

5 (2004) Nr. 1

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2004 Nr. 163

A. TITEL

Notawisseling houdende een verdrag tussen het Koninkrijk der Nederlanden en de Republiek Cyprus inzake privileges en immuniteten voor verbindingsofficieren die door Cyprus bij Europol te 's-Gravenhage gedetacheerd worden, met Bijlage; 's-Gravenhage, 6 mei 2004

B. TEKST

Nr. I

MINISTERIE VAN
BUITENLANDSE ZAKEN

The Hague, 6 May 2004

Treaties Division
DJZ/VE-431/04

The Ministry of Foreign Affairs presents its compliments to the Embassy of the Republic of Cyprus and has the honour to propose, with reference to the Co-operation Agreement between the Republic of Cyprus and the European Police Office of 4 July 2003 (hereinafter "the Agreement"), and in view of 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 referred to in Article 14 and Annex 3 of the Agreement, be agreed upon as set out in the Attachment.

If this proposal is acceptable to the Embassy of the Republic of Cyprus, the Ministry of Foreign Affairs proposes that this note and the

affirmative note of the Embassy of the Republic of Cyprus shall constitute an Agreement between the Kingdom of the Netherlands and the Republic of Cyprus, which shall be applied provisionally from the day on which this affirmative note has been received by the Ministry of Foreign Affairs, and which shall enter into force on the first day of the second month following the date on which the Kingdom of the Netherlands and the Republic of Cyprus have informed each other that the formalities required for the entry into force have been complied with.

The Ministry avails itself of this opportunity to renew to the Embassy of the Republic of Cyprus the assurances of its highest consideration.

Attachment

1. Definitions

In this Agreement:

- a. "Liaison officer" means: any official stationed at Europol in accordance with Article 14 of the Agreement;
- 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. "Sending State" means the Republic of Cyprus;
- 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 Sending 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 acci-

dent caused by any such person; 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 Sending 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 Sending 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 Sending 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 Sending State and the Government concerning the interpretation or application of this Agreement, or any question affecting the liaison officer or the relationship between the Sending 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 Sending 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

EMBASSY OF THE REPUBLIC
OF CYPRUS

The Hague, 6 May 2004

The Embassy of the Republic of Cyprus presents its compliments to the Ministry of Foreign Affairs of the Kingdom of the Netherlands and has the honour to acknowledge receipt of the Ministry's NoteDJZ/VE-431/04 of 6 May 2004, which reads as follows:

(Zoals in Nr. I)

The Embassy of the Republic of Cyprus has the honour to inform the Ministry of Foreign Affairs that the Government of the Republic of Cyprus agrees to the contents of the above-mentioned Note, and that the Ministry's Note and this Note expressing the agreement of the Government of the Republic of Cyprus shall constitute an Agreement between the Kingdom of the Netherlands and the Republic of Cyprus, which shall be applied provisionally from the day on which this affirmative note has been received by the Ministry of Foreign Affairs, and which shall enter into force on the first day of the second month following the day on which both Parties have informed each other in writing that the legal requirements for entry into force have been complied with.

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

D. PARLEMENT

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

De voorlopige toepassing van het in de nota's vervatte verdrag (zie

rubriek G hieronder) is medegedeeld aan de Eerste en de Tweede Kamer der Staten-Generaal bij brieven van 19 mei 2004.

G. INWERKINGTREDING

De bepalingen van het in de nota's vervatte verdrag zullen ingevolge de een na laatste alinea van beide nota's in werking treden op de eerste dag van de tweede maand volgend op de datum waarop de partijen elkaar ervan in kennis hebben gesteld dat aan hun respectieve juridische of constitutionele procedures vereist voor de inwerkingtreding van het in de nota's vervatte verdrag is voldaan.

Het in de nota's vervatte verdrag wordt ingevolge de een na laatste alinea van beide nota's vanaf 6 mei 2004 voorlopig toegepast.

Wat het Koninkrijk der Nederlanden betreft, geldt het in de nota's vervatte verdrag ingevolge artikel 10 alleen voor Nederland.

J. VERWIJZINGEN

Titel : Verdrag betreffende de Europese Unie;
Maastricht, 7 februari 1992
Tekst : *Trb.* 1992, 74 (Nederlands)
Laatste *Trb.* : *Trb.* 2004, 122

Voor wijzigingen van bovengenoemd Verdrag van 7 februari 1992 zie rubriek J van *Trb.* 2004, 119.

Titel : Overeenkomst op grond van Artikel K.3 van het Verdrag betreffende de Europese Unie tot oprichting van een Europese Politiedienst (Europol-Overeenkomst);
Brussel, 26 juli 1995
Tekst : *Trb.* 1995, 282 (Nederlands, Engels, Frans)
Laatste *Trb.* : *Trb.* 1998, 209

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

Titel : Internationaal Verdrag betreffende de Telecommunicatie;
Nairobi, 6 november 1982
Tekst : *Trb.* 1983, 164 (Frans)
Laatste *Trb.* : 1996, 164

Titel : Protocol betreffende het statuut van het Hof van
Justitie;
Nice, 26 februari 2001
Tekst : *Trb.* 2001, 47, blz. 54 e.v. (Nederlands)

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

Uitgegeven de *vijftiende* juni 2004.

De Minister van Buitenlandse Zaken,

B. R. BOT