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Translation
of GERMAN ORIGINAL dated 18 SEPTEMBER 1998
Only the German text shall be authentic

Headquarters Agreement

between

the Government of the Federal Republic of Germany

and

the European Central Bank

concerning the seat of the European Central Bank

TABLE OF CONTENTS

Article	Subject
	Preamble
1.	Definitions
2.	Inviolability of premises
3.	Inviolability of archives
4.	Inviolability of communication
5.	Protection of premises
6.	Protection against measures of constraint with regard to payment systems
7.	Direct taxes
8.	Indirect taxes
9.	Goods and services
10.	National regulations concerning capital market law
11.	Data protection
12.	Exemptions from customs and excise duties
13.	Register of employees, identity cards
14.	Work permit, residence permit, compulsory registration
15.	Non-applicability of German labour and social welfare law
16.	Eligibility to join statutory health insurance scheme
17.	Co-operation
18.	Flag and emblem

Article	Subject
19	Diplomatic privileges and immunities
20.	Consultations
21.	Settlement of disputes
22.	Entry into force, duration

The Government of the Federal Republic of Germany

and

the European Central Bank –

having regard to the provisions of Articles 105, 106 and 107 of the Treaty establishing the European Community,

having regard to the provisions of Articles 37 and 40 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank,

having regard to the provisions of Article 23 of the Protocol on the privileges and immunities of the European Communities,

whereas the governments of the Member States at the level of Heads of State or Government have decided by common agreement on 29 October 1993 that the European Central Bank be established in Frankfurt in the Federal Republic of Germany,

desiring to define the privileges and immunities of the European Central Bank in the Federal Republic of Germany as laid down in the Protocol on the privileges and immunities of the European Communities,

in view of the necessity of putting the European Central Bank in the Federal Republic of Germany in a position to achieve its objectives and perform its tasks fully and effectively,

have agreed as follows:

Article 1

Definitions

1. "Appropriate authorities" means the competent authorities in accordance with the legislative provisions of the Federal Republic of Germany.

2. "ECB" means the European Central Bank.

3. “Treaty” means the version dated 7 February 1992 of the Treaty establishing the European Community.
4. “Protocol” means the version dated 7 February 1992 of the Protocol on the privileges and immunities of the European Communities annexed to the Treaty on establishing a Single Council and a Single Commission of the European Communities.

5. “ESCB Statute” means the Protocol on the Statute of the European System of Central Banks and of the European Central Bank.

6. “Government” means the Government of the Federal Republic of Germany.

7. “President” means the President of the ECB as appointed in accordance with the provisions of Article 109a (2) (b), and Article 109l (1) of the Treaty and Articles 11 and 50 of the ESCB Statute.

8. “Members of the Executive Board” means the President and the Vice-President of the ECB and the other members appointed to the Executive Board of the ECB in accordance with Article 109a (2) (b), and Article 109l (1) of the Treaty and Articles 11 and 50 of the ESCB Statute.

9. “Employees” means employees of the ECB within the meaning of Article 4c of Council Regulation No. 549/69 dated 25 March 1969 determining the categories of officials and other servants of the European Communities to whom the provisions of Article 12, the second paragraph of Article 13 and Article 14 of the Protocol on the privileges and immunities of the European Communities apply, as amended by Council Regulation (EC, ECSC, EURATOM) No. 1198/98 of 5 June 1998.

10. “Official” applies to all activities undertaken pursuant to the provisions of the Treaty and the ESCB Statute and all activities required to fulfil the ECB’s objectives and tasks under the Treaty and the Statute.

11. “Premises” means the land, buildings and parts of building, including access facilities, used for the official activities of the ECB.

Article 2

Inviolability of premises

1. The inviolability of premises mentioned in Article 1 of the Protocol shall be understood to mean the following:

   No official of the Government or person exercising any public authority, whether administrative, judicial, military, or police shall enter the premises of the ECB except with the consent of and under conditions approved by its President. In the event of an emergency such consent to take urgently required protective measures shall be deemed to have been given.

2. Without prejudice to paragraph 1. above, documents relating to administrative and legal proceedings may be served at the premises of the ECB.

Article 3

Inviolability of archives

The inviolability of archives as laid down in Article 2 of the Protocol applies in particular to all records, correspondence, documents, manuscripts, photographs, films, sound recordings, computer programs and tapes or discs belonging to or held by the ECB, and to all information contained therein, irrespective of its location.

Article 4

Inviolability of communication

The ECB’s official communication and official correspondence shall be inviolable. The Government is committed to safeguarding this inviolability by taking appropriate measures.

Article 5

Protection of premises

1. It is the Government's duty to protect the premises of the ECB against any intrusion or damage and any other impairment of its operations by taking appropriate measures.

