Draft

Excellency,

I have the honour to refer to the discussions held between the United Nations, acting through the International Criminal Tribunal for the former Yugoslavia (hereafter “International Tribunal”), and the Government of the Republic of Latvia, concerning the necessity to amend the Agreement between the International Tribunal and the Government of the Republic of Latvia for the relocation to the territory of the Republic of Latvia of Witnesses who have appeared or will appear in proceedings before the International Tribunal, and, where necessary, their Close Relations (hereafter “Exchange of Letters”).

I have the honour to confirm on behalf of the Government of the Republic of Latvia (hereafter “Latvia”) the following amended understanding:

Latvia agrees, subject to the amended terms of this letter and your reply (hereafter “Amended Exchange of Letters”), to accept for Relocation Witnesses, as defined herein, who have appeared or who will appear before the International Tribunal and, where necessary, their Close Relations, each year for the duration of this Amended Exchange of Letters and to provide such persons with Relocation Services, as defined herein.

**I. For the purposes of this Amended Exchange of Letters:**

(1) “Registrar” is understood to refer to the Registrar of the International Tribunal pursuant to Article 17 of the International Tribunal's Statute.

(2) “Relocation” is understood to refer to the relocation to the territory of Latvia of Witnesses and, where necessary, their Close Relations.

(3) “Relocation Services” is understood to refer to the facilities and benefits, described in part III below, to be provided to Witnesses, and, where necessary, their Close Relations, who are subject to the provisions of thisAmended Exchange of Letters.

(4) “Witnesses” is understood to refer to persons who have appeared or who will appear as witnesses in proceedings before the International Tribunal. This includes but is not limited to an appearance either in the course of the prosecution or of the defence of an accused.

(5) “Close Relations” is understood to refer to:

(a) the partner of a Witness;

(b) single dependants of the Witness under 18 years of age;

(c) disabled dependants of the Witness.

(6) Dependants referred to in paragraph (5) (c) shall only be accepted by Latvia pursuant to the provisions of this Amended Exchange of Letters upon Latvia being satisfied that there are grounds to justify the Relocation of such dependants.

(7) “Relocated Person(s)” refers to those Witnesses and Close Relations who have been provided with Relocation Services according to this Amended Exchange of Letters.

**II. As to the procedure for providing Relocation Services to Witnesses and, where necessary, their Close Relations:**

(8) Where the Registrar considers that a Witness requires Relocation, he/she shall request that Latvia accepts such a Witness and, where necessary, his/her Close Relations. Such requests (hereafter “Requests”) shall be considered on an individual basis by Latvia, and may be granted in those cases in which it is satisfied of the necessity of Relocation for the Witness and any Close Relations who are subjects of the Request (hereafter “the Subject(s)”).

(9) Requests shall be in writing, and shall be addressed to Latvia by the Registrar six calendar months or as soon as possible prior to the expected date of Relocation of the Subject(s). However, where the Registrar considers that circumstances require the Subject(s) to be relocated immediately, the Registrar shall consult Latvia, who will then consider the Request immediately in accordance with paragraph (8).

(10) (a) Requests shall refer to the Subject(s) by his/her full personal name. Requests shall be accompanied by full details of the health, education and, where applicable, the criminal record of the Subject(s), and any other information which the Registrar considers relevant. This information will be provided in the form to be found in Annex 1 to this Amended Exchange of Letters. The Registrar will provide any further information as Latvia may request, subject to the Registrar having access to such information and there being no impediment to communicating it to Latvia.

(b) When the Registrar considers that in addition to the Relocation Services provided herein, protective measures are necessary to ensure the protection of Witnesses and, where necessary, their Close Relations (hereafter “Protection Requirement”), the relevant Request shall be accompanied by a report on the Protection Requirement. This report shall be provided in the form of Annex 2 to this Amended Exchange of Letters.

(11) Before answering Requests of the International Tribunal, Latvia is entitled to send a maximum of two experts qualified in witness protection matters in order to meet with the Subject(s). The International Tribunal will cover the costs of travel, subsistence and accommodation incurred by such meeting, which will be organized in cooperation with the Protection Officers of the International Tribunal’s Victims and Witnesses Section.

