

**AGREEMENT**

**BETWEEN**

**THE REPUBLIC OF AUSTRIA**

**AND**

**THE ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE (OSCE)**

**REGARDING THE HEADQUARTERS OF THE ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE**

**Preamble**

The Republic of Austria and the Organization for Security and Co-operation in Europe

DESIRING to define the status, privileges and immunities of the Organization for Security and Co-operation in Europe in the Republic of Austria and to enable it to fulfil its roles and mandates as established by the 1975 Helsinki Final Act and subsequent documents;

RECOGNIZING the continuing commitment of the Republic of Austria to hosting the Organization for Security and Co-operation in Europe (formerly the Conference on Security and Co-operation in Europe – CSCE), in accordance with the 1990 Charter of Paris for a New Europe, the 1993 CSCE Council Decision VII on CSCE structures and operations and the 2002 OSCE Ministerial Council Decision No. 9 on new premises of the OSCE Secretariat and the Representative on Freedom of the Media;

HAVE AGREED as follows:

**Article I**  
**Definitions**

**Section 1**

For the purpose of this Agreement,

(a) "Government" shall refer to the competent authorities of the Republic of Austria;

- (b) "OSCE" shall refer to the Organization for Security and Co-operation in Europe, composed of its structures, including the OSCE Parliamentary Assembly;
- (c) "Secretary General" shall refer to the Secretary General of the OSCE or any officer designated to act on the Secretary General's behalf;
- (d) "Headquarters of the OSCE" shall refer to the premises occupied by the OSCE in Austria in accordance with this Agreement;
- (e) "Participating State" shall refer to a State which has signed the 1975 Helsinki Final Act or has been recognized as such by an OSCE decision-making body;
- (f) "Partner for Co-operation" shall refer to a State in special relationship with the OSCE and recognized as such by an OSCE decision-making body;
- (g) "Official of the OSCE" shall refer to the Secretary General, heads of structures and all other officials as defined in the OSCE Staff Regulations and Staff Rules, and all staff of the International Secretariat of the OSCE Parliamentary Assembly. Persons who are locally recruited and assigned to hourly rates are excluded from this definition;
- (h) "Provident Fund" shall refer to any fund established by the OSCE as an instrument of social security.

## **Article II Legal Capacity**

### **Section 2**

The Republic of Austria recognizes the legal capacity of the OSCE as an international organization. The OSCE shall possess such 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 III Cooperation with the OSCE**

### **Section 3**

The Government shall support, within the means at its disposal and to the extent that it is not contrary to the laws and regulations of the Republic of Austria, the OSCE and its activities in pursuit of the principles and commitments of the OSCE.

**Article IV**  
**The Headquarters of the OSCE**

**Section 4**

- (a) The Headquarters of the OSCE shall comprise the land, installations and offices that the OSCE occupies for its activities. Its area shall be defined by common understanding between the Government and the OSCE.
- (b) The OSCE shall have the right to use the Headquarters of the OSCE in a manner consistent with the principles and commitments of the OSCE and in accordance with the provisions of this Agreement. In particular, the OSCE may hold meetings in the Headquarters of the OSCE, including international conferences, seminars, workshops and meetings of all OSCE structures.
- (c) Any building in Austria, whether in or outside of Vienna, which may be used with the concurrence of the Government for meetings convened by the OSCE shall be temporarily included in the Headquarters of the OSCE. For all such meetings, this Agreement shall apply *mutatis mutandis*.
- (d) The Government shall take whatever action may be necessary to ensure that the OSCE shall not be dispossessed of all or any part of the Headquarters of the OSCE without the express consent of the OSCE.

**Article V**  
**Inviolability of the Headquarters of the OSCE and of its Archives and Documents**

**Section 5**

- (a) The Government recognizes the inviolability of the Headquarters of the OSCE, which shall be under the control and authority of the OSCE as provided in this Agreement.
- (b) Except as otherwise provided in this Agreement and subject to any regulation enacted under Section 6, the laws and regulations of the Republic of Austria shall apply within the Headquarters of the OSCE.
- (c) Except as otherwise provided in this Agreement, the courts or other competent authorities of the Republic of Austria shall have jurisdiction, as provided in applicable laws, over acts done and transactions taking place within the Headquarters of the OSCE.

**Section 6**

- (a) The OSCE shall have the power to make regulations, operative within the Headquarters of the OSCE, for the purpose of establishing therein conditions in all respects necessary for the full execution of its roles and mandates. No law or regulation of the Republic of Austria which is inconsistent with a regulation of the OSCE authorized by this section shall, to the extent of such inconsistency, be applicable within the Headquarters of the OSCE. Any dispute between the Government and the OSCE as to whether a regulation of the OSCE is authorized by this section or as to whether a law or regulation of the Republic of Austria is inconsistent with any regulation of the OSCE authorized by this section, shall be promptly settled by the procedure set out in Section 37. Pending such settlement, the regulation of the OSCE shall apply and the law or regulation of the Republic of Austria shall be inapplicable in the Headquarters of the OSCE to the extent that the OSCE claims it to be inconsistent with its regulation.
- (b) The OSCE shall from time to time inform the Government, as may be appropriate, of regulations made by it in accordance with sub-section (a).
- (c) This section shall not prevent the reasonable application of fire protection or sanitary regulations of the Government.

