



Organization for Security and Co-operation in Europe

8 September 2016

The Secretary General's initiative for a bilateral Standing Arrangement with each OSCE participating State

1. Since 2009 the Informal Working Group on Strengthening the Legal Framework of the OSCE has been endeavouring to reach consensus on a multilateral solution to recognise the international legal personality, privileges and immunities of the OSCE. It continues to be a long-term effort. The lack of the multilateral solution has operational consequences, including its impact on the legal arrangements for the OSCE which consist of a patchwork of bilateral memoranda of understanding to grant status to the field operations and national legislation to grant status to the Secretariat and the Institutions.

2. The 1993 CSCE Rome Council Decision aimed at gaining legal status, privileges and immunities for the OSCE through national measures across the OSCE region. Only a few of the participating States adopted legislative or executive measures to give effect to the Rome Council decision. In April 2015 the Informal Working Group removed the 1993 CSCE Rome Council Decision from its agenda of active options under discussion, to focus its attention solely on the long-term multilateral solutions.

3. In July 2015 the OSCE Secretary General proposed, under his authority as Chief Administrative Officer, an interim solution in the form of a bilateral Standing Arrangement with each participating State, recognising the OSCE and its officials in the national jurisdiction in a comprehensive and harmonized manner (issued as SEC.GAL/148/15 dated 24 July 2015, reissued now, in the annex hereto, to reflect comments by delegations and corrections).

4. The text of the Standing Arrangement is formulated to address the Secretary General's duty of care towards OSCE staff and his accountability to the Permanent Council for the sound management of the OSCE's assets. It is an interim solution, purely based on the serious operational need to protect OSCE officials and assets in States where no national measures in favour of the OSCE exist. It is a separate track from the political/legal discussions ongoing in the Informal Working Group.

5. The Secretary General's Standing Arrangement is consistent with the 1993 Rome Council decision as it seeks status, privileges and immunities through national measures. It is also consistent with Staff Regulation 2.03 (Privileges and Immunities), which provides that: *“(a) The Secretary General, the heads of institution and heads of mission, as well as staff members and international mission members shall enjoy the privileges and immunities to which they may be entitled by national legislation or by virtue of bilateral agreements concluded by the OSCE relating to this matter. Local staff/mission members shall enjoy privileges and immunities only to the extent granted to them by the respective host State under national legislation and relevant bilateral agreements which may be concluded between a State and the OSCE.”*

6. The text of the Standing Arrangement grants, *inter alia*: legal capacity to the OSCE, inviolability of its premises and archives, immunity from jurisdiction and tax and customs exemptions, as well as privileges and immunities to representatives of participating States participating in OSCE meetings, to members of the Parliamentary Assembly and officials of its Secretariat, to experts on mission, and to OSCE officials without distinction as to nationality, consistent with their status as international civil servants as stipulated in Staff Regulation 2.01 and the OSCE Code of Conduct section 3. Once the Standing Arrangement is concluded and in force, it would cover the OSCE and any of its activities in the territory of the host State, including project implementation, meetings, election monitoring, etc.

7. The basic model Standing Arrangement is a rolling text, based on best practices and lessons learned. To the extent possible, negotiations will maintain the basic model text.



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(revision of SEC.GAL/148/15 dated 24 July 2015,
incorporating comments by delegations and corrections)*

STANDING ARRANGEMENT

BETWEEN

THE ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE

AND THE GOVERNMENT OF ...

The Organization for Security and Co-operation in Europe (OSCE) represented by its Secretariat and the Government of the [signatory participating State] (the Government), hereinafter each a Party and collectively the Parties,

Recalling the Decision of the CSCE Council at its Fourth Meeting on Legal Capacity and Privileges and Immunities, Rome, 1 December 1993,

Fully respecting OSCE principles and commitments as the basis for close co-operation between the OSCE and the Government,

Desiring to consolidate their relationship and co-operation in the framework of the OSCE, in particular to enable the pursuit of mutually agreed activities of the OSCE in [signatory participating State], including the implementation of concrete projects,

Ready to provide for an appropriate normative framework for such co-operation,

Acknowledging the willingness of the Government to accord to the OSCE and its officials appropriate privileges and immunities for the fulfilment of its activities in [signatory participating State].

