

No. 31119

**UNITED NATIONS
and
NETHERLANDS**

Agreement concerning the headquarters of the international tribunal for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991 (with exchange of letters). Signed at New York on 29 July 1994

Authentic text: English.

Registered ex officio on 29 July 1994.

**ORGANISATION DES NATIONS UNIES
et
PAYS-BAS**

Accord relatif au siège du tribunal international chargé de poursuivre les personnes responsables de violations graves du droit international humanitaire commises sur le territoire de l'ex-Yougoslavie depuis 1991 (avec échange de lettres). Signé à New York le 29 juillet 1994

Texte authentique : anglais.

Enregistré d'office le 29 juillet 1994.

AGREEMENT¹ BETWEEN THE UNITED NATIONS AND THE KINGDOM OF THE NETHERLANDS CONCERNING THE HEADQUARTERS OF THE INTERNATIONAL TRIBUNAL FOR THE PROSECUTION OF PERSONS RESPONSIBLE FOR SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW COMMITTED IN THE TERRITORY OF THE FORMER YUGOSLAVIA SINCE 1991

The United Nations and the Kingdom of the Netherlands,

Whereas the Security Council acting under Chapter VII of the Charter of the United Nations decided, by paragraph 1 of its resolution 808 (1993) of 22 February 1993,² inter alia "that an international tribunal shall be established for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991";

Whereas the International Tribunal is established as a subsidiary organ within the terms of Article 29 of the Charter of the United Nations;

Whereas the Security Council, in paragraph 6 of its resolution 827(1993) of 25 May 1993³ further inter alia decided that "the determination of the seat of the International Tribunal is subject to the conclusion of appropriate arrangements between the United Nations and the Netherlands acceptable to the Council";

Whereas the Statute of the International Tribunal in its Article 31, provides that "the International Tribunal shall have its seat at The Hague";

Whereas the United Nations and the Kingdom of the Netherlands wish to conclude an Agreement regulating matters arising from the establishment and necessary for the proper functioning of the International Tribunal in the Kingdom of the Netherlands;

Have agreed as follows.

¹ Came into force provisionally on 29 July 1994 by signature, in accordance with article XXIX (4).

² United Nations, *Official Records of the Security Council, Forty-ninth Year, Resolutions and Decisions of the Security Council 1993 (S/INF/49)*, p. 28.

³ *Ibid.*, p. 29.

ARTICLE I

DEFINITIONS

For the purpose of the present Agreement, the following definitions shall apply:

- (a) "the Tribunal" means the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, established by the Security Council pursuant to its resolutions 808(1993) and 827(1993);
- (b) "the premises of the Tribunal" means buildings, parts of buildings and areas, including installations and facilities made available to, maintained, occupied or used by the Tribunal in the host country in connection with its functions and purposes;
- (c) "the host country" means the Kingdom of the Netherlands;
- (d) "the Government" means the Government of the Kingdom of the Netherlands;
- (e) "the United Nations" means the United Nations, an international governmental organization established under the Charter of the United Nations;
- (f) "the Security Council" means the Security Council of the United Nations;
- (g) "the Secretary-General" means the Secretary-General of the United Nations;
- (h) "the competent authorities" means national, provincial, municipal and other competent authorities under the law of the host country;
- (i) "the Statute" means the Statute of the Tribunal adopted by the Security Council by its resolution 827(1993);
- (j) "the Judges" means the Judges of the Tribunal as elected by the General Assembly of the United Nations pursuant to Article 13 of the Statute;

(k) "the President" means the President of the Tribunal as referred to in Article 14 of the Statute;

(l) "the Prosecutor" means the Prosecutor of the Tribunal as appointed by the Security Council pursuant to Article 16 of the Statute;

(m) "the Registrar" means the Registrar of the Tribunal as appointed by the Secretary-General pursuant to Article 17 of the Statute;

(n) "the officials of the Tribunal" means the staff of the Office of the Prosecutor as referred to in paragraph 5 of Article 16 of the Statute and the staff of the Registry as referred to in paragraph 4 of Article 17 of the the Statute;

(o) "persons performing missions for the Tribunal" means persons performing certain missions for the Tribunal in the investigation or prosecution or in the judicial or appellate proceedings;

(p) "the witnesses" means persons referred to as such in the Statute;

(q) "experts" means persons called at the instance of the Tribunal, the Prosecutor, the suspect or the accused to present testimony based on special knowledge, skills, experience or training;

(r) "counsel" means a person referred to as such in the Statute.

(s) "the suspect" means a person referred to as such in the Statute;

(t) "the accused" means a person referred to as such in the Statute;

(u) "the General Convention" means the Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly of the United Nations on 13 February 1946,¹ to which the Kingdom of the Netherlands acceded on 19 April 1948;²

¹ United Nations, *Treaty Series*, vol. 1, p. 15, and vol. 90, p. 327 (corrigendum to vol. 1, p. 18).

² *Ibid.*, vol. 15, p. 442.

(v) "the Vienna Convention" means the Vienna Convention on Diplomatic Relations done at Vienna on 18 April 1961,¹ to which the Kingdom of the Netherlands acceded on 7 September 1984;²

(w) "the regulations" means the regulations adopted by the Tribunal pursuant to Article VI, paragraph 3 of this Agreement.

ARTICLE II

PURPOSE AND SCOPE OF THE AGREEMENT

This Agreement shall regulate matters relating to or arising out of the establishment and the proper functioning of the Tribunal in the Kingdom of the Netherlands.

ARTICLE III

JURIDICAL PERSONALITY OF THE TRIBUNAL

1. The Tribunal shall possess in the host country full juridical personality. This shall, in particular, include the capacity:
 - a) to contract;
 - b) to acquire and dispose of movable and immovable property;
 - c) to institute legal proceedings.
2. For the purpose of this Article the Tribunal shall be represented by the Registrar.

ARTICLE IV

APPLICATION OF THE GENERAL AND VIENNA CONVENTIONS

The General Convention and the Vienna Convention shall be applicable mutatis mutandis to the Tribunal, its property, funds and assets, to the premises of the Tribunal, to

¹ United Nations, *Treaty Series*, vol. 500, p. 95.

² *Ibid.*, vol. 1368, p. 300.