

TRANSLATION

AGREEMENT

between the European Union and the Republic of Guinea-Bissau on the Status of the European Union Mission in Support of Security Sector Reform in the Republic of Guinea-Bissau

THE EUROPEAN UNION, hereinafter referred to as 'EU',

of the one part, and

THE REPUBLIC OF GUINEA-BISSAU, hereinafter referred to as 'the Host State',

of the other part,

Together hereinafter referred to as the 'Parties',

TAKING INTO ACCOUNT:

- the Exchange of Letters between the Secretary-General/High Representative for the Common Foreign and Security Policy, Javier Solana, and His Excellency the President of the Republic of Guinea-Bissau, João Bernardo Vieira, concerning a possible European Union mission in support of security sector reform in the Republic of Guinea-Bissau,
- the Council Joint Action 2008/112/CFSP of 12 February 2008 on the European Union mission in support of security sector reform in the Republic of Guinea-Bissau (EU SSR Guinea-Bissau) ⁽¹⁾,
- that this Agreement will not affect the Parties' rights and obligations under international agreements and other instruments establishing international courts and tribunals, including the Statute of the International Criminal Court,

HAVE AGREED AS FOLLOWS:

*Article 1***Scope and definitions**

1. This Agreement shall apply to the European Union mission and its personnel.

2. This Agreement shall apply only within the territory of the Host State.

3. For the purpose of this Agreement:

- (a) 'EU SSR Guinea-Bissau' shall mean the EU mission in the Host State established by Joint Action 2008/112/CFSP, including its components, forces, units, headquarters and personnel deployed in the territory of the Host State and assigned to EU SSR Guinea-Bissau;
- (b) 'Head of Mission' shall mean the Head of Mission of EU SSR Guinea-Bissau, appointed by the Council of the European Union;
- (c) 'EU SSR personnel' shall mean the Head of Mission, personnel seconded by EU Member States and EU institutions and non-EU States invited by the EU to participate in EU SSR Guinea-Bissau, international staff recruited on a contractual basis by EU SSR Guinea-Bissau deployed for the preparation, support and implementation of the mission, and personnel on mission for a Sending State or an EU institution in the framework of the mission. It shall not include commercial contractors or personnel employed locally;
- (d) 'headquarters' shall mean the EU SSR Guinea-Bissau main headquarters in Bissau;
- (e) 'Sending State' shall mean any EU Member State or non-EU State that has seconded personnel to EU SSR Guinea-Bissau;

⁽¹⁾ OJ L 40, 14.2.2008, p. 11.

- (f) 'facilities' shall mean all buildings, premises and land required for the conduct of the activities of EU SSR Guinea-Bissau, as well as for the accommodation of EU SSR Guinea-Bissau personnel;
- (g) 'personnel employed locally' shall mean personnel who are nationals of or permanently resident in the Host State.

Article 2

General provisions

1. EU SSR Guinea-Bissau and EU SSR Guinea-Bissau personnel shall respect the laws and regulations of the Host State and shall refrain from any action or activity incompatible with the objectives of the mission.
2. EU SSR Guinea-Bissau shall be autonomous with regard to the execution of its functions under the present Agreement. The Host State shall respect the unitary and international nature of EU SSR Guinea-Bissau.
3. The Head of Mission shall regularly inform the Government of the Host State of the number of EU SSR Guinea-Bissau personnel stationed within the Host State's territory.

Article 3

Identification

1. EU SSR Guinea-Bissau personnel shall be provided with and identified by an EU SSR Guinea-Bissau identification card, which they shall be obliged to carry with them at all times. The relevant authorities of the Host State shall be provided with a specimen of an EU SSR Guinea-Bissau identification card.
2. Vehicles and other means of transport of EU SSR Guinea-Bissau shall bear distinctive EU SSR Guinea-Bissau identification markings and/or registration plates, which shall be communicated to the relevant authorities of the Host State.
3. EU SSR Guinea-Bissau shall have the right to display the flag of the EU at its main headquarters and elsewhere, alone or together with the flag of the Host State, as decided by the Head of Mission. National flags or insignia of the constituent national elements of EU SSR Guinea-Bissau may be displayed on EU SSR Guinea-Bissau premises, vehicles and uniforms, as decided by the Head of Mission.

