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**NOTE**

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From :            Presidency  
To :               Committee for Civilian Aspects of Crisis Management

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Subject :        Generic Status of Force Agreement for police missions – Immunities and  
                    privileges for EU Mission personnel

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Delegations will find enclosed a paper from the Presidency on Generic Status of Forces Agreement for police missions – Immunities and privileges for EU Mission personnel.

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**Generic Status of Forces Agreement for police missions**  
**Immunities and privileges for EU Mission personnel**

- I. When deciding on the extent to which immunities and privileges should be accorded to EU mission personnel it should be borne in mind that immunities as a point of departure primarily are accorded in order to give EU mission personnel the necessary protection and independence in the carrying out of their functions as mission members. This is less the case as far as privileges are concerned. A distinction should therefore, as appropriate, be made, between immunities and privileges, and immunities should not necessarily automatically be accompanied by privileges and vice versa.

Having the above mentioned point of departure in mind a further distinction could be made, as appropriate, between the different categories of EU Mission personnel. Due to the types of functions within the mission locally recruited EU mission personnel would often require less immunities than personnel seconded by EU member states and non EU states as well as international staff recruited on a contractual basis by the mission.

Rather than just wholesale choose the regimes of immunities and privileges contained in either the 1946 or the 1961 convention it seems more in line with the point of departure to work with different elements of immunities and privileges. Such a “building block” approach will secure the highest degree of flexibility and will make it possible to tailor make the immunities and privileges regime to each concrete mission.

- II. A decision on the extent of immunities and privileges to be accorded to EU Mission personnel should as its point of departure be an assessment of what will be necessary for the mission and its personnel to carry out its functions as defined in the Council decision launching the mission. A broad approach should in this regard be opted for. This in turn will

require an assessment of each and every mission taking into account the specific functions defined and the circumstances under which the mission and its personnel is going to function. Important parameters would in this regard include the security situation, the general political climate and whether it is a strengthening or substitution mission. A substitution mission taking place in a precarious security situation and in a generally tense political climate might often warrant more immunities than a substitution mission taking place in a safe environment.

It will in any case be important that the immunities are compatible with the obligations under the Rome statute.

The above does not exclude the possibility of identifying a basic “package” of privileges and immunities that could be used as the point of departure when making the above assessment. Once decided such a basic “package” could under normal circumstances be the regime of immunities and privileges to be accorded to police missions. However, as necessary, this pre-identified basic “package” could be expanded or limited as the case may be.

A balance would always have to be struck between the need for according immunities and privileges to EU mission personnel and the sovereignty of the receiving state and the prerogative of the rule of law. In this connection consideration would also have to be given to the public perception of the EU mission and its personnel in the receiving state.

It should in any case be clear that the privileges and immunities are granted in the interest of the EU and not for the personal benefit of the individuals themselves as such. It should therefore be considered to give to the SG/HR the right and duty to waive the immunity of any EU Mission personnel in any case, where, in his opinion, the immunity would impede the course of justice and it can be waived without prejudice to the interests of the EU. Likewise it should always remain a possibility that the sending state can waive immunities in concrete cases.

III. The following immunities and privileges should be considered when decided which immunities and privileges that could be accorded to the EU mission personnel in a concrete police mission:

- immunity from personal arrest or detention and from seizure of personal baggage
- immunity from legal process of every kind in respect of words spoken or written and acts done by them in the course of their mission
- immunity from the criminal jurisdiction of the receiving states
- inviolability/not liable to any form of arrest or attention
- immunity from civil and administrative jurisdiction of the receiving state (exceptions)
- inviolability of and protection of the private residence
- inviolability of papers, correspondence and property
- exemption from all dues and taxes, personal or real, national, regional or municipal (exceptions)

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A possible basic “package” of immunities and privileges is annexed this paper.

Annex  
**EU Mission personnel participating in police missions**  
**Basic "package" of immunities and privileges**

The following could constitute a basic "package" of immunities and privileges to be accorded to EU Mission personnel in a concrete police mission. An assessment of the individual circumstances under which a mission will be taken place may lead to changes in the "basic" package (limitations/expansions).

**I. Personnel seconded by EU Member States and non EU States invited by the EU to participate in the Mission**

- immunity from personal arrest or detention and from seizure of personal baggage
- immunity from legal process of every kind in respect of words spoken or written and acts done by them in the course of their mission
- exemption from all dues and taxes, personal or real, national, regional or municipal

**II. International staff recruited on a contractual basis by the Mission**

- immunity from personal arrest or detention and from seizure of personal baggage
- immunity from legal process of every kind in respect of words spoken or written and acts done by them in the course of their mission
- exemption from all dues and taxes, personal or real, national, regional or municipal

**III. Locally recruited personnel hired by the Mission**

A. Personnel carrying out functions related to the implementation of the mission's tasks

- immunity from personal arrest or detention and from seizure of personal baggage
- immunity from legal process of every kind in respect of words spoken or written and acts done by them in the course of their mission

**Other personnel**