

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2012 Nr. 157

A. TITEL

Gastlandverdrag tussen het Koninkrijk der Nederlanden en het Internationaal Instituut voor Democratie en Verkiezingsondersteuning inzake de immuniteit en privileges van het Internationaal Instituut voor Democratie en Verkiezingsondersteuning en zijn functionarissen; 's-Gravenhage, 27 augustus 2012

B. TEKST

Host Country Agreement between the Kingdom of the Netherlands and the International Institute for Democracy and Electoral Assistance concerning the immunity and privileges of the International Institute for Democracy and Electoral Assistance and its officials

The Kingdom of the Netherlands

and

the International Institute for Democracy and Electoral Assistance (hereinafter referred to as “the Parties”),

Bearing in mind the policy of the Kingdom of the Netherlands to promote the development of the international legal order;

Welcoming the wish of the International Institute for Democracy and Electoral Assistance to establish an office in the Netherlands;

Noting that the International Institute for Democracy and Electoral Assistance was established as an international intergovernmental organization at a conference held in Stockholm, Sweden, on 27 February 1995;

Noting that Statutes of the Organization as amended were adopted at the Extraordinary session of International IDEA’s Council on 24 January 2006;

Noting that according to Article X of the Statutes of the Organization, the status, privileges and immunities of the Organization and its Officials in the host country shall be specified in a Host Country Agreement;

Further noting that the Parties have agreed to enter into such an Agreement;

Desiring to lay down conditions concerning the immunity and privileges of the Organization and its Officials;

have agreed as follows:

Article 1

Definitions

For the purpose of this Agreement,

- a) "Government" means the Government of the Kingdom of the Netherlands;
- b) "Organization" or "International IDEA" means the International Institute for Democracy and Electoral Assistance;
- c) „Host Country" means the Kingdom of the Netherlands;
- d) "Secretary-General" means the Secretary-General of the Organization and during his or her absence, any other Official specifically designated to act on his or her behalf;
- e) "Head of Office" means the Official of the Organization who represents the Secretary-General in the Host Country;
- f) "Officials" means persons employed by the Organization for its regular tasks who are not paid hourly rates;
- g) "Experts" means persons, other than Officials of the Organization, appointed for one or several specific tasks by the Organization;
- h) "emoluments" means all sums in respect of employment by the Organization paid to, vested in or accruing to an Official or Expert in any form whatsoever;
- i) "taxes being charged for public services" means such taxes, which are paid in connection with the provisions by a State or municipal authority of a particular service in direct relation to providing such a service;
- j) "family members" or "members of the family" means:
 - i) the spouse of the person concerned;
 - ii) the partner of the person concerned if the two persons have officially registered their relationship in the receiving State or in a third State if that registration is acceptable for the receiving State;
 - iii) a person comparable to a spouse, i.e., a person who continuously shares a household and cohabits in a relationship resembling marriage with the person concerned;

iv) children of the person concerned and his or her spouse or a person defined in sub-paragraphs ii and iii of paragraph i) of this Article, who form part of his or her household and who are under the age of 18 years or who are between the ages of 18 and 27 and who are engaged in full-time study in the Netherlands and/or dependent on his or her care or who are disabled;

k) “premises” means the building or part thereof, including installations and facilities made available to, maintained or occupied or used by International IDEA in connection with its functions and purposes.

Article 2

Purpose

This Agreement shall regulate matters relating to or arising out of the establishment and the proper functioning of International IDEA in the Host Country. It shall, inter alia, create conditions conducive to the stability and independence of the Organization and facilitate its smooth and efficient functioning.

Article 3

Legal status and juridical personality

International IDEA shall possess in the Host Country full legal personality in accordance with Article 1.3 of its Statutes. This shall, in particular, include the capacity:

- a) to contract;
- b) to acquire and dispose of moveable and immoveable property;
- c) to institute proceedings.

Article 4

Inviolability of the premises

1. The premises of International IDEA shall be inviolable. The competent authorities shall ensure that the Organization is not dispossessed or deprived of all or any part of its premises without its proper consent. Judicial actions and the service and execution of legal process, including the seizure of private property, cannot be enforced on the premises of International IDEA except with the consent and in accordance with conditions approved by the Secretary-General.

2. 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 by the Head of Office or a staff mem-

ber of the Organization so designated by him or her, to any necessary entry into the premises shall be presumed if neither of them can be contacted in time.

Article 5

Protection of the premises

1. The Host Country shall exercise due diligence to ensure that the security and tranquility of the premises are not impaired by any person or group(s) of persons attempting unauthorized entry into the premises or creating disturbances in the immediate vicinity. As may be required for this purpose, the Host Country authorities shall provide adequate police protection on the boundaries and in the vicinity of the Organization's premises.

2. International IDEA shall provide the competent authorities with all information relevant to the security and protection of the premises.

Article 6

Public services for the premises

1. The competent authorities shall secure, upon request of the Head of Office or a staff member to whom such tasks are delegated, on fair and equitable conditions the public services required by International IDEA, such as, but not limited to, postal, telephone, internet, telegraphic sources, any means of communication, electricity, water, gas, sewage, waste collection, fire protection and cleaning of public streets.

2. In case of interruption or threatened interruption of any such sources, the Organization shall be accorded the priority given to essential agencies and organs of the Government and the competent authorities shall act accordingly to ensure that the work of the Organization is not prejudiced.

Article 7

Law and authority on the premises

1. The premises shall be under the control and authority of International IDEA as provided in this Agreement.

2. Except as otherwise provided in this Agreement and in the International IDEA Statute and Regulations and Staff Rules promulgated thereunder concerning employment conditions of Officials, the laws and

regulations of the Host Country shall apply on the premises. International IDEA shall promptly inform the Government upon adoption of such Regulations and Rules.

3. International IDEA may expel or exclude persons from the premises for violation of its regulations.

Article 8

Facilities and immunities in respect of communications

1. The Government shall permit International IDEA to communicate freely and without a need for special permission, for all official purposes and shall protect the right of the Organization to do so.

2. No censorship shall be applied to the official communications or correspondence of International IDEA, whether in physical or digital form or in any other electronic format.

Article 9

Inviolability of archives, documents and materials

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

Article 10

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, International IDEA may freely:

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

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

2. International IDEA shall enjoy treatment not less favorable than that accorded by the Host Country to any intergovernmental organization in respect of rates of exchange for its financial transactions.

Article 11

Funds, assets and other property

1. International IDEA, its funds, assets and other property, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process and execution in the Netherlands, except insofar as in any particular case the Organization has expressly waived its immunity. It is understood, however, that no waiver of immunity shall extend to any measure of execution.

2. Funds, assets and other property of the Organization, 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. To the extent necessary to carry out the functions of the Organization, funds, assets and other property of International IDEA, wherever located and by whomsoever held, shall be exempt from restrictions, regulations, control or moratoria of any nature.

Article 12

Exemption from taxes and duties

1. Within the scope of its official activities, International IDEA, its assets, income and other property shall be exempt from all direct taxes levied by the Host Country authorities.

2. Within the scope of its official activities, International IDEA shall be exempt from:

- a) import taxes and duties (“belastingen bij invoer”);
- b) motor vehicle tax (“motorrijtuigenbelasting”, “MRB”);
- c) tax on passenger motor vehicles and motor cycles (“belasting van personenauto’s en motorrijwielen”, “BPM”);
- d) value added tax (“omzetbelasting”, “BTW”) 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 (“regulerende energiebelasting”, “REB”);
- i) tax on water mains (“belasting op leidingwater”, “BOL”); and
- j) any other taxes and duties of a substantially similar character as the taxes provided for in this paragraph, imposed by the Kingdom of the Netherlands subsequent to the date of signature of this Agreement.

3. The exemptions provided for in paragraph 2, sub-paragraphs d), e), f), g), h), i) and j) of this Article may be granted by way of a refund.

4. Goods acquired or imported under the terms set out in paragraph 2 above shall not be sold, loaned, given away or otherwise disposed of, except in accordance with conditions agreed upon with the Government.

5. No exemption will be granted in respect of taxes and duties which represent charges for specific services rendered.

Article 13

Entry, stay and departure

1. The Government shall facilitate, if required, the entry, stay and departure for purposes of official business of the persons listed below and members of the family of such persons, forming part of the household:

- a) members of the Board of Advisers;
- b) members of the IDEA Council and other organs of International IDEA;
- c) the Head of Office;
- d) Officials, Experts and interns of International IDEA;
- e) other persons invited to the Office or to meetings of International IDEA on request of the Head of Office.

2. This Article shall not prevent the requirement of reasonable evidence to be provided by International IDEA to establish that persons claiming the treatment provided for in this Article fall under one of the categories in paragraph 1 above.