### **Section 7**

- (a) The Headquarters of the OSCE shall be inviolable. No officer or official of the Republic of Austria, or other person exercising any public authority within the Republic of Austria, shall enter the Headquarters of the OSCE to perform any duties therein except with the consent of, and under conditions approved by, the Secretary General. The service of legal process, including the seizure of private property, shall not take place within the Headquarters of the OSCE except with the express consent of, and under conditions approved by, the Secretary General.
- (b) Without prejudice to Article XIII, the OSCE shall prevent the Headquarters of the OSCE from being used as a refuge by persons who are avoiding arrest under any law of the Republic of Austria, who are required by the Government for extradition to another country, or who are endeavouring to avoid service of legal process.

### **Section 8**

The archives of the OSCE, and in general all documents, in whatever form, belonging to it or held by it, shall be inviolable wherever located.

## **Article VI**

### **Immunity from Jurisdiction and other Actions**

### **Section 9**

- (a) The OSCE shall have immunity from jurisdiction and enforcement, except:

- (i) To the extent that the OSCE shall have expressly waived such immunity in a particular case;
  - (ii) In the case of civil action brought by a third party for damage resulting from an accident caused by a motor vehicle belonging to, or operated on behalf of, the OSCE, or in respect of any infringement of regulations governing the keeping, operation and use of motor vehicles;
  - (iii) In the case of attachment, pursuant to a decision by the judicial authorities, of the salary, emoluments or indemnities owed by the OSCE to an employee, unless the OSCE informs the Government within 14 days of the date on which it is notified of said decision by the Government that it does not waive its immunity.
- (b) Without prejudice to sub-sections (a) and (c), the property and assets of the OSCE wherever situated, shall be immune from any form of requisition, confiscation, expropriation and sequestration.
- (c) The property and assets of the OSCE shall also be immune from any form of administrative or provisional judicial restraint.

**Article VII**  
**Protection of the Headquarters of the OSCE**

**Section 10**

- (a) The Government shall exercise due diligence to ensure that the tranquillity of the Headquarters of the OSCE is not disturbed by any person or group of persons attempting unauthorized entry into or creating disturbances in the immediate vicinity and shall provide at the boundaries of the Headquarters of the OSCE such police protection as may be required for these purposes.
- (b) The Government and the OSCE shall closely co-operate regarding the interrelation of effective security within and in the immediate vicinity outside the Headquarters of the OSCE.
- (c) If so requested by the Secretary General, the Government shall provide a sufficient number of police for the preservation of law and order within the Headquarters of the OSCE.
- (d) The OSCE, in the preparation of its security regulations and procedures, shall consult with the Government with a view to achieving the most effective and efficient exercise of security functions.

**Section 11**

The Government shall take all reasonable steps to ensure that the amenities of the Headquarters of the OSCE are not prejudiced and that the purposes for which the Headquarters of the OSCE are required are not obstructed by any use made of the land or buildings in the vicinity. The OSCE shall take all reasonable steps to ensure that the amenities of the land in the vicinity are not prejudiced by any use made of the land or buildings in the Headquarters of the OSCE.

## **Article VIII**

### **Public Services within the Headquarters of the OSCE**

#### **Section 12**

- (a) The Government shall exercise, to the extent requested by the Secretary General, its respective powers to ensure that the Headquarters of the OSCE are supplied with the necessary public services, including, without limitation by reason of this enumeration, electricity, water, sewage, gas, post, telephone and other communications services, local transportation, drainage, collection of refuse, fire protection and snow removal from public streets, and that such public services are supplied on equitable terms.
- (b) In case of any interruption or threatened interruption of any such services, the Government shall consider the needs of the OSCE as being of the same importance as those of essential agencies of the Government, and shall take steps accordingly to ensure that the work of the OSCE is not prejudiced.
- (c) The Secretary General shall, upon request, make suitable arrangements to enable duly authorized representatives of the competent public service bodies to inspect, repair, maintain, reconstruct and relocate utilities, conduits, mains and sewers within the Headquarters of the OSCE under conditions which shall not unreasonably disturb the carrying out of the functions of the OSCE.
- (d) Where gas, electricity, water or heat is supplied by the Government, or where the prices thereof are under its control, the OSCE shall be supplied at tariffs which shall not exceed the lowest comparable rates accorded to Austrian governmental administrations.