2. The ECB may deploy armed personnel within its premises. For the purpose of protecting members of the Executive Board, employees or guests of the ECB who are at serious risk owing to the nature of their official capacity or activity, the ECB may also deploy armed personnel outside its premises. Applications made by the ECB in this regard will be adjudged by the competent German authorities according to German legislative provisions. Firearms may be used solely in self-defence and other cases of "necessity" (legally excusable or justifiable unlawful act).

Article 6

Protection against measures of constraint with regard to payment systems

Protection against administrative or legal measures of constraint pursuant to Article 1 of the Protocol also applies to funds or records of transactions which are held with the ECB for the purpose of settlement in the context of payment systems.

Article 7

Direct taxes

1. In application of Article 3, paragraph 1, of the Protocol, the ECB, its assets, revenues and other property shall be exempt from all direct taxes.

2. Motor vehicles which are used exclusively for the official activities of the ECB may be exempt from motor vehicle tax on application.

3. The ECB, within the context of its official activities, is exempt from the obligation to pay, withhold or collect taxes from third parties and from any reporting obligations in connection with the levying of taxes.

4. No exemption shall be granted in respect of taxes and dues which amount merely to charges for public utility services.

Article 8

Indirect taxes

1. In application of Article 3, paragraph 2, of the Protocol, the Federal Finance Office shall refund, on application, using revenue from turnover tax, the amount of turnover tax for which the individual enterprises have invoiced the ECB for goods supplied or services rendered to the ECB, provided such goods and services are intended for the ECB's official use. However, the amount of tax owed for these goods and services must exceed DEM 50 and the ECB must have paid the amount due to the enterprises. If the amount of tax refunded is subsequently reduced, the ECB shall notify the Federal Finance Office accordingly and refund the amount of the reduction.

2. Furthermore, in application of Article 3, paragraph 2, of the Protocol, the Federal Finance Office shall reimburse, at the request of the ECB, the mineral oil tax included in the price of petrol, diesel and heating oil, if the latter is intended for the official use of the ECB and the amount of tax due exceeds DEM 50 in each case.

Article 9

Goods and services

1. If an article purchased or imported by the ECB for its official use in respect of which relief from turnover tax or importation turnover tax has been granted pursuant to Article 3, paragraph 2, or Article 4 of the Protocol is disposed of, hired out, loaned or transferred, whether or not in return for payment, the amount of the turnover tax or importation turnover tax corresponding to the selling price, or - in the case of disposal, hiring out, lending or transfer free of charge - the amount of such tax corresponding to the current market value of the article shall be paid to the Federal Finance Office. To simplify matters, the amount of tax due may be determined on the basis of the tax rate applicable on the date of the sale, disposal, hiring out, lending or transfer of the article in question.

2. Goods imported free of duty by the ECB under the conditions laid down in Article 4 of the Protocol may not be disposed of, hired out, loaned or transferred, whether or not in return for payment, unless the competent customs office has been notified thereof beforehand and the relevant duties have been paid. The duties payable shall be calculated on the basis of the current market value of the goods.

3. In the event of the ECB trading in goods or rendering services over and above the activities mentioned in paragraph 1. above, such transactions shall be subject, in line with current German law, to turnover tax, without prejudice to the provisions of Article 23 of the Protocol.

Article 10

National regulations concerning capital market law

1. The ECB is not subject to any sovereign, functional financial supervision on the part of the German authorities and does not require any recognition from the German authorities as a collective security deposit bank.
2. The Government shall guarantee that the debt instruments issued by the ECB and included in its electronic debt register will be able to be used in banking business and stock exchange dealings and, furthermore, will have the same status as other comparable debt instruments of the Federal Government.

Article 11

Data protection

The Federal Data Protection Act shall not apply to the ECB.

Article 12

Exemptions from customs and excise duties

At the time of first taking up their post in the Federal Republic of Germany, members of the Executive Board and employees and family members forming part of their households shall be exempt from customs and excise duties and indirect taxes in respect of the import of their furniture and personal effects which are in their ownership or possession. Motor vehicles shall likewise be exempt, however this shall apply to customs and excise duties where a vehicle is imported from a third country only if it has been used there by the member of the Executive Board or employee for a period of at least six months prior to being imported. Such goods shall normally be imported within twelve months of the first entry of such persons into the Federal Republic of Germany; an extension of this period will, however, be granted where justified. If such persons on the termination of their duties re-export goods to which this paragraph applies, they shall be exempt from any duty or other charge which may be imposed by reason of such export (except for payment of services). The privileges referred to in this paragraph shall be subject to the conditions governing the disposal of goods imported into the

Federal Republic of Germany free of customs and excise duties and to the restrictions applied in the Federal Republic of Germany to all imports and exports.