Article 4

Border crossing and movement within the Host State's territory

1. EU SSR Guinea-Bissau personnel, assets and means of transport shall cross the border of the Host Party at official border crossings, sea ports and via international air corridors.

2. The Host Party shall facilitate the entry into and the departure from the territory of the Host State for EU SSR Guinea-Bissau and EU SSR Guinea-Bissau personnel. Except for passport control on entry into and departure from the territory of the Host State, EU SSR Guinea-Bissau personnel, with proof of membership of the mission, shall be exempt from passport, customs control, visa and immigration regulations and any form of immigration inspection within the Host State's territory.

3. EU SSR Guinea-Bissau personnel shall be exempt from the regulations of the Host State governing the registration and control of aliens, but shall not acquire any right to permanent residence or domicile within the Host State's territory.

4. EU SSR Guinea-Bissau assets and means of transport entering, transiting or exiting the Host State's territory in support of that mission shall be exempt from any requirement to produce inventories or other customs documentation and from any inspection.

5. Vehicles and aircraft used in support of the mission shall not be subject to local licensing or registration requirements. Relevant international standards and regulations shall continue to apply. If required, supplementary arrangements as referred to in Article 19 shall be concluded.

6. EU SSR Guinea-Bissau personnel may drive motor vehicles, navigate vessels and operate aircraft within the territory of the Host State provided they have valid national or international driving licences, ship's master's certificates or pilot licences, as appropriate. The Host State shall accept as valid, without tax or fee, driving licences or permits carried by EU SSR Guinea-Bissau personnel.

7. EU SSR Guinea-Bissau and EU SSR Guinea-Bissau personnel together with their vehicles, aircraft or any other means of transport, equipment and supplies shall enjoy free and unrestricted movement throughout the territory of the Host State, including its territorial sea and airspace. If necessary, supplementary arrangements may be concluded in accordance with Article 19.

8. For the purposes of the mission, EU SSR Guinea-Bissau personnel, and local personnel employed by EU SSR Guinea-Bissau when travelling on official duties, may use roads, bridges, ferries, airports and ports without payment of duties, fees, tolls, taxes or other charges. EU SSR Guinea-Bissau shall not be exempt from reasonable charges for services requested and received under the conditions that apply to those provided to the Host State's personnel.

*Article 5***Privileges and immunities of EU SSR Guinea-Bissau granted by the Host State**

1. EU SSR Guinea-Bissau's premises shall be inviolable. The Host State's agents shall not enter them without the consent of the Head of Mission.
2. EU SSR Guinea-Bissau's premises, their furnishings and other assets therein as well as their means of transport shall be immune from search, requisition, attachment or execution.
3. EU SSR Guinea-Bissau, its property and assets, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process.
4. EU SSR Guinea-Bissau's archives and documents shall be inviolable at any time, wherever they may be.
5. The official correspondence of EU SSR Guinea-Bissau shall be inviolable. Official correspondence means all correspondence relating to the mission and its functions.
6. In respect of purchased and imported goods, services provided and premises used by EU SSR Guinea-Bissau for the purposes of the mission, EU SSR Guinea-Bissau shall be exempt from all national, regional and communal dues, taxes and charges of a similar nature. EU SSR Guinea-Bissau shall not be exempt from dues, taxes or charges that represent payment for services rendered.
7. The Host State shall permit the entry of articles for the mission and grant them exemption from all customs duties, fees, tolls, taxes and similar charges other than charges for storage, cartage and other services rendered.

