

AGREEMENT**between the European Union and Georgia on the status of the European Union Monitoring Mission in Georgia**

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

of the one part, and

GEORGIA, hereinafter referred to as 'the Host State',

of the other part,

Together hereinafter referred to as 'the Parties',

TAKING INTO ACCOUNT:

- the invitation letter by President Mikheil Saakashvili of 11 September 2008,
- the Council Joint Action 2008/736/CFSP of 15 September 2008 on the European Union Monitoring Mission in Georgia, EUMM Georgia,
- 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 purposes of this Agreement:
 - (a) 'EUMM Georgia' shall mean the EU Monitoring Mission in Georgia, established by the Council of the European Union in Joint Action 2008/736/CFSP, including its components, forces, units, headquarters and personnel deployed in the territory of the Host State and assigned to EUMM Georgia;
 - (b) 'Head of Mission' shall mean the Head of Mission of EUMM Georgia, appointed by the Council of the European Union;
 - (c) 'EUMM Georgia 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 EUMM Georgia, international staff recruited on a contractual basis by EUMM Georgia 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 EUMM Georgia main headquarters in Tbilisi;
 - (e) 'Sending State' shall mean any EU Member State or non-EU State that has seconded personnel to EUMM Georgia;
 - (f) 'Facilities' shall mean all buildings, premises and land required for the conduct of the activities of EUMM Georgia, as well as for the accommodation of EUMM Georgia personnel;

(g) 'Personnel employed locally' shall mean personnel who are nationals of or holders of permanent resident permit in the Host State;

(h) 'Contractor' shall mean any person supplying to EUMM Georgia goods and/or services related to EUMM Georgia activities.

Article 2

General provisions

1. EUMM Georgia and EUMM Georgia 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. EUMM Georgia 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 EUMM Georgia.

3. The Head of Mission shall regularly inform the government of the Host State of the number of EUMM Georgia personnel stationed within the Host State's territory.

Article 3

Identification

1. EUMM Georgia personnel shall be provided with, and identified by, EUMM Georgia identification cards issued by the Ministry of Foreign Affairs of the Host State, 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 EUMM Georgia identification card.

2. Vehicles and other means of transport of EUMM Georgia shall bear distinctive EUMM Georgia identification markings, an example of which shall be provided to the relevant authorities of the Host State, and/or specific diplomatic licence plates issued by the relevant authorities of the Host State.

3. EUMM Georgia shall have the right to display the flag of the EU at its 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 EUMM Georgia may be displayed on EUMM Georgia premises, vehicles and uniforms, as decided by the Head of Mission.

Article 4

Border crossing and movement within the Host State's territory

1. EUMM Georgia personnel and EUMM Georgia 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 EUMM Georgia and EUMM Georgia personnel. Except for passport control on entry into and departure from the territory of the Host State, EUMM Georgia personnel, with proof of membership of the Mission, shall be exempt from passport, customs control and procedures, visa and immigration regulations and any form of immigration inspection within the host territory.

3. EUMM Georgia 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. EUMM Georgia assets and means of transport entering, transiting or exiting the Host State's territory in support of EUMM Georgia shall be exempt from any customs control and procedure.

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 20 shall be concluded.

6. EUMM Georgia 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, shipmasters' certificates or pilot licences, as appropriate. The Host State shall accept as valid, without tax or fee, driving licences or permits carried by EUMM Georgia personnel.

7. EUMM Georgia and EUMM Georgia 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 20 of the present Agreement.

8. For the purpose of the Mission, EUMM Georgia personnel, and local personnel employed by EUMM Georgia when travelling on official duties, may use roads, bridges ferries, airports and ports without payment of duties, fees, tolls, taxes or other charges. EUMM Georgia 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.

9. EUMM Georgia assets and means of transport which entered, transited or exited the Host State's territory in support of EUMM Georgia before the entry into force of this Agreement shall be exempted from any customs control and procedure.

Article 5

Privileges and immunities of EUMM Georgia granted by the Host State

1. EUMM Georgia's facilities shall be inviolable. The Host State's agents shall not enter them without the consent of the Head of Mission.

2. EUMM Georgia's facilities, their furnishings and other assets therein as well as their means of transport shall be immune from search, requisition, attachment or execution.

