

TRANSLATION

AGREEMENT**between the European Union and the Government of the Republic of Mali on the status of the European Union CSDP mission in Mali (EUCAP Sahel Mali)**

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

of the one part, and

THE REPUBLIC OF MALI, hereinafter referred to as "the Host State",

of the other part,

hereinafter referred to as "the Parties",

TAKING INTO ACCOUNT:

- the letter from the President of the Republic of Mali dated 20 February 2014 inviting the European Union to deploy a civilian mission in support of the Malian security forces,
- Council Decision 2014/219/CFSP ⁽¹⁾ of 15 April 2014 on a European Union mission in Mali (EUCAP Sahel Mali),
- that this Agreement will not affect the Parties' rights and obligations under agreements and other international instruments establishing international courts and tribunals, including the Statute of the International Criminal Court,
- the letter from the European Union dated 20 October 2014 and the letter from the Republic of Mali dated 31 October 2014 constituting an exchange of letters concerning the status of EUCAP Sahel Mali within the territory of the Republic of Mali,
- the need for the EUCAP Sahel Mali mission to have its own clearly defined legal framework,

HAVE AGREED AS FOLLOWS:

*Article 1***Scope and definitions**

1. This Agreement shall apply only within the territory of the Host State.
2. This Agreement shall apply to the European Union civilian CSDP mission in Mali (hereinafter referred to as "EUCAP Sahel Mali") and to its staff.
3. For the purposes of this Agreement:
 - (a) "EUCAP Sahel Mali" means the headquarters of EUCAP Sahel Mali and its national contingents, its staff, and their facilities, assets and means of transport, contributing to the mission;
 - (b) "mission" means the preparation, establishment, execution and support of EUCAP Sahel Mali;
 - (c) "Head of Mission" means the head of EUCAP Sahel Mali in the theatre of operations;
 - (d) "European Union (EU)" means the permanent bodies of the EU and their staff;
 - (e) "national contingents" means units and elements belonging to the Member States of the EU and to other States participating in EUCAP Sahel Mali;
 - (f) "EUCAP Sahel Mali staff" means the civilian and military staff assigned to EUCAP Sahel Mali as well as staff deployed for the preparation of the mission and staff on mission, for a Sending State or an EU institution or body in the context of the mission, present, except as otherwise provided in this Agreement, within the territory of the Host State, with the exception of staff employed locally under national legislation and staff employed by commercial contractors;

⁽¹⁾ OJ L 113, 16.4.2014, p. 21.

- (g) "staff employed locally" means staff who are nationals of or permanently resident in the Host State;
- (h) "EUCAP Sahel Mali facilities" means all premises, accommodation and land areas required for EUCAP Sahel Mali and its staff;
- (i) "Sending State" means a State providing a national contingent for EUCAP Sahel Mali;
- (j) "official correspondence" means all correspondence relating to EUCAP Sahel Mali and its functions;
- (k) "EUCAP Sahel Mali assets" means equipment and consumer goods necessary for the mission;
- (l) "EUCAP Sahel Mali means of transport" means all vehicles and other means of transport owned, hired or chartered by EUCAP Sahel Mali that are necessary for the mission.

Article 2

General provisions

1. EUCAP Sahel Mali and its staff 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. EUCAP Sahel Mali shall regularly inform the Government of the Host State of the number of members of EUCAP Sahel Mali staff stationed within the Host State's territory.

Article 3

Identification

1. EUCAP Sahel Mali staff shall be identified by distinctive EUCAP Sahel Mali identification cards, their passport or their identity card, which they shall be obliged to carry with them at all times. These distinctive EUCAP identification cards shall be issued by the Ministry of Foreign Affairs at EUCAP Sahel Mali's request.
2. EUCAP Sahel Mali vehicles and other means of transport shall carry diplomatic registration plates, ordinary registration plates with EUCAP Sahel Mali identification markings or distinctive EUCAP Sahel Mali registration plates, of which the relevant Host State authorities shall be notified.
3. EUCAP Sahel Mali shall have the right to display the EU flag and markings, titles, symbols and official insignia on its facilities and means of transport. The uniforms of EUCAP Sahel Mali staff shall carry a distinctive EUCAP Sahel Mali emblem. National flags or insignia of the constituent national contingents of the mission may be displayed on EUCAP Sahel Mali facilities and means of transport, and uniforms, as decided by the Head of Mission.

