

**Headquarters Agreement
between
the Republic of Austria
and
the European Union Agency for Fundamental Rights**

The Republic of Austria
and
the European Union Agency for Fundamental Rights
(hereinafter referred to as "The Agency"),

Having regard to Council Regulation (EC) No 168/2007 of 15 February 2007 (hereinafter: Regulation) establishing the "The European Union Agency for Fundamental Rights",

Having regard to Article 23 paragraph 5 of the Regulation deciding that the headquarters of the Agency shall be in Vienna, Austria,

Whereas Article 26 of the Regulation specifies that the Protocol on privileges and immunities of the European Union (hereinafter: Protocol) shall apply to the Agency; whereas Article 24 of the Regulation specifies the staff of the Agency shall be subject to the Regulations and Rules applicable to officials and other servants of the European Union,

Whereas also the Modalities of Application of the Protocol on the Privileges and Immunities of the European Communities between the Austrian Federal Government and the Commission of the European Communities (hereinafter: Modalities of Application), done at Brussels on 20 January 2000, are applicable to the Agency,

Whereas further provisions must be made for the implementation of certain articles of the aforesaid Protocol and of the Modalities of Application and for additional matters,

have agreed as follows:

Article 1

Definitions

For the purposes of the application of the Protocol to relations between the Republic of Austria and the Agency:

(a) all references to the European Union shall be read as references to the Agency;

(b) all references to officials and other servants of the European Union shall be read as references to officials and other servants of the Agency;

(c) with the exception of Articles 6, 12, 14 and 15 of the Protocol, references to the Council and the Commission shall be read as references to the Management Board of the Agency.

Article 2

Seat

1. The Seat of the Agency shall comprise the land, installations and offices that the Agency occupies for its activities. Its area shall be defined by common understanding between the Government of the Republic of Austria and the Agency.

2. Any building in or outside Vienna used with the agreement of the Government for meetings convened by the Agency shall be deemed temporarily to form part of the seat precinct.

Article 3

Transaction taxes and fees

All transactions to which the Agency is a party, and all documents recording such transactions, shall be exempt from all taxes, recording fees, and documentary taxes.

Article 4

Officials and other Servants

1. Without prejudice to the provisions of Articles 11 to 14 of the Protocol and to Article 4 of the Modalities of Application, officials and other servants of the Agency shall enjoy the following privileges and immunities:

(a) in accordance with Article 11 subparagraph (c) of the Protocol, the freedom to acquire or maintain within the Republic of Austria foreign securities, foreign currency accounts, other movable property and, under the same conditions as Austrian nationals, immovable property, and upon termination of their employment with the Agency, the right to transfer out of the Republic of Austria, without interference, their funds in the same currency and up to the same amounts as they had brought into the Republic of Austria;

(b) the same protection and repatriation facilities with respect to themselves and members of their families forming part of their household as are accorded in time of international crises to members, having comparable rank, of the staffs of chiefs of diplomatic missions accredited to the Republic of Austria;

(c) the right to import for personal use, free of duty and other charges, provided these are not simply charges for public utility services, and exempt from economic import prohibitions and restrictions on imports and exports one motor vehicle every four years;

(d) access to the Commissary on the same terms as those provided to officials of UNIDO; a supplemental agreement shall be concluded to regulate the exercise of this right.

2. In addition to the privileges and immunities mentioned in paragraph 1, the Director of the Agency shall, provided he or she is not an Austrian national or a permanent resident of the Republic of Austria, be accorded the same privileges and immunities, exemptions and facilities accorded to heads of diplomatic missions.

3. In addition to the privileges and immunities mentioned in paragraph 1, any senior heads of Department or Sector of the Agency having the professional grade of AD9 or above, shall, provided they are not Austrian nationals or permanent residents of the Republic of Austria, be accorded the same privileges and immunities, exemptions and facilities accorded to members of diplomatic missions having comparable rank. This shall also apply to such additional categories of officials as may be designated, in agreement with the Government of the Republic of Austria, by the Director of the Agency on the ground of the responsibilities of their positions in the Agency.

4. As to the experts co-operating with the Agency, as well as any other persons the Agency invites to cooperate, the Austrian authorities will take every necessary measure to facilitate their entry into Austria, their residence and their departure. Should visas be required, they will be granted as promptly as possible and free of charge, together with any aid necessary in handling these formalities.