## **Article IX**

### **Communications, Publications and Transportation**

#### **Section 13**

- (a) All official communications addressed to the OSCE or to any of its officials at the Headquarters of the OSCE, and all outgoing official communications of the OSCE, by whatever means or in whatever form transmitted, shall be immune from censorship and

from any other form of interception or interference with their privacy. Such immunity shall extend, without limitation by reason of this enumeration, to publications, still and moving pictures, films, computer based communications, sound and video recordings.

- (b) The OSCE shall have the right to use codes and to dispatch and receive correspondence and other official communications by courier or in sealed bags, which shall have the same privileges and immunities as diplomatic couriers and bags.

#### **Section 14**

- (a) The Government recognizes the right of the OSCE freely to publish and broadcast within Austria in the fulfillment of its roles and mandates.
- (b) It is, however, understood that the OSCE shall respect any laws of the Republic of Austria, or any international conventions to which the Republic of Austria is a party, relating to copyrights.

### **Article X Freedom from Taxation**

#### **Section 15**

- (a) The OSCE, its assets, income and other property shall be exempt from all forms of taxation; provided, however, that such tax exemption shall not extend to the owner or lessor of any property rented by the OSCE.
- (b) In so far as the Government, for important administrative considerations, may be unable to grant to the OSCE exemption from indirect taxes which constitute part of the cost of goods purchased by or services rendered to the OSCE including rentals, the Government shall reimburse the OSCE for such taxes by the payment from time to time, of lump sums to be agreed upon by the Government and the OSCE. It is, however, understood that the OSCE will not claim reimbursement with respect to minor purchases. With respect to such taxes, the OSCE shall at all times enjoy at least the same exemptions and facilities as are granted to Austrian governmental administrations or to diplomatic missions in Austria, whichever are the more favourable. It is further understood that the OSCE shall not claim exemption from taxes which are in fact no more than charges for public utility services.
- (c) All transactions to which the OSCE is a party, and all documents recording such transactions, shall be exempt from all taxes, recording fees and documentary taxes. This principle shall also apply to the supply of goods or services purchased by the OSCE for immediate export or use abroad.
- (d) Articles imported or exported by the OSCE for official purposes shall be exempt from customs duties and other levies, and from prohibitions and restrictions on imports and exports.

- (e) The OSCE shall be exempt from customs duties and other levies, prohibitions and restrictions on the importation of service automobiles and spare parts thereof, required for the fulfilment of its official roles and mandates.
- (f) The Government shall, if requested, grant allotments of gasoline or other fuels and lubricating oils for each such automobile operated by the OSCE in such quantities as are required for its work and at such special rates as may be established for diplomatic missions in Austria.
- (g) Articles imported in accordance with sub-sections (d) and (e) or obtained from the Government in accordance with sub-section (f) shall not be sold by the OSCE in Austria within two years of their importation or acquisition, unless otherwise agreed upon by the Government.
- (h) The articles mentioned in sub-section (g) may be disposed of without charge only for the benefit of international organizations possessing comparable privileges or for the benefit of charitable institutions.
- (i) The OSCE shall be exempt from the obligation to pay employer's contributions to the Family Burden Equalization Fund or an instrument with equivalent objectives.

**Article XI**  
**Financial Facilities**

**Section 16**

- (a) Without being subject to any financial controls, regulations or moratoria of any kind, the OSCE may freely:
  - (i) Purchase any currencies through authorized channels and hold and dispose of them;
  - (ii) Operate accounts in any currency;
  - (iii) Purchase through authorized channels, hold and dispose of funds, securities and gold;
  - (iv) Transfer its funds, securities, gold and currencies to or from Austria, to or from any other country, or within Austria; and
  - (v) Raise funds through the exercise of its borrowing power or in any other manner which it deems desirable, except that with respect to the raising of funds within Austria the OSCE shall obtain the concurrence of the Government.
- (b) The Government shall assist the OSCE to obtain the most favourable conditions as regards exchange rates, banking commissions in exchange transactions and the like.

- (c) The OSCE shall, in exercising its rights under this section, pay due regard to any representations made by the Government insofar as effect can be given to such representations without prejudicing the interests of the OSCE.

**Article XII**  
**Social Security and Provident Funds**

**Section 17**

The Provident Funds shall enjoy legal capacity in the Republic of Austria and shall enjoy the same exemptions, privileges and immunities as the OSCE itself. Benefits received from a Provident Fund shall be exempt from taxation.

**Section 18**

The OSCE and its officials shall be exempt from the application of all laws of the Republic of Austria on social insurance, except as provided in this article.