*Article 6***Privileges and immunities of EU SSR Guinea-Bissau personnel granted by the Host State**

1. EU SSR Guinea-Bissau personnel shall not be liable to any form of arrest or detention.
2. Papers, correspondence and property of EU SSR Guinea-Bissau personnel shall enjoy inviolability, except in case of measures of execution which are permitted pursuant to paragraph 6.
3. EU SSR Guinea-Bissau personnel shall enjoy immunity from the criminal jurisdiction of the Host State under all circumstances. The immunity from criminal jurisdiction of EU

SSR Guinea-Bissau personnel may be waived by the Sending State or EU institution concerned, as the case may be. Such waiver must always be express.

4. EU SSR Guinea-Bissau personnel shall enjoy immunity from the civil and administrative jurisdiction of the Host State in respect of spoken or written utterances and all acts performed by them in the exercise of their official functions. If any civil proceeding is instituted against EU SSR Guinea-Bissau personnel before any Host State court, the Head of Mission and the competent authority of the Sending State or EU institution shall be notified immediately. Prior to initiation of the proceeding before the court, the Head of Mission and the competent authority of the Sending State or EU institution shall certify to the court whether the act in question was committed by EU SSR Guinea-Bissau personnel in the exercise of their official functions. If the act was committed in the exercise of official functions, the proceeding shall not be initiated and the provisions of Article 16 shall apply. If the act was not committed in the exercise of official functions, the proceeding may continue. The certification by the Head of Mission and the competent authority of the Sending State or EU institution shall be binding upon the jurisdiction of the Host State, which may not contest it.

The initiation of proceedings by EU SSR Guinea-Bissau personnel shall preclude them from invoking immunity from jurisdiction in respect of any claim/appeal directly connected with the principal complaint.

5. EU SSR Guinea-Bissau personnel are not obliged to give evidence as witnesses.
6. No measures of execution may be taken in respect of EU SSR Guinea-Bissau personnel, except in the case where a civil proceeding not related to their official functions is instituted against them. Property of EU SSR Guinea-Bissau personnel, certified by the Head of Mission to be necessary for the fulfilment of their official functions, shall be free from seizure for the satisfaction of a judgment, decision or order. In civil proceedings EU SSR Guinea-Bissau personnel shall not be subject to any restrictions on their personal liberty or to any other measures of constraint.
7. The immunity of EU SSR Guinea-Bissau personnel from the jurisdiction of the Host State does not exempt them from the jurisdictions of the respective Sending States.
8. EU SSR Guinea-Bissau personnel shall, with respect to services rendered for EU SSR Guinea-Bissau, be exempt from social security provisions which may be in force in the Host State.

9. EU SSR Guinea-Bissau personnel shall be exempt from any form of taxation in the Host State on the salary and emoluments paid to them by EU SSR Guinea-Bissau or the Sending States, as well as on any income received from outside the Host State.

10. The Host State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, transport and similar services, on articles for the personal use of EU SSR Guinea-Bissau personnel. The Host State shall also allow the export of such articles. For goods and services purchased on the domestic market, EU SSR Guinea-Bissau personnel shall be exempt from value added tax and taxes according to the laws of the Host State.

11. The personal baggage of EU SSR Guinea-Bissau personnel shall be exempt from inspection, unless there are serious grounds for presuming that it contains articles that are not for the personal use of EU SSR Guinea-Bissau personnel, or articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of the Host State. Such inspection shall be conducted only in the presence of the EU SSR Guinea-Bissau personnel concerned or of an authorised representative of EU SSR Guinea-Bissau.

Article 7

Personnel employed locally

Personnel employed locally shall enjoy privileges and immunities only to the extent admitted by the Host State. However, the Host State shall exercise its jurisdiction over that personnel in such a manner as not to interfere unduly with the performance of the functions of the mission.

Article 8

Criminal jurisdiction

The competent authorities of a Sending State shall have the right to exercise within the territory of the Host State all the criminal jurisdiction and disciplinary powers conferred on them by the law of the Sending State with regard to all EU SSR Guinea-Bissau personnel subject to the relevant law of the Sending State.

Article 9

Security

1. The Host State, through its own capabilities, shall assume full responsibility for the security of EU SSR Guinea-Bissau personnel.

