

**AGREEMENT****between the European Union and Georgia on the status and activities of the European Union Rule of Law Mission in Georgia, EUJUST THEMIS**

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

on the one hand, and

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

on the other hand,

together hereinafter referred to as the 'Parties',

TAKING INTO ACCOUNT:

- (1) the letter from Prime Minister Zhvania of the Host Party dated 3 June 2004, inviting the EU to launch a Rule of Law Mission and foreseeing appropriate arrangements between the Government of the Host Party and the EU,
- (2) the response of the Secretary-General/High Representative for the Common Foreign and Security Policy dated 30 June 2004 accepting the invitation,
- (3) the adoption by the Council of the European Union on 28 June 2004 of Joint Action 2004/523/CFSP on the EU Rule of Law Mission EUJUST THEMIS in the Host Party,
- (4) the duration of EUJUST THEMIS, anticipated to last 12 months,
- (5) the Partnership and Cooperation Agreement between the Host Party and the European Communities and their Member States, signed on 22 April 1996, containing provisions on cooperation on matters relating to democracy, rule of law and human rights and fundamental freedoms,
- (6) that the purpose of the privileges and immunities as provided for in this Agreement is not to benefit individuals but to ensure the efficient performance of the EU Mission,

HAVE AGREED AS FOLLOWS:

*Article 1***Scope of application and definitions**

1. The provisions of this Agreement and any obligation undertaken by the Host Party or any privilege, immunity, facility or concession granted to EUJUST THEMIS or EUJUST THEMIS personnel shall apply in the territory of the Host Party only.

2. For the purpose of this Agreement, the following definitions shall apply:

(a) 'EUJUST THEMIS' means the European Union Rule of Law Mission in the Host Party established by the Council of the European Union in Joint Action 2004/523/CFSP dated 28 June 2004, including its components, headquarters and

personnel deployed in the territory of the Host Party and assigned to EUJUST THEMIS;

(b) 'Head of Mission' means the Head of Mission of EUJUST THEMIS, appointed by the Council of the European Union;

(c) 'EUJUST THEMIS personnel' means the Head of Mission, personnel seconded by EU Member States and EU institutions, and international staff recruited on a contractual basis by EUJUST THEMIS deployed for the preparation, support and implementation of the Mission, and shall not include commercial contractors or local personnel;

(d) 'Headquarters' means the EUJUST THEMIS main headquarters in Tbilisi;

(e) 'Sending State' means any EU Member State that has seconded personnel to EUJUST THEMIS;

(f) 'Premises' means all buildings, facilities and land required for the conduct of the activities of EUJUST THEMIS, as well as for the accommodation of EUJUST THEMIS personnel.

#### Article 2

##### General provisions

1. EUJUST THEMIS and EUJUST THEMIS personnel shall respect the laws and regulations of the Host Party and shall refrain from any action or activity incompatible with the impartial and international nature of their duties or inconsistent with the provisions of this Agreement.

2. EUJUST THEMIS shall be autonomous with regard to the execution of its functions under this Agreement. The Host Party shall respect the unitary and international nature of EUJUST THEMIS.

3. The Head of Mission shall notify the Government of the Host Party of the location of its Headquarters.

4. The Head of Mission shall regularly, and in a timely manner, inform the Government of the Host Party of the number, names, and nationalities of EUJUST THEMIS personnel stationed in the territory of the Host Party, through the submission of a notification list to the Ministry of Foreign Affairs of the Host Party.

#### Article 3

##### Identification

1. EUJUST THEMIS personnel shall be provided with and identified by a EUJUST THEMIS identification card, which they shall be obliged to carry with them at all times. The relevant authorities of the Host Party shall be provided with a specimen of a EUJUST THEMIS identification card.

2. The Ministry of Foreign Affairs of the Host Party shall provide diplomatic cards to EUJUST THEMIS personnel in accordance with their status as set down in Article 6.

3. EUJUST THEMIS shall be permitted to display the flag of the EU at its main headquarters and elsewhere, alone or together with the flag of the Host Party, as decided by the Head of Mission.

#### Article 4

##### Border crossing, movement and presence on the territory of the host party

1. EUJUST THEMIS personnel and EUJUST THEMIS assets and means of transport shall cross the border of the Host Party at official border crossings and via the international air corridors.

2. The Host Party shall facilitate the entry into and the departure from the territory of the Host Party for EUJUST THEMIS and EUJUST THEMIS personnel. Except for passport control on entry into and departure from the territory of the Host Party, EUJUST THEMIS personnel, with diplomatic cards, shall be exempt from passport, visa and immigration regulations and any form of immigration inspection.