**Section 19**

- (a) The OSCE and its officials shall be exempt from all compulsory contributions to any social security scheme in the Republic of Austria.
- (b) Officials of the OSCE based in Vienna shall have the right to participate in any branch of the social insurance (health, accident and pension insurance) as well as in the unemployment insurance. This insurance shall have the same legal effect as a compulsory insurance.
- (c) Officials of the OSCE may avail themselves of the right under sub-section (b) by submitting a written declaration within three months after entry into force of this Agreement or within three months after taking up their assignment with the OSCE.
- (d) Insurance under sub-section (b) in the selected branch shall take effect with the date of taking up the assignment, provided the declaration is submitted within seven business days after entry into force of this Agreement or after the date of taking up the assignment, otherwise on the day following the day of submission of the declaration.
- (e) Insurance under sub-section (b) shall cease on the date on which the service to the OSCE in Vienna terminates.
- (f) Throughout the duration of the insurance under sub-section (b), Officials of the OSCE shall be responsible for the payment of the entire contributions to the competent *Gebietskrankenkasse*.

- (g) The declarations required to be made by Officials of the OSCE under sub-section (c) shall be transmitted by the OSCE on behalf of its official to the competent *Gebietskrankenkasse*. The OSCE shall upon request provide the competent *Gebietskrankenkasse* with the information necessary for the implementation of the insurance.

**Article XIII**  
**Transit and Residence**

**Section 20**

- (a) In respect of the persons listed below, the Government shall take all necessary measures to facilitate their entry into and sojourn in the territory of the Republic of Austria, shall place no impediment in the way of their departure from the territory of the Republic of Austria, shall ensure that no impediment is placed in the way of their transit to or from the Headquarters of the OSCE and shall afford them any necessary protection in transit:
- (i) Members of Permanent Missions and delegations of Participating States to the OSCE in Vienna and of offices of special representatives of the Chairmanship-in-Office, their families and other members of their households, as well as clerical and other auxiliary personnel and the spouses and dependent children of such personnel;
  - (ii) Members of Permanent Missions and delegations of Partners for Co-operation, other States and intergovernmental organizations to the OSCE in Vienna, their families and other members of their households, as well as clerical and other auxiliary personnel and the spouses and dependent children of such personnel;
  - (iii) Officials of the OSCE based in Vienna, their families and other members of their households;
  - (iv) Experts on mission for the OSCE and their spouses;
  - (v) Other persons invited by the OSCE to the Headquarters of the OSCE on official business. The Secretary General shall communicate the names of such persons to the Government before their intended entry.
  - (vi) Representatives of the press, radio, film, television or other information media, who have been accredited to the OSCE in Vienna after consultation between the OSCE and the Government.
- (b) This section shall not apply in the case of general interruptions of transportation, which shall be dealt with as provided in Section 12 sub-section (b), and shall not impair the effectiveness of generally applicable laws and regulations relating to the operation of means of transportation.
- (c) Visas where required for persons referred to in this section shall be granted without charge and as promptly as possible, in accordance with the laws and regulations of the Republic of Austria.

- (d) No activity performed by any person referred to in sub-section (a) in his or her official capacity with respect to the OSCE shall constitute a reason for preventing his or her entry into or his or her departure from the territory of the Republic of Austria or for requiring him or her to leave such territory.
- (e) No person referred to in sub-section (a) shall be required by the Government to leave the territory of the Republic of Austria save in the event of an abuse of the right of residence, in which case the following procedure shall apply:
  - (i) No proceeding shall be instituted to require any such person to leave the territory of the Republic of Austria except with the prior approval of the Federal Minister of the Republic of Austria competent for foreign affairs;
  - (ii) In the case of a representative of a State, such approval shall be given only after consultation with the Government of the State concerned;
  - (iii) In the case of any other person mentioned in sub-section (a), such approval shall be given only after consultation with the Secretary General and, if expulsion proceedings are taken against any such person, the Secretary General shall have the right to appear or to be represented in such proceedings on behalf of the person against whom such proceedings are instituted; and
  - (iv) Persons who are entitled to diplomatic privileges and immunities under Section 29 shall not be required to leave the territory of the Republic of Austria otherwise than in accordance with the customary procedure applicable to members of the diplomatic staff of diplomatic missions in Austria.
- (f) This section shall not prevent the requirement of reasonable evidence to establish that persons claiming the rights granted by this section come within the categories described in sub-section (a), or the reasonable application of quarantine and health regulations.

## **Section 21**

The Government and the Secretary General shall, at the request of either of them, consult as to methods of facilitating entrance into the territory of the Republic of Austria, and as to the use of available means of transportation, by persons coming from abroad who wish to visit the Headquarters of the OSCE and who do not enjoy the privileges provided by Section 20.

## **Article XIV**

### **Representatives to the OSCE and Persons Who Have Official Business with the OSCE**

## **Section 22**

Permanent Missions to the OSCE in Vienna shall enjoy the same privileges and immunities as are accorded to diplomatic missions in Austria. The same shall apply to offices of special

representatives of the Chairmanship-in-Office when the Chairmanship is held by a foreign State.

