

# TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

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**JAARGANG 2011 Nr. 52**

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A. TITEL

*Protocol, opgesteld op grond van artikel K.3 van het Verdrag  
betreffende de Europese Unie, bij de Overeenkomst aangaande de  
bescherming van de financiële belangen van de Europese  
Gemeenschappen;  
Dublin, 27 september 1996*

B. TEKST

De Nederlandse, de Engelse en de Franse tekst van het Protocol zijn  
geplaatst in *Trb.* 1996, 330.

D. PARLEMENT

Zie *Trb.* 2002, 172.

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Artikel 1 van de Wet van 17 mei 2010 (*Stb.* 2010, 348) luidt als volgt:

„Artikel 1

De volgende verdragen worden goedgekeurd met het oog op het voor-  
nemen de toepassing ervan uit te breiden tot Bonaire, Sint Eustatius en  
Saba:

(...)

55. Protocol, opgesteld op grond van artikel K.3 van het Verdrag  
betreffende de Europese Unie, bij de Overeenkomst aangaande de be-  
scherming van de financiële belangen van de Europese Gemeenschap-  
pen; Dublin, 27 september 1996 (*Trb.* 1996, 330);

(...)”.

Deze Wet is gecontrasigneerd door de Minister van Buitenlandse Zaken M. J. M. VERHAGEN en de Staatssecretaris van Binnenlandse Zaken en Koninkrijksrelaties A. TH. B. BIJLEVELD-SCHOUTEN.

Voor de behandeling in de Staten-Generaal zie Kamerstukken II 2008/2009, 2009/2010, 32047; Hand. II 2009/2010, 32047; Kamerstukken I 2009/2010, 32047 en 31954; Hand. I 2009/2010, 32047.

#### E. PARTIJGEGEVENS

Zie *Trb.* 2002, 172.

Partij	Onder- tekening	Ratificatie	Type <sup>*</sup>	In werking	Opzeg- ging	Buiten werking
België	27-09-96	12-03-02	R	17-10-02		
Bulgarije		06-12-07	T	01-01-08		
Cyprus		31-03-05	T	29-06-05		
Denemarken	27-09-96	02-10-00	R	17-10-02		
Duitsland	27-09-96	24-11-98	R	17-10-02		
Estland		03-02-05	T	04-05-05		
Finland	27-09-96	18-12-98	R	17-10-02		
Frankrijk	27-09-96	04-08-00	R	17-10-02		
Griekenland	27-09-96	26-07-00	R	17-10-02		
Hongarije		18-01-10	T	18-04-10		
Ierland	27-09-96	03-06-02	R	17-10-02		
Italië	27-09-96	19-07-02	R	17-10-02		
Letland		31-08-04	T	30-11-04		
Litouwen		28-05-04	T	26-08-04		
Luxemburg	27-09-96	17-05-01	R	17-10-02		
Malta		03-02-11	T	04-05-11		
<b>Nederlanden, het Koninkrijk der</b> – Nederland: – in Europa – Bonaire – Sint Eustatius – Saba – Aruba	27-09-96	28-03-02 08-10-10 08-10-10 08-10-10 –	R R R R	17-10-02 10-10-10 10-10-10 10-10-10 –		

Partij	Ondertekening	Ratificatie	Type*	In werking	Opzegging	Buiten werking
– Curaçao – Sint Maarten		– –		– –		
Oostenrijk	27-09-96	21-05-99	R	17-10-02		
Polen		09-09-08	T	08-12-08		
Portugal	27-09-96	15-01-01	R	17-10-02		
Roemenië		06-12-07	T	01-01-08		
Slovenië		17-04-07	T	16-07-07		
Slowakije		30-09-04	T	29-12-04		
Spanje	27-09-96	20-01-00	R	17-10-02		
Verenigd Koninkrijk, het	27-09-96	11-10-99	R	17-10-02		
Zweden	27-09-96	10-06-99	R	17-10-02		

\* 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

Denemarken, 2 oktober 2000

With reference to Article 6(2), the reservation is made that in the circumstances described in the first phrase of Article 6(1)(b), Denmark may make Danish jurisdiction conditional on the offence also being punishable under the legislation of the country in which the offence was committed (double criminality).

Finland, 18 december 1998

1. Finland applies the rules laid down in Article 6(1)(b) of the Protocol in respect of its own nationals in accordance with Chapter 1(11) of the Finnish criminal code only if the offence is also punishable under the law of the place where the offence was committed and if this could also be considered a punishable offence before a court of the foreign state. No stricter penalties may be imposed in Finland than those prescribed under the law of the place of the offence.