2. To that end, the Host State shall take all necessary measures for the protection, safety and security of EU SSR Guinea-Bissau and EU SSR Guinea-Bissau personnel. Any

specific provisions proposed by the Host State shall be agreed with the Head of Mission before implementation. The Host State shall permit and support free of any charge activities relating to the medical evacuation of EU SSR Guinea-Bissau personnel. If required, supplementary arrangements as referred to in Article 19 shall be concluded.

Article 10

Uniform

1. EU SSR Guinea-Bissau personnel shall wear national uniform or civilian dress with EU SSR Guinea-Bissau identification.

2. The wearing of uniform shall be subject to rules issued by the Head of Mission.

Article 11

Cooperation and access to information

1. The Host State shall provide full cooperation and support to EU SSR Guinea-Bissau and EU SSR Guinea-Bissau personnel.

2. If requested and necessary for the accomplishment of the EU SSR Guinea-Bissau mission, the Host State shall provide EU SSR Guinea-Bissau personnel with effective access to:

- (a) buildings, premises, locations and official vehicles within the control of the Host State;
- (b) documents, materials and information within its control relevant to the mandate of EU SSR Guinea-Bissau.

If required, supplementary arrangements as referred to in Article 19 shall be concluded.

3. The Head of Mission and the Host State shall consult regularly and take appropriate measures to ensure close and reciprocal liaison at every appropriate level. The Host State may appoint a liaison officer to EU SSR Guinea-Bissau.

Article 12

Host State support and contracting

1. The Host State agrees, if requested, to assist EU SSR Guinea-Bissau in finding suitable premises.

2. The Host State shall provide free of charge, if required and available, premises owned by the Host State and premises owned by private legal entities, in so far as such premises are necessary for the conduct of administrative and operational activities of EU SSR Guinea-Bissau.

3. Within its means and capabilities, the Host State shall assist in the preparation, establishment and execution of and support for the mission, including co-location premises and equipment for EU SSR Guinea-Bissau experts.

4. The Host State's assistance and support of the mission shall be provided under the same conditions as the assistance and support given to the Host State's personnel.

5. The law applicable to contracts concluded by EU SSR Guinea-Bissau in the Host State shall be determined by the respective contracts.

6. The contract may stipulate that the dispute settlement procedure referred to in Article 16(3) and (4) shall be applicable to disputes arising from the application of the contract.

Article 13

Change to premises

EU SSR Guinea-Bissau shall be authorised to construct, alter or otherwise modify premises as necessary for its operational requirements.

No compensation shall be requested from EU SSR Guinea-Bissau by the Host State for those constructions, alterations or modifications.

Article 14

Deceased EU SSR Guinea-Bissau personnel

1. The Head of Mission shall have the right to take charge of and make suitable arrangements for the repatriation of any deceased EU SSR Guinea-Bissau personnel, as well of their personal property.

2. No autopsy shall be performed on any deceased members of EU SSR Guinea-Bissau without the agreement of the Sending State, and the presence of a representative of EU SSR Guinea-Bissau and/or the State concerned.

3. The Host State and EU SSR Guinea-Bissau shall cooperate to the fullest extent possible with a view to early repatriation of deceased EU SSR Guinea-Bissau personnel.

Article 15

Communications

1. EU SSR Guinea-Bissau may install and operate radio sending and receiving stations, as well as satellite systems. It shall cooperate with the Host State's competent authorities with a view to avoiding conflicts in the use of appropriate

frequencies. The Host State shall grant access to the frequency spectrum free of charge.

2. EU SSR Guinea-Bissau shall enjoy the right to unrestricted communication by radio (including satellite, mobile and hand-held radio), telephone, telegraph, facsimile and other means, as well as the right to install the equipment necessary for the maintenance of such communications within and between EU SSR Guinea-Bissau premises, including the laying of cables and land lines for the purpose of the operation.

3. Within its own premises EU SSR Guinea-Bissau may make the arrangements necessary for the conveyance of mail addressed to and from EU SSR Guinea-Bissau and/or EU SSR Guinea-Bissau personnel.