### **Section 23**

- (a) Members of Permanent Missions of Participating States to the OSCE in Vienna, as well as members of the offices of special representatives of the Chairmanship-in-Office while exercising their functions, shall be entitled to the same privileges and immunities as are accorded to members, having comparable rank, of diplomatic missions in Austria.
- (b) Members of Permanent Missions of Partners for Co-operation, other States and intergovernmental organizations to the OSCE in Vienna shall be entitled to the same privileges and immunities as are accorded to members, having comparable rank, of diplomatic missions in Austria.
- (c) Without prejudice to any additional privileges and immunities the Government may grant unilaterally, members of other missions to the OSCE in Vienna shall be granted such immunities as may be necessary for the independent exercise of their functions in connection with the OSCE.

### **Section 24**

- (a) Representatives of States and of intergovernmental organizations to meetings of, or convened by, the OSCE, members of the OSCE Parliamentary Assembly and other persons who have official business with the OSCE shall, while exercising their functions and during their journeys to and from Austria, enjoy the following privileges and immunities:
  - (i) Immunity from personal arrest or detention and from seizure of their personal baggage, and, in respect of words spoken or written and all acts performed by them in their capacity as representatives, immunity from legal process of every kind;
  - (ii) Inviolability for all papers and documents in whatever form;
  - (iii) The right to use codes and to receive papers or correspondence by courier or in sealed bags;
  - (iv) Exemption in respect of themselves and their spouses from immigration restrictions, aliens registration or national service obligations in the Republic of Austria in the exercise of their functions;
  - (v) The same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;
  - (vi) The same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys;
  - (vii) Such other privileges, immunities and facilities not inconsistent with the foregoing as diplomatic envoys enjoy, except that they shall have no right to claim exemption from customs duties on goods imported (otherwise than as part of their personal baggage) or from excise duties or sales taxes.

- (b) In order to secure, for the persons referred to in this section, complete freedom of speech and independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts performed by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer holding the status referred to in sub-section (a).
- (c) Where the incidence of any form of taxation depends upon residence, periods during which the persons referred to in this section are present in Austria for the discharge of their duties shall not be considered as periods of residence.
- (d) This section shall also be applicable to representatives of Participating States which conduct monitoring and inspection activities in Austria in accordance with commitments made or decisions taken within the OSCE framework in the areas of arms control, disarmament or confidence and security building.

### **Section 25**

Sections 23 and 24 shall not be applicable to persons who are Austrian nationals or stateless persons resident in Austria unless they are representatives of foreign States or intergovernmental organizations. In that latter case, they shall be accorded only immunity from legal process of every kind in respect of words spoken or written or all acts performed by them in their official capacity.

### **Section 26**

Persons referred to in Section 23 who are enjoying the same privileges and immunities as are accorded to members, having comparable rank, of diplomatic missions in Austria shall not practice for personal profit any professional or commercial activity within Austria.

### **Section 27**

The OSCE shall communicate to the Government a list of persons within the scope of this article and shall revise such list from time to time as may be necessary.

## **Article XV Officials of the OSCE**

### **Section 28**

Officials of the OSCE shall enjoy within and with respect to the Republic of Austria the following privileges and immunities:

- (a) Immunity from legal process of any kind in respect of words spoken or written, and of acts performed by them, in their official capacity, such immunity to continue notwithstanding that the persons concerned may have ceased to be Officials of the OSCE;
- (b) Immunity from seizure of their personal and official baggage;
- (c) Immunity from inspection of official baggage and, if the official comes within the scope of Section 29, immunity from inspection of personal baggage;
- (d) Exemption from taxation in respect of the salaries, emoluments, indemnities and Provident Fund benefits paid to them by the OSCE for services past or present or in connection with their service with the OSCE;
- (e) Exemption from taxation in respect of benefits received from their participation in the Austrian Social Insurance Scheme;
- (f) Exemption from taxation on all income and property of officials and members of their families forming part of their households, insofar as such income derives from sources, or insofar as such property is located, outside Austria;
- (g) Exemption from inheritance and gift taxes, except with respect to immovable property located in Austria, in so far as the obligation to pay such taxes arises solely from the fact that the officials and members of their household reside or maintain their usual domicile in Austria;
- (h) Exemption from vehicles tax and engine-related insurance tax;
- (i) Exemption with respect to themselves, their spouses, their dependent relatives and other members of their households from immigration restrictions and alien registration. The same exemption from immigration restrictions shall also apply to retired Officials of the OSCE under modalities established by the Government;
- (j) Spouses and dependent relatives living in the same household shall have access to the labour market in accordance with the Austrian law on a preferential basis; insofar as they engage in gainful occupation, privileges and immunities shall not apply with respect to such occupation. This privilege shall be granted according to the Annex;
- (k) Exemption from national service obligations, provided that, with respect to Austrian nationals, such exemption shall be confined to officials whose names have, by reason of their duties, been placed upon a list compiled by the Secretary General and transmitted to the Government; provided further that should officials, other than those listed, who are Austrian nationals, be called up for national service, the Government shall, upon request of the Secretary General, grant such temporary deferments in the call-up of such officials as may be necessary to avoid interruption of the essential work of the OSCE;
- (l) Freedom to acquire or maintain within Austria or elsewhere foreign securities, foreign currency accounts, and other movable and, under the same conditions applicable to

