

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2011 Nr. 93

A. TITEL

*Internationaal Verdrag inzake de bescherming van alle personen tegen
gedwongen verdwijning;
New York, 20 december 2006*

B. TEKST

De Engelse tekst van het Verdrag is geplaatst in *Trb.* 2008, 173.

C. VERTALING

Zie *Trb.* 2008, 173.

D. PARLEMENT

Artikel 1 van de Rijkswet van 4 november 2010 (*Stb.* 2010, 772) luidt als volgt:

„Artikel 1

Het op 20 december 2006 te New York tot stand gekomen Internationaal Verdrag inzake de bescherming van alle personen tegen gedwongen verdwijning, waarvan de Engelse tekst alsmede de Nederlandse vertaling is geplaatst in *Tractatenblad* 2008, 173, wordt goedgekeurd voor het gehele Koninkrijk.”.

Deze Rijkswet is gecontrasigneerd door de Minister van Veiligheid en Justitie I. W. OPSTELTEN en de Minister van Buitenlandse Zaken U. ROSENTHAL.

Voor de behandeling in de Staten-Generaal zie Kamerstukken II 2009/2010, 2010/2011, 32251 (R1905); Hand. II 2010/2011, 32251 (R1905); Kamerstukken I 2010/2011, 32251 (R1905); Hand. I 2010/2011, 32251 (R1905).

E. PARTIJGEGEVENS

Zie *Trb.* 2008, 173.

Partij	Onder- tekening	Ratificatie	Type *	In werking	Opzeg- ging	Buiten werking
Albanië	06-02-07	08-11-07	R	23-12-10		
Algerije	06-02-07					
Argentinië	06-02-07	14-12-07	R	23-12-10		
Armenië	10-04-07	24-01-11	R	23-02-11		
Azerbeidzjan	06-02-07					
België	06-02-07					
Benin	19-03-10					
Bolivia	06-02-07	17-12-08	R	23-12-10		
Bosnië en Herzegovina	06-02-07					
Brazilië	06-02-07	29-11-10	R	29-12-10		
Bulgarije	24-09-08					
Burkina Faso	06-02-07	03-12-09	R	23-12-10		
Burundi	06-02-07					
Chili	06-02-07	08-12-09	R	23-12-10		
Colombia	27-09-07					
Comoren, de	06-02-07					
Congo, Democratische Republiek	06-02-07					
Costa Rica	06-02-07					
Cuba	06-02-07	02-02-09	R	23-12-10		
Cyprus	06-02-07					

Partij	Onder- tekening	Ratificatie	Type [*]	In werking	Opzeg- ging	Buiten werking
Denemarken	25-09-07					
Duitsland	26-09-07	24-09-09	R	23-12-10		
Ecuador	24-05-07	20-10-09	R	23-12-10		
Finland	06-02-07					
Frankrijk	06-02-07	23-09-08	R	23-12-10		
Gabon	25-09-07	19-01-11	R	18-02-11		
Ghana	06-02-07					
Grenada	06-02-07					
Griekenland	01-10-08					
Guatemala	06-02-07					
Haïti	06-02-07					
Honduras	06-02-07	01-04-08	R	23-12-10		
Ierland	29-03-07					
IJsland	01-10-08					
India	06-02-07					
Indonesië	27-09-10					
Irak		23-11-10	T	23-12-10		
Italië	03-07-07					
Japan	06-02-07	23-07-09	R	23-12-10		
Kaapverdië	06-02-07					
Kameroen	06-02-07					
Kazachstan		27-02-09	T	23-12-10		
Kenia	06-02-07					
Kroatië	06-02-07					
Laos	29-09-08					
Lesotho	22-09-10					
Libanon	06-02-07					
Liechtenstein	01-10-07					

Partij	Onder- tekening	Ratificatie	Type*	In werking	Opzeg- ging	Buiten werking
Litouwen	06-02-07					
Luxemburg	06-02-07					
Macedonië, de voormalige Joegoslavische Republiek	06-02-07					
Madagaskar	06-02-07					
Maldiven, de	06-02-07					
Mali	06-02-07	01-07-09	R	23-12-10		
Malta	06-02-07					
Marokko	06-02-07					
Mexico	06-02-07	18-03-08	R	23-12-10		
Moldavië	06-02-07					
Monaco	06-02-07					
Mongolië	06-02-07					
Montenegro	06-02-07					
Mozambique	24-12-08					
Nederlanden, het Koninkrijk der – Nederland: – in Europa – Bonaire – Sint Eustatius – Saba – Aruba – Curaçao – Sint Maarten	29-04-08	23-03-11 23-03-11 23-03-11 23-03-11 – – –	R R R R – – –	22-04-11 22-04-11 22-04-11 22-04-11 – – –		
Niger	06-02-07					
Nigeria		27-07-09	T	23-12-10		
Noorwegen	21-12-07					
Oostenrijk	06-02-07					
Panama	25-09-07					
Paraguay	06-02-07	03-08-10	R	23-12-10		