Article 13

Register of employees, identity cards

1. The ECB shall inform the Government of the taking-up or termination of employment of all employees. Once a year the ECB shall send the Government a list of the names, addresses and nationalities of all its employees.

2. The Government shall issue to members of the Executive Board and employees and family members forming part of their households a personal identity card corresponding to their status, which may be used, in conjunction with a valid passport, to cross the borders without a visa into other Schengen Member States.

Article 14

Work permit, residence permit, compulsory registration

1. Members of the Executive Board and employees who carry out their duties in the Federal Republic of Germany, their spouses forming part of their households and children who are under twenty-one years of age or who are supported by the member of the Executive Board or the employee and form part of his/her household shall not require a work permit even if they are not nationals of a Member State of the European Union. Any other family members shall require the necessary permits on taking up employment.

2. The members of the Executive Board and employees, their spouses, children and other family members forming part of their households who have sufficient personal income or who are supported by the member of the Executive Board or the employee of the ECB shall not require a residence permit.

3. Members of the Executive Board who are not German nationals and all non-German family members forming part of their households shall not be subject to the general obligation to register pursuant to the registration laws of the state authorities.

Article 15

Non-applicability of German labour and social welfare law

Pursuant to Article 36 of the ESCB Statute, the conditions of employment of the members of the Executive Board and the employees of the ECB shall not be subject to either the substantive or the procedural labour and social welfare law of the Federal Republic of Germany.

Article 16

Eligibility to join statutory health insurance scheme

Members of the Executive Board and employees whose participation in the statutory health insurance scheme has ceased upon their taking up employment with the ECB or by their having been employed by the EMI, shall be eligible to join the statutory health insurance scheme, in application mutatis mutandis of Section 9, paragraph 1 (No. 5) of Vol. 5 of the code of social law, if they again take up employment within two months of the termination of their employment with the ECB. The health insurance scheme shall be notified of their joining within three months of their taking up employment.

Article 17

Co-operation

The ECB shall co-operate at all times with the competent German authorities in order to prevent any abuse of the privileges, exemptions, immunities and facilities provided for in this Agreement.

Article 18

Flag and emblem

The ECB shall have the right to display its flag and emblem on its premises and official vehicles.

Article 19

Diplomatic privileges and immunities

1. The members of the Executive Board shall enjoy the privileges, exemptions, immunities and facilities granted to all diplomats accredited by the Federal German Government in accordance with the Vienna Convention on Diplomatic Relations of 18 April 1961.

2. Family members forming part of the households of and supported by members of the Executive Board shall enjoy the same privileges, exemptions, immunities and facilities granted to the family members of diplomats accredited by the Federal German Government.

3. For German nationals or persons whose residence for tax purposes pursuant to Article 14 of the Protocol is in Germany, immunity from legal process and inviolability shall only be granted for the duties performed in the exercise of their official activities.

Article 20

Consultations

Consultations on the interpretation, application, modification or extension of this Agreement shall take place at the request of either party to the Agreement.

Article 21

Settlement of disputes

Any differences of opinion between the Government and the ECB concerning the interpretation or application of this Agreement which cannot be settled directly between the parties may be submitted in accordance with Article 35.4. of the ESCB Statute by either party to the European Court of Justice.

Article 22

Entry into force, duration

1. This Agreement shall enter into force once the Government has notified the ECB that the requisite internal prerequisites for the entry into force have been fulfilled. Articles 2 to 4, Article 5 paragraph 2, Articles 7 to 9, Article 10 paragraph 1, Articles 11 and 12, Article 13 paragraph 1, second sentence, Articles 14 to 17 and Article 21 shall enter into force on 1 June 1998 with retroactive effect.

2. Prior to the entry into force of this Agreement, its provisions, with the exception of Articles 4 and 6 and Article 14 paragraph 3, shall be provisionally applied once the requisite preconditions have been fulfilled. The Government shall notify the ECB in writing as soon as these have been fulfilled.[1]

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[1] In addition, the Federal Government, subject to the approval of the *Bundesrat*, shall issue an ordinance based on Article 3 of the Law of 22 June 1954 as amended by the Law of 16 August 1980. Pursuant to Article 22 paragraph 2 of this

3. This Agreement shall apply for as long as the Treaty, the Statute and the Protocol remain in force in the Federal Republic of Germany.

4. The Agreement of 12 September 1995 between the Government of the Federal Republic of Germany and the European Monetary Institute on the headquarters of the EMI shall cease to apply upon completion of the liquidation of the European Monetary Institute.

In witness whereof, the representatives, duly authorised thereto, have signed this Agreement.

Done at Frankfurt am Main on 18 September 1998 in two originals, both in the German language, both texts being equally binding.

For the European Central Bank

For the Government of the Federal Republic of Germany

Agreement, