

AGREEMENT
BETWEEN THE REPUBLIC OF MOLDOVA
AND THE EUROPEAN UNION
ON THE STATUS OF THE EUROPEAN UNION
PARTNERSHIP MISSION IN MOLDOVA

MD/EU/EUPM/en 1

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

of the one part, and

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

of the other part,

Together hereinafter referred to as the "Parties",

TAKING INTO ACCOUNT:

- the letter of 28 January 2023 from the Prime minister of the Republic of Moldova to the High Representative of the Union for Foreign Affairs and Security Policy,
- the letter of 19 May 2023 from the Prime minister of the Republic of Moldova to the High Representative of the Union for Foreign Affairs and Security Policy,
- Council Decision (CFSP) 2023/855 of 24 April 2023 on a European Union Partnership Mission in Moldova (EUPM Moldova)¹,
- that this Agreement will not affect the Parties' rights and obligations under international agreements and other instruments establishing international courts and tribunals, including the Statute of the International Criminal Court,

HAVE AGREED AS FOLLOWS:

¹ OJ EU L 110, 25.4.2023, p. 30.

ARTICLE 1

Scope and definitions

1. This Agreement shall apply to the European Union Partnership Mission in Moldova (EUPM Moldova) and its personnel.
2. This Agreement shall apply only within the territory of the Republic of Moldova.
3. For the purposes of this Agreement:
 - (a) "EUPM" or "the Mission" shall mean the EU Partnership Mission in Moldova (EUPM Moldova) established by the Council of the European Union in Decision (CFSP) 2023/855, including its components, units, headquarters and personnel deployed in the territory of the Host State and assigned to EUPM Moldova;
 - (b) "Head of Mission" shall mean the Head of Mission of EUPM, appointed by the Council of the European Union;
 - (c) "European Union (EU)" shall mean the permanent bodies of the EU and their staff;

- (d) "EUPM personnel" shall mean the Head of Mission, personnel of the Mission seconded by EU Member States, the European External Action Service (EEAS) and EU institutions and non-EU States invited by the EU to participate in EUPM, international staff recruited on a contractual basis by EUPM deployed for the preparation, support and implementation of the Mission, and personnel on mission for a Sending State, an EU institution or EEAS in the framework of the Mission. It shall not include commercial contractors or staff employed locally;
- (e) "Headquarters" shall mean the headquarters of EUPM in the Republic of Moldova;
- (f) "Sending State" shall mean any EU Member State or non-EU State that has seconded personnel to the Mission;
- (g) "Facilities" shall mean all buildings, premises, installations and land required for the conduct of the activities of the Mission, as well as for the accommodation of the Mission's personnel;
- (h) "Personnel employed locally" shall mean personnel who are nationals of, or permanently resident in, the Host State;
- (i) "Official correspondence" shall mean all correspondence relating to EUPM and its functions bearing outwardly visible signs of their character and may contain only correspondence relating to EUPM or items of official use;
- (j) "Contractor" shall mean any person supplying to EUPM goods or services related to the Mission's activities;

- (k) "EUPM means of transport" shall mean all vehicles and other means of transport owned, hired or chartered by EUPM;
- (l) "EUPM assets" shall mean equipment, including means of transport, and consumer goods necessary for EUPM.

ARTICLE 2

General provisions

1. EUPM and EUPM personnel shall respect the laws and regulations of the Host State and shall refrain from any action or activity incompatible with the objectives of EUPM.
2. EUPM shall be autonomous with regard to the execution of its functions under this Agreement. The Host State shall respect the unitary and international nature of EUPM.
3. The Head of Mission shall regularly inform the Ministry of Foreign Affairs and European Integration and the Ministry of Internal Affairs of the Host State of the number and functions of EUPM personnel stationed within the Host State's territory.

ARTICLE 3

Identification

1. The EUPM personnel shall be provided with, and identified by, an accreditation document issued by the Ministry of Foreign Affairs and European Integration of the Host State, as follows:

- (a) The EUPM personnel deployed for a period longer than 90 days shall be provided with an identification card confirming their status;
- (b) The EUPM personnel deployed for a period shorter than 90 days shall be provided with a letter, confirming their status and valid for the period of their stay.

The EUPM shall notify in advance the Ministry of Foreign Affairs and European Integration and the Ministry of Internal Affairs of the Host State about the arrival of new personnel.

2. The means of transport of EUPM and EUPM personnel may bear distinctive EUPM identification markings, a specimen of which shall be provided to the relevant authorities of the Host State, and the license plates provided for diplomatic missions in the Republic of Moldova.

3. EUPM shall have the right to display the flag of the EU at its Headquarters and elsewhere, alone or together with the flag of the Host State, as decided by the Head of Mission. National flags or insignia of the constituent national contingents of EUPM may be displayed on the Mission's facilities, vehicles and any other 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. EUPM personnel and assets, including means of transport, shall cross the border of the Host State at official border crossings and via the international air corridors.
2. The Host State shall facilitate the entry into and the exit from the territory of the Host State for EUPM personnel and EUPM assets, including means of transport. EUPM personnel shall cross the state border of the Republic of Moldova with a valid passport. During border checks performed on entry into and departure from the territory of the Host State, EUPM personnel holding an accreditation card or letter, as referred to in the Article 3(1), shall be exempt from customs controls and procedures.
3. EUPM personnel shall be exempt from the regulations of the Host State governing the immigration requirements related to the period of stay, registration and control of aliens, but shall not acquire any right to permanent residence or domicile within the Host State's territory. EUPM personnel holding an accreditation card or letter, as referred to in the Article 3(1), shall be allowed to stay in Moldova for the duration of their participation in EUPM.

Family members accompanying EUPM personnel on the territory of the Republic of Moldova shall legalize their presence in the country based on the general procedure set by the legislation on the regime of foreigners.

4. EUPM assets, including EUPM means of transport, entering, transiting or exiting the Host State's territory shall be exempt from any requirement to produce inventories or other customs documentation and from any inspection except for documents confirming their status.

5. EUPM personnel may drive vehicles and operate aircraft and any other means of transport within the territory of the Host State provided they have valid national or international driving licences, or pilot licences, as appropriate. The Host State shall accept as valid, without tax or fee, driving licences or pilot licenses carried by EUPM personnel.

6. EUPM and EUPM personnel together with their means of transport, equipment and supplies shall enjoy free and unrestricted movement throughout the territory of the Host State, including its airspace, in accordance with the national legislation of the Host State.

If necessary, supplementary arrangements may be concluded in accordance with Article 18.

7. For the purpose of travel on official duties, EUPM personnel shall be entitled to use public roads, bridges and airports without the payment of duties, fees, tolls, taxes or other charges. EUPM shall not be exempt from reasonable charges for services requested and received under the conditions that apply to those provided to the Host State's nationals.

ARTICLE 5

Privileges and immunities of EUPM granted by the Host State

1. EUPM facilities shall be inviolable. The Host State's agents shall not enter them without the consent of the Head of Mission.
2. EUPM's facilities, their furnishings and other assets therein as well as their means of transport shall be immune from search, requisition, attachment or execution.
3. EUPM, its property and assets, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process.
4. EUPM's archives and documents shall be inviolable at any time, wherever they may be.
5. EUPM's official correspondence shall be inviolable.
6. EUPM correspondence can be entrusted to a courier. The courier must be the bearer of an official document attesting their status and specifying the number of packages of correspondence, and must be protected in the exercise of their functions by the Host State. They shall enjoy person inviolability of their person and shall not be liable to any form of arrest or detention.