3. EUJUST THEMIS personnel shall be exempt from the regulations of the Host Party governing the registration and control of aliens, but shall not be considered as acquiring any right to permanent residence or domicile in the territory of the Host Party.

4. For EUJUST THEMIS assets and means of transport entering, transiting or exiting the Host Party territory in support of the Mission, EUJUST THEMIS shall provide a certificate of exemption accompanied by an inventory. They shall be exempt from any other customs documentation. A copy of the certificate shall be transmitted to the competent authorities when entering or exiting the Host Party. The format of the certificate shall be agreed between EUJUST THEMIS and the competent authorities of the Host Party.

5. As to the licensing and registration requirements for vehicles and aircraft in support of the Mission, if required, supplementary arrangements as referred to in Article 16 shall be concluded.

6. EUJUST THEMIS personnel may drive motor vehicles in the territory of the Host Party provided they have a valid national driving licence. The Host Party shall accept as valid, without tax or fee, driving licences or permits issued to EUJUST THEMIS.

7. EUJUST THEMIS and EUJUST THEMIS 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 Party, including its airspace. If necessary, technical arrangements may be concluded in accordance with Article 16.

8. For the purpose of the Mission, EUJUST THEMIS personnel, and local personnel employed by EUJUST THEMIS when travelling on official duties, may use roads, bridges and airports without payment of duties, fees, tolls, taxes or other charges, other than such as represent payment for specific services rendered.

#### Article 5

##### **Immunities and privileges of EUJUST THEMIS**

1. EUJUST THEMIS shall be granted the status equivalent to that of a diplomatic mission under the Vienna Convention on Diplomatic Relations of 18 April 1961, hereafter referred to as 'the Vienna Convention'.

2. EUJUST THEMIS, its property, funds and assets shall enjoy immunity from the criminal, civil and administrative jurisdiction of the Host Party, in accordance with the Vienna Convention.

3. The premises of EUJUST THEMIS shall be inviolable. At no time shall the agents of the Host Party enter them, except with the consent of the Head of Mission.

4. The premises of EUJUST THEMIS, their furnishings and other assets therein as well as their means of transport shall be immune from search, requisition, attachment or execution.

5. The archives and documents of EUJUST THEMIS shall be inviolable at all times.

6. Correspondence of EUJUST THEMIS shall be granted a status equivalent to that of official correspondence granted under the Vienna Convention.

7. The Host Party shall permit entry of articles for EUJUST THEMIS and grant exemption from all custom duties, taxes and related charges other than charges for storage, cartage and similar services.

8. For imported goods and services and in respect of its premises, provided these are intended for the purpose of EUJUST THEMIS, EUJUST THEMIS shall be exempt from all national and municipal dues, taxes or charges of similar nature. For goods purchased and services contracted on the

domestic market, provided these are intended for the purpose of EUJUST THEMIS, EUJUST THEMIS shall be either exempt from or reimbursed by the Host Party for all national and municipal dues and taxes, including VAT, and charges of similar nature, according to the laws of the Host Party.

#### Article 6

##### **Immunities and privileges of EUJUST THEMIS personnel**

1. EUJUST THEMIS personnel shall be granted all privileges and immunities equivalent to that of diplomatic agents granted under the Vienna Convention, subject to which the EU Member States shall have priority of jurisdiction. These privileges and immunities shall be granted to EUJUST THEMIS personnel during their mission, and thereafter, with respect to official acts previously performed in the exercise of their mission.

2. The EU Secretary-General/High Representative shall, with the explicit consent of the competent authority of the Sending State, waive the immunity enjoyed by EUJUST THEMIS personnel where such immunity would impede the course of justice and it can be waived without prejudice to the interests of the EU.

3. EUJUST THEMIS personnel shall have the right to import free of duty or other restrictions items required for their personal use, and to export such items. EUJUST THEMIS personnel shall have the right to purchase free of duty or quantitative restrictions items required for their personal use, and to export such items; for goods and services purchased on the domestic market, EUJUST THEMIS personnel shall be exempt from VAT and taxes according to the laws of the Host Party.

4. EUJUST THEMIS personnel shall be exempt from dues and taxes in the Host Party on the emoluments and salaries they receive by reason of their employment. Where the incidence of any form of taxation depends upon residence, periods during which personnel seconded to EUJUST THEMIS and international staff recruited on a contractual basis by the EU Mission are present in the Host Party for the discharge of their duties shall not be considered as periods of residence.

#### Article 7

##### **Local personnel employed by EUJUST THEMIS**

Local personnel employed by EUJUST THEMIS who are nationals of or permanently resident in the Host Party shall enjoy a status equivalent to that enjoyed, in accordance with the Vienna Convention, by locally employed staff in diplomatic missions in the Host Party.