Have agreed as follows:

Article 1

Legal Personality and Capacity

1. For the purposes of the present Standing Arrangement, the "OSCE" shall refer to the Organization for Security and Co-operation in Europe, including specific structures as its decision-making bodies may establish for the implementation of decisions taken and tasks set by the participating States. Such structures include the Secretariat, institutions, field operations, special representatives or other operational instruments of the OSCE and the OSCE Parliamentary Assembly.

2. The OSCE shall possess legal personality and legal capacity as is necessary for the exercise of its functions including the capacity to contract, to acquire and dispose of movable and immovable property, and to institute and participate in legal proceedings.

Article 2

OSCE Premises, Property and Assets

1. Any premises of the OSCE in [signatory participating State] shall be inviolable. Inviolability shall apply to the buildings, parts of buildings and the land, including installations and facilities made available, maintained, occupied or used by the OSCE in [signatory participating State] in connection with its functions and purposes.

2. The Government shall take all appropriate steps to protect any premises of the OSCE in [signatory participating State] against any intrusion or damage and to prevent any disturbance of the peace of the premises or impairment of the dignity of the OSCE.

3. Any OSCE property and assets located in [signatory participating State] and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any form of interference, whether by executive, administrative, judicial or legislative action, except insofar as in any particular case the OSCE has expressly waived its immunity in accordance with Article 10 of the present Standing Arrangement.

Article 3

Archives of the OSCE

The archives of the OSCE located in [signatory participating State] and by whomsoever held, and in general all papers and documents belonging to it or held by it and in whatever form, shall be inviolable.

Article 4

Immunity from Jurisdiction and Execution

The OSCE, its property and assets, located in [signatory participating State] and by whomsoever held, shall enjoy immunity from any form of legal process except insofar as in any particular case the OSCE has expressly waived immunity in accordance with Article 10 of the present Standing Arrangement. It is understood that such waiver of immunity does not extend to any measure of execution, for which a separate waiver shall be necessary.

Article 5

Tax and Customs Exemptions

1. The OSCE, its assets, income and other property shall be exempt in [signatory participating State] from all national, regional or municipal dues, taxes and customs duties, whether direct or indirect, except payment for specific services rendered.

2. The OSCE, its assets, income and other property shall be exempt from custom restrictions and duties on imports and exports in respect of articles imported and exported by the OSCE for its

official use, including for OSCE's programmatic activities and projects. It is understood that articles imported under such exemption shall not be sold, leased or given away in the territory of [signatory participating State] except under conditions agreed with the competent authorities of [signatory participating State].

3. In cases where the OSCE purchases goods and services for its official use, including its programmatic activities, and where the price includes customs and excise duties or sales taxes, the Government shall take appropriate administrative measures to refund to the OSCE the amount of these duties and taxes.

Article 6 **Facilities in Respect of Communications**

The OSCE shall enjoy in the territory of [signatory participating State] for its official communications treatment not less favorable than that accorded by the Government to any other international organization or any diplomatic mission in the matter of priorities, rates and taxes on mails, cables, telegrams, radiograms, telephotos, telephone and other communications; and press rates for information to the press and radio. No censorship shall be applied to the official correspondence and other official communications of the OSCE.

Article 7 **Flags and Symbols**

1. The OSCE shall have the right to use OSCE symbols and flags for official purposes, including on any of its premises and vehicles, in the territory of [signatory participating State].

2. The emblem of the OSCE shall be inviolable. The Government shall ensure that the emblem of the OSCE is protected in the territory of [signatory participating State] including from unauthorized use.

