

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2021 Nr. 60

A. TITEL

*Aanvullend Protocol bij het Europees Verdrag aangaande de wederzijdse rechtshulp in strafzaken;
Straatsburg, 17 maart 1978*

Voor een overzicht van de verdragsgegevens, zie verdragsnummers 000882, 006930 en 009826 in de Verdragenbank.

E. PARTIJGEGEVENS

Het Koninkrijk der Nederlanden heeft op 26 februari 2021 voor het Europese deel van Nederland aanvullende verklaringen afgelegd, in overeenstemming met de artikelen 15 en 24 van het Europees Verdrag, zoals gewijzigd door respectievelijk de artikelen 4 en 6 van het Tweede Aanvullend Protocol bij het Europees Verdrag, en in overeenstemming met artikel 33, tweede lid, van het Tweede Aanvullend Protocol bij het Europees Verdrag. De Engelse tekst van de verklaringen luidt als volgt:

In accordance with Article 24 of the Convention as amended by Article 6 of the Second Additional Protocol to the Convention, the Kingdom of the Netherlands, as a Member State of the European Union participating in the enhanced cooperation on the establishment of the European Public Prosecutor's Office, declares, for the European part of the Netherlands, that the European Public Prosecutor's Office ("EPPO"), in the exercise of its competences, as provided for by Articles 22, 23 and 25 of Council Regulation (EU) 2017/1939, shall be deemed to be a judicial authority for the purpose of issuing requests for mutual assistance in accordance with the Convention and its Protocols, as well as for the purpose of providing, on request of another Contracting Party in accordance with the Convention and its Protocols, information or evidence which the EPPO has obtained already or may obtain following the initiation of an investigation in the area of its competence. The EPPO shall also be deemed to be a judicial authority for the purpose of receipt of information in accordance with Article 21 of the Convention, in respect of offences within its competence as provided for by Articles 22, 23 and 25 of Council Regulation (EU) 2017/1939. This declaration is intended to supplement, for the European part of the Netherlands, the previous declarations made by the Kingdom of the Netherlands in accordance with Article 24 of the Convention.

With reference to this declaration made in accordance with Article 24 of the Convention, the Kingdom of the Netherlands avails itself of the opportunity to interpret the legal effects of that declaration as follows:

- a) Where the Convention or its Protocols refer to the requesting Party or the requested Party, this shall in case of requests issued by or addressed to the European Public Prosecutor's Office be interpreted as referring to the EU Member State of the competent European Delegated Prosecutor whose powers and functions are referred to in Article 13 of Council Regulation (EU) 2017/1939.
- b) Where the Convention or its Protocols refer to the law of the requesting or the requested Party, this shall in case of requests issued by or addressed to the European Public Prosecutor's Office be interpreted as referring to Union law, in particular Council Regulation (EU) 2017/1939, as well as to the national law of the EU Member State of the competent European Delegated Prosecutor, to the extent applicable in accordance with Article 5(3) of that Regulation.
- c) Where the Convention or its Protocols provide for the possibility for a Party to make declarations or reservations, all such declarations and reservations made by the Kingdom of the Netherlands, for the European part of the Netherlands, shall be deemed applicable in case of requests made by another Party to the European Public Prosecutor's Office whenever a European Delegated Prosecutor located in the Kingdom of the Netherlands is competent in accordance with Article 13(1) of Council Regulation (EU) 2017/1939.
- d) As a judicial requesting authority acting in accordance with Article 24 of the Convention as amended by Article 6 of the Second Additional Protocol to the Convention, the European Public Prosecutor's Office

shall comply with any conditions or restrictions on the use of information and evidence obtained, which may be imposed by the requested Party based on the Convention and its Protocols.

- e) Obligations imposed upon the requesting Party by Article 12 of the Convention shall also be binding upon the judicial authorities of the EU Member State of the competent European Delegated Prosecutor. The same applies in case of obligations of the requesting Party under Article 11 of the Convention as amended by Article 3 of the Second Additional Protocol and under Articles 13, 14 and 23 of the Second Additional Protocol in respect of the EU Member State of the European Delegated Prosecutor competent in accordance with Article 13(1) of Council Regulation (EU) 2017/1939.

In accordance with Article 15 of the Convention as amended by Article 4 of the Second Additional Protocol to the Convention, the Kingdom of the Netherlands declares, for the European part of the Netherlands, that requests to the European Public Prosecutor's Office for mutual assistance as well as information laid by a Contracting Party in accordance with Article 21 of the Convention shall be addressed directly to the European Public Prosecutor's Office and the declaration made in accordance with Article 15, paragraph 9, of the Convention as amended by Article 4 of the Second Additional Protocol to the Convention shall not apply in the case of the European Public Prosecutor's Office. Requests for mutual assistance shall be sent either to the Central Office of the European Public Prosecutor's Office or to the European Delegated Prosecutor's Office(s) of that Member State. The EPPO shall, where appropriate, forward such request to the competent national authorities if the EPPO either does not have or is not exercising its competence in a particular case.

In accordance with Article 15 of the Convention as amended by Article 4 of the Second Additional Protocol to the Convention, the Kingdom of the Netherlands furthermore declares, for the European part of the Netherlands, that applications in accordance with Article 11 of the Convention as amended by Article 3 of the Second Additional Protocol, and Articles 13 and 14 of the Second Additional Protocol as they refer to the above mentioned Article 11, initiated by one of the European Delegated Prosecutors in that EU Member State, shall be transmitted by the Ministry of Justice and Security of the Netherlands.

In accordance with Article 33(2) of the Second Additional Protocol, the Kingdom of the Netherlands declares, for the European part of the Netherlands, that the European Public Prosecutor's Office may, where a joint investigation team as referred to in Article 20 of that Protocol is intended to operate on the European territory of the Kingdom of the Netherlands, act in the capacity of "competent authority" in accordance with Article 20 of that Protocol only with the prior consent of the judicial authorities of the European part of the Netherlands and in accordance with Council Regulation (EU) 2017/1939 and the applicable national law.

Uitgegeven de *negenentwintigste* april 2021.

De Minister van Buitenlandse Zaken,

S.A. BLOK