

### 13. AGREEMENT ON THE PRIVILEGES AND IMMUNITIES OF THE INTERNATIONAL CRIMINAL COURT

*New York, 9 September 2002*

**ENTRY INTO FORCE:** 22 July 2004, in accordance with article 35(1) which reads as follows: "1. The present Agreement shall enter into force thirty days after the date of deposit with the Secretary-General of the tenth instrument of ratification acceptance, approval or accession. 2. For each State ratifying, accepting, approving or acceding to the present Agreement after the deposit of the tenth instrument of ratification, acceptance approval or accession, the Agreement shall enter into force on the thirtieth day following the deposit with the Secretary-General of its instrument of ratification, acceptance, approval or accession."

**REGISTRATION:** 22 July 2004, No. 40446.

**STATUS:** Signatories: 62. Parties: 80.

**TEXT:** United Nations, *Treaty Series*, vol. 2271, p. 3.

*Note:* The above Agreement was adopted during the meeting of the Assembly of the States Parties, held from 3 to 10 September 2002, at United Nations Headquarters in New York. The Agreement is open for signature by all States as from 10 September 2002 at United Nations Headquarters in New York and will remain open for signature until 30 June 2004.

<i>Participant</i>	<i>Signature</i>	<i>Ratification, Acceptance(A), Approval(AA), Accession(a), Succession(d)</i>	<i>Participant</i>	<i>Signature</i>	<i>Ratification, Acceptance(A), Approval(AA), Accession(a), Succession(d)</i>
Albania.....		2 Aug 2006 a	Democratic Republic of the Congo.....		3 Jul 2007 a
Andorra.....	21 Jun 2004	11 Feb 2005	Denmark <sup>1</sup> .....	13 Sep 2002	3 Jun 2005
Argentina.....	7 Oct 2002	1 Feb 2007	Dominican Republic.....		10 Sep 2009 a
Austria.....	10 Sep 2002	17 Dec 2003	Ecuador.....	26 Sep 2002	19 Apr 2006
Bahamas (The).....	30 Jun 2004		Estonia.....	27 Jun 2003	13 Sep 2004
Belgium.....	11 Sep 2002	28 Mar 2005	Finland.....	10 Sep 2002	8 Dec 2004 A
Belize.....	26 Sep 2003	14 Sep 2005	France.....	10 Sep 2002	17 Feb 2004 AA
Benin.....	10 Sep 2002	24 Jan 2006	Gabon.....		22 Sep 2010 a
Bolivia (Plurinational State of).....	23 Mar 2004	20 Jan 2006	Georgia.....		10 Mar 2010 a
Bosnia and Herzegovina.....		24 Jan 2012 a	Germany.....	14 Jul 2003	2 Sep 2004
Botswana.....		13 Nov 2008 a	Ghana.....	12 Sep 2003	
Brazil.....	17 May 2004	12 Dec 2011	Greece.....	25 Sep 2003	6 Jul 2007
Bulgaria.....	2 May 2003	28 Jul 2006	Guinea.....	1 Apr 2004	
Burkina Faso.....	7 May 2004	10 Oct 2005	Guyana.....		16 Nov 2005 a
Canada.....	30 Apr 2004	22 Jun 2004	Honduras.....		1 Apr 2008 a
Central African Republic.....		6 Oct 2006 a	Hungary.....	10 Sep 2002	22 Mar 2006
Chile.....		26 Sep 2011 a	Iceland.....	10 Sep 2002	1 Dec 2003
Colombia.....	18 Dec 2003	15 Apr 2009	Ireland.....	9 Sep 2003	20 Nov 2006
Costa Rica.....	16 Sep 2002	28 Apr 2011	Italy.....	10 Sep 2002	20 Nov 2006
Croatia.....	23 Sep 2003	17 Dec 2004	Jamaica.....	30 Jun 2004	
Cyprus.....	10 Jun 2003	18 Aug 2005	Jordan.....	28 Jun 2004	
Czech Republic.....		4 May 2011 a	Latvia.....	29 Jun 2004	23 Dec 2004
			Lesotho.....		16 Sep 2005 a
			Liberia.....		16 Sep 2005 a

<i>Participant</i>	<i>Signature</i>	<i>Ratification, Acceptance(A), Approval(AA), Accession(a), Succession(d)</i>	<i>Participant</i>	<i>Signature</i>	<i>Ratification, Acceptance(A), Approval(AA), Accession(a), Succession(d)</i>
Liechtenstein.....		21 Sep 2004 a	Samoa .....		8 Apr 2016 a
Lithuania.....	25 May 2004	30 Dec 2004	San Marino .....		12 Mar 2020 a
Luxembourg.....	10 Sep 2002	20 Jan 2006	Senegal.....	19 Sep 2002	25 Sep 2014
Madagascar.....	12 Sep 2002		Serbia.....	18 Jul 2003	7 May 2004
Malawi .....		7 Oct 2009 a	Sierra Leone.....	26 Sep 2003	
Mali.....	20 Sep 2002	8 Jul 2004	Slovakia .....	19 Dec 2003	26 May 2004
Malta.....		21 Sep 2011 a	Slovenia .....	25 Sep 2003	23 Sep 2004
Mexico .....		26 Sep 2007 a	Spain .....	21 Apr 2003	24 Sep 2009
Mongolia.....	4 Feb 2003	25 Apr 2022	State of Palestine .....		2 Jan 2015 a
Montenegro <sup>2</sup> .....		23 Oct 2006 d	Sweden.....	19 Feb 2004	13 Jan 2005
Namibia .....	10 Sep 2002	29 Jan 2004	Switzerland .....	10 Sep 2002	25 Sep 2012
Netherlands (Kingdom of the) <sup>3</sup> .....	11 Sep 2003	24 Jul 2008 A	Timor-Leste .....		30 May 2025 a
New Zealand <sup>4</sup> .....	22 Oct 2002	14 Apr 2004	Trinidad and Tobago .....	10 Sep 2002	6 Feb 2003
North Macedonia .....		19 Oct 2005 a	Tunisia .....		29 Jun 2011 a
Norway .....	10 Sep 2002	10 Sep 2002	Uganda.....	7 Apr 2004	21 Jan 2009
Panama.....	14 Apr 2003	16 Aug 2004	Ukraine <sup>5</sup> .....		29 Jan 2007 a
Paraguay .....	11 Feb 2004	19 Jul 2005	United Kingdom of Great Britain and Northern Ireland <sup>6</sup> .....	10 Sep 2002	25 Jan 2008
Peru.....	10 Sep 2002	17 Jan 2017	United Republic of Tanzania.....	27 Jan 2004	
Poland .....	30 Jun 2004	10 Feb 2009	Uruguay .....	30 Jun 2004	3 Nov 2006
Portugal.....	10 Dec 2002	3 Oct 2007	Venezuela (Bolivarian Republic of) .....	16 Jul 2003	
Republic of Korea.....	28 Jun 2004	18 Oct 2006			
Republic of Moldova.....		17 May 2017 a			
Romania.....	30 Jun 2004	17 Nov 2005			

### ***Declarations and Reservations***

***(Unless otherwise indicated, the declarations and reservations were made upon ratification, acceptance, approval or accession.)***

#### **ARGENTINA**

With reference to the provisions of article 23 of the Agreement, the Republic of Argentina declares that:

I. Without prejudice to paragraph 6 of article 15 and paragraph 1 (d) of article 16, a person referred to in articles 15, 16, 18, 19 and 21 shall, in the territory of the Republic of Argentina of which he or she is a national or permanent resident, enjoy only, the following privileges and immunities to the extent necessary for the independent performance of his or her functions or his or her appearance or testimony before the Court:

(a) Immunity from personal arrest and detention;

(b) Immunity from legal process of every kind in respect of words spoken or written and all acts performed by that person in the performance of his or her functions for the Court or in the course of his or her appearance or testimony, which immunity shall continue to be accorded even after the person has ceased to exercise his or her functions for the Court or his or her appearance or testimony before it;

(c) Inviolability of papers and documents in whatever form and materials relating to the exercise of his

or her functions for the Court or his or her appearance or testimony before it;

(d) For the purposes of their communications with the Court and for a person referred to in article 19, with his or her counsel in connection with his or her testimony, the right to receive and send papers in whatever form.

II. A person referred to in articles 20 and 22 shall, in the territory of the Republic of Argentina of which he or she is a national or permanent resident, enjoy only the following privileges and immunities to the extent necessary for his or her appearance before the Court:

(a) Immunity from personal arrest and detention;

(b) Immunity from legal process in respect of words spoken or written and all acts performed by that person in the course of her appearance before the Court, which immunity shall continue to be accorded even after his or her appearance before the Court.

[The Argentine Government refers] “to the attempt to extend the application of the Agreement to the Islas Malvinas, Georgias del Sur and Sandwich del Sur on the part of the United Kingdom of Great Britain and Northern Ireland dated 11 March 2010.

The Argentine Government recalls that the Islas Malvinas, Georgias del Sur and Sandwich del Sur and the surrounding maritime areas are an integral part of the Argentine national territory and are illegally occupied by the United Kingdom of Great Britain and Northern Ireland, being the subject of a sovereignty dispute between both countries which is recognized by several international organizations.

The General Assembly of the United Nations adopted resolutions 2065 (XX), 316[0] (XXVIII), 31/49, 37/9, 38/12, 39/6, 40/21, 41/40, 42/19 and 43/25, in which the sovereignty dispute referred to as the "Question of the Malvinas Islands" is recognized and the Governments of the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland are urged to resume negotiations in order to find as soon as possible a peaceful and lasting solution to the dispute. Concurrently, the Special Committee on Decolonization of the United Nations has repeatedly affirmed this view. Also, the General Assembly of the Organization of American States adopted, on 4 June 2009, a new pronouncement, in similar terms, on the question.

Therefore, the Argentine Government objects and rejects the British attempt to extend the application of the Agreement on the Privileges and Immunities of the International Criminal Court to the Islas Malvinas.

The Argentine Government reaffirms its legitimate sovereign rights over the Islas Malvinas, Georgias del Sur and Sandwich del Sur and the surrounding maritime areas."

#### **AUSTRIA**

"In accordance with Article 23 of the Agreement, the Republic of Austria declares that persons referred to in this article who are Austrian nationals or permanent residents of Austria shall, in the territory of the Republic of Austria, enjoy only the privileges and immunities referred to in this article."

#### **BOLIVIA (PLURINATIONAL STATE OF)**

The Republic of Bolivia declares that persons referred to in articles 15, 16, 18, 19 and 21 of this Agreement who are nationals or permanent residents of the Republic of Bolivia, and while staying in Bolivia territory, shall enjoy only the privileges and immunities referred to in paragraph (a) of article 23.

The persons referred to in articles 20 and 22 who are either nationals or permanent residents shall be subject to the application of paragraph (b) of article 23 of this Agreement.

#### **BOTSWANA**

"In accordance with Article 23 of the Agreement, the Republic of Botswana declares that the persons referred to in sub-paragraphs (a) and (b) of that Article, if they are nationals or permanent residents of the Republic of Botswana, shall in the Republic of Botswana enjoy only the privileges and immunities specified in those sub-paragraphs."

#### **CANADA**

"In accordance with Article 23 of the Agreement on the Privileges and Immunities of the International Criminal Court, Canada declares that persons referred to in articles 15, 16, 18, 19 and 21 of the Agreement who are nationals or permanent residents of Canada enjoy, while in Canada, only the privileges and immunities as required for the independent performance of his or her functions, or his or her appearance or testimony before the International Criminal Court, as laid down in Article 23."

#### **CHILE**

In accordance with article 23 of the Agreement on the Privileges and Immunities of the International Criminal Court, the Republic of Chile declares that persons referred to in this article who are Chileans nationals or permanent residents of Chile shall, in the territory of the Republic of Chile, enjoy only the privileges and immunities referred to in this article.

#### **CROATIA**

"The Republic of Croatia, pursuant to Article 23 of the Agreement on the Privileges and Immunities of the International Criminal Court, declares that the persons referred to in that Article, who are nationals of the Republic of Croatia, or who are permanent residents of the Republic of Croatia, in the territory of the Republic of Croatia enjoy only the privileges and immunities referred to in that Article."

#### **CZECH REPUBLIC**

"In accordance with Article 23 (a) and (b) of the Agreement on the Privileges and Immunities of the International Criminal Court the Czech Republic declares that citizens of the Czech Republic or persons with permanent residence in the territory of the Czech Republic enjoy, in the territory of the Czech Republic, the privileges and immunities to the extent [t] as laid down in Article 23."

#### **GERMANY**

"Germany declares according to Art. 23 of the Agreement that persons referred to in articles 15, 16, 18, 19 and 21 who are either nationals or permanent residents of the Federal Republic of Germany enjoy, while staying in German territory, only the privileges and immunities to the extent necessary for the independent performance of his or her functions or his or her appearance or testimony before the Court as laid down in the respective Article."

#### **GREECE**

"In accordance with article 23 of the Agreement on the Privileges and Immunities of the International Criminal Court, the Hellenic Republic declares that persons referred to in this Article who are either nationals or permanent residents of the Hellenic Republic shall, in the territory of the Hellenic Republic enjoy only the privileges and immunities referred to in this Article."

#### **ITALY**

"Pursuant to article 15, paragraph 6 of the Agreement on the Privileges and Immunities of the International Criminal Court, Italy declares that tax exemption for salaries, emoluments and allowances only applies to sum paid by the International Criminal Court to eligible persons under article 15, paragraph 6; and

In accordance with article 23 of the Agreement on the Privileges and Immunities of the International Criminal Court, Italy declares that persons referred to in articles 15, 16, 18, 19 and 21 of the Agreement who are nationals or residents of Italy enjoy, while in Italy, only the privileges and immunities as required for the independent performance of his or her functions, or his or her appearance or testimony before the International Criminal Court, as laid down in article 23."

#### **LATVIA<sup>7</sup>**

"In accordance with article 23 of the Agreement on the Privileges and Immunities of the International Criminal Court, adopted at Geneva on the 9th day of September, 2002, the Republic of Latvia declares that the persons mentioned in the article 23, that are citizens or permanent

residents of the Republic of Latvia, in the territory of the Republic of Latvia enjoy only the privileges and immunities mentioned in the article 23."

\*[Within a period of 12 months from the date of circulation of the depositary notification (i.e. 28 November 2005), none of the Contracting States to the above Agreement notified the Secretary-General of an objection. Consequently the reservation is deemed to have been accepted for deposit upon the expiration of the 12 month period, i.e., on 28 November 2006.]

#### **LITHUANIA**

".....in accordance with Article 23 of the Agreement, the Republic of Lithuania declares that persons referred to in this article who are nationals or permanent residents of the Republic of Lithuania shall, in the territory of the Republic of Lithuania, enjoy only the privileges and immunities referred to in this article."

#### **MALTA**

"Pursuant to Article 23 of the said Agreement, the Government of Malta declares that persons referred to in Articles, 15, 16, 18, 19 and 21, who are either nationals or permanent residents of Malta shall, in the territory of Malta, enjoy only the privileges and immunities to the extent necessary for the independent performance of his or her functions or his or her appearance or testimony before the Court as laid down in Article 23."

#### **NEW ZEALAND**

".....in accordance with Article 23 of the Agreement, that persons referred to in Articles 15, 16, 18, 19 and 21 of the Agreement who are nationals or permanent residents of New Zealand enjoy, in the territory of New Zealand, only the privileges and immunities to the extent necessary for the independent performance of his or her functions or his or her appearance or testimony before the Court as laid down in Article 23."

#### **POLAND**

In accordance with Article 23 of the Agreement, the Republic of Poland declares that persons referred to in this Article who are Polish nationals or permanent residents of the Republic of Poland shall, while staying in the territory of the Republic of Poland, enjoy only the privileges and immunities referred to in this Article.

#### **PORTUGAL**

"With regard to the Agreement on the Privileges and Immunities of the International Criminal Court, Portugal declares that the persons referred to in article 23 that are Portuguese nationals or have permanent residence in Portugal enjoy in Portuguese territory only the privileges and immunities referred to in this article."

#### **REPUBLIC OF KOREA**

##### *Declaration:*

"The Republic of Korea, in accordance with Article 23 of the Agreement, declares that persons referred to in Article 15, 16, 18, 19 and 21 who are Korean nationals or permanent residents of Korea shall, in the Korean territory, enjoy only the privileges and immunities to the extent necessary for the independent performance of his/her functions, or his/her appearance or testimony before the Court as laid down in Article 23 paragraph (a), and persons referred to in Article 20 and 22 who are Korean nationals or permanent residents of Korea shall, in the Korean territory, enjoy only the privileges and immunities to the extent necessary for his/her appearance before the Court as laid down in Article 23 paragraph (b)."

#### **REPUBLIC OF MOLDOVA**

With reference to article 23 of the Agreement on the Privileges and Immunities of the International Criminal Court:

Without prejudice to paragraph 6 of article 15 and paragraph 1 (d) of article 16, a person referred to in articles 15, 16, 18, 19 and 21, if they are nationals of the Republic of Moldova or are permanent residents in the Republic of Moldova, shall enjoy in the territory of the Republic of Moldova only the privileges and immunities provided for in article 23 (a), to the extent necessary for the independent performance of his or her functions or his or her appearance or testimony before the Court.

The persons referred to in articles 20 and 22, if they are nationals of the Republic of Moldova or are permanent residents in the Republic of Moldova, shall enjoy in the territory of the Republic of Moldova only the privileges and immunities provided for in article 23 (b) to the extent necessary for his or her appearance before the Court.

#### **ROMANIA**

"In accordance with Article 23 of the Agreement on the Privileges and Immunities of the International Criminal Court, Romania declares that the persons referred to in Articles 15, 16, 18, 19 and 21, who are Romanian nationals or permanent residents of Romania shall, on the territory of Romania, enjoy only the privileges and immunities necessary for the independent performance of their functions or appearance or testimony before the Court stipulated in Article 23 paragraph a). The persons referred to in Articles 20 and 22, who are Romanian nationals or permanent residents of Romania shall, on the territory of Romania, enjoy only the privileges and immunities necessary for their appearance before the Court stipulated in Article 23 paragraph b)".

#### **SLOVAKIA**

"The Slovak Republic declares that persons referred to in Article 15, 16, 18, 19 and 21 of this Agreement who are either nationals or permanent residents of the Slovak Republic shall, in the territory of the Slovak Republic, enjoy only the privileges and immunities referred to in Article 23 paragraph a) of this Agreement. Persons referred to in Articles 20 and 22 of this Agreement, who are either nationals or permanent residents of the Slovak Republic shall, in the territory of the Slovak Republic, enjoy only the privileges and immunities referred to in Article 23 paragraph b) of this Agreement."

#### **SPAIN**

The Kingdom of Spain declares that, in accordance with article 23 of the Agreement on Privileges and Immunities of the International Criminal Court, the persons referred to in that article who are nationals or permanent residents of Spain, will only enjoy the privileges and immunities as required for the independent performance of their functions or their appearance or testimony before the Court, as laid down in article 23.

#### **SWITZERLAND**

In accordance with article 23 of the Agreement, Switzerland declares that persons referred to in this article who are Swiss nationals or permanent residents of Switzerland shall, in the territory of Switzerland, enjoy only the privileges and immunities referred to in this article.

#### **UKRAINE**

"In accordance with the Article 23 of the Agreement Ukraine declares that in the territory of the Ukraine citizens of Ukraine and other persons who permanently

reside in Ukraine enjoy only those privileges and immunities which are determined in this Article."

**UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND**

Declaration:

"In accordance with Article 23 of the Agreement, the United Kingdom declares that the persons referred to in sub-paragraphs (a) and (b) of that Article, if they are nationals or permanent residents of the United Kingdom, shall in the United Kingdom enjoy only the privileges and immunities specified in those sub-paragraphs."

Reservation:

"The United Kingdom shall not be bound by Article 15, paragraph 3."

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**Notes:**

<sup>1</sup> With the following territorial exclusion:

.....until further notice the agreement shall not apply to the Faroe Islands.

<sup>2</sup> See note 1 under "Montenegro" in the "Historical Information" section in the front matter of this volume.

<sup>3</sup> On 24 July 2008, upon its acceptance to the Agreement, the Government of the Netherlands declares that the Agreement will apply to the Netherlands Antilles and Aruba.

<sup>4</sup> See note 1 under "New Zealand" regarding Tokelau in the "Historical Information" section in the front matter of this volume.

Further, upon ratification, the Government of New Zealand made the following territorial declaration:

".....in accordance with Article 23 of the Agreement, that persons referred to in Articles 15, 16, 18, 19 and 21 of the Agreement who are nationals or permanent residents of New Zealand enjoy, in the territory of New Zealand, only the privileges and immunities to the extent necessary for the independent performance of his or her functions or his or her appearance or testimony before the Court as laid down in Article 23."

<sup>5</sup> On 20 October 2015, the Government of Ukraine made a communication. The text can be found here: C.N.608.2015.TREATIES-XVIII.13 of 20 October 2015.

<sup>6</sup> In a communication received on 11 March 2010, the Government of the United Kingdom of Great Britain and Northern Ireland informed the Secretary-General of the following:

"... the Government of the United Kingdom of Great Britain and Northern Ireland wishes the United Kingdom's ratification of the aforesaid ... Agreement to be extended to the following territories for whose international relations the United Kingdom is responsible:

Anguilla

Bermuda

British Virgin Islands

Cayman Islands

Falkland Islands

Montserrat

Pitcairn, Henderson, Ducie and Oeno Islands

St Helena, Ascension and Tristan da Cunha

Sovereign Base Areas of Akrotiri and Dhekelia

Turks and Caicos Islands

The Government of the United Kingdom of Great Britain and Northern Ireland considers the extension of the aforesaid ... Agreement to take effect from the date of deposit of this notification, ... ."

In a communication received on 11 February 2013, the Government of the United Kingdom of Great Britain and Northern Ireland informed the Secretary-General of the following:

"... The Government of the United Kingdom of Great Britain and Northern Ireland wishes the United Kingdom's Ratification of the Agreement on the Privileges and Immunities of the International Criminal Court to be extended to the territory of the Isle of Man for whose international relations the United Kingdom is responsible.

The Government of the United Kingdom of Great Britain and Northern Ireland considers the extension of the aforesaid Agreement to the Isle of Man to enter into force on the thirtieth day following deposit of this notification ..."

In a communication received on 20 April 2015, the Government of the United Kingdom of Great Britain and Northern Ireland informed the Secretary-General of the following:

"... the Government of the United Kingdom of Great Britain and Northern Ireland wishes the United Kingdom's Ratification of the Agreement to be extended to the territory of Gibraltar for whose international relations the United Kingdom is responsible.

The Government of the United Kingdom of Great Britain and Northern Ireland considers the extension of the Agreement to Gibraltar to enter into force from the day of deposit of this notification ..."

<sup>7</sup> In keeping with the depositary practice followed in similar cases, the Secretary-General received the reservation in deposit

in the absence of any objection on the part of any of the Contracting States, either to the deposit itself or to the procedure envisaged, within a period of 12 months from the date of the corresponding depositary notification lodged with the Secretary-

General on 14 November 2005. As such, the above reservation was accepted in deposit upon the expiration of the above-stipulated 12-month period, that is on 28 November 2006.