

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2004 Nr. 184

A. TITEL

*Verdrag van de Verenigde Naties tegen grensoverschrijdende
georganiseerde misdaad;
New York, 15 november 2000*

B. TEKST

De Engelse en de Franse tekst van het Verdrag zijn geplaatst in *Trb.* 2001, 68.

Voor ondertekeningen zie ook *Trb.* 2004, 34.

C. VERTALING

Zie *Trb.* 2004, 34.

D. PARLEMENT

Bij brieven van 5 april 2004 (Kamerstukken II 2003/2004, 29 512 (R 1757), nr. 1) is het Verdrag in overeenstemming met artikel 2, eerste en tweede lid, en artikel 5, eerste en tweede lid, van de Rijkswet goedkeuring en bekendmaking verdragen overgelegd aan de Eerste en de Tweede Kamer der Staten-Generaal, de Staten van de Nederlandse Antillen en de Staten van Aruba.

De toelichtende nota die de brieven vergezelde, is ondertekend door de Minister van justitie J. P. H. DONNER en de Minister van Buitenlandse Zaken B. R. BOT.

De goedkeuring door de Staten-Generaal is verleend op 10 mei 2004.

E. BEKRACHTIGING

Zie *Trb.* 2004, 34.

Behalve de aldaar genoemde hebben nog de volgende staten en internationale organisatie in overeenstemming met artikel 36, derde lid, van het Verdrag een akte van bekrachtiging, aanvaarding of goedkeuring bij de Secretaris-Generaal van de Verenigde Naties nedergelegd:

Australië	27 mei 2004
Egypte	5 maart 2004
El Salvador ¹⁾	18 maart 2004
de Europese Gemeenschap ²⁾	21 mei 2004
Libië	18 juni 2004
het Koninkrijk der Nederlanden (voor Nederland) ³⁾	26 mei 2004
Oekraïne ⁴⁾	21 mei 2004
Portugal	10 mei 2004
de Russische Federatie ⁵⁾	26 mei 2004
Sint Kitts en Nevis	21 mei 2004
Slovenië ⁶⁾	21 mei 2004
Zuid-Afrika ⁷⁾	20 februari 2004
Zweden ⁸⁾	30 april 2004

¹⁾ Onder het volgende voorbehoud en de volgende verklaringen:

“With regard to article 35, paragraph 3, of the said Convention, the Government of the Republic of El Salvador does not consider itself bound by paragraph 2 of the said article because it does not recognize the compulsory jurisdiction of the International Court of Justice.

The Government of the Republic of El Salvador recognizes the extradition of nationals on the basis of article 28, second and third subparagraphs, of the Constitution of the Republic, which states as follows: ‘Extradition shall be governed by international treaties and, where Salvadorans are involved, shall be in order only where a treaty expressly so stipulates and has been approved by the legislative bodies of the signatory countries. In any event, its stipulations shall embody the principle of reciprocity and shall grant to all Salvadorans all of the penal and procedural guarantees that are set forth in this Constitution.’ ‘Extradition shall be in order only where the offence has been committed within the territorial jurisdiction of the requesting country, except where offences of international reach are involved. Under no circumstances may extradition be stipulated for political offences, even where common crimes are the result of such offences,’ advising further that the said Convention shall not be considered to be the legal basis of cooperation on extradition in its relations with other States parties thereto, and that it shall nonetheless endeavour, where necessary, to conclude extradition treaties with other States parties to the Convention.

With regard to article 18, paragraphs 13 and 14, the Government of the Republic of El Salvador states that the designated central authority is the Ministry of the Interior. Communications shall be transmitted through the diplomatic channel, and the acceptable language is Spanish.”.

²⁾ Onder de volgende verklaringen:

“Article 36 (3) of the United Nations Convention against transnational organised crime provides that the instrument of ratification, acceptance or approval of a regional economic integration organisation shall contain a declaration on the extent of its competence.

1) The Community points out that it has competence with regard to progressively establishing the internal market, comprising an area without internal frontiers in which the free movement of goods and services is ensured in accordance with the provisions of the Treaty establishing the European Community. For this purpose, the Community has adopted measures to combat money laundering.

They do, however, at present not include measures concerning cooperation between Financial Intelligence Units, detection and monitoring the movement of cash across the borders between the Member States or cooperation among judicial and law enforcement authorities. The Community also has adopted measures to ensure transparency and the equal access of all candidates for the public contracts and services markets which contributes to preventing corruption. Where the Community has adopted measures, it is for the Community alone to enter into external undertakings with third States or competent international organisations which affect those measures or alter their scope. This competence relates to Articles 7, 9 and 31 (2)(c) of the Convention. Moreover, Community policy in the sphere of development cooperation complements policies pursued by Member States and includes provisions to combat corruption. This competency relates to Article 30 of the Convention. Moreover, the Community considers itself bound by other provisions of the Convention to the extent that they are related to the application of Articles 7, 9, 30 and 31 (2)(c), in particular the articles concerning its purpose and definitions and its final provisions.

