

HEADQUARTERS AGREEMENT
BETWEEN
THE KINGDOM OF BELGIUM
AND
THE INTERNATIONAL CENTRE FOR MIGRATION POLICY
DEVELOPMENT

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THE KINGDOM OF BELGIUM,
hereinafter referred to as “Belgium”,

and

**THE INTERNATIONAL CENTRE FOR MIGRATION POLICY
DEVELOPMENT,**
hereinafter referred to as “the ICMPD”,

HAVING REGARD to the Agreement between the Swiss Confederation and the Republic of Austria regarding the establishment and functioning of the International Centre for Migration Policy Development (ICMPD) in Vienna, signed in Vienna on 1 June 1993, and modified by the agreements of 27 March 1996, 26 April 1996 and 25 June 2003, herinafter referred to as “the Agreement”;

RESPONDING to the desire of the ICMPD to establish a Representation to the European Union in Brussels, hereinafter referred to as “the Representation” ;

WISHING to conclude an agreement to determine the privileges and immunities necessary for the functioning of the Representation and for the successful accomplishment of the mission of its staff;

HAVE AGREED AS FOLLOWS :

CHAPTER I
**PERSONALITY, PRIVILEGES AND IMMUNITIES
OF THE REPRESENTATION**

Article 1

The Representation shall have international legal personality and capacity.

Article 2

The Representation, as well as the properties and assets of the ICMPD used for the exercising of the official functions of the Representation, shall enjoy legal immunity except where expressly renounced by the Representation.

Article 3

1. The properties and assets of the ICMPD used for the exercising of the official functions of the Representation may not be subject to any form of requisition, confiscation, sequestration nor to any other form of seizure or constraint.
2. Should any form of expropriation be necessary, all appropriate action will be taken to prevent the exercising of the functions of the Representation being impeded in any way. In this case Belgium will give its assistance to enable relocation of the Representation.

Article 4

The archives of the Representation, and, in a general way, all documents of the Representation or those held by it or by one of its servants shall be inviolable.

Article 5

1. The premises used exclusively for the exercising of the official functions of the Representation are inviolable. Permission by the Head of the Representation shall be required for access to its premises.

2. This permission, however, shall be assumed to be given in case of emergencies requiring prompt protective action.
3. Belgium shall take all appropriate measures to prevent invasion or damage to the Representation premises, to prevent the peace of the Representation being disturbed or its dignity being diminished in any way.

Article 6

1. Without prejudice to the international provisions and to the relevant provisions of the European Community the Representation may hold in Belgium currency of any kind and operate accounts in all currencies insofar as necessary for the execution of operations corresponding to its aim.
2. Belgium undertakes to grant the Representation all authorisations necessary to freely transfer, according to the modalities provided for in the applicable national regulations and international agreements, funds necessary for the setting up and operation of the Representation.

Article 7

1. The Representation, its properties, its incomes and other goods destined for its official use shall be exempt from all direct taxes.
2. No exemption from direct taxes shall be granted for incomes of the Representation which originate from an industrial or commercial activity exercised by the Representation or by one of its members for the Representation.

Article 8

When the Representation makes substantial purchases of movable or immovable goods or has substantial services performed that are strictly necessary for the exercising of its official activities and where the price includes indirect taxes or VAT, appropriate measures shall be taken whenever possible with a view to the remission or reimbursement of the amount of these taxes.

Article 9

The Representation shall be exempt of all indirect taxes regarding goods imported, acquired or exported by it or in its name for its official use.

Article 10

Without prejudice to the obligations arising for Belgium from the treaties concerning the European Union and the application of legal and regulatory provisions regarding public order, security, health or morals, the Representation may import all goods and publications destined for its official use.

Article 11

The Representation shall be exempt from all indirect taxes regarding the official publications that it receives or sends abroad.

Article 12

The goods belonging to the Representation cannot be disposed of in Belgium except under conditions provided by Belgian laws and regulations.

Article 13

The Representation shall not be exempt from taxes and duties that are, in fact, no more than charges for public utility services.

Article 14

Freedom of communication for its official purposes shall be guaranteed to the Representation. Its official correspondence shall be inviolable.

Article 15

Without prejudice to the obligations arising for Belgium from the treaties concerning the European Union and the application of laws and regulations, the conditions and procedures for the application of Articles 7, 8, 9, 10, 11 and 12 and the fiscal exemptions resulting from Article 18.1 a) shall be determined by the competent Minister of Finance.

CHAPTER II

LEGAL POSITION OF STAFF MEMBERS

Article 16

The Head of the Representation and his/her deputy shall enjoy the immunities, privileges and facilities granted to the members of the diplomatic personnel of diplomatic missions. Their legal spouse and their dependent minor children, living under the same roof, shall enjoy the privileges granted to the spouses and to the minor children of the diplomatic personnel.