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

Article 14

Privileges, immunities and facilities of members of the Council and other organs of International IDEA

1. Representatives of States who are members of the Council of International IDEA shall enjoy, while exercising their functions within the Kingdom of the Netherlands, the privileges (except for the financial and fiscal privileges), immunities and facilities accorded to heads of diplomatic missions accredited to the Kingdom of the Netherlands in accordance with the Vienna Convention on Diplomatic Relations of 18 April 1961.

2. Members of the family accompanying a Representative or a member of the Council shall enjoy the privileges (except for the financial and fiscal privileges), immunities and facilities accorded to members of the family of heads of diplomatic missions accredited to the Kingdom of the Netherlands in accordance with the Vienna Convention on Diplomatic Relations.

3. Members of other organs of International IDEA shall enjoy, while exercising their functions within the Kingdom of the Netherlands, the following privileges, immunities and facilities:

- a) immunity from legal process of any kind in respect of words spoken or written, and all acts performed by them in the exercise of their official functions;
- b) inviolability of their official papers, documents and other official materials;
- c) the same facilities as regards monetary and exchange regulations and as regards their personal luggage as are accorded to Officials of foreign governments on temporary official mission.

Article 15

Privileges, immunities and facilities of Officials and Experts of International IDEA

1. Officials of International IDEA shall enjoy within the Kingdom of the Netherlands the following privileges and immunities:

- a) immunity from legal process of any kind in respect of words spoken or written, and all acts performed by them in the exercise of their official functions;
- b) exemption from taxation on salaries, emoluments and allowances paid in respect of their employment with International IDEA;
- c) exemption, with respect to themselves, and members of the family forming part of the household, from immigration restrictions and alien registration;
- d) freedom to acquire and maintain within the Kingdom of the Netherlands or elsewhere foreign currency accounts and other movable property, and under the same conditions applicable to nationals of the Kingdom of the Netherlands, immovable property; and upon the termination of their employment with the Organization to take their funds out of the Kingdom of the Netherlands through authorized channels without prohibitions or restrictions;
- e) the same protection and repatriation facilities with regard to themselves and members of the family forming part of the household, as accorded in time of international crisis to members having comparable rank of the staff of diplomatic missions established in the Kingdom of the Netherlands;

f) exemption from import taxes and duties, in respect of their furniture and personal effects, at the time of first taking up their position in the Netherlands; however, no exemption shall be accorded in respect of taxes and duties which represent charges for specific services.

2. In addition to the privileges, immunities and facilities listed in paragraph 1 of this Article, the Secretary-General and the Head of the Office of International IDEA, together with members of their family, who are not nationals or permanent residents in the Kingdom of the Netherlands, shall be accorded the same privileges, immunities and facilities as the Government accords to diplomatic agents of comparable rank of the diplomatic missions established in the kingdom of the Netherlands.

3. Experts shall enjoy within the Kingdom of the Netherlands the following privileges and immunities so far as they may be necessary for the effective exercise of their functions in connection with service on such missions, committees or other subsidiary bodies and during attendance at such meetings:

a) immunity from personal arrest or detention and from seizure of their personal baggage;

b) immunity from legal process of any kind in respect of words spoken or written, and of acts performed by them in the exercise of their official functions;

c) inviolability of their official papers, documents and other official materials;

d) the same immunities and facilities with respect to their personal luggage as are accorded to members, having comparable rank, of the staff of diplomatic missions established in the Kingdom of the Netherlands;

e) the same privileges with respect to currency and exchange restrictions as are accorded to representatives of foreign governments on temporary official mission;

f) exemption from immigration restrictions.

4. Where the incidence of any form of taxation depends upon residence, periods during which the Officials and Experts are present in the Host Country for the discharge of their functions shall not be considered as periods of residence.

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

6. Without prejudice to paragraph 4 of this Article, persons referred to in this Article who are nationals or permanent residents of the Host

Country, shall enjoy only the following privileges, immunities and facilities to the extent necessary for the independent performance of their functions:

- a) exemption from taxation on salaries, emoluments and allowances paid to them in respect of their employment with International IDEA;
- b) 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 Country;
- c) immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity for International IDEA;
- d) inviolability of all papers, documents in whatever form and materials relating to the performance of their functions for International IDEA.

Article 16

Interns

1. Within eight days of the first arrival of interns in the Kingdom of the Netherlands International IDEA shall request the Government to register them in accordance with paragraph 2 of this Article.