(12) Latvia has a right to refuse to fulfill the Request if it threatens its sovereignty, national security, public order or other substantial interests of Latvia or if protective measures which are provided in Latvia will not be able to guarantee the Subject(s) safety after the Relocation.

**III. As to the nature of the Relocation Services to be provided to Witnesses and their Close Relations accepted for Relocation by Latvia pursuant to this Amended Exchange of Letters (hereafter “the Relocated Person(s)”):**

(13) Where Latvia agrees to a Request, the Registrar shall arrange for the transfer of the Subject(s) to the territory of Latvia.

(14) Latvia shall provide to the Relocated Person(s) the facilities, benefits and entitlements to which persons are entitled under the definition of “refugees” under Article 1 of the 1951 Convention on the Status of Refugees, as amended by the 1967 Protocol thereto.

(15) In addition to the services provided pursuant to paragraph (14), Latvia shall provide the following facilities and services to the Relocated Person(s), on the same basis as such facilities and services are provided to citizens of Latvia:

(a) housing;

(b) education, including skills and language training where necessary;

(c) health and social services, including specialist medical care where necessary;

(d) access to opportunities to obtain employment;

(e) documents to enable travel to and from Latvia; and

(f) any other applicable facilities and benefits.

Such services will be provided without prejudice to any rights which the Relocated Person(s) would be entitled to under the law, including the refugee and asylum law, of Latvia if he/she had entered Latvia lawfully and was not subject to the provisions of this Amended Exchange of Letters.

(16) If, upon receipt of a Request pursuant to paragraphs (8) and (10) (b), Latvia agrees that a Protection Requirement exists, the relevant authority shall take whatever measures deemed necessary to protect the Subject(s), considering the level of threat. If appropriate, and upon consultation with the Registrar, the authority shall enter the Subject(s) into the domestic witness protection program existing at that time, on the same basis as citizens of Latvia who are entered into that program.

**IV. As to the status of Relocated Person(s):**

(17) Latvia shall grant the Relocated Person(s) residence permits valid for one year. Six calendar months after the commencement date of the residence permit, the Registrar shall assess (hereafter “Assessment”) whether Relocation Services continue to be necessary with respect to that Relocated Person(s). If the Registrar concludes from the first Assessment that such services continue to be necessary, Latvia shall extend the residence permit for a further two year period. Assessments shall continue to be made by the Registrar on an annual basis. If after the expiration of that two year period, the Registrar concludes from the Assessments undertaken to that date that such services continue to be necessary, a further two year extension shall be granted.

(18) The Relocated Person(s) may apply for citizenship of Latvia in accordance with the national legislation of Latvia.

(19) Latvia will immediately notify the Registrar if it is informed that a Relocated Person(s) has deceased or if his/her whereabouts are unknown.

**V. As to the termination of Relocation Services:**

(20) Notwithstanding any provision of thisAmended Exchange of Letters, unless the International Tribunal and the Relocated Person(s) express their consent in writing, Latvia shall not return any Relocated Person(s) to the territory of the former Socialist Federal Republic of Yugoslavia.

A. Termination where Relocation Services continue to be necessary:

(21) (a) Where either Party wishes to terminate Relocation Services for a particular Relocated Person(s), it (hereafter “Terminating Party”) shall inform the other Party of its intention and consult with the other Party in writing. The Terminating Party shall then notify, also in writing, the Relocated Person(s) affected by such a termination (hereafter “Affected Relocated Person(s)”).

(b) In the event that the Relocation Services are terminated in accordance with paragraph (21) (a), the Registrar shall obtain the agreement of another State to assume the Relocation Services. Provision of Relocation Services shall continue until such time as the Affected Relocated Person(s) has been relocated from Latvia.

(c) If Latvia wishes to terminate Relocation Services because i) it threatens its sovereignty, national security, public order or other substantial interests of Latvia, or ii) the protective measures which are provided in Latvia will not be able to guarantee the Affected Relocated Person(s) safety after the Relocation, the Registrar shall have a period of thirty days to obtain an agreement of another state to assume Relocation Services. If the Registrar is unable to conclude such an agreement within that period, he shall be responsible for the immediate relocation of the Affected Relocated Person(s) from the territory of Latvia.