*Article 8***Security**

1. The Host Party, through its own capabilities, shall assume full responsibility for the security of EUJUST THEMIS personnel.

2. To that end, the Host Party shall take all necessary measures for the protection, safety and security of EUJUST THEMIS and EUJUST THEMIS personnel. Any specific provisions, proposed by the Host Party, shall be agreed with the Head of Mission before implementation. The Host Party shall permit and support free of any charge activities relating to the medical evacuation of EUJUST THEMIS personnel. If required, supplementary arrangements as referred to in Article 16 shall be concluded.

*Article 9***Cooperation and access to information**

1. The Host Party shall provide full cooperation and support to EUJUST THEMIS and EUJUST THEMIS personnel.

2. If requested and necessary for the accomplishment of the EUJUST THEMIS mission, the Host Party shall provide EUJUST THEMIS personnel with effective access to:

— buildings, facilities, locations and official vehicles within the control of the Host Party;

— documents, materials and information within its control relevant to the mandate of EUJUST THEMIS.

If required, supplementary arrangements as referred to in Article 16 shall be concluded.

3. The Head of Mission and the Host Party shall consult regularly and take appropriate measures to ensure close and reciprocal liaison at every appropriate level.

*Article 10***Host party support and contracting**

1. The Host Party agrees, if requested by EUJUST THEMIS, to assist in finding suitable premises.

2. If required and available, premises owned by the Host Party shall be provided free of charge.

3. Within its means and capabilities, the Host Party shall assist and support the preparation, establishment, execution

and support of the Mission, including co-location of premises and equipment for EUJUST THEMIS experts.

4. EUJUST THEMIS shall endeavour, to the maximum extent possible, to contract locally for services, goods and personnel, subject to the requirements of the Mission.

*Article 11***Deceased EUJUST THEMIS personnel**

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

2. Autopsies shall not be performed on deceased members of EUJUST THEMIS without the agreement of the Sending State or, in the case of international staff, the State of his/her nationality, and the presence of a representative of EUJUST THEMIS and/or the State concerned.

*Article 12***Communications**

EUJUST THEMIS shall enjoy the right to unrestricted communication by radio (including satellite, mobile or hand-held radio), telephone, telegraph, facsimile and other means.

*Article 13***Claims for death, injury, damage or loss**

1. The EU Member States or EU Institutions shall not be obliged to reimburse claims arising out of activities in connection with civil disturbances, protection of the EU Mission or its personnel, or which result from the execution of the Mission.

2. Any other claim of a civil law character, including claims of personnel locally employed by EUJUST THEMIS, to which the Mission or any member thereof is a party and over which the courts of the Host Party do not have jurisdiction because of any provision of this Agreement, shall be submitted through the authorities of the Host Party to the Head of Mission and shall be dealt with by separate arrangements, as referred to in Article 16, whereby procedures for settling claims and for addressing claims shall be established. Settlement of claims shall occur after previous consent of the State concerned.

*Article 14***Disputes**

1. All issues arising in connection with the application of this Agreement shall be discussed by a Joint Coordination Group. This Group shall be composed of representatives of EUJUST THEMIS and the competent authorities of the Host Party.

2. Failing any prior settlement, disputes with regard to the interpretation or application of this Agreement shall be settled between the Host Party and EU representatives by diplomatic means.

*Article 15***Other provisions**

1. Whenever this Agreement refers to the immunities, privileges and rights of EUJUST THEMIS and EUJUST THEMIS personnel, the Government of the Host Party shall be responsible for the implementation and fulfilment of such immunities, privileges and rights through the appropriate local authorities of the Host Party.

2. Nothing in this Agreement is intended or shall be construed to derogate from any rights that may attach with respect to an EU Member State or any other State contributing to EUJUST THEMIS or their personnel under other Agreements.

*Article 16***Supplementary arrangements**

The Head of Mission and the administrative authorities of the Host Party shall conclude such supplementary arrangements as may be necessary to implement this Agreement.

*Article 17***Entry into force and termination**

1. This Agreement shall enter into force upon written notification of the Parties that the internal requirements for the entry into force have been complied with.

2. This Agreement may be amended on the basis of mutual written agreement between the Parties. Such amendments shall enter into force upon written notification of the Parties that the internal requirements for the entry into force have been complied with.

3. This Agreement shall remain in force until the final departure of EUJUST THEMIS or all personnel thereof.

4. This Agreement may be denounced by written notification to the other Party. The denunciation shall take effect 60 days after receipt by the other Party of the notification of denunciation.

5. Termination or denunciation of this Agreement shall not affect any rights or obligations arising from the execution of this Agreement prior to its termination or denunciation.

Done at Tbilisi on 3 December 2004 in two originals in English.

*For the European Union*



*For Georgia*