2. The Government shall register interns for a maximum period of one year, provided that International IDEA supplies a declaration signed by them, accompanied by adequate proof, to the effect that:

- a) interns entered the Host Country in accordance with the applicable immigration procedures;
- b) interns have 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 in the Host Country;
- c) interns shall not engage in gainful employment in the Host Country during their internship other than as interns for International IDEA;
- d) interns shall not bring any family members to reside with them in the Host Country other than in accordance with the applicable immigration procedures;
- e) interns shall leave the Kingdom of the Netherlands within fifteen days after the end of the internship.

3. Upon registration of the intern in accordance with paragraph 2 of this Article, the Government shall issue an identity card to the intern.

4. International IDEA shall not incur liability for damage resulting from non-fulfillment of the conditions of the declaration referred to in paragraph 2 of this Article by interns registered in accordance with that paragraph.

5. 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 International IDEA;

b) inviolability of all papers, documents in whatever form and materials relating to the performance of their functions for International IDEA.

6. International IDEA shall notify the Government of the final departure of the intern from International IDEA within eight days after such departure, and shall at the same time return the intern's identity card.

Article 17

Personnel recruited locally and not otherwise covered by this Agreement

Personnel recruited locally and assigned to hourly rates by International IDEA and not otherwise covered by this Agreement shall be accorded immunity from legal process in respects of words spoken or written and all acts performed by them in their official capacity for the Organization. The terms and conditions of employment of such individuals shall be in accordance with the relevant rules and regulations and policies of the Organization.

Article 18

Exceptions to immunities

The immunity granted to persons mentioned in Article 14, paragraph 1, and Article 15, paragraph 2, 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.

Article 19

Protection of personnel

The Government shall – if so requested by the Head of Office – take all reasonable steps to ensure the necessary safety and protection to the persons mentioned in this Agreement whose security is endangered due to their services to International IDEA.

Article 20

Notification

1. International IDEA shall promptly notify the Government of:
 - a) the list of members of the organs of International IDEA and shall revise such list from time to time as may be necessary;
 - b) the appointment of Officials, their arrival and their final departure, or the termination of their employment with International IDEA;
 - c) the arrival and final departure of members of the family forming part of the household of Officials and, where appropriate, the fact that a person has ceased to form part of a household;
 - d) the arrival and final departure of domestic employees of Officials and, where appropriate, the fact that they are leaving the employ of such persons.

2. The Government shall issue an identification card which shall serve to identify the holder in relation to the Host Country authorities to the following persons:
 - a) the Officials of International IDEA;
 - b) the members of the family forming part of the Official's household who are not nationals of the Netherlands. The children of EU nationals in the age group 1-14 have to be registered with the Government but are excluded from receiving the identification card;
 - c) the domestic employees of Officials, who are neither nationals of the Netherlands, nor in the possession of a valid permanent residence permit.

3. International IDEA shall promptly return the identification cards upon termination of employment of the Official.

Article 21

Social security

Officials of the Organization shall be covered by appropriate social security arrangements made by the Organization and shall be exempt from any social security scheme established by the law of the Kingdom of the Netherlands, unless the Officials to whom the aforementioned scheme applies take up gainful activity in the Netherlands.

Article 22

Employment

Members of the family forming part of the household of Officials who are not nationals of a European Union member State, shall be granted

working permits for the duration of the employment of the Official with International IDEA in the Kingdom of the Netherlands.

Article 23

Waiver of immunities

1. Privileges and immunities are granted to Officials and Experts in the interest of International IDEA and not for the personal benefit of the individuals themselves. The Secretary-General shall have the right and the duty to waive the immunity of any person mentioned in Articles 15 and 16 in any case where, in his or her opinion, the immunity would impede the course of justice and can be waived without prejudice to the Organization. The Council shall have the right to waive the immunity of the Secretary-General.

2. International IDEA shall co-operate at all times with the appropriate authorities of the Kingdom of the Netherlands to facilitate the proper administration of justice and shall prevent any abuse of privileges and immunities granted to it under this Agreement.

Article 24

Settlement of disputes

1. International IDEA shall make provision for appropriate modes of settlement of:

- a) disputes arising out of contracts and other disputes of a private law character to which International IDEA is a party;
- b) disputes involving an Official or Expert of International IDEA who, by reason of his or her official position, enjoys immunity, if such immunity has not been waived.

