

2 (1999) Nr. 1

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1999 Nr. 40

A. TITEL

Notawisseling tussen de Nederlandse en de Zweedse Regering houdende een verdrag inzake voorrechten en immuniteiten te verlenen aan verbindingsofficieren die vanwege de Zweedse Regering bij Europol te 's-Gravenhage worden tewerkgesteld; Stockholm, 21 december 1998/3 februari 1999

B. TEKST

Nr. I

Note Verbale

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

If this proposal is acceptable to the Ministry for Foreign Affairs of the Kingdom of Sweden, the Embassy proposes that this note and the affirmative note of the Ministry for Foreign Affairs shall constitute an Agreement between the Kingdom of the Netherlands and the Kingdom of Sweden, which shall enter into force on the first day of the month following the date of receipt of the Ministry's reply by the Embassy.

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

Stockholm, 21 December 1998

*Ministry for Foreign Affairs of the Kingdom of Sweden
Stockholm*

Attachment

1. Definitions

In this Agreement:

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

2. Privileges and immunities

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

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

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

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

3. Entry, stay and departure

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

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

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

4. Employment

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

5. Inviolability of archives

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

6. Personal Protection

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

7. Facilities and immunities in respect of communication

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

2. The liaison officer shall, as far as may be compatible with the International Telecommunications Convention of 6 November 1982, for his

official communications enjoy treatment not less favourable than that accorded by the Kingdom of the Netherlands to any international organisation or government, in the matter of priorities for communication by mail, cable, telegraph, telex, radio, television, telephone, fax, satellite, or other means.

8. *Notification*

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

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

9. *Settlement of Disputes*

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

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

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

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

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

10. *Territorial scope*

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

Nr. II

MINISTRY FOR FOREIGN AFFAIRS

The Ministry for Foreign Affairs presents its compliments to the Royal Netherlands Embassy and with reference to the note of 21 December 1998, has the honour to communicate the following.

In a communication dated 24 September 1998¹⁾ the Kingdom of Sweden accepted the proposal of the Royal Netherlands Embassy, contained in its note of 31 August 1998, which reads as follows.

“Your Excellency,

I have the honour to propose, with reference to article 41, paragraph 2 of the Convention based on Article K.3 of the Treaty on European Union on the establishment of a European Police Office (Europol Convention, 26 July 1995), that the privileges and immunities necessary for the proper performance of the tasks of the liaison officers at Europol be agreed upon as set out in the Attachment.

If this proposal is acceptable to the Government of the Kingdom of Sweden, I propose that this note and Your Excellency’s affirmative reply shall constitute an Agreement between the Kingdom of the Netherlands and the Kingdom of Sweden, which shall enter into force on the first day of the month following the date of receipt by me of Your Excellency’s reply.

I avail myself of this opportunity to renew to you, Your Excellency, the assurances of my highest consideration.”

The entering into force of the agreement in question, attached to the above-mentioned note, is in the opinion of the Kingdom of Sweden dependent upon the achievement of understanding on identical agreements, regarding privileges and immunities to be enjoyed by the liaison officers, between the Kingdom of the Netherlands and the Parties to the Convention based on Article K.3 of the Treaty on European Union on the establishment of a European Police Office (Europol Convention, 26 July 1995). Cf. Article 41, paragraph 2, of the Convention.

¹⁾ Niet afgedrukt.

Consequently, the Ministry for Foreign Affairs has the honour to communicate that it is the opinion of the Kingdom of Sweden that the agreement came into force 1 January 1999 being, according to information received from the Royal Netherlands Embassy, the first day of the month following the achievement of understanding upon identical agreements between the Kingdom of the Netherlands and the Parties to the Europol Convention.

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

Stockholm, 3 February 1999

*The Royal Netherlands Embassy
Stockholm*

D. PARLEMENT

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

G. INWERKINGTREDING

De bepalingen van het in de nota's vervatte verdrag zijn ingevolge het gestelde in de voorlaatste alinea van nota Nr. II in werking getreden op 1 januari 1999.

Wat het Koninkrijk der Nederlanden betreft, geldt het verdrag ingevolge punt 10 van de Bijlage alleen voor Nederland.

J. GEGEVENS

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

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

Van het op 18 april 1961 tot stand gekomen Verdrag van Wenen

inzake diplomatiek verkeer, naar welk Verdrag in punt 2 van de Bijlage bij het onderhavige verdrag wordt verwezen, zijn de Engelse en Franse tekst geplaatst in *Trb.* 1962, 101 en de vertaling in *Trb.* 1962, 159; zie ook, laatstelijk, *Trb.* 1994, 212.

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

In overeenstemming met artikel 19, tweede lid, van de Rijkswet goedkeuring en bekendmaking verdragen heeft de Minister van Buitenlandse Zaken bepaald dat het onderhavige verdrag zal zijn bekendgemaakt in Nederland op de dag na de datum van uitgifte van dit Tractatenblad.

Uitgegeven de *vijfde* maart 1999.

De Minister van Buitenlandse Zaken,

J. J. VAN AARTSEN