Partij	Ondertekening	Ratificatie	Type*	In werking	Opzegging	Buiten werking
Portugal	06-02-07					
Roemenië	03-12-08					
Saint Vincent en de Grenadines	29-03-10					
Samoa	06-02-07					
Senegal	06-02-07	11-12-08	R	23-12-10		
Servië	06-02-07					
Sierra Leone	06-02-07					
Slovenië	26-09-07					
Slowakije	26-09-07					
Spanje	27-09-07	24-09-09	R	23-12-10		
Swaziland	25-09-07					
Tanzania	29-09-08					
Togo	27-10-10					
Tsjaad	06-02-07					
Tunesië	06-02-07					
Uganda	06-02-07					
Uruguay	06-02-07	04-03-09	R	23-12-10		
Vanuatu	06-02-07					
Venezuela	21-10-08					
Zambia	27-09-10	04-04-2011	R	04-05-11		
Zweden	06-02-07					
Zwitserland	19-01-11					

* O=Ondertekening zonder voorbehoud of vereiste van ratificatie, R= Bekrachtiging, aanvaarding, goedkeuring of kennisgeving, T=Toetreding, VG=Voortgezette gebondenheid, NB=Niet bekend

Verklaringen, voorbehouden en bezwaren

Albanië, 8 november 2007

In accordance with Article 31 of ... [the International Convention for the Protection of All Persons from Enforced Disappearance], the Republic of Albania declares that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction claiming to be victims of a violation of provisions of this Convention by Albanian State.

In accordance with Article 32 of ... [the International Convention for the Protection of all Presons from Enforced Disappearance], the Republic of Albania declares that it recognizes the competence of the Committee to receive and consider communications in which a State Party claims that another State Party is not fulfilling its obligations under this Convention.

Argentinië, 11 juni 2008

In accordance with the provisions of article[s] 31, paragraph 1 [...] of the International Convention for the Protection of All Persons from Enforced Disappearance, the Argentine Republic recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of individuals subject to the jurisdiction of the Argentine Republic claiming to be victims of a violation by the State of any of the provisions of the Convention [...].

In accordance with the provisions of [...] article[s] 32 of the International Convention for the Protection of All Persons from Enforced Disappearance, the Argentine Republic recognizes the competence of the Committee on Enforced Disappearances [...] to receive and consider communications in which a State Party claims that another State Party is not fulfilling its obligations under this Convention.

Chili, 8 december 2009

The Republic of Chile hereby declares, in accordance with article 31 of this Convention, that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction claiming to be victims of a violation by this State Party of provisions of this Convention.

The Republic of Chile hereby declares, in accordance with article 32 of this Convention, that it recognizes the competence of the Committee to receive and consider communications in which a State Party claims that another State Party is not fulfilling its obligations under this Convention.

Cuba, 2 februari 2009

The Republic of Cuba hereby declares, in accordance with article 42, paragraph 2, that it does not consider itself obliged to refer its disputes to the International Court of Justice, as provided for in paragraph 1 of the same article.

Duitsland, 24 september 2009

Article 16

The prohibition of return shall only apply if the person concerned faces a real risk of being subjected to enforced disappearance.

Regarding Art. 17 (2) (f)

Under German law it is guaranteed that deprivation of liberty is only lawful if it has been ordered by a court or – in exceptional cases – subsequently authorized by a court. Article 104 para. 2 of the Basic Law (Grundgesetz) expressly provides: “Only a judge may rule upon the permissibility or continuation of any deprivation of liberty. If such a deprivation is not based on a judicial order, a judicial decision shall be obtained without delay”. Article 104 para. 3 of the Basic Law provides that a person who has been provisionally arrested on suspicion of having committed a criminal offence “shall be brought before a judge no later than the day following the arrest”.

In the event that a person is being held arbitrarily in contravention of Article 104 of the Basic Law, anyone can bring about a judicial decision leading to that person’s release by applying to the competent Local Court for his/her immediate release. If the person concerned has been detained beyond the time limit permissible under the Basic Law, the court has to order that person’s release pursuant to section 128 (2), first sentence, of the Code of Criminal Procedure (Strafprozessordnung, StPO).

Article 17 para. 3

In the case of an involuntary placement of sick persons by a custodian or a person having power of attorney, the information required under letters (a) to (h) is known to the court which authorizes the placement. The court can ascertain the information required under letters (a) to (h) at any time through the custodian or person having power of attorney; the information is then included in the case-file. This information is also to be regarded as records within the meaning of article 17 para. 3.