2. Any dispute between the Parties concerning the interpretation or application of this Agreement, which cannot be settled amicably, shall be submitted, at the request of either Party to the dispute, to an arbitral tribunal, composed of three members. Each Party shall appoint one arbitrator and the two arbitrators thus appointed shall together appoint a third arbitrator as their chairman. If one of the Parties fails to appoint its arbitrator and has not proceeded to do so within two months after an invitation from the other Party to make such an appointment, the other Party may request the President of the International Court of Justice to make the necessary appointment. If the two arbitrators are unable to reach agreement, in the two months following their appointment, on the choice of the third arbitrator, either Party may invite the President of the International Court of Justice to make the necessary appointment. The Parties shall draw up a special agreement determining the subject of the

dispute. Failing the conclusion of such an agreement within a period of two months from the date on which arbitration was requested, the dispute might be brought before the arbitral tribunal upon application of either Party.

3. Unless the Parties decide otherwise, the arbitral tribunal shall determine its own procedure. The arbitral tribunal shall reach its decision by a majority of votes on the basis of the applicable rules of international law. The decision shall be final and binding on the Parties to the dispute, even if rendered in default of one of the Parties to the dispute.

Article 25

Interpretation of the Agreement

This Agreement shall be interpreted in the light of its primary purpose of enabling International IDEA at its office in the Netherlands, to fully and efficiently discharge its responsibilities and fulfill its purposes.

Article 26

Termination and amendments of the Agreement

1. This Agreement shall cease to be in force by mutual consent of the Parties.

2. This Agreement may be amended by mutual consent and consultation between the Parties at any time.

Article 27

Application

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

Article 28

Entry into force

This Agreement shall enter into force on the first day of the month after both Parties have notified each other in writing that the legal requirements for entry into force have been complied with.

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

DONE at The Hague on 27 August 2012, in duplicate, in the English language.

For the Kingdom of the Netherlands,

R. SWARTBOL

For the International Institute for Democracy and Electoral Assistance,

KRISTEN SAMPLE

D. PARLEMENT

Het Verdrag behoeft niet de goedkeuring van de Staten-Generaal ingevolge artikel 7, onderdeel a, van de Rijkswet goedkeuring en bekendmaking verdragen juncto artikel 3 van de Wet van 24 december 1947 (*Stb.* H 452), houdende goedkeuring van de toetreding tot het voor de Algemene Vergadering van de Verenigde Naties op 13 februari 1946 aangenomen Verdrag nopens de voorrechten en immuniteiten van de Verenigde Naties (*Stb.* I 224). Dit artikel luidt:

„Artikel 3

Wij behouden Ons voor verdragen te bekrachtigen en andere maatregelen te nemen teneinde aan andere internationale organisaties overeenkomstige voorrechten en immuniteiten toe te kennen als in het in artikel 1 bedoelde Verdrag worden toegekend aan de Verenigde Naties.”.

Deze Wet is gecontrasigneerd door de Minister van Buitenlandse Zaken W. F. VAN BOETZELAER, de Minister van Justitie J. H. VAN MAARSEVEEN, de Minister van Financiën P. LIEFTINCK en de Minister van Overzeese Gebiedsdelen a.i. GÖTZEN.

Voor de behandeling in de Staten-Generaal zie Kamerstukken II 1947/1948, 629; Hand. II 1947/1948, 629; Hand. I 1947/1948, 629.

G. INWERKINGTREDING

De bepalingen van het Verdrag zullen ingevolge artikel 28 op 1 september 2012 in werking treden.

Wat betreft het Koninkrijk der Nederlanden, zal het Verdrag alleen voor Nederland (het Europese deel) gelden.

J. VERWIJZINGEN**Verbanden**

- Titel : Verdrag tot oprichting van het Internationaal Instituut voor democratie en verkiezingsondersteuning, zoals gewijzigd op 17 juli 2003; Stockholm, 27 februari 1995
- Tekst : *Trb.* 2007, 24 (Engels en vertaling, herzien)

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
- Titel : Verdrag betreffende de Europese Unie; Maastricht, 7 februari 1992
- Tekst : *Trb.* 2008, 53 (Nederlands, geconsolideerd)
- Laatste *Trb.* : *Trb.* 2010, 248

Uitgegeven de *negenentwintigste* augustus 2012.

De Minister van Buitenlandse Zaken,

U. ROSENTHAL