Article 8 **Representatives of OSCE participating States**

1. Representatives of OSCE participating States attending OSCE meetings and meetings held under the auspices of the OSCE, or taking part in the work of the OSCE in [signatory participating State] shall, while exercising their functions, enjoy the following privileges and immunities:

- a) Immunity from personal arrest or detention;
- b) Immunity from legal process in respect of words spoken or written and all acts performed by them in their capacity as representatives and thereafter;
- c) Inviolability of all papers and documents in whatever form;
- d) Exemption in respect of themselves and their family members forming part of their household from travel and immigration restrictions, alien registration, and national service obligations in [signatory participating State];
- e) The same privileges in respect of currency and exchange facilities as are accorded to diplomatic agents of foreign States;
- f) The same immunities and facilities in respect of their personal baggage as are accorded to diplomatic agents of foreign States; and
- g) The right to use codes and to receive papers or correspondence by courier or in sealed bags.

2. For the purposes of the present Standing Arrangement, “representatives of OSCE participating States” shall include Members of the OSCE Parliamentary Assembly and their alternates.

3. Applications for visas, where required, from representatives of participating States attending OSCE meetings and meetings held under the auspices of the OSCE, or taking part in the work of the OSCE in [signatory participating State], shall be dealt with as speedily as possible.

4. The provisions of paragraph 1 above shall apply to representatives of OSCE participating States other than those of the [signatory participating State].

Article 9 **OSCE Officials**

1. For the purposes of the present Standing Arrangement, “OSCE officials” shall refer to:

- (a) Any person subject to the OSCE Staff Regulations in accordance with Staff Regulation 1.03, including the Secretary General, the heads of institution and the heads of mission and all international or local, contracted or seconded, fixed-term and short-term staff/mission members;
- (b) Personal, special and other representatives appointed by the OSCE Chairperson-in-Office;
- (c) OSCE experts on mission; and
- (d) The Secretary General of the OSCE Parliamentary Assembly, members of its International Secretariat and its experts on mission.

2. Without prejudice to paragraph 3 below, all OSCE officials, while exercising their functions in [signatory participating State], shall enjoy the following privileges and immunities:

- (a) Immunity from personal arrest or detention;
- (b) Immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity and thereafter;
- (c) Inviolability of all papers and documents in whatever form;
- (d) Exemption from taxation on the salaries, allowances and other emoluments paid to them by the OSCE and, in respect of such income, amnesty for the period preceding the entry into force of this Standing Arrangement;
- (e) Exemption in respect of themselves and their family members forming part of their household from travel and immigration restrictions, alien registration, and national service obligations in [signatory participating State] and social security regulations of the [signatory participating State] provided that they are covered by the social security scheme of the OSCE;
- (f) The same privileges in respect of currency and exchange facilities as are accorded to diplomatic agents of foreign States;
- (g) The same immunities and facilities in respect of their personal baggage as are accorded to diplomatic agents of foreign States;
- (h) The right to use codes and to receive papers or correspondence by courier or in sealed bags; and
- (i) The same repatriation facilities in time of international crisis as diplomatic agents, in respect of themselves and their family members forming part of their household.

3. In respect of paragraph 2(b), (c), (d) and (e) above, OSCE officials who are citizens or permanent residents of [signatory participating State] shall enjoy immunity from legal process only

in respect of words spoken or written and all acts performed in the exercise of their official functions and thereafter; inviolability of official papers and documents in whatever form; exemption from taxation on the salaries, allowances and other emoluments paid to them by the OSCE; exemption from national service obligations; and exemption from national social security regulations provided that they are covered by the social security scheme of the OSCE. Citizens and permanent residents of [signatory participating State] shall be allowed to opt between participation in the health insurance and pension branches of the national social security scheme of [signatory participating State] or those of the social security scheme of the OSCE.

4. Applications for visas, where required, from OSCE officials taking part in the work of the OSCE in the territory of [signatory participating State] shall be dealt with as speedily as possible.

5. The Government shall treat OSCE officials with due respect and shall take all appropriate steps to provide them safety and security, and to prevent any attack on their person, freedom or dignity.

Article 10 **Diplomatic immunity**

1. In addition to the immunities and privileges specified in Article 9 above, the Secretary General of the OSCE, the Heads of OSCE Institutions and the Heads of OSCE Missions shall be accorded in [signatory participating State], in respect of themselves, their spouses and members of their family, the privileges and immunities exemptions and facilities accorded by virtue of international law to ambassadors who are heads of diplomatic missions accredited in [signatory participating State].