Article 4

Border crossing and movement within the Host State's territory

1. The Host State shall facilitate entry into and departure from its territory for EUCAP Sahel Mali and its staff. Except for passport control on entry into and departure from the territory of the Host State, EUCAP Sahel Mali staff with proof of membership of the mission shall be exempt from immigration and customs control regulations within the territory of the Host State. However, they shall fill in arrival and departure cards. Visas shall be issued free of charge to the members of the mission for a period of one year. For new members of the mission, the entry visa shall be issued free of charge at the border on presentation of a mission order drawn up by the mission. The Ministry of Foreign Affairs of the Host State shall be notified of the arrival of a new member of the mission at least five working days in advance.
2. EUCAP Sahel Mali staff shall be exempt from the Host State's regulations on the registration and control of aliens, but shall not acquire any right to permanent residence or domicile in the territory of the Host State.

3. EUCAP Sahel Mali assets and means of transport entering, transiting or leaving the territory of the Host State in support of the mission shall be declared in advance and undergo an identification procedure prior to their entry into the territory of Mali.
4. EUCAP Sahel Mali staff may drive armoured or unarmoured motor vehicles, control vessels and operate aircraft within the Host State's territory provided they have valid national, international or military driving licences, ship master's certificates or pilot licences, as appropriate, issued by one of the Sending States.
5. For the purposes of the mission, the Host State shall grant EUCAP Sahel Mali and its staff freedom of movement and freedom to travel within its territory, including its air space.
6. The Host State shall permit the entry into its territory of EUCAP Sahel Mali assets, including means of transport, and grant them exemption from all custom duties, fees, tolls, taxes and similar charges other than charges for storage, cartage and other services rendered.
7. For the purposes of the mission, EUCAP Sahel Mali may use public roads, bridges, ferries and airports without the payment of fees, tolls, taxes and similar charges. EUCAP Sahel Mali shall not be exempt from charges for services requested and received, under the same conditions as those laid down for the Host State's armed forces.

Article 5

Privileges and immunities granted to EUCAP Sahel Mali by the Host State

1. EUCAP Sahel Mali's facilities shall be inviolable. The Host State's agents shall not enter them without the consent of the Head of Mission.
2. EUCAP Sahel Mali, wherever located and by whomsoever its assets, means of transport and facilities are held or occupied, shall enjoy immunity from every form of legal process.
3. EUCAP Sahel Mali staff, assets, facilities and means of transport shall be immune from search, requisition, seizure or enforcement action.
4. EUCAP Sahel Mali's archives and documents shall be inviolable at any time, wherever they may be.
5. EUCAP Sahel Mali's official correspondence shall be inviolable.
6. EUCAP Sahel Mali and its suppliers and contractors shall be exempt from all national, regional and communal dues, taxes and charges of similar nature in respect of purchased and imported EUCAP Sahel Mali assets, in particular means of transport, of EUCAP Sahel Mali facilities, and of services provided for the purposes of EUCAP Sahel Mali. The application of this exemption may not be made subject to any authorisation or prior notification by EUCAP Sahel Mali of the competent authorities of the Host State. However, EUCAP Sahel Mali shall not be exempt from fees or other charges that represent payment for services rendered.

Article 6

Privileges and immunities granted to EUCAP Sahel Mali staff by the Host State

1. EUCAP Sahel Mali staff shall not be subject to any form of arrest or detention.
2. The papers, correspondence and property of EUCAP Sahel Mali staff shall be inviolable, except in case of enforcement action permitted pursuant to paragraph 7.
3. The Host State shall issue, in accordance with the law and regulations in force, a distinctive EUCAP Sahel Mali identity card to members of EUCAP Sahel Mali staff.
4. EUCAP Sahel Mali staff shall enjoy immunity from criminal proceedings in the Host State under all circumstances.

The immunity from criminal proceedings of EUCAP Sahel Mali staff may be waived by the Sending State or the EU body concerned, as the case may be. Such a waiver shall always be made in writing.

5. EUCAP Sahel Mali staff shall enjoy immunity from civil and administrative proceedings in 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 proceedings are instituted against EUCAP Sahel Mali staff before any Host State court, the Head of Mission and the competent authority of the Sending State or the EU body concerned shall be notified immediately. Prior to initiation of proceedings before the competent court, the Head of Mission and the competent authority of the Sending State or the EU institution concerned shall certify to the court whether the act in question was performed by EUCAP Sahel Mali staff in the exercise of their official functions.

If the act was committed in the exercise of official functions, the proceedings shall not be initiated and the provisions of Article 16 shall apply. If the act was not committed in the exercise of official functions, proceedings may continue. The certification issued by the Head of Mission and the competent authority of the Sending State or the EU body concerned shall be binding upon the court of the Host State, which may not contest it.