Austrian nationals, immovable property; and, at the termination of their employment with the OSCE in Austria, the right to take out of Austria through authorized channels without prohibition or restriction, their funds, in the same currency and up to the same amounts as they had brought into Austria or paid to them by the OSCE;

- (m) Without prejudice to sub-section (l), the same privileges in respect of exchange facilities as are accorded to members, having comparable rank, of diplomatic missions in Austria, and the freedom to make, over and above the facilities granted by this Agreement, transfers to other countries;
- (n) The same protection and repatriation facilities with respect to themselves, their spouses, their dependent relatives and other members of their households as are accorded in times of international crises to members of the diplomatic staff of diplomatic missions in Austria; and
- (o) The right to import for personal use, free of duty and other levies, prohibitions and restrictions on imports:
  - (i) Their furniture and effects in one or more separate shipments, and thereafter to import necessary additions to the same;
  - (ii) One automobile and one motorcycle every four years;
  - (iii) Limited quantities of certain articles for personal use or consumption and not for gift or sale. To this end, Officials of the OSCE shall enjoy access to the Commissary on the same terms as those provided to officials of IAEA; a supplemental agreement shall be concluded to regulate the exercise of this right.
- (p) For themselves and members of their families, on the same terms as Austrian citizens, the right of access to universities and other institutions of higher education for the purpose of obtaining graduate and post-graduate degrees and related training leading to the attainment of the relevant educational and professional qualifications required in Austria.

## **Section 29**

In addition to the privileges and immunities specified in Section 28:

- (a) The Secretary General and heads of structures based in Vienna shall be accorded the privileges and immunities, exemptions and facilities as are accorded to heads of diplomatic missions accredited to the Republic of Austria;
- (b) A senior Official of the OSCE, when acting on behalf of either the Secretary General or a head of structure based in Vienna during either of the latter's absence from duty, shall be accorded the same privileges and immunities, exemptions and facilities as are accorded to the Secretary General or the head of structure;
- (c) Except as provided in Section 30, the Special Representative of the OSCE Parliamentary Assembly to the Headquarters of the OSCE, other Officials of the OSCE having the

professional grade of P-5 and above, and such additional categories of Officials of the OSCE as may be designated, in agreement with the Government, by the Secretary General on the ground of the responsibilities of their positions in the OSCE, shall be accorded the same privileges and immunities, exemptions and facilities as are accorded to members of the diplomatic staff of diplomatic missions in Austria;

- (d) Officials enjoying the same privileges and immunities as are accorded to members of the diplomatic staff of diplomatic missions in Austria shall not practice for personal profit any professional or commercial activity within Austria;
- (e) The members of the family of an official referred to in this section, forming part of his or her household shall, if they are not Austrian nationals or stateless persons resident in Austria, enjoy those privileges and immunities specified for that category of persons by the Vienna Convention on Diplomatic Relations.

### **Section 30**

- (a) Except as otherwise provided, Officials of the OSCE who are Austrian nationals or stateless persons resident in Austria, shall enjoy only the following privileges and immunities:
  - (i) Immunity from legal process in respect of words spoken of written and all acts performed by them in their official capacity;
  - (ii) Exemption from taxation on the salaries and emoluments paid to them by the OSCE;
  - (iii) Exemption from taxation on benefits paid to them by a Provident Fund;
  - (iv) Immunity from national service obligations;
  - (v) Immunity, in respect of themselves, their spouses and relatives dependent on them, from immigration restrictions and alien registration;
  - (vi) The same privileges in respect of exchange facilities as are accorded to the officials of comparable ranks forming part of diplomatic missions in Austria;
  - (vii) Access to the Commissary in accordance with Section 28 sub-section (o) (iii).
- (b) Officials of the OSCE and the members of their families living in the same household to whom this Agreement applies shall not be entitled to payments out of the Family Burden Equalization Fund or an instrument with equivalent objectives, unless such persons are Austrian nationals or stateless persons resident in Austria.

### **Section 31**

- (a) The Secretary General shall communicate to the Government a list of Officials of the OSCE based in Vienna and shall revise such list from time to time as may be necessary.
- (b) The Government shall furnish the OSCE for each official within the scope of this article with an identity card bearing the photograph of the holder. This card shall serve to identify the holder in relation to all Austrian authorities.

- (c) The Government shall ensure that whenever an Official of the OSCE is arrested or detained by any Austrian authority, the Secretary General shall be promptly informed and allowed to send an official to visit the arrested or detained official, to converse and to correspond with the official and to provide such legal and medical assistance as may be required.
- (d) The OSCE shall co-operate at all times with the Government to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this article.

