing or confrontation will cover, and
4. how long the person in custody will need to be present in the foreign state.

The Minister of Justice may grant permission for the transportation through Sweden of a person in custody in a foreign state who is to be transferred to another state for a hearing or confrontation.

As regards the way in which a request for transfer or transportation of a person in custody is to be presented we refer to Sweden's declaration under Article 15 item 6 of the Convention.

²⁾ Onder de volgende voorbehouden en verklaringen:

Reservations

1. *Article 2*

In respect of Article 2, the Government of the United Kingdom of Great Britain and Northern Ireland reserves the right to refuse assistance if the person who is the subject of a request for assistance has been convicted or acquitted in the United Kingdom or in the third State of an offence which arises from the same conduct as that giving rise to proceedings in the requesting State in respect of that Person.

2. Article 3

In respect of Article 3, the Government of the United Kingdom of Great Britain and Northern Ireland reserves the right not to take the evidence of witnesses or require the production of records or other documents where its law recognises in relation thereto privilege, non-compellability or other exemption from giving evidence.

3. Article 5 (1)

In accordance with Article 5, paragraph 1, the Government of the United Kingdom of Great Britain and Northern Ireland reserves the right to make the execution of letters rogatory for search and seizure of property dependent on the following conditions:

- a) that the offence motivating the letters rogatory is punishable under both the law of the requesting Party and the law of the United Kingdom; and
- b) that execution of the letters rogatory is consistent with the law of the United Kingdom.

4. Article 11 (2)

The Government of the United Kingdom of Great Britain and Northern Ireland is unable to grant requests made under Article 11, paragraph 2 for a person in custody to transit through its territory.

5. Article 12

The Government of the United Kingdom of Great Britain and Northern Ireland will only consider the granting of immunity under Article 12 where this is specifically requested by the person to whom the immunity would apply or by the appropriate authorities of the party from whom assistance is requested. A request for immunity will not be granted where the judicial authorities of the United Kingdom consider that granting it would not be in the public interest.

6. Article 21

The Government of the United Kingdom reserves the right not to apply Article 21.

Declarations

Declaration 1

Article 15 (1)

In respect of the Government of the United Kingdom of Great Britain and Northern Ireland, references to the "Ministry of Justice" for the purposes of Article 11, paragraph 2, Article 15, paragraphs 1, 3 and 6 and Article 21, paragraph 1 and Article 22 are to the Home Office.

Declaration 2

Article 16 (2)

In accordance with Article 16, paragraph 2, the Government of the United Kingdom reserves the right to stipulate that requests and annexed documents shall be addressed to it accompanied by translations into English.

Declaration 3

Article 24

In accordance with Article 24 for the purposes of the Convention, the Government of the United Kingdom deems the following to be judicial authorities:

- Magistrates' courts, the Crown Court and the High Court;
- the Attorney General for England and Wales;
- the Director of Public Prosecutions and any Crown Prosecutor;
- the Director and any designated member of the Serious Fraud Office;
- the Secretary of State for Trade and Industry in respect of his function of investigating and prosecuting offences;

- any Assistant Secretary (Legal) in charge of Prosecution Division of HM Customs and Excise;
- District Courts and Sheriff Courts and the High Court of Justiciary;
- the Lord Advocate;
- any Procurator Fiscal;
- the Attorney General for Northern Ireland;
- the Director of Public Prosecutions in Northern Ireland.

³⁾ Onder bevestiging van het bij de ondertekening gemaakte voorbehoud en de afgelegde verklaringen.

⁴⁾ Onder de volgende voorbehouden en verklaringen.

Reservations

Article 2

Hungary reserves the right to afford assistance only in procedures instituted in respect of such offences, which are also punishable under Hungarian law.

Article 13, paragraph 1

Extracts from or information on the judicial records will be made available only in respect of an individual who has been charged or brought to trial.

Article 13, paragraph 2

The assistance referred to in this paragraph can not be given by Hungary.

Declarations

Article 5, paragraph 1

Search and seizure will be executed in Hungary on condition provided for in subparagraph c.

Article 7, paragraph 3

Summons on persons staying in Hungary will only be served, if the summons is transmitted to the competent Hungarian authority at least 40 days before the date set for appearance.

Article 15, paragraph 6

Hungary declares that request addressed to its judicial authorities for assistance shall be sent to the Ministry of Justice.

Article 16

A translation of the request for assistance and documents annexed thereto into either Hungarian, or any of the official languages of the Council of Europe, will be required, if they are not drawn up in these languages.

Article 22

Hungary declares that it will not inform other Contracting Parties automatically of criminal convictions and subsequent measures referred to in this Article.

Article 24

For the purpose of the Convention the following shall be deemed judicial authorities in Hungary: courts, public prosecutor's offices, the Ministry of Justice and the Chief Public Prosecutor's Office.

F. TOETREDING

Zie *Trb.* 1969, 63, *Trb.* 1974, 163, *Trb.* 1977, 21, *Trb.* 1982, 7 en *Trb.* 1990, 117.

Verklaringen van voortgezette gebondenheid

De volgende Staten hebben de Secretaris-Generaal van de Raad

van Europa medegeedeeld zich gebonden te achten m.i.v. 1 januari 1993 aan het onderhavige Verdrag:

de Slowaakse Republiek
de Tsjechische Republiek

G. INWERKINGTREDING

Zie *Trb.* 1965, 10, *Trb.* 1969, 63, *Trb.* 1990, 117 en *Trb.* 1991, 79.
Het Verdrag is op 21 juli 1993 in werking getreden voor de Nederlandse Antillen.

H. TOEPASSELIJKVERKLARING

Zie *Trb.* 1990, 117 en *Trb.* 1991, 79.
Het Koninkrijk der Nederlanden heeft het Verdrag van toepassing verklaard op:
de Nederlandse Antillen¹⁾ 21 juli 1993

¹⁾ Onder de mededeling dat de op 14 februari 1969 door de Nederlandse Regering gemaakte voorbehouden en afgelegde verklaringen eveneens van de Nederlandse Antillen gelden, met dien verstande dat:

“The Government of the Kingdom of the Netherlands declares having regard to Article 16, that the Kingdom of the Netherlands will require requests for legal assistance regarding the Netherlands Antilles and Aruba to be accompanied by an English translation; declares in accordance with the declaration of the Netherlands Government concerning Article 25, paragraph 4 that the Convention may be denounced separately in respect of the Netherlands Antilles and Aruba”.

J. GEGEVENS

Zie *Trb.* 1965, 10, *Trb.* 1969, 63, *Trb.* 1974, 163, *Trb.* 1977, 21, *Trb.* 1982, 7, *Trb.* 1990, 117 en *Trb.* 1991, 79.

Voor het op 5 mei 1949 te Londen tot stand gekomen Statuut van de Raad van Europa zie ook, laatstelijk, *Trb.* 1993, 117.

Voor het op 13 december 1957 te Parijs tot stand gekomen Europees Verdrag betreffende uitlevering zie ook, laatstelijk, *Trb.* 1993, 110.

Uitgegeven de *dertigste* september 1993.

De Minister van Buitenlandse Zaken a.i.,

R. F. M. LUBBERS