Article 17

1. Representatives of the State Parties to the Agreement, as well as their alternates, advisers or experts, at meetings convened by the ICMPD, shall, without prejudice to any other privileges and immunities which they may enjoy, while exercising their functions and during their journeys to and from the place of the meeting, enjoy the following privileges and immunities:
 - a) immunity from personal arrest or detention;
 - b) immunity from legal process of any kind in respect of words spoken or written and all acts done by them, in their official capacity; such immunity shall continue to be accorded, notwithstanding that the persons concerned may no longer be engaged in the performance of such functions;
 - c) inviolability for all papers, documents and official material;
 - d) the right to use codes and to dispatch or receive papers, correspondence or official material by courier or in sealed bags;
 - e) exemption in respect of themselves and their legal spouses from immigration restrictions, alien registration or national service obligations while they are visiting or passing through Belgium in the exercise of their functions;
 - f) the same facilities with respect to currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;
 - g) the same immunities and facilities in respect of their personal baggage as are accorded to members of comparable rank of diplomatic missions.

2. Where the incidence of any form of taxation depends upon residence, periods, during which the persons designated in paragraph 1 of this Article may be present in the territory of Belgium exclusively for the discharge of their duties in Belgium, shall not be considered as periods of residence.
3. The privileges and immunities are accorded to the persons designated in paragraph 1 of this Article in order to safeguard the independent exercise of their functions in connection with the ICMPD and not for the personal benefit of the individuals themselves. It is the duty of all persons enjoying such privileges and immunities to observe in all other respects the laws and regulations of Belgium.
4. The provisions of paragraphs 1 and 2 of this Article are not applicable to Belgian nationals or permanent residents in Belgium.

Article 18

1. All officials and other servants of the Representation shall enjoy:
 - a) exemption from all taxes on salaries, emoluments and indemnities paid to them by the ICMPD, from the date on which their incomes are subject to taxation for the benefit of the ICMPD, subject to recognition by Belgium of this internal taxation system; Belgium reserves for itself the right to take into account the said salaries, emoluments and indemnities for calculating the amount of tax to be levied on the taxable income originating from other sources;
 - b) the facilities accorded to officials of international organisations in respect of currency or exchange regulations.
3. All officials and other servants of the Representation shall enjoy:
 - a) legal immunity for acts performed in their official capacity, including words written or spoken; such immunity shall apply even after they have left the service;
 - b) inviolability of all official papers and documents.
3. All officials and other servants of the Representation, as well as their legal spouse and their dependent minor children, living under the same roof, shall enjoy exemption from measures restricting immigration and from aliens registration formalities. This exemption shall be given in accordance with Belgian legislation on the matter.
4. The Representation shall notify the Protocol Service of the Federal Public Service Foreign Affairs of the arrival and final departure of its officials and other servants and shall also provide the following specific information about all its officials and other servants:

- a) surname and first name
- b) place and date of birth
- c) sex
- d) nationality
- e) permanent residence (town, street, number)
- f) civil status
- g) composition of the family
- h) the social security scheme chosen by the staff member

The Protocol Service of the Federal Public Service Foreign Affairs shall be notified, within two weeks, of any changes to the above-mentioned data.

Article 19

The provisions of Article 18.1 a) shall not apply to pensions and annuities paid by the ICMPD to its former officials and servants in Belgium or to their successors nor to salaries, emoluments and indemnities paid by the ICMPD or by the Representation to its servants engaged for a period of less than one year or who do not occupy a permanent position at the ICMPD considering the mission and the statutory regulations of that Organization.

Article 20

1. Without prejudice to the obligations arising for Belgium from the treaties concerning the European Union and to the application of laws and regulations, the officials and other servants of the Representation, except the persons referred to in Article 16, shall enjoy the right, during a period of twelve months following their first taking up their duties in Belgium, to import or purchase, in exemption of import duties and value added tax (VAT), furniture and a motor vehicle for their personal use in Belgium.
2. The competent Minister for Finance shall determine the limits and conditions under which this Article applies.

Article 21

Belgium shall not be bound to extend to its own nationals or to permanent residents the advantages, privileges and immunities granted under this Agreement, except for those provided for in Article 18.1 a) of this Agreement.

Article 22

For the exercising of their official functions within the Representation, the officials and other servants of the Representation shall not be subject to Belgian legislation on employment of foreign workers and on the exercising of professional self-employed activities by foreigners.

Article 23

The Representation shall issue, before the 1st of March of each year, to all officials and other servants a form specifying, besides their names and addresses, the amount of the salaries, emoluments and indemnities, pensions or annuities paid to them by the ICMPD or by the Representation during the course of the previous year.