**Article XVI**  
**Experts on Mission for the OSCE**

**Section 32**

Experts (other than Officials of the OSCE coming within the scope of Article XV) performing missions authorized by, serving on subsidiary bodies or working groups of, or consulting at its request in any way with, the OSCE shall enjoy, within and with respect to the Republic of Austria, the following privileges and immunities so far as may be necessary for the independent exercise of their functions:

- (a) Immunity in respect of themselves, their spouses and their dependent children, from personal arrest or detention and from seizure of their personal and official baggage;
- (b) Immunity from legal process of any kind with respect to words spoken or written, and all acts done by them, in the performance of their official functions, such immunity to continue notwithstanding that the persons concerned may no longer be employed on missions for, serving on subsidiary bodies or working groups of, or acting as consultants for, the OSCE, or may no longer be present at the Headquarters of the OSCE or attending meetings convened by the OSCE;
- (c) Inviolability of all papers and documents in whatever form, as well as other official materials;
- (d) The right, for the purpose of all communications with the OSCE, to use codes and to dispatch or receive papers, correspondence or other official material by courier or in sealed bags;
- (e) Exemption with respect to themselves and their spouses from immigration restrictions, alien registration and national service obligations;
- (f) The same protection and repatriation facilities with respect to themselves, their spouses, their dependent relatives and other members of their households as are accorded in time

of international crises to members of the diplomatic staff of diplomatic missions in Austria;

- (g) The same privileges with respect to currency and exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions;
- (h) Freedom to make, over and above the facilities granted by this Agreement, transfers to other countries;
- (i) The same immunities and facilities with respect to their personal and official baggage as are accorded to members of the diplomatic staff of diplomatic missions in Austria.

### **Section 33**

- (a) Where the incidence of any form of taxation depends upon residence, periods during which the persons designated in Section 32 may be present in Austria for the discharge of their duties shall not be considered as periods of residence. In particular, such persons shall be exempt from taxation on their salaries and emoluments received in connection with their service with the OSCE during such periods of duty and shall be exempt from all tourist taxes.
- (b) Except as otherwise provided, persons designated in Section 32 who are Austrian nationals or stateless persons resident in Austria, shall enjoy only those privileges and immunities listed in Section 32 sub-sections (a), (b), (c), (d), (g) and (i), it being understood, nevertheless, that such privileges and immunities include exemption from taxation on benefits paid to them by a Provident Fund.

### **Section 34**

- (a) The Secretary General shall communicate to the Government a list of persons within the scope of this article and shall revise such list from time to time as may be necessary.
- (b) The Government shall furnish the OSCE for each person within the scope of this article with an identity card bearing the photograph of the holder. This card shall serve to identify the holder in relation to all Austrian authorities.

## **Article XVII**

### **Treaty on Open Skies**

### **Section 35**

- (a) Aircraft performing aerial observation flights within the framework of the Treaty on Open Skies shall enjoy the same immunity from search, requisition, attachment or execution as is accorded to diplomatic missions in accordance with Article 22 paragraph 3 of the

Vienna Convention on Diplomatic Relations. The personnel of these aircraft shall enjoy, while passing through Austria, the same privileges and immunities as are accorded to diplomats in accordance with Article 40 paragraph 1 of the Vienna Convention on Diplomatic Relations.

- (b) Delegations of Participating States to meetings in the framework of the Treaty on Open Skies in Vienna shall enjoy the same privileges and immunities as are accorded to diplomatic missions in Austria.
- (c) Members of delegations referred to in sub-section (b) shall enjoy the same privileges and immunities as are accorded to members, having comparable rank, of diplomatic missions in Austria.
- (d) Members of delegations referred to in sub-section (b) who are Austrian nationals or stateless persons resident in Austria shall enjoy only immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in their capacity as members of such delegations.

## **Article XVIII**

### **Settlement of Disputes**

#### **Section 36**

The OSCE shall make provision for appropriate methods of settlement of:

- (a) Disputes arising out of contracts and disputes of a private law character to which the OSCE is a party; and
- (b) Disputes involving an official of or expert on mission for the OSCE who, by reason of his or her official position, enjoys immunity, if such immunity has not been waived.

#### **Section 37**

Unless the Parties decide otherwise, any dispute concerning the interpretation or application of this Agreement which cannot be settled by negotiation shall be submitted to arbitration by a tribunal composed of a single arbitrator appointed by the Secretary General of the Permanent Court of Arbitration in accordance with the relevant Optional Rules for Arbitration involving international organizations and States. Such arbitration shall be final and binding. Each Party may however request the Secretary General of the Permanent Court of Arbitration to immediately appoint such an arbitrator to examine a request for provisional measures to protect its rights under this Agreement. The place of arbitration shall be Vienna and the language to be used in the proceedings of the tribunal shall be English.

**Article XIX**  
**General Provisions**

**Section 38**

The Republic of Austria shall not incur by reason of the location of the Headquarters of the OSCE within its territory any international responsibility for acts or omissions of the OSCE or of its officials acting or abstaining from acting within the scope of their functions, other than the international responsibility which the Republic of Austria would incur as a Participating State of the OSCE.

**Section 39**

- (a) Without prejudice to the privileges and immunities accorded by this Agreement, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the Republic of Austria, and not to interfere in the internal affairs of this State.
- (b) Privileges and Immunities under this Agreement are accorded 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 must be express.

**Section 40**

- (a) The Secretary General shall take every precaution to ensure that no abuse of a privilege or immunity conferred by this Agreement shall occur, and for this purpose shall establish such rules and regulations as may be deemed necessary and expedient, for Officials of the OSCE and for such other persons as may be appropriate.
- (b) Should the Government consider that an abuse of a privilege or immunity conferred by this Agreement has occurred, the Secretary General shall, upon request, consult with the competent Austrian authorities to determine whether any such abuse has occurred. If such consultations fail to achieve a result satisfactory to the Secretary General and to the Government, the matter shall be determined in accordance with the procedure set out in Section 37.

**Section 41**

This Agreement shall apply whether or not the Government maintains diplomatic relations with the State or organization concerned and irrespective of whether the State concerned grants the same privileges or immunities to diplomatic envoys or nationals of the Republic of Austria.

#### **Section 42**

This Agreement shall be construed in the light of its primary purpose of enabling the OSCE at its Headquarters in Austria to fully and efficiently discharge its responsibilities and fulfill its roles and mandates.

#### **Section 43**

Consultations with respect to modification of this Agreement shall be entered into at the request of the Government or of the OSCE. Any such modification shall be by mutual consent expressed in an agreement between the Republic of Austria and the OSCE.

#### **Section 44**

- (a) The Government and the OSCE may enter into such supplemental agreements as may be necessary.
- (b) If and to the extent that the Government shall enter into any agreement with any intergovernmental organization containing terms or conditions more favourable to that organization than similar terms or conditions of this Agreement, the Government shall extend such more favourable terms or conditions to the OSCE, by means of a supplemental agreement.

#### **Section 45**

This Agreement shall cease to be in force:

- (a) By mutual consent of the Republic of Austria and the OSCE; or
- (b) If the Headquarters of the OSCE are removed from the territory of the Republic of Austria, except for such provisions as may be applicable in connection with the orderly termination of the operations of the OSCE at its headquarters in Austria and the disposal of its property therein.

#### **Section 46**

- (a) This Agreement shall enter into force on the first day of the month following the day the Government has notified the Secretary General that the necessary constitutional conditions for its entry into force have been fulfilled.

(b) With the entry into force of this Agreement, the Federal Law on the Legal Status of OSCE Institutions in Austria, Federal Law Gazette No. 511/1997 as amended, shall cease to be in force.

DONE in Vienna, in duplicate, in the German and English languages, both versions being equally authentic, on ...

For the Republic of Austria:

For the Organization for Security and Co-operation in Europe:

## ANNEX

### Access to the labour market

1. Spouses of Officials of the OSCE and their children under the age of 21, provided they came to Austria for the purpose of family reunion and forming part of the same household with the principal holder of the identity card issued according to Section 31, shall have preferential access to the labour market. The definition of "Official of the OSCE" according to Section 1 sub-section (g) takes account of the specific structure of the OSCE. The above mentioned family members are hereinafter called beneficiaries.
2. Upon application, the above mentioned beneficiaries will be issued, by the Federal Ministry competent for foreign affairs, a certificate confirming their preferential status under this Agreement. The issuing of such certificate shall not be conditional on a specific offer of employment. It shall be valid for the entire territory of the Republic of Austria and its validity shall expire upon expiration of the identity card.
3. The prospective employer of the beneficiary will be granted an employment permit (*Beschäftigungsbewilligung*) upon application, provided that the employment is not sought in a sector of the labour market or a region with grave employment problems, as determined by the Austrian Public Employment Service (*Arbeitsmarktservice*). The employment permit may be granted even if the legally fixed maximum number for employment of foreign labour (*Bundeshöchstzahl*) has been exceeded.
4. The employment permit shall be issued by the regional office of the Austrian Public Employment Service (*Arbeitsmarktservice*) competent for the area in which employment is taken up; in the case of employment which is not confined to a specific location, the competence of the regional office shall be determined by the business seat of the employer.
5. Children who came to Austria before the age of 21 for the purpose of family reunion and who wish to take up employment after the completion of their 21st year of age shall be considered as beneficiaries if the principal holder of the identity card provided for their livelihood before they reached the age of 21 up to the moment in which they took up employment. For all other dependent relatives the normal regulations for access of foreigners to employment in Austria shall apply.
6. The above rules concerning employment shall not apply to self-employed activities. In such cases, the beneficiaries shall comply with the necessary legal requirements for the exercise of such business activities.