However, the competent authorities of the Host State may challenge the merits of that certification within a period of two months from its date of issue. In such a case, each of the Parties shall commit to resolving the dispute exclusively by diplomatic means.

The initiation of civil proceedings by EUCAP Sahel Mali staff shall preclude them from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.

6. EUCAP Sahel Mali staff shall not be obliged to give evidence as witnesses.

7. No enforcement action may be taken in respect of EUCAP Sahel Mali staff, except in cases where civil proceedings not related to their official functions are instituted against them. The property of EUCAP Sahel Mali staff, 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, EUCAP Sahel Mali staff shall not be subject to any restrictions on their personal liberty or to any other measures of constraint.

8. The immunity of EUCAP Sahel Mali staff from jurisdiction in the Host State does not exempt them from jurisdiction in the respective Sending State.

9. EUCAP Sahel Mali staff shall be exempt from social security provisions which may be in force in Mali.

10. EUCAP Sahel Mali staff shall be exempt from any form of taxation in the Host State on the salary and emoluments paid to them by EUCAP Sahel Mali or the Sending States, as well as on any income received from outside the Host State.

11. The Host State shall, in accordance with such laws and regulations as it may adopt, authorise entry of articles for the personal use of EUCAP Sahel Mali staff and exempt such articles from all customs duties, taxes and related charges other than charges for storage, cartage and similar services. The Host State shall also authorise the export of such articles. The purchase in Mali of goods, means of transport and services by EUCAP Sahel Mali staff shall be exempt from taxes and VAT in accordance with the law and regulations in force in the Host State.

Article 7

Staff employed locally

1. Staff 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 such staff in such a manner as not to interfere unduly with the operation of the mission.

2. Staff employed locally may be subject to procedures and practices of the European Union delegation in the Republic of Mali. EUCAP Sahel Mali shall inform the Host State in writing of the procedures and practices applied by EUCAP Sahel Mali.

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 powers and disciplinary powers conferred on them by the law of the Sending State with regard to all EUCAP Sahel Mali staff subject to the relevant law of the Sending State.

Article 9

Security of EUCAP Sahel Mali

1. The Host State shall, within its means, ensure the security of EUCAP Sahel Mali and EUCAP Sahel Mali staff.
2. To that end, the Host State shall take necessary measures for the protection and security of EUCAP Sahel Mali and EUCAP Sahel Mali staff. 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 charge, activities relating to the medical evacuation of members of EUCAP Sahel Mali staff. If required, supplementary arrangements as referred to in Article 19 shall be concluded.
3. EUCAP Sahel Mali staff shall have the right to carry light arms and munitions, subject to the authorisation of the Head of Mission.
4. In this context, EUCAP Sahel Mali shall be authorised to take necessary measures within the territory of the Host State, including the use of necessary and proportionate force, to protect EUCAP Sahel Mali staff and EUCAP Sahel Mali premises, vehicles and assets against acts which might endanger the life of EUCAP Sahel Mali staff or cause them bodily harm and, where necessary, to simultaneously protect other persons facing the same threat in close proximity to the mission against acts which might endanger the life of such persons or cause them grievous bodily harm.
5. A list of members of EUCAP Sahel Mali staff authorised by the Head of Mission to carry and transport arms and munitions shall be communicated to the competent Malian authorities. This communication shall be purely declaratory. The competent Malian authorities shall provide such EUCAP Sahel Mali staff with a licence to carry and transport arms.

Article 10

Uniform

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

Article 11

Cooperation

1. The Host State shall provide full cooperation and support to EUCAP Sahel Mali and EUCAP Sahel Mali staff. If required, supplementary arrangements as referred to in Article 19 shall be concluded.

2. The Head of Mission and the representative appointed by the Government of the Host State shall consult regularly and take appropriate measures to ensure close and reciprocal liaison at all appropriate levels. The Host State may appoint a liaison officer to EUCAP Sahel Mali.

Article 12

Host State support and contracting

1. The Host State shall agree, if requested, to assist EUCAP Sahel Mali in finding suitable facilities.
2. The Host State shall provide EUCAP Sahel Mali, free of charge, with facilities of which it is the owner insofar as such facilities are necessary for the mission.
3. Within its means and capabilities, the Host State shall assist in the preparation, establishment, and execution of and support for EUCAP Sahel Mali. The Host State's assistance and support for the mission shall be provided under at least the same conditions as those laid down for the Host State's own agents or civilian trainers.
4. EUCAP Sahel Mali shall have the necessary legal capacity under the laws and regulations of the Host State 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.
5. The law applicable to contracts concluded by EUCAP Sahel Mali in the Host State shall be determined by those contracts.
6. The contracts may stipulate that the claims settlement procedure referred to in Article 16(3) and (4) shall be applicable to disputes arising from the application of those contracts.
7. The Host State shall facilitate the implementation of contracts concluded by EUCAP Sahel Mali with commercial entities for the purposes of the mission.

