

No. 54261*

**Netherlands
and
Residual Special Court for Sierra Leone**

Exchange of notes constituting a Headquarters Agreement between the Kingdom of the Netherlands and the Residual Special Court for Sierra Leone (with annex). The Hague, 17 December 2013 and 19 December 2013

Entry into force: *provisionally on 19 December 2013 and definitively on 1 May 2016, in accordance with the provisions of the said notes*

Authentic text: *English*

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**Pays-Bas
et
Tribunal spécial résiduel pour la Sierra Leone**

Échange de notes constituant un accord de siège entre le Royaume des Pays-Bas et le Tribunal spécial résiduel pour la Sierra Leone (avec annexe). La Haye, 17 décembre 2013 et 19 décembre 2013

Entrée en vigueur : *provisoirement le 19 décembre 2013 et définitivement le 1^{er} mai 2016, conformément aux dispositions desdites notes*

Texte authentique : *anglais*

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MINISTRY OF FOREIGN AFFAIRS OF THE KINGDOM OF THE
NETHERLANDS
TREATIES DIVISION

The Hague, 17 December 2013

MINBUZA-2013.351004

The Ministry of Foreign Affairs of the Kingdom of the Netherlands presents its compliments to the Residual Special Court for Sierra Leone and has the honour to propose a Headquarters Agreement between the Kingdom of the Netherlands and the Residual Special Court for Sierra Leone (hereinafter referred to as “the Parties”):

Considering that pursuant to Security Council Resolution 1315 adopted on 14 August 2000, the Special Court for Sierra Leone (hereinafter the “Special Court”) was created by the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone (hereinafter the “Special Court Agreement”) signed on 16 January 2002 to investigate and prosecute those who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996;

Recalling Article 23 of the Special Court Agreement, stating that the Agreement shall be terminated by agreement by the Parties upon completion of the judicial activities of the Special Court;

Whereas in anticipation of the completion of the judicial activities of the Special Court the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Residual Special Court for Sierra Leone (hereinafter the “The¹⁾ Agreement establishing the Residual Special Court”) signed in August 2010 establishes the Residual Special Court for Sierra Leone (hereinafter the “Residual Special Court”) to carry out the functions of the Special Court that must continue after its closure including the maintenance, preservation, and management of its archives including the archives of the Special Court;

Whereas Article 6 of the Agreement establishing the Residual Special Court provides that “the Residual Special Court shall have its principal seat in Sierra Leone”, and that “the Residual Special Court shall carry out its functions at an interim seat in the Netherlands, with a branch or sub-office in Sierra Leone for witness and victim protection and support, until such time as the Parties agree otherwise;

Considering that Article 1(3) of the Agreement establishing the Residual Special Court provides that the Residual Special Court shall continue the jurisdiction, functions, rights and obligations of the Special Court and that the Residual Special Court is established as an independent international judicial institution;

Have come to the following Agreement:

Article 1

1. “The Agreement establishing the Residual Special Court” means the Agreement between the United Nations and the Government of Sierra Leone on the establishment of a Residual Special Court for Sierra Leone signed on 11 August 2010 as may be amended in the future;

2. “The Residual Special Court” means the Residual Special Court for Sierra Leone established by the Agreement establishing the Residual Special Court;

3. “The Resolution” means Security Council Resolution 1315 adopted on 14 August 2000, requesting Secretary-General of the United Nations to negotiate an agreement with the Government of Sierra Leone to create the Special Court for Sierra Leone;

4. “The Statute” means the Statute of the Residual Special Court, annexed to the Agreement establishing the Residual Special Court;

5. “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);

6. “The Tribunal headquarters agreement” means the Agreement between the Kingdom of the Netherlands and the United Nations concerning the Headquarters of the Tribunal, signed in New York on 29 July 1994, as supplemented and may be supplemented in the future, attached in the Annex;

7. “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;

8. “Persons performing missions for the Residual Special Court” means persons other than the ones specifically referred to in the Agreement establishing the Residual Special Court performing missions for the Residual Special Court in relation to investigations, prosecutions, judicial proceedings or other official activities of the Residual Special Court;

9. “Secretary-General” means the Secretary-General of the United Nations.

¹⁾ Red.: Kennelijk dient hier éénmaal „the” gelezen te worden.

Article 2

The Residual Special Court may exercise in the Netherlands its jurisdiction and functions, in accordance with the Agreement establishing the Residual Special Court and its Statute.

Article 3

Unless otherwise provided in this Agreement, the Tribunal headquarters agreement shall apply *mutatis mutandis* to the Residual Special Court and its President, judges, Prosecutor, Registrar and staff serving with the Residual Special Court.

Article 4

1. State representatives not covered by Article 3 of this Agreement shall enjoy the same privileges and immunities as representatives of Members pursuant to Article IV of the General Convention.

2. Persons performing missions for the Residual Special Court not covered by Article 3 of this Agreement shall, to the extent necessary for their presence at the Residual Special Court in the Netherlands, enjoy the same privileges and immunities as witnesses and experts pursuant to Article XVIII of the Tribunal headquarters agreement.

Article 5

1. Privileges and Immunities are accorded to the Judges, the Prosecutor and the Registrar in the interest of the Residual Special Court and not for the personal benefit of individuals themselves. The right and the duty to waive the immunity in any case where it can be waived without prejudice to the purpose for which it is accorded shall lie with the Secretary-General in consultation with the President.

2. Privileges and Immunities are granted to staff serving with the Residual Special Court in the interest of the Court and not for the personal benefit of individuals themselves. The right and the duty to waive the immunity in any case where it can be waived without prejudice to the purpose for which it is accorded shall lie with the Residual Special Court Registrar.

3. In addition, the following rules shall apply to the Residual Special Court concerning waiver of privileges and immunities:

a. The privileges and immunities of personnel recruited locally and assigned to hourly rates and not otherwise covered by this Article may be waived by the Registrar.

b. The privileges and immunities of counsel, witnesses, experts and persons performing missions for the Residual Special Court may be waived by the President.