Article 16

Claims for death, injury, damage and loss

1. EU SSR Guinea-Bissau and EU SSR Guinea-Bissau personnel shall not be liable for any damage to or loss of civilian or government property which are related to operational necessities or caused by activities in connection with civil disturbances or protection of EU SSR Guinea-Bissau.

2. With a view to reaching an amicable settlement, claims for damage to or loss of civilian or government property not covered by paragraph 1, as well as claims for death of or injury to persons and for damage to or loss of EU SSR Guinea-Bissau property, shall be forwarded to EU SSR Guinea-Bissau via the competent authorities of the Host State, as far as claims brought by legal or natural persons from the Host State are concerned, or to the competent authorities of the Host State, as far as claims brought by EU SSR Guinea-Bissau are concerned.

3. Where no amicable settlement can be found, the claim shall be submitted to a claims commission composed on an equal basis of representatives of EU SSR Guinea-Bissau and representatives of the Host State. Settlement of claims shall be reached by common agreement.

4. Where no settlement can be reached within the claims commission, the dispute shall:

(a) for claims up to and including EUR 40 000, be settled by diplomatic means between the Host State and EU representatives;

(b) for claims above the amount referred to in point (a), be submitted to an arbitration tribunal, the decisions of which shall be binding.

5. The arbitration tribunal shall be composed of three arbitrators, one arbitrator being appointed by the Host State, one arbitrator being appointed by EU SSR Guinea-Bissau and the third one being appointed jointly by the Host State and EU SSR Guinea-Bissau. Where one of the parties does not appoint an arbitrator within two months or where no agreement can be found between the Host State and EU SSR Guinea-Bissau on the appointment of the third arbitrator, the arbitrator in question shall be appointed by the President of the Court of Justice of the European Communities.

6. An administrative arrangement shall be concluded between EU SSR Guinea-Bissau and the administrative authorities of the Host State in order to determine the terms of reference of the claims commission and the tribunal, the procedure applicable within these bodies and the conditions under which claims are to be lodged.

Article 17

Liaison and disputes

1. All issues arising in connection with the application of this Agreement shall be examined jointly by representatives of EU SSR Guinea-Bissau and the Host State's competent authorities.

2. Failing any prior settlement, disputes concerning the interpretation or application of this Agreement shall be settled exclusively by diplomatic means between the Host State and EU representatives.

Article 18

Other provisions

1. Whenever this Agreement refers to the privileges, immunities and rights of EU SSR Guinea-Bissau and of EU SSR Guinea-Bissau personnel, the Government of the Host State shall be responsible for their implementation and for

compliance with them on the part of the appropriate Host State local authorities.

2. Nothing in this Agreement is intended or may be construed to derogate from any rights that may attach to an EU Member State or to any other State contributing to EU SSR Guinea-Bissau under other agreements.

Article 19

Implementing arrangements

For the purposes of the application of this Agreement, operational, administrative and technical matters may be the subject of separate arrangements to be concluded between the Head of Mission and the Host State's administrative authorities.

Article 20

Entry into force and termination

1. This Agreement shall enter into force on the day on which it is signed and shall remain in force until the date of departure of the last EU SSR Guinea-Bissau personnel, as notified by EU SSR Guinea-Bissau.

2. Notwithstanding paragraph 1, the provisions contained in Articles 4(8), 5(1) to (3), 5(6), 5(7), 6(1), 6(3), 6(4), 6(6), 6(8) to (10), 13 and 16 shall be deemed to have applied from the date on which the first EU SSR Guinea-Bissau personnel were deployed if that date was earlier than the date of entry into force of this Agreement.

3. This Agreement may be amended by written agreement between the Parties.

4. Termination of this Agreement shall not affect any rights or obligations arising out of the execution of this Agreement before such termination.

Done at Bissau, on 11 July 2008, in two original versions in the Portuguese language.

For the European Union

J.-F. PAROT

For the Republic of Guinea-Bissau

M.-C. NOBRE CABRAL