5. The Republic of Austria shall be entitled to require reasonable evidence to establish that persons claiming the rights granted by Article 11 subparagraph (b)

of the Protocol and by paragraph 3 of this Article fall within the categories described in these provisions, and to require compliance in a reasonable manner with quarantine and health regulations.

Article 5

Meetings of the Agency

Any building in or outside of Vienna which may be used with the concurrence of the competent authorities for meetings convened by the Agency shall be temporarily included in the seat of the Agency. For such meetings, the present Agreement shall apply mutatis mutandis.

Article 6

Security

1. The Agency shall be responsible for security and the preservation of order within the seat of the Agency. It shall also be responsible for compliance with Community law and the Austrian laws that are applicable to it, subject to the Protocol.

2. For the purpose of exercising the responsibility incumbent upon it by virtue of paragraph 1, the Agency shall take all such measures as it deems necessary and shall, in particular, issue the necessary internal rules.

It may withhold access to its seat from persons considered undesirable and have them evicted therefrom.

Article 7

Assistance in Security Matters

1. Persons empowered by Austrian laws to maintain security and order shall not be entitled to enter the buildings and premises of the Agency or the land used by the Agency, unless requested or authorized by the authorities of the Agency, who shall in such event give them the assistance they require. However, the Agency's authorities shall be presumed to consent to access in the event of a fire or other emergency warranting immediate measures of protection.

2. The Government and the competent Austrian authorities shall exercise due diligence to ensure that the tranquility of the seat of the Agency is not disturbed by any person or group of persons attempting unauthorized entry into or creating disturbances in the immediate vicinity of the seat of the Agency, and shall provide at the boundaries of the seat of the Agency such police protection as may be required for these purposes.

3. The Agency and the competent Austrian authorities shall closely co-operate regarding the interrelation of effective security within and in the immediate vicinity outside the seat of the Agency.

4. If so requested by the Director or any senior member of the Agency acting on behalf of the Director during his absence from duty, the competent Austrian authorities shall provide a sufficient number of police for the preservation of law and order within the seat of the Agency.

5. The Agency, 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.

6. The Austrian authorities shall secure freedom of access to the buildings, premises and land used by the Agency or all persons to whom this Agreement applies.

Article 8 Security Staff

1. The Agency may designate security staff and bodyguards authorized within the buildings, premises and land used by it.

2. The Agency's security staff using security equipment shall do it in full compliance with Austrian law.

Article 9 Cooperation in Security Matters

1. The Agency and the Austrian authorities shall notify each other of all matters relating to the security of persons and Seat of the Agency. They shall, in particular, notify each other of the name and status of any authority responsible for security matters and of the authorities referred to in Article 7.

2. The Agency and the competent Austrian authorities shall closely cooperate in the fields of exchanging information and of ensuring the cooperation provided for in Article 7.

Article 10 Telecommunication

1. The Agency may install and use some telecommunication systems for its own. This should include the necessary means to ensure the protection and confidentiality of personal data mentioned in Article 18 of the Regulation.
2. The Austrian authorities shall take the necessary means in order to facilitate the installation and use of the relevant systems.

Article 11 Settlement of Disputes

Without prejudice to Article 27 of the Regulation, all disputes relating to the application of this Headquarters Agreement should be settled amicably by direct negotiations.

Article 12 Repeal

The Headquarters Agreement between the Republic of Austria and the European Monitoring Centre on Racism and Xenophobia of 18 May 2000 is hereby repealed.

Article 13 Final Provisions

1. The present Agreement shall enter into force on the first day of the month following the month in which the Republic of Austria and the Agency have notified each other of the completion of the procedures required, for each of them, to be bound by it.
2. The provisions of the present Agreement shall take effect as of 1 March 2007.
3. Either Contracting Party can denounce it at any time with twelve months notice by means of written notification to the other Contracting Party.

Done in Vienna on 16 June 2010 in two copies, in German and English, both texts being equally authentic.

For the Republic of Austria:

For the European Union Agency for
Fundamental Rights:

Michael Spindelegger m.p.

Morten Kjaerum m.p.