3. EUMM Georgia, its property and assets, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process.

4. EUMM Georgia's archives and documents shall be inviolable at any time, wherever they may be.

5. The official correspondence of EUMM Georgia 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 facilities used by it for the purposes of the mission, EUMM Georgia, shall be exempt from all national, regional and communal dues, taxes and charges of a similar nature. EUMM Georgia shall not be exempt from payment for services rendered.

7. The Host State shall permit the entry of articles for the mission and grant them exemption from all import, export and transit permissions, licences, customs duties, fees, tolls, taxes and similar charges other than charges for storage, cartage and other services rendered.

Article 6

Privileges and immunities of EUMM Georgia personnel granted by the Host State

1. EUMM Georgia personnel shall not be liable to any form of arrest or detention, in accordance with international law.

2. Papers, correspondence and property of EUMM Georgia personnel shall enjoy inviolability, except in case of measures of execution which are permitted pursuant to paragraph 6 of this Article.

3. EUMM Georgia personnel shall enjoy immunity from the criminal jurisdiction of the Host State under all circumstances. The immunity from criminal jurisdiction of EUMM Georgia personnel may be waived by the Sending State or EU institution concerned, as the case may be. Such waiver must always be express.

4. EUMM Georgia personnel shall enjoy immunity from the civil and administrative jurisdiction of the Host State in respect of words spoken or written and all acts performed by them in the exercise of their official functions. If any civil proceeding is instituted against EUMM Georgia 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 EUMM Georgia 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 17 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 is binding upon the jurisdiction of the Host State who may not contest it.

The initiation of proceedings by EUMM Georgia personnel shall preclude them from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.

5. EUMM Georgia personnel are not obliged to give evidence as witnesses.

6. No measures of execution may be taken in respect of EUMM Georgia personnel, except in the case where a civil proceeding not related to their official functions is instituted against them. Property of EUMM Georgia personnel, which is 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 judgement, decision or order. In civil proceedings EUMM Georgia personnel shall not be subject to any restrictions on their personal liberty or to any other measures of constraint.

7. The immunity of EUMM Georgia personnel from the jurisdiction of the Host State does not exempt them from the jurisdictions of the respective Sending States.

8. EUMM Georgia personnel shall with respect to services rendered for EUMM Georgia be exempt from social security provisions which may be in force in the Host State.

9. EUMM Georgia personnel shall be exempt from any form of taxation in the Host State on the salary and emoluments paid to them by EUMM Georgia 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, cartage and similar services, on articles for the personal use of EUMM Georgia personnel. The Host State shall also allow the export of such articles. For goods and services purchased on the domestic market EUMM Georgia personnel shall be exempt from VAT (the price shall not include VAT) and taxes according to the laws of the Host Party.

11. The personal baggage of EUMM Georgia 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 EUMM Georgia 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 concerned EUMM Georgia personnel or of an authorised representative of EUMM Georgia.

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

Tax exemptions for contractors

1. The supply of goods and/or services to EUMM Georgia by a contractor shall be exempt from indirect taxes (the price shall not include tax).

2. The import of goods by a contractor, purchased for activities of EUMM Georgia, shall be exempt from all customs duties, including VAT.

3. EUMM Georgia shall incur no liability or responsibility to the Host State authorities for any failure of contractors to comply with Georgian laws regarding taxes.

4. In cooperation with EUMM Georgia, the Ministry of Finance of Georgia shall elaborate arrangements for implementing the tax exemptions envisaged by this Article.

Article 9

Disciplinary powers

The competent authorities of a Sending State shall have the right to exercise, on the territory of the Host State, all disciplinary powers conferred on them by the law of the Sending State with regard to all EUMM Georgia personnel subject to the relevant law of the Sending State.

Article 10

Security

1. The Host State, through its own capabilities, shall assume full responsibility for the security of EUMM Georgia personnel.

2. To that end, the Host State shall take all necessary measures for the protection, safety and security of EUMM Georgia and EUMM Georgia 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 EUMM Georgia personnel. If required, supplementary arrangements as referred to in Article 20 shall be concluded.

Article 11

Uniform

1. EUMM Georgia personnel shall wear national uniform or civilian dress with distinctive EUMM Georgia identification.

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

Article 12

Cooperation and access to information

1. The Host State shall provide full cooperation and support to EUMM Georgia and EUMM Georgia personnel.

2. If requested and necessary for the accomplishment of the EUMM Georgia mission, the Host State shall provide EUMM Georgia personnel with effective access to:

— buildings, facilities, locations and official vehicles owned, leased or occupied by the Host State relevant to the mandate of EUMM Georgia,

- necessary documents, materials and information, within the control of the Host State, for the fulfilment of the mandate of EUMM Georgia.

If required, supplementary arrangements as referred to in Article 20 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 EUMM Georgia.

Article 13

Host State support and contracting

1. The Host State agrees, if requested, to assist EUMM Georgia in finding suitable facilities.

2. The Host State shall provide free of charge, if required and available, facilities owned by the Host State, in so far as such facilities are requested for the conduct of administrative and operational activities of EUMM Georgia.

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 facilities and equipment for EUMM Georgia 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 citizens.

5. EUMM Georgia shall have the necessary legal capacity under the laws and regulations of the Host State in order to fulfil its mission, and in particular for the purpose of opening bank accounts and to acquire or dispose of movable property and to be party to legal proceedings.

6. The law applicable to contracts concluded by EUMM Georgia in the Host State shall be determined by the respective contracts.

7. The contract may stipulate that the dispute settlement procedure referred to in Article 17(3) and (4) shall be applicable to disputes arising from the application of the contract.

8. The Host State shall facilitate the implementation of contracts concluded by EUMM Georgia with commercial entities for the purpose of the operation.

Article 14

Change to facilities

1. EUMM Georgia shall be authorised to construct, alter or otherwise modify facilities as requested for its operational requirements.

2. No compensation shall be requested from EUMM Georgia by the Host State for those constructions, alterations or modifications.

Article 15

Deceased EUMM Georgia personnel

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

2. No autopsy shall be performed on any deceased members of EUMM Georgia without the agreement of the State concerned, and the presence of a representative of EUMM Georgia and/or the State concerned.

3. The Host State and EUMM Georgia shall cooperate to the fullest extent possible with a view to early repatriation of deceased EUMM Georgia personnel.

Article 16

Communications

1. EUMM Georgia may install and operate radio sending and receiving stations, as well as satellite systems. They 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. EUMM Georgia 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 EUMM Georgia facilities, including the laying of cables and land lines for the purpose of the operation.

3. Within their own facilities EUMM Georgia may make the arrangements necessary for the conveyance of mail addressed to and from EUMM Georgia and/or EUMM Georgia personnel.

*Article 17***Claims for death, injury, damage and loss**

1. EUMM Georgia and EUMM Georgia 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 EUMM Georgia.

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 EUMM Georgia property, shall be forwarded to EUMM Georgia 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 EUMM Georgia 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 EUMM Georgia 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 EUMM Georgia and the third one being appointed jointly by the Host State and EUMM Georgia. 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 EUMM Georgia 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 EUMM Georgia 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 18***Liaison and disputes**

1. All issues arising in connection with the application of this Agreement shall be examined jointly by representatives of EUMM Georgia 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 19***Other provisions**

1. Whenever this Agreement refers to the privileges, immunities and rights of EUMM Georgia and of EUMM Georgia 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 EUMM Georgia under other agreements.

*Article 20***Implementing arrangements**

For 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 21***Final provisions**

1. This Agreement shall enter into force on the date of receiving, through diplomatic channels, of the last written notification about the fulfilment by the Parties of internal procedures necessary for the entry into force of this Agreement.

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), 14 and 17 shall be deemed to have applied from the date on which the first EUMM Georgia personnel were deployed if that date was earlier than the date of entry into force of this Agreement.

3. Changes and amendments to this Agreement shall be made by the mutual consent of the Parties in writing. Changes and amendments shall be executed as separate protocols, which form an integral part of this Agreement and shall enter into force in accordance with the rule of Article 21(1) of this Agreement.

4. This Agreement shall remain valid unless either Party informs the other Party in writing of its desire to terminate this Agreement. The termination of this Agreement shall enter into force after six months from the date of receiving such notification. Termination of this Agreement shall not affect any rights or obligations arising out of the execution of this Agreement before such termination.

Done at *Brussels*, on *3rd November 2008*, in two original copies, in the English language.

For the European Union



For Georgia