Regarding Article 18

Under German law, all persons with a legitimate interest are entitled to obtain information from the court files. The restrictions provided for in German law for the protection of the interests of the person concerned or for safeguarding the criminal proceedings are permissible pursuant to Article 20 para. 1 of the Convention.

Regarding Article 24 para. 4

It is clarified that the envisaged provision on reparation and compensation does not abrogate the principle of state immunity.

Frankrijk, 9 december 2008

(...) in accordance with the provisions of paragraph 1 of article 31, [France] recognizes the competence of the Committee on enforced disappearance to receive and consider communications from or on behalf of individuals subject to its jurisdiction claiming to be victims of a violation of provisions of this Convention by France.

(...) in accordance with article 32, [France] recognizes the competence of the Committee on enforced disappearance to receive and consider communications in which a State Party claims that another State Party is not fulfilling its obligations under this Convention.

Japan, 23 juli 2009

In accordance with Article 32 of the Convention, the Government of Japan declares that it recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications in which a State Party claims that another State Party is not fulfilling its obligations under the Convention.

Mali, 2 februari 2010

The Government of the Republic of Mali declares that it recognizes the competence of the Committee on Enforced Disappearances to receive communications from individuals or any other State Party in accordance with the provisions of articles 31 and 32 of the International Convention for the Protection of All Persons against Enforced Disappearance, adopted on December 20, 2006.

Nederlanden, het Koninkrijk der, 23 maart 2011

In accordance with Article 31 of the International Convention for the Protection of all Persons from Enforced Disappearance, the Kingdom of the Netherlands, for the European part of the Netherlands and the Caribbean part of the Netherlands (the islands of Bonaire, Sint Eustatius and Saba), declares that it recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of individuals subject to its jurisdiction claiming to be victims of a violation by the Kingdom of the Netherlands of provisions of this Convention.

In accordance with Article 32 of the International Convention for the Protection of all Persons from Enforced Disappearance, the Kingdom of the Netherlands, for the European part of the Netherlands and the Caribbean part of the Netherlands (the islands of Bonaire, Sint Eustatius and Saba), declares that it recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications in which a State Party claims that another State Party is not fulfilling its obligations under this Convention.

Spanje, 5 januari 2011

In accordance with article 31 of the International Convention for the Protection of All Persons from Enforced Disappearance, the Kingdom of Spain declares that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction, claiming to be victims of violations by Spain of provisions of this Convention.

In accordance with article 32 of the International Convention for the Protection of All Persons from Enforced Disappearance, the Kingdom of Spain declares that it recognizes the competence of the Committee to receive and consider communications in which a State party claims that another State party is not fulfilling its obligations under this Convention.

Uruguay, 4 maart 2009

Article 31

In accordance with article 31, paragraph 1, of the International Convention for the Protection of All Persons from Enforced Disappearance, the Eastern Republic of Uruguay recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications submitted by or on behalf of individuals subject to its jurisdiction claiming to be victims of a violation by that State of the provisions of that Convention.

Article 32

(...) in accordance with article 32 of the International Convention for the Protection of All Persons from Enforced Disappearance, the Eastern Republic of Uruguay recognizes the competence of the Committee [on Enforced Disappearances] to receive and consider communications in which a State party claims that the Uruguayan State is not fulfilling its obligations under that Convention.

Venezuela, 21 oktober 2008

The Bolivarian Republic of Venezuela, in accordance with article 42, paragraph 2, of the International Convention for the Protection of All Persons from Enforced Disappearance, hereby formulates a specific reservation concerning the provisions of paragraph 1 of that article. Therefore, it does not consider itself to be obliged to resort to arbitration as a dispute settlement mechanism, nor does it recognize the compulsory jurisdiction of the International Court of Justice.

G. INWERKINGTREDING

De bepalingen van het Verdrag zijn ingevolge artikel 39, eerste lid, op 23 december 2010 in werking getreden.

Voor de staten die na 23 december 2010 hun akte van bekrachtiging of toetreding nederleggen, treedt het Verdrag ingevolge artikel 39, tweede lid, in werking dertig dagen na de datum van nederlegging van de akte.

Het Verdrag is ingevolge artikel 39, tweede lid voor het *Koninkrijk der Nederlanden* op 22 april 2011 in werking getreden.

Wat betreft het Koninkrijk der Nederlanden, geldt het Verdrag voor Nederland (het Europese en het Caribische deel).

J. VERWIJZINGEN

Zie *Trb.* 2008, 173.

Uitgegeven de *zevenentwintigste* mei 2011.

De Minister van Buitenlandse Zaken,

U. ROSENTHAL