2. In addition to the immunities and privileges specified in Article 9 above, OSCE officials at senior rank shall be accorded in respect of themselves, their spouses and members of their family, the same privileges and immunities, exemptions and facilities as the [signatory participating State] accords to diplomatic envoys of comparable rank, in accordance with international law.

Article 11 **OSCE Identity Card**

1. The OSCE may issue an OSCE Identity Card to its officials. The document, which will not substitute for ordinary travel documents, will be issued in accordance with the form set out in Annex A and will entitle the bearer to the treatment specified herein.

Article 12 **Waiver of Immunities**

Privileges and immunities are accorded to representatives of participating States and OSCE officials, not for the personal benefit of the individuals themselves, but in the interests of the OSCE, namely in order to safeguard the independent exercise of their functions in connection with the OSCE. Consequently there is not only the right but a duty to waive immunity in any case where, in the opinion of the authority competent to waive, the immunity would impede the course of justice, and it can be waived without prejudice to the purpose for which the immunity is accorded. Any waiver by the OSCE must be express and given by:

- (a) the OSCE Secretary General, in consultation with the OSCE Chairmanship, in respect of officials subject to the OSCE Staff Regulations and Staff Rules or OSCE experts on mission;
- (b) the Chairmanship, in respect of the Secretary General, the heads of institution, the heads of mission, and any personal, special or other representative appointed by the OSCE Chairperson-in-Office;
- (c) the Secretary General of the OSCE Parliamentary Assembly, in respect of members of the International Secretariat of the OSCE Parliamentary Assembly or its experts on mission; and
- (d) the Bureau of the OSCE Parliamentary Assembly in respect of its Secretary General.

Article 13
General Provisions

1. The Government shall not interfere unduly with the performance of the functions of the OSCE and shall co-operate with any reasonable request made by the OSCE necessary for performance of its functions.
2. The OSCE shall receive treatment not less favorable than that accorded by the Government to any other international organization.
3. For any matter not explicitly covered by the provisions of the present Standing Arrangement, the 1946 Convention on the Privileges and Immunities of the United Nations shall apply *mutatis mutandis* in the relations between the OSCE and the Government.

Article 14
Supplementary Arrangements

1. The Parties may enter into such supplementary arrangements, including by exchange of letters, as may be necessary to implement the present Standing Arrangement.
2. In the event of the establishment of an OSCE presence/office in [signatory participating State], the present Standing Arrangement shall apply to the said presence/office, supplemented if necessary by specific arrangements to be agreed by the Parties for the hosting of such presence/office.

Article 15
Settlement of Disputes

Disputes concerning the interpretation or application of the present Standing Arrangement shall be settled by consultations or any other mode of settlement agreed between the Parties.

Article 16
Amendments

The provisions of this Standing Arrangement may be reviewed by mutual consent of the Parties. Consultations with a view to amending this Standing Arrangement may be held at the request of

either of the Parties. Any amendments to this Standing Arrangement shall be made in writing. Amendments shall enter into force upon receipt by the OSCE of the written notification from [signatory participating State] through diplomatic channels confirming the completion of the internal procedures required in [signatory participating State] for their entry into force.

Article 17
Termination

Either Party may, at any time, terminate the present Standing Arrangement by written notification addressed to the other Party. Such termination shall become effective six calendar months after the date of receipt of the notification by the other Party. Notwithstanding termination, the inviolability of the OSCE archives and the functional immunity of its officials shall continue to subsist.

Article 18
Entry into Force

1. This Standing Arrangement shall enter into force upon receipt by the OSCE of the written notification from the Government through diplomatic channels confirming the completion of the internal procedures required for the entry into force of this Standing Arrangement
2. Pending the entry into force of this Standing Arrangement, the parties shall apply it on a provisional basis.

Done at [venue] on [date] in two originals, in English [and language(s) of signatory participating State, if different than English]. In case of disagreement in the interpretation of the provisions of this Standing Arrangement, the English version shall prevail.

For the Organization for Security and
Co-operation in Europe

For the Government