B. Where Relocation Services are no longer necessary:

(22) (a) Where the Registrar concludes that Relocation Services are no longer required with respect to a Relocated Person(s), the Registrar shall inform Latvia and the Relocated Person(s) accordingly in writing.

(b) Latvia shall then have discretion to terminate Relocation Services six calendar months after the date upon which the Relocated Person(s) receives such a notification.

(23) The Relocated Person(s) shall thereafter be subject to the relevant legal provisions under the law of Latvia.

**VI. As to the costs related to the provision of Relocation Services:**

(24) The International Tribunal shall bear all costs and expenses relating to the provision of the Witness’ testimony and appearance before the International Tribunal, including travel to and from the International Tribunal for this purpose. The remainder of the costs regarding the Relocated Persons(s) shall be agreed upon on a case by case basis by the International Tribunal and the responsible authority of Latvia competent for the protection of witnesses.

**VII. As to the entry into force and duration of the provisions of this Amended Exchange of Letters:**

(25) (a) This Amended Exchange of Letters shall apply provisionally on the day following the receipt of the confirmation of Latvia of the provisions of the Amended Exchange of Letters. The Amended Exchange of Letters shall enter into force and shall replace the Exchange of Letters in its entirety on the day following receipt by the International Tribunal of a written notification by Latvia that it has completed the internal procedures necessary for the Amended Exchange of Letters to enter into force.

(b) Any Relocation Services provided to Witnesses and their Close Relations accepted for Relocation by Latvia pursuant to the Exchange of Letters shall be continued under the terms of the Amended Exchange of Letters.

(c) This Amended Exchange of Letters shall remain in force until it is terminated by either Party providing the other Party with six months notice of termination in writing. Such termination shall be carried out without prejudice to the status of any Relocated Person(s) relocated in Latvia at the time of termination, including Affected Relocated Person(s).

**VIII. As to the resolution of disputes:**

(26) Any dispute, controversy, or claim arising out of, or relating to, this AmendedExchange of Letters shall be settled by negotiation or by a mutually agreed mode of settlement.

**IX. As to the representatives of the Parties:**

(27) The Registrar, or his/her authorised designate, shall represent the International Tribunal in all matters relating to this Amended Exchange of Letters.

(28) The Ministry of the Interior shall represent Latvia in all matters relating to this Amended Exchange of Letters.

I have the honour to acknowledge that the above is also the view of the Government of the Republic of Latvia.

Please accept, Excellency, the assurances of my highest consideration.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