The scope and the exercise of Community competence are, by their nature, subject to continuous development and the Community will complete or amend this declaration, if necessary, in accordance with Article 36 of the Convention.

2) The United Nations Convention against transnational organised crime shall apply, with regard to the competence of the Community, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty, in particular Article 299 thereof.

Pursuant to Article 299, this declaration is not applicable to the territories of the Member States in which the said Treaty does not apply and is without prejudice to such acts or positions as may be adopted under the Convention by the Member States concerned on behalf of and in the interests of those territories.

With respect to Article 35, paragraph 2, the Community points out that, according to Article 34, paragraph 1, of the Statute of the International Court of Justice, only States may be parties before that Court. Therefore, under Article 35, paragraph 2, of the Convention, in disputes involving the community only dispute settlement by way of arbitration will be available.”.

3) Onder de volgende verklaring:

“With reference to Article 16, paragraph 5, under a), the Kingdom of the Netherlands declares that it will take this Convention as the legal basis for cooperation on extradition with other States Parties to this Convention.”.

4) Onder de volgende voorbehouden en verklaringen:

“to the paragraph 6 of Article 13:

The Convention shall be applied only subject to the observation of the constitutional principles and fundamental basis of the legal system of Ukraine; to the paragraph b of Article 2:

The term serious crime corresponds to the terms grave crime and especially grave crime in the Ukrainian criminal law. Grave crime means the crime for which the law provides such type of punishment as imprisonment for at least five years and not exceeding ten years (paragraph 4 of Article 12 of the Criminal Code of Ukraine), and especially grave crime means crime for which the law provides such type of punishment as imprisonment for more than ten years or life imprisonment (paragraph 5 of Article 12 of the Criminal Code of Ukraine);

to the paragraph 5 (a) of Article 16:

Ukraine declares that the Convention constitutes the legal ground for cooperation in the matters of extradition if a request for extradition is received from the State Party to the Convention with which there is no treaty on extradition;

to the paragraph 13 of Article 18:

Central authorities in Ukraine, designated in accordance with the paragraph 13 of Article 18, are the Ministry of Justice of Ukraine (with respect to judicial decisions) and the Office of the Prosecutor-General of Ukraine (with respect to legal proceedings during the investigation of criminal cases);

to the paragraph 14 of Article 18:

Requests for legal assistance and documents attached therein will be sent to Ukraine together with their authenticated translation in Ukrainian, Russian, English or French, if they have not been drawn up in one of these languages.

to the paragraph 3 of Article 26:

Provisions of paragraph 3 shall not be applied to the organizer or leader of criminal group in respect of granting immunity from criminal prosecution. In accordance with the legislation of Ukraine (paragraph two of Article 255 of the Criminal Code of Ukraine) the above persons bear criminal responsibility notwithstanding the grounds provided for in the Article 26 of the Convention.”.

⁵⁾ Onder de volgende verklaringen:

“The Russian Federation, in accordance with article 13, paragraph 6 of the Convention declares that, on the basis of reciprocity, it will consider the Convention the necessary and sufficient treaty basis for the taking of the measures referred to in article 13, paragraphs 1 and 2 of the Convention;

The Russian Federation shall have jurisdiction over the offences established in accordance with articles 5, 6, 8 and 23 of the Convention in the cases envisaged in article 15, paragraphs 1 and 3 of the Convention;

The Russian Federation considers that the provisions of article 16, paragraph 14 of the Convention must be applied in such a way as to ensure the inevitability of responsibility for the commission of offences falling within the purview of the Convention, without detriment to the effectiveness of international cooperation in the areas of extradition and legal assistance;

The Russian Federation, on the basis of article 18, paragraph 7 of the Convention, declares that, on the basis of reciprocity, it will apply article 18, paragraphs 9 to 29 instead of the relevant provisions of any treaty of the mutual legal assistance concluded by the Russian Federation with another State Party to the Convention, if, in the view of the central authority of the Russian Federation, that will facilitate cooperation;

The Russian Federation declares that, in accordance with article 27, paragraph 2 of the Convention, it will consider the Convention as the basis for mutual law enforcement cooperation in respect of the offences covered by the Convention, on condition that such cooperation does not include the conduct of investigatory or other procedural actions in the territory of the Russian Federation.

The Russian Federation, in accordance with article 16, paragraph 5 (a) of the Convention, declares that, on the basis of reciprocity, it will take the Convention as the legal basis for cooperation on extradition with other States Parties to the Convention;

The Russian Federation, on the basis of the last sentence of article 18, paragraph 13 of the Convention declares that, on the basis of reciprocity, and in urgent circumstances, it will receive requests for mutual legal assistance and communications through the International Criminal Police Organization, on condition that documents containing such requests or communications are transmitted without delay under the established procedure;

The Russian Federation, in accordance with article 18, paragraph 14 of the Convention, declares that requests for legal assistance and related materials transmitted to the Russian Federation must be accompanied by a translation into Rus-

sian, unless otherwise provided by international treaty of the Russian Federation, or unless agreement has otherwise been reached between the central authority of the Russian Federation and the central authority of the other State Party to the Convention.”.