Article 13

Change to facilities

1. EUCAP Sahel Mali shall be authorised to construct or modify facilities as necessary for its operational requirements.
2. No compensation shall be requested from EUCAP Sahel Mali by the Host State for such constructions or modifications.

Article 14

Deceased EUCAP Sahel Mali staff

1. The Head of Mission shall have the right to take charge of and make suitable arrangements for the repatriation of any deceased member of EUCAP Sahel Mali staff, as well as of their personal property.
2. No autopsy shall be performed on any deceased member of EUCAP Sahel Mali staff without the agreement of the State of which the deceased was a national and the presence of a representative of EUCAP Sahel Mali and/or that State.
3. The Host State and EUCAP Sahel Mali shall cooperate to the fullest extent possible with a view to the early repatriation of any deceased member of EUCAP Sahel Mali staff.

*Article 15***Communications**

1. EUCAP Sahel Mali 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, free of charge, to the frequency spectrum in accordance with its legislation in force.
2. EUCAP Sahel Mali 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 EUCAP Sahel Mali facilities, including the laying of cables and land lines for the purposes of the mission.
3. Within its own facilities, EUCAP Sahel Mali may make the arrangements necessary for the conveyance of mail addressed to and from EUCAP Sahel Mali and/or EUCAP Sahel Mali staff.

*Article 16***Claims for death, injury, damage and loss**

1. EUCAP Sahel Mali and EUCAP Sahel Mali staff, the EU and Sending States shall not be liable for any damage to or loss of civilian or government property which is related to operational necessities or caused by activities in connection with civil disturbances or protection of EUCAP Sahel Mali.
2. With a view to reaching an amicable settlement, claims for damage to or loss of civilian property not covered by paragraph 1, as well as claims for death of or injury to persons and for damage to or loss of EUCAP Sahel Mali assets, facilities or means of transport, shall be forwarded to EUCAP Sahel Mali via the competent authorities of the Host State, as far as claims brought by natural or legal persons from the Host State are concerned, or to the competent authorities of the Host State, as far as claims brought by EUCAP Sahel Mali 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 EUCAP Sahel Mali 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 claim shall:
 - (a) for amounts up to and including EUR 40 000, be settled by diplomatic means between the Host State and EU representatives;
 - (b) for amounts above that referred to in point (a), be submitted to an arbitration tribunal, the decision of which shall be binding.
5. The arbitration tribunal shall be composed of three arbitrators, one being appointed by the Host State, one by EUCAP Sahel Mali and the third by common accord of the Host State and EUCAP Sahel Mali. 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 EUCAP Sahel Mali on the appointment of the third arbitrator, the arbitrator in question shall be appointed by the president of a court of justice designated by common accord of the Parties.
6. An administrative arrangement shall be concluded between EUCAP Sahel Mali and the administrative authorities of the Host State in order to determine the terms of reference of the claims commission and the arbitration tribunal, the procedures applicable within those 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 the representatives of EUCAP Sahel Mali 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 EUCAP Sahel Mali and of EUCAP Sahel Mali staff, the Government of the Host State shall be responsible for their implementation and for compliance with them by the appropriate local authorities of the Host State.
2. Nothing in this Agreement is intended or may be construed to derogate from any rights that may attach to a Sending State 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 date on which it is signed and shall remain in force until the date of departure of the last EUCAP Sahel Mali element and of the last member of EUCAP Sahel Mali staff, as notified by EUCAP Sahel Mali.
2. This Agreement may be amended in writing by mutual consent of the Parties. Such amendments shall be executed as separate protocols, which form an integral part of this Agreement and shall enter into force in accordance with paragraph 1 of this Article.
3. Termination of this Agreement shall not affect any rights or obligations arising from the execution of this Agreement before such termination.
4. Upon entry into force of this Agreement, the exchange of letters, signed at Bamako on 31 October 2014 between the European Union and the Republic of Mali, shall lapse.

Done at Bamako on the seventh day of November in the year two thousand and nineteen, in two original copies, in French.

FOR THE EUROPEAN UNION

FOR THE GOVERNMENT OF THE REPUBLIC OF MALI