the Minister of the Interior

**Annex 1**

|  |  |  |  |
| --- | --- | --- | --- |
| **DETAILS OF SUBJECT** | | | |
| **Witness □ Spouse □ Dependent □ Other □**  **If not Witness, name of Witness: [ ]** | | | |
| **A. Physical Details** | | | |
| (a) Name (names), family name: | [ ] |  | |
| (b) Date of Birth: | [ ] |  | |
| (c) Place of Birth (City and Country): | [ ] | ----------------------- | |
| (d) Sex: | Male □ Female □ | [ PHOTOGRAPH ] | |
|  |  | -------------------------- | |
| (e) Citizenship(s): | [ ] |  | |
| Passports: | [ ] |  | |
| Ethnicity: | [ ] |  | |
| Residence Permit(s) in Countries other than Country of Citizenship, if Yes, | | | |
| Details: | [ ] |  | |
| Present Place of Residence: | [ ] |  | |
| (f) Language(s) Spoken: | [ ] |  | |
| (g) Physical Characteristics: |  |  | |
| (i) Height (cm): | [ ] |  | |
| (ii) Weight (kg): | [ ] |  | |
| (iii) Hair Colour: | [ ] |  | |
| (iv) Eye Colour: | [ ] |  | |
| (v) Distinguishing Scars or  Birthmarks: | [ ] |  | |
| (h) Physical or mental Handicaps (details): | [ ] |  | |
| **B. Personal Information** | | | |
| (a) Marital Status: | Married | | □ |
|  | Never married | | □ |
|  | Separated | | □ |
|  | Divorced | | □ |
|  | Widowed | | □ |
| Date of latest change of marital status: | [ ] | |  |
| (b) Education and Professional background: | [ ] | |  |
| (c) Religious affiliation: | [ ] | |  |
| (d) Name of Spouse: | [ ] | |  |
| (e) Name (names), family name of:  Children under the age of 18 years: | [ ] | |  |
| Non-custodial Children:  -Name (names), family name:  -Address(es)  -Guardian | [ ]  [ ]  [ ] | |  |
| Depandants: | [ ] | |  |
| (f) Which of the persons listed in (d) and (e), if any, are subject to Relocation: | | | |
|  | [ ] | |  |
| **C. Legal Obligations and Financial Record** | | | |
| (a) Civil proceedings instituted against Person:  If yes, Details: | Yes □ No □  [ ] | |  |
| (b) Civil obligations of person: |  | |  |
| (i) Mortgages or Pledges of which the person is a principal: | | | |
| If yes, Details: | Yes □ No □  [ ] | |  |
| (ii) Guarantees etc.:  If yes, Details: | Yes □ No □  [ ] | |  |
| (iii) Maintenance Obligations:  If yes, Details: | Yes □ No □  [ ] | |  |
| (iv) Tax Liabilities Outstanding:  If yes, Details: | Yes □ No □  [ ] | |  |
| (v) Trusts of which the Person is a trustee or manager: | | | |
| If yes, Details: | Yes □ No □  [ ] | |  |
| (vi) Other Civil obligations:  If yes, Details: | Yes □ No □  [ ] | |  |
| (c) Financial Information: |  | |  |
| (i) Real and Personal Property:  If yes, Details: | Yes □ No □  [ ] | |  |
| (ii) Bank accounts etc.:  If yes, Details: | Yes □ No □  [ ] | |  |
| (iii) Debts owed to Person:  If yes, Details: | Yes □ No □  [ ] | |  |
| (iv) Securities and other bills of exchange, promissory notes, bonds and superannuation and life policy entitlements of the Person: | | | |
| If yes, Details: | Yes □ No □  [ ] | |  |
| (v) Moneys receivable from any governmental or other public authority at this time or in the reasonably foreseeable future: | | | |
| If yes, Details: | Yes □ No □  [ ] | |  |
| (vi) Maintenance entitlements:  If yes, Details: | Yes □ No □  [ ] | |  |
| **D. Criminal and Arrest Records**  Prior arrest or criminal record or criminal charges outstanding: | | | |
| If yes, Details: | Yes □ No □  [ ] | |  |
| **E. Tribunal Proceedings**  Detail testimony given or to be given: [ ] | | | |
| (a) Details of any accused, including information concerning indictment: | | | |
|  | [ ] | |  |
| (b) Are there any other sources of such evidence: | [ ] | |  |
| (c) Relative importance of testimony: | [ ] | |  |
| **F. Relocation Assessment** | | | |
| (a) Factors supporting the provision of Relocation Services: | [ ] | |  |
| (b) Risk and/or Threat Assessment (as they pertain to Relocation): | [ ] | |  |
| (i) Photographs or a description of persons posing danger if possible: | [ ] | |  |
| (ii) Criminal record and reputation of persons posing danger if available: | [ ] | |  |
| **G. Other Material Facts**  [ ] | | | |
|  |  | |  |

**Annex 2**

|  |  |  |
| --- | --- | --- |
| **PROTECTION ASSESSMENT** | | |
| **Witness □ Spouse □ Dependent □ Other □**  **If not Witness, name of Witness: [** ] | | |
| **A. Personal Details** | | |
| (a) Name (names), family name: | [ ] | ----------------------- |
| (b) Sex: | Male □ Female □ | [ PHOTOGRAPH ] |
|  |  | -------------------------- |
| **B. Details of Protection Requirement** |  |  |
| Report on the existence of a Protection Requirement: | [ ] |  |
|  | | |

Iekšlietu ministrs R.Kozlovskis

Vīza: Valsts sekretāre I.Pētersone-Godmane

19.03.2013. 10:36

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