

AGREEMENT ON SECURITY AND ORDER
(SIGNED 14 JULY 1994)

Between 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 and the Ministry of Justice of the Kingdom of the Netherlands on matters relating to security and order of the leased premises within the Penitentiary Complex.

The undersigned:

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, represented by its Registrar, Prof. Dr. Th. van Boven;

and:

the Ministry of Justice of the Kingdom of the Netherlands, represented by the Minister of Justice of the Kingdom of the Netherlands, acting through the Director-General for Youth Protection and Care of Delinquents;

Having regard to the Agreement 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, concluded at New York, on the 29th July 1994, and in particular its Articles III and XXI, paragraph 3;

Having regard also to the contract between the State of the Netherlands and the United Nations concerning the lease of a 24 cell unit on the premises of the Penitentiary Complex for the detention of persons on the basis of warrants from the Tribunal, signed at the Hague, on the 14th July 1994, and in particular its Article 5;

Recognizing the willingness of the parties to ensure that the Rules of Detention as adopted by the Tribunal shall be fully respected and that the competent authorities of the Tribunal and of the Host country shall establish a close cooperation to that effect;

Desiring to agree on rules regarding the security and order within the Penitentiary Complex in so far as they affect or may affect the operation of the leased premises of the Tribunal;

Have agreed as follows:

Article 1

For the purpose of this Agreement the following definitions shall apply:

"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;

"the PC" means:

the Penitentiary Complex;

"the detention unit" means:

the unit of 24 cells with adjacent rooms on the premises of the PC, leased by the United Nations for the detention of persons on the authority of the Tribunal;

"the General Director" means:

the official appointed by the Ministry of Justice of the Kingdom of the Netherlands as the head of the Staff of the PC;

"the Commanding Officer" means:

the head of the staff of the Tribunal responsible for the administration of the detention unit.

Article 2

Any person, irrespective of his or her status, nationality, function or age, seeking access to the leased premises of the Tribunal shall, when entering the premises of the PC, be subjected to security control. The control is carried out under the responsibility of the General Director.

Article 3

Personal control, referred to in Article 2, shall include:

- (a) control of identification documents (e.g. passports, ID-cards or laissez-passer documents issued by the Government of the Kingdom of the Netherlands, ID-cards issued by the Registrar of the Tribunal);
- (b) control by passing detection gates.

If the General Director, or the person carrying out the personal control on his behalf, deems it necessary, such control may also include the search of clothing.

Search of clothing on men shall be carried out by male officials only: search of clothing on women shall be carried out by female officials only.

Article 4

The General Director, or the person carrying out the personal control on his behalf, may refuse access to the PC to persons who are not willing to comply with any form of personal control as referred to in Article 2.

Article 5

Any property brought or sent to the PC in order to be taken or transferred to the detention unit, shall, when entering the premises of the PC be subject to security control.

The control is carried out under the responsibility of the General Director. Property which may constitute either of itself or in combination with other property a danger to the security or order within the PC shall not be given access.

Article 6

Property control under Article 5 may include:

- (a) handing over, inspection and opening of things, including briefcases, purses and other personal luggage;
- (b) X-ray detection.

Letters destined for persons detained on the authority of the Tribunal shall be inspected for explosives or other irregular material, but shall not be read or photocopied by the personnel carrying out property control under Article 5.

The same supplies to documents held by defence counsels admitted as such by the Tribunal.

Article 7

The General Director, or the person carrying out control on his behalf, may refuse access, without further control, to the premises of the PC of any item intended for consumption by persons within the detention unit.

Article 8

The General Director, or the person carrying out control on his behalf, may refuse access to the PC to persons who are not willing to comply with any form of property control as referred to in Article 5.

Article 9

The General Director shall be responsible for security and order on the premises of the PC, without prejudice to the specific responsibility of the Tribunals officials for security and order on the premises leased by it.

The General Director is entitled to have any person who is not detained in, or employed as a UN official or an official of the Netherlands at, the PC and who causes disturbances or poses an acute risk to security or order in the PC removed from, or denied access to, the premises of the PC.

Article 10

The responsibility of the General Director under Article 9 includes the authority to determine the routes to be followed inside the PC for persons and property to reach the detention unit or to leave the premises of the PC.

Such routes may be different for detainees, visitors, personnel employed by the Tribunal or other authorities.

The General Director may give further instructions with a view to prevent that persons detained on the authority of the Tribunal and their visitors be in contact with other persons present in the PC.

Article 11

Persons detained on the authority of the Tribunal shall, when transported through the premises of the PC to or from the detention unit, be escorted by personnel of the PC.

Article 12

The General Director may order that property to be transferred through the premises of the PC to or from the detention unit shall be so transferred by personnel of the PC.

Article 13

The Commanding Officer shall be responsible for the carrying out of personal and property controls at the entry of the detention unit.

Under no condition shall persons detained elsewhere in the PC be given access to the detention unit.

Article 14

If, pursuant to a control under Article 13, or for any other reason of security or order, the Commanding Officer refuses access of a person to the detention unit, he or she shall call the assistance of the General Director of the PC, in order to have the person removed.

Article 15

In cases of disturbances as contemplated in Rule 56 of the Rules of Detention adopted by the Tribunal, the General Director shall at the request of the Commanding Officer take all appropriate measures to help to maintain control within the detention unit.

Article 16

In case of fire within the PC, the Commanding Officer shall observe any orders and directives given by the General Director, including orders to allow entry into the detention unit or to have these temporarily evacuated.

The General Director shall in such cases take the necessary measures to accommodate evacuated detainees, and shall inform the Registrar accordingly.

Article 17

In case of an escape of a detainee from the detention unit the Commanding Officer shall immediately inform the General Director, who shall be responsible for any search and re-arrest action on the premises of the PC.

In case of an escape of a detainee from another penitentiary institution of the PC, the Commanding Officer shall allow entry into the detention unit with a view to carrying out search and re-arrest action.

Article 18

Personnel employed by the Tribunal shall, when present on the premises of the PC outside the detention unit, observe the rules and instructions applicable on the PC with respect to security and order.

In particular, such personnel shall not be allowed to carry firearms or other weapons on the premises of the PC.

In case of non-observance of such rules or instructions the General Director shall seek an understanding with the Commanding Officer.

In serious cases he may bring the matter to the attention of the Registrar of the Tribunal.

Article 19

The Rules of Detention adopted by the Tribunal regulating visits to persons detained in the detention unit shall be without prejudice to such practical arrangements as may be agreed upon between the General Director and the Commanding Officer, in consultation with the Registrar, in accordance with Rule 63 of the Rules of Detention.

Article 20

The General Director may designate a member of his Staff to represent him in matters covered by Articles 2 - 17 of this Agreement.

In witness thereof, the Parties to this Agreement have signed the Agreement at the Hague on 14 July 1994.

For 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,

Prof. Dr. Th. van Boven
(Registrar)

For the Ministry of Justice of the Kingdom of the Netherlands,

Mr. H.B. Greven
(Director-General for Youth Protection and Care of Delinquents)