2. Finland does not apply the rules as laid down in Article 6(1)(c) and (d) of the Protocol.

Frankrijk, 4 augustus 2000

Pursuant to Article 6(2): Where the offences covered by Articles 2, 3 and 4 of this protocol are committed outside the territory of the French republic, France states, in accordance with the provisions of Article 6(2), that charges for such offences may be brought against the persons listed in Article 6(1)(b), (c) and (d) only at the request of the public prosecutor. Prosecution must be preceded by a complaint by the victim or by his legal successor(s) or by official denunciation of the offence by the authorities of the country in which it was committed.

Italië, 19 juli 2002

In relation to Article 6(2) of the first Protocol to the Convention on the protection of the Communities' financial interests, done at Dublin on 27 September 1996, Italy declares that it will apply the jurisdiction rules laid down in Article 6(1)(a) and (d) of that Protocol without reservation, while it will apply the rules under Article 6(1)(b) and (c) in accordance with the conditions currently specified in Articles 7, 9 and 10 of the Italian Penal Code.

Litouwen, 28 mei 2004

And whereas, pursuant to paragraph 1 of Article 2 of the Protocol adopted on 29 November 1996, the Seimas of the Republic of Lithuania declares that the Republic of Lithuania recognizes the jurisdiction of the Court of Justice of the European Communities to give preliminary rulings on the interpretation of the Convention and the Protocol adopted on 27 of September 1996 pursuant to the conditions specified in subparagraph b of paragraph 2 of Article 2.

And whereas, pursuant to paragraph 2 of Article 6 of the Protocol adopted on 27 September 1996 the Seimas of the Republic of Lithuania declares that the Republic of Lithuania does not apply the jurisdiction rules provided for in subparagraphs c and d of paragraph 1 of Article 6 of this Protocol.

Luxemburg, 17 mei 2001

The Grand Duchy of Luxembourg hereby declares that, saving the cases covered by Article 6(1)(a) of the Protocol drawn up on the basis of Article K.3 of the Treaty on European Union, to the Convention on the protection of the European Communities' financial interests, it will apply the jurisdiction rules referred to in Article 6(1)(b), (c) and (d) of that Protocol only if the offender is a Luxembourg national.

**Nederlanden, het Koninkrijk der**, 28 maart 2002

Reservation in respect of Article 6:

The Netherlands Government declares that with regard to Article 6(1), jurisdiction may be exercised by the Netherlands in the following cases: (a) where the offence is committed in whole or in part within Netherlands territory;

(b) in respect of the offence punishable under Article 2, with regard to Netherlands officials and also with regard to Netherlands nationals who are not Netherlands officials, insofar as it is punishable under the law of the country where it was committed, in respect of the offences punishable under Articles 3 and 4, with regard to both Netherlands nationals and Netherlands officials, insofar as the relevant offence is punishable under the law of the country where it was committed;

(c) with regard to Netherlands nationals, insofar as the offence is punishable under the law of the country where it was committed;

(d) with regard to public servants working for a European Community institution which has its headquarters in the Netherlands or for a body set up in accordance with the Treaties establishing the European Communities which has its headquarters in the Netherlands, insofar as the offence is punishable under the law of the country where it was committed.

I would also inform you that as regards the Netherlands, acceptance of this Protocol means that the competence of the Court of Justice to give preliminary rulings under the Protocol drawn up in Brussels on 29 November 1996 no longer needs to be limited to the Convention drawn up in Brussels on 26 July 1995 but can also relate to the Protocol drawn up in Dublin on 27 September 1996.

**Nederlanden, het Koninkrijk der**, 8 oktober 2010

As regards the Caribbean part of the Netherlands, the competence of the Court of Justice to give preliminary rulings under the Protocol drawn up in Brussels on 29 November 1996 not only relates to the Convention drawn up in Brussels on 26 July 1995 but also to the Protocol drawn up in Dublin on 27 September 1996.

**Oostenrijk**, 21 mei 1999

Pursuant to Article 6(2) of the Protocol, the Republic of Austria hereby declares that it shall be bound by Article 6(1)(b) of the Protocol in respect of offences committed by its nationals only if the acts are also punishable in the country in which they were committed.