6) Onder de volgende verklaringen:

“Pursuant to Article 16, Paragraph 5 (a) of the Convention, the Republic of Slovenia declares that it will take this Convention as the legal basis for cooperation on extradition with other States Parties to this Convention. In the absence of an international agreement or any other arrangement regulating extradition between the Republic of Slovenia and another State Party to this Convention, the Republic of Slovenia will require documents relating to extradition in compliance with its domestic law.

Pursuant to Article 18, Paragraph 13 of the Convention, the Republic of Slovenia declares that the central authority for the implementation of the Convention shall be the Ministry of Justice of the Republic of Slovenia. In compliance with Article 18, Paragraph 14 of the Convention, the Republic of Slovenia declares that requests and attachments thereto addressed to the central authority of the Republic of Slovenia should be in the Slovenian language or a translation into Slovenian should be attached thereto. Should it be impossible to provide translation into the Slovenian language, requests and attachments should be in the English language or a translation into English should be enclosed.”.

7) Onder het volgende voorbehoud:

“AND WHEREAS pending a decision by the Government of the Republic of South Africa on the compulsory jurisdiction of the International Court of Justice, the Government of the Republic does not consider itself bound by the terms of Article 35 (2) of the Convention which provides for the compulsory jurisdiction of the International Court of Justice in differences arising out of the interpretation or application of the Convention. The Republic will adhere to the position that, for the submission of a particular dispute for settlement by the International Court, the consent of all the parties to the dispute is required in every individual case.

AND WHEREAS the Secretary-General is hereby notified, in accordance with Article 18 (13) of the Convention that the Director-General of the Department of Justice and Constitutional Development has been designated as the central authority to receive requests for mutual legal assistance.

AND WHEREAS the Secretary-General is hereby notified, as provided for in Article 18 (14) of the Convention, that English is the acceptable language for receiving requests for mutual legal assistance.”.

8) Onder de volgende verklaringen:

“Pursuant to Article 18 (13) of the Convention, the central authority in Sweden competent to receive requests for mutual assistance is the Ministry of Justice. Pursuant to Article 18 (14) of the Convention, a request together with the appendices shall be translated into Swedish, Danish or Norwegian, unless the authority dealing with the application otherwise allows in the individual case.”.

F. TOETREDING

Zie *Trb.* 2004, 34.

Behalve de aldaar genoemde hebben nog de volgende staten in overeenstemming met artikel 36, vierde lid, van het Verdrag een akte van

toetreding nedergelegd bij de Secretaris-Generaal van de Verenigde Naties:

Bahrein ¹⁾	7 juni 2004
Cook-eilanden ²⁾	4 maart 2004
Grenada	21 mei 2004
Kenia	16 juni 2004
Micronesia ³⁾	24 mei 2004
Myanmar ⁴⁾	30 maart 2004

¹⁾ Onder het volgende voorbehoud:

“... the Kingdom of Bahrain does not consider itself bound by paragraph 2 of article 35 of the Convention.”.

²⁾ Onder de volgende verklaringen:

“In accordance with the provisions of article 18, paragraph 13, of the United Nations Convention against Transnational Organized Crime, the Government of the Cook Islands declares that the Attorney General of the Cook Islands is designated by the Government of the Cook Islands as the Central Authority that shall have the responsibility and power to receive requests for mutual legal assistance.

AND pursuant to article 18, paragraph 14, of the United Nations Convention against Transnational Organized Crime, that the English language is designated by the Government of the Cook Islands as the acceptable language in which to make requests for mutual legal assistance.”.

³⁾ Onder het volgende voorbehoud:

“... with a reservation that the FSM Government shall not consider itself bound by article 35, paragraph 2, of the Convention; ...”.

⁴⁾ Onder de volgende voorbehouden:

“The Government of the Union of Myanmar wishes to express reservations on Article 16 relating to extradition and does not consider itself bound by the same. The Government further wishes to make a reservation on Article 35 and does not consider itself bound by obligations to refer disputes relating to the interpretation or application of this Convention to the International Court of Justice.”.

G. INWERKINGTREDING

Zie *Trb.* 2004, 34.

Voor het Koninkrijk der Nederlanden zijn de bepalingen van het Verdrag ingevolge artikel 38, tweede lid, op 25 juni 2004 in werking getreden.

Wat betreft het Koninkrijk der Nederlanden, geldt het Verdrag alleen voor Nederland.

H. TOEPASSELIJKVERKLARING

Zie *Trb.* 2004, 34.

J. GEGEVENS

Zie *Trb.* 2001, 68 en *Trb.* 2004, 34.

Uitgegeven de *vijftiende* juli 2004.
De Minister van Buitenlandse Zaken,

B. R. BOT