Regarding salaries, emoluments and indemnities liable to taxation for the profit of the ICMPD, this form shall also mention the amount of this tax.

Besides, the Representation shall send before the same date a duplicate of this form directly to the competent Belgian Fiscal Administration.

Article 24

1. The officials and other servants of the Representation who are not Belgian nationals or who are not permanently residing in Belgium and are not exercising in Belgium any other gainful activity except that required by their functions, can choose to be covered by the social security schemes applicable to the officials and other servants of the ICMPD under the rules provided for by those schemes. This right of option must be exercised by the official or servant within two weeks of his first taking up his duties, and must be notified, within the same delay, in accordance with Article 18.4.
2. The Representation will ensure coverage by the Belgian social security system of its Belgian officials and other servants or permanent residents, as well as of its officials and other servants who are not covered by, or who have not opted for coverage by the social protection schemes provided by the ICMPD itself.
3. The ICMPD undertakes to guarantee its officials and other servants posted in Belgium who are covered by its own social security schemes, as well as their legal spouse and their dependent children, living under the same roof, referred to in Article 18.3, advantages equivalent to those provided by the Belgian social security system.

4. Servants engaged by the Representation who do not occupy a permanent position at the ICMPD considering the mission and the statutory regulations of that Organization will be covered by the Belgian social security system.
5. Belgium can obtain from the Representation or from the ICMPD the repayment of costs incurred for any aid having a social character it may have to provide to officials of the ICMPD and other servants posted to the Representation who are covered by the social security schemes applicable to officials of the ICMPD and other servants.

CHAPTER III

GENERAL PROVISIONS

Article 25

The privileges and immunities are granted to the officials and other servants of the Representation only in the interest of the ICMPD and not for their personal advantage. The Head of the Representation shall waive all immunity whenever the immunity would impede the course of justice and such waiver does not prejudice the proper functioning of the Representation.

Article 26

Without prejudice to the rights conferred upon the Representation and its officials and other servants by this Agreement, Belgium reserves the right to take all necessary precautions in the interest of its security.

Article 27

1. The persons referred to in Articles 16, 17 and 18 shall not enjoy any legal immunity regarding motor traffic offences or damages caused by a motor vehicle.
2. The Representation and its officials and other servants shall comply with all obligations imposed by Belgian legislation concerning civil liability insurance for the use of any motor vehicle.

Article 28

The Representation and all its officials and other servants shall co-operate at all times with the appropriate Belgian authorities to facilitate the proper administration of justice, to ensure observation of police regulations and to prevent the occurrence of any abuse in connection with the immunities and privileges provided for in this Agreement.

Article 29

The ICMPD, the Representation and all their officials and other servants shall comply with Belgian laws and regulations and with judgments rendered against them.

Article 30

Belgium shall have no international responsibility whatsoever for the activities of the Representation on its territory as regards the acts or omissions of the Representation or of its officials and other servants acting or failing to act in the exercise of their functions.

Article 31

1. Any difference of views regarding the application or interpretation of this Agreement, which cannot be resolved through direct negotiations between the Parties, may be submitted, by one of the Parties, to an arbitral tribunal composed of three members.
2. The Parties shall each appoint one arbitrator.
3. The third arbitrator shall be appointed by both Parties upon consultation.
4. The third arbitrator shall be the President of the arbitral tribunal.
5. In case of disagreement on the choice of the third arbitrator, the third arbitrator shall be appointed by the President of the International Court of Justice at the request of the Parties.
6. The dispute shall be brought to the arbitral tribunal upon application of either Party.
7. The arbitral tribunal shall determine its own procedure.

CHAPTER IV

FINAL PROVISIONS

Article 32

Both Parties shall notify each other of the completion of the internal constitutional and legal procedures required for the entry into force of this Agreement.

The Agreement shall enter into force on the first day of the second month following the date of exchange of the last notification.

This Agreement can be revised at the request of one of the Parties.

IN WITNESS WHEREOF, the Representatives of the Kingdom of Belgium and of the International Centre for Migration Policy Development have signed this Agreement.

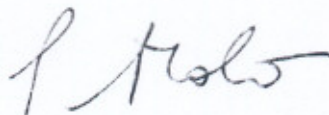
DONE in Brussels, on *11th July 2008* in duplicate, in the English, French and Dutch languages, the three texts being authentic.

**FOR THE GOVERNMENT OF THE
KINGDOM OF BELGIUM:**



**Michel GODFRIND,
Ambassador,
President of the C.I.P.S./I.C.Z.**

**FOR THE INTERNATIONAL CENTRE
FOR MIGRATION POLICY
DEVELOPMENT:**



**Gabriela ABADO,
Deputy Director general**

«This signature engages also the French Community, the Flemish Community, the German-speaking Community, the Walloon Region, the Flemish Region and the Brussels-Capital Region»