**Polen**, 9 september 2008

The Republic of Poland declares that if an offence is committed outside its territory by a Community official who is a foreign national, it will apply the jurisdiction rule laid down in Article 6(1)(d) solely when the official is present on its territory, and provided that it has not been decided that he or she should be extradited.

**Portugal**, 15 januari 2001

(a) It will apply the jurisdiction rule in Article 6(1)(b) of the Protocol only if: - the offender is discovered in Portugal; - the acts committed are also punishable under the legislation of the place in which they were carried out, unless punitive powers are not exercised in that place; they

additionally constitute extraditable crimes and extradition cannot be granted; (b) it will not apply the jurisdiction rule in Article 6(1)(b) of the Protocol if the offender does not have Portuguese nationality, even if for criminal purposes he has to be considered an official under Portuguese domestic law; c) it will not apply the jurisdiction rules in Article 6(1)(c) and (d) of the Protocol.

Slowakije, 30 september 2004

The Slovak Republic declares that it shall not apply the rule according to the art.6 .1 (c) of the Protocol.

Verenigd Koninkrijk, het, 11 oktober 1999

The United Kingdom will not apply the jurisdiction rules laid down in paragraph 1(b), (c) and (d) of Article 6.

Zweden, 10 juni 1999

(...) in accordance with Article 6(2) of the Protocol (...): (a) Sweden does not intend to exercise jurisdiction in cases where the offence was committed against a Community official referred to in Article 1 or against a member of one of the institutions referred to in Article 4(2) who is at the same time a national of Sweden (Article 6(1)(c)), and (b) Sweden does not intend to exercise jurisdiction in cases where the offender is a Community official working for an institution or body which has its headquarters in Sweden (Article 6(1)(d)).

#### G. INWERKINGTREDING

Zie *Trb.* 2002, 172.

Wat betreft het Koninkrijk der Nederlanden, geldt de Overeenkomst, die vanaf 17 oktober 2002 voor het Europese deel van Nederland gold, sinds 10 oktober 2010 eveneens voor het Caribische deel van Nederland.

#### J. VERWIJZINGEN

Zie *Trb.* 1996, 330 en *Trb.* 2002, 172.

### **Verbanden**

Het Protocol dient ter aanvulling van:

- Titel : Overeenkomst, opgesteld op grond van Artikel K.3 van het Verdrag betreffende de Europese Unie, aangaande de bescherming van de financiële belangen van de Europese Gemeenschappen;  
Brussel, 26 juli 1995
- Laatste *Trb.* : *Trb.* 2011, 51

Het Protocol wordt aangevuld door:

- Titel** : Protocol, opgesteld op grond van artikel K.3 van het Verdrag betreffende de Europese Unie, betreffende de prejudiciële uitlegging door het Hof van Justitie van de Europese Gemeenschappen, van de Overeenkomst aangaande de bescherming van de financiële belangen van de Europese Gemeenschappen;  
Brussel, 29 november 1996
- Laatste Trb.** : *Trb.* 2011, 53

### **Overige verwijzingen**

- Titel** : Verdrag tot oprichting van de Europese Gemeenschap voor Kolen en Staal;  
Parijs, 18 april 1951
- Laatste Trb.** : *Trb.* 2002, 145
- Titel** : Verdrag betreffende de werking van de Europese Unie<sup>1)</sup>;  
Rome, 25 maart 1957
- Laatste Trb.** : *Trb.* 2011, 47
- Titel** : Verdrag tot oprichting van de Europese Gemeenschap voor Atoomenergie (EURATOM);  
Rome, 25 maart 1957
- Laatste Trb.** : *Trb.* 2010, 247
- Titel** : Overeenkomst betreffende bepaalde instellingen welke de Europese Gemeenschappen gemeen hebben;  
Rome, 25 maart 1957
- Laatste Trb.** : *Trb.* 2004, 76
- Titel** : Verdrag tot instelling van één Raad en één Commissie welke de Europese Gemeenschappen gemeen hebben;  
Brussel, 8 april 1965
- Laatste Trb.** : *Trb.* 2004, 101
- Titel** : Verdrag betreffende de Europese Unie;  
Maastricht, 7 februari 1992
- Laatste Trb.** : *Trb.* 2010, 248

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<sup>1)</sup> De titel van het Verdrag luidde vóór 1 december 2009: Verdrag tot oprichting van de Europese Gemeenschap.

Uitgegeven de *eenentwintigste* maart 2011.

*De Minister van Buitenlandse Zaken,*

U. ROSENTHAL