7. EUPM shall be exempt from all national, regional and communal dues, taxes and charges of a similar nature in respect of imported goods, services provided and facilities used by EUPM for the purposes of EUPM. The exemption from VAT on purchases of goods or services for official use by EUPM shall take the form of a reimbursement in accordance with the modalities set out in the legislation of the host State. EUPM shall not be exempt from dues, taxes or charges that represent payment for services rendered.

8. The Host State shall permit the entry of items required for the purpose of EUPM and shall grant those items exemption from all customs duties, fees, tolls, taxes and similar charges other than charges for storage, transport and other services requested and rendered.

ARTICLE 6

Privileges and immunities of EUPM personnel granted by the Host State

1. EUPM personnel shall not be subject to any form of arrest or detention.
2. Papers, correspondence and assets of EUPM personnel shall be inviolable, except in case of measures of execution which are permitted pursuant to paragraph 6.

3. EUPM personnel, shall enjoy immunity from the criminal jurisdiction of the Host State under all circumstances. Privileges granted to EUPM personnel and immunity from the criminal jurisdiction of the Host State do not exempt them from the jurisdiction of the Sending State. The immunity of EUPM personnel from the criminal jurisdiction of the Host State may be waived by the Sending State or EU institution concerned, as the case may be. Such waiver must always be an express waiver.

4. EUPM personnel shall enjoy immunity from the civil and administrative jurisdiction of 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 proceeding is instituted against EUPM personnel before any Host State court, the Head of Mission and the competent authority of the Sending State or EU institution shall be notified immediately. Prior to initiation of the proceeding before the court, the Head of Mission and the competent authority of the Sending State or EU institution shall certify to the court whether the act in question, was performed by EUPM personnel in the exercise of their official functions. If the act was performed in the exercise of official functions, the proceeding shall not be initiated and the provisions of Article 16 shall apply. If the act was not performed in the exercise of official functions, the proceeding may continue. The certification by the Head of Mission and the competent authority of the Sending State or EU institution shall be binding upon the jurisdiction of the Host State which may not contest it. The initiation of proceedings by EUPM personnel shall preclude them from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.

5. EUPM personnel shall not be obliged to give evidence as witnesses.

6. No measures of execution may be taken in respect of EUPM personnel, except in the case where a civil proceeding not related to their official functions is instituted against them. Property of EUPM personnel, which is 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 judgement, decision or order. In civil proceedings, EUPM personnel shall not be subject to any restrictions on their personal liberty or to any other measures of constraint.

7. The immunity of EUPM personnel from the jurisdiction of the Host State shall not exempt them from the jurisdictions of the respective Sending States.

8. EUPM personnel shall, with respect to services rendered for EUPM, be exempt from social security provisions which may be in force in the Host State.

9. EUPM personnel shall be exempt from any form of taxation in the Host State on the salary and emoluments paid to them by EUPM or the Sending States, as well as on any income received from outside the Host State.

10. The Host State shall, in accordance with such laws and regulations as it may adopt, permit the entry of articles for the personal use of EUPM personnel, and shall grant exemption from all customs duties, taxes, and related charges other than charges for storage, transport and similar services, in respect of such articles. The Host State shall also allow the export of such articles. The exemption from VAT on purchases of goods or services for the personal use or consumption of EUPM personnel shall take the form of a reimbursement in accordance with the modalities set out in the legislation of the Host State.

11. The personal baggage of EUPM personnel shall be exempt from inspection, unless there are serious grounds for considering that it contains articles that are not for the personal use of EUPM personnel, or articles whose import or export is prohibited by the law or subject to quarantine regulations of the Host State. Inspection of such personal baggage shall be conducted only in the presence of EUPM personnel concerned or of an authorised representative of EUPM.

12. EUPM personnel entitled to privileges and immunities shall enjoy them from the moment they enter the territory of the Host State on proceeding to take up their post or, if already in its territory, from the moment when their appointment is notified to the Ministry for Foreign Affairs and European Integration.

13. When the functions of the EUPM personnel enjoying privileges and immunities have come to an end, such privileges and immunities shall normally cease at the moment when they leave the country, or on expiry of a reasonable period in which to do so, but shall subsist until that time, even in case of armed conflict. However, with respect to acts performed by such a person in the exercise of their functions as a member of the mission, immunity shall continue to subsist.

ARTICLE 7

Personnel employed locally

Employees of EUPM Moldova who are citizens of the Republic of Moldova, permanent residents of the Republic of Moldova or commercial contractors shall not enjoy the immunities, privileges and facilities referred to in Article 6. Notwithstanding this provision, locally employed staff shall enjoy immunity in respect of words spoken or written in the exercise of their official functions. However, the Host State shall exercise its jurisdiction over such personnel in such a manner as not to interfere unduly with the performance of the functions of EUPM.

ARTICLE 8

Criminal jurisdiction

The competent authorities of a Sending State, in consultation with the competent authorities of the Host State, shall have the right to exercise on the territory of the Host State all the criminal jurisdiction and disciplinary powers conferred on them by the law of the Sending State with regard to EUPM personnel.

ARTICLE 9

Security

1. The Host State, by its own means, shall assume responsibility for the security of EUPM personnel.
2. For the purposes of paragraph 1 the Host State shall take all necessary measures for the protection, safety and security of EUPM and EUPM personnel. Any specific provisions proposed by the Host State shall be agreed with the Head of Mission before their implementation. The Host State shall permit, and support activities relating to the medical evacuation of EUPM personnel.

If required, supplementary arrangements as referred to in Article 18 shall be concluded.

ARTICLE 10

Uniform

1. EUPM personnel may wear national uniform or civilian dress with distinctive EUPM identification.
2. The wearing of uniform shall be subject to rules issued by the Head of Mission.

ARTICLE 11

Cooperation and Access to Information

1. The Host State shall provide full cooperation and support to EUPM and EUPM personnel.
2. If requested and necessary for the accomplishment of EUPM, the Host State, in accordance with its legislation, may provide the EUPM personnel with effective access to:
 - (a) facilities and/or locations within the control of the Host State, which are relevant for the fulfilment of EUPM mandate;
 - (b) documents, materials and information within the control of the Host State, in so far as necessary for the fulfilment of EUPM's mandate.

If required for the purposes of the first subparagraph, supplementary arrangements as referred to in Article 18 shall be concluded.

Where applicable, recourse will be made to the provisions of the Agreement between the European Union and the Republic of Moldova on security procedures for exchanging and protecting classified information of 31st of March 2017.

3. The Head of Mission and the Host State shall consult regularly and take appropriate measures to ensure close and reciprocal liaison at every appropriate level. The Host State may appoint a liaison officer to EUPM.

ARTICLE 12

Host State support and contracting

1. The Host State shall assist, if requested, EUPM in finding suitable facilities.
2. The Host State shall provide free of charge, if required and available, facilities which it owns. The Host State shall not claim any compensation in respect of constructions, alterations or modifications to those facilities.

Facilities owned by private entities, in so far as such facilities are requested for the conduct of EUPM's administrative and operational activities, shall be provided on the basis of appropriate contractual arrangements.

3. Within its means and capabilities, the Host State shall assist in the preparation, establishment and execution of and support for EUPM, including co-location facilities and equipment for EUPM experts.
4. The Host State's assistance and support to EUPM shall be provided under at least the same conditions as the assistance and support that it gives to its own nationals.
5. EUPM shall have the necessary legal capacity under the laws and regulations of the Host State in order to fulfil its mission, and in particular for the purpose of opening bank accounts and to acquire or dispose of assets and to be party to legal proceedings.

6. The law applicable to contracts concluded by EUPM in the Host State shall be determined by the relevant provisions in those contracts.

7. The contracts concluded by EUPM may stipulate that the dispute settlement procedure referred to in Article 15(3) and (4) shall be applicable to disputes arising from the implementation of the contract.

8. The Host State shall facilitate the implementation of contracts concluded by EUPM with commercial entities for the purpose of the mission.

ARTICLE 13

Deceased EUPM personnel

1. The Head of Mission shall have the right to take charge of and make suitable arrangements for the repatriation of any deceased EUPM personnel, as well as of their personal property.

2. No autopsy shall be performed on any deceased members of EUPM without the agreement of the State concerned, and the presence of a representative of EUPM and/or a representative of the State concerned.

3. The Host State and EUPM shall cooperate to the fullest extent possible with a view to the early repatriation of deceased EUPM personnel.

ARTICLE 14

Communications

1. EUPM may install and operate radio sending and receiving stations, as well as satellite systems, with the consent of the Host State. 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 to the frequency spectrum free of charge.
2. EUPM shall enjoy the right to unrestricted communication by radio (including satellite, mobile and hand-held radio), telephone, the internet, telegraph, facsimile and other means, as well as the right to install the equipment necessary for the maintenance of such communications within and between EUPM facilities, including the laying of cables and land lines, for the purpose of EUPM.
3. Within its facilities EUPM may make the necessary arrangements for the conveyance of mail addressed to and from EUPM and/or EUPM personnel.

ARTICLE 15

Claims for death, injury, damage and loss

1. EUPM, EUPM personnel, the EU and the 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 the protection of EUPM.

2. With a view to reaching an amicable settlement, claims for damage to, or loss of, civilian or government property not covered by paragraph 1, as well as claims for death of, or injury to, persons and claims for damage to, or loss of EUPM property, shall be forwarded to EUPM via the competent authorities of the Host State, with regard to claims brought by a legal or natural person from the Host State, and to the competent authorities of the Host State, with regard to claims brought by EUPM.

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 EUPM 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 dispute shall be settled by diplomatic means between the Host State and EU representatives for claims up to and including EUR 40 000. For claims exceeding that amount, the dispute shall be submitted to an arbitration tribunal, whose decisions shall be binding.

5. The arbitration tribunal referred to in paragraph 4 shall be composed of three arbitrators, one being appointed by the Host State, one being appointed by EUPM and the third being appointed jointly by the Host State and EUPM. 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 EUPM on the appointment of the third arbitrator, the arbitrator in question shall be appointed by the President of the Court of Justice of the European Union.

6. An administrative arrangement shall be concluded between EUPM 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 procedure applicable within these bodies and the conditions under which claims are to be lodged.

ARTICLE 16

Liaison and disputes

1. All issues arising in connection with the application of this Agreement shall be examined jointly by representatives of EUPM 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 17

Other provisions

1. The Government of the Host State shall be responsible for the implementation and for the observance by the appropriate local authorities of the Host State of the privileges, immunities and rights of EUPM and of EUPM personnel as provided for in this Agreement.

2. Nothing in this Agreement is intended or may be construed so as to derogate from any rights that may attach to an EU Member State or to any other State contributing to EUPM under other agreements.

ARTICLE 18

Implementing arrangements

For the purpose 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 19

Application, entry into force and termination

1. This Agreement shall provisionally apply from the day it is signed by the Parties.
2. The Agreement shall enter into force on the first day of the month following the mutual notification by the Parties that their internal procedures to that effect have been completed. The notifications shall be addressed to the Secretary-General of the Council of the European Union, on the one hand, and to the Ministry of Foreign Affairs and European Integration of the Republic of Moldova, on the other hand.

3. This Agreement shall remain in force until the date of departure of the last EUPM personnel, as notified by EUPM.

4. However, this Agreement may be amended or terminated by written agreement between the Parties.

5. Termination of this Agreement shall not affect any rights or obligations arising out of the execution of this Agreement before such termination.

This Agreement is drawn up in duplicate in the Romanian and English languages, both texts being equally authentic. In case of differences of interpretation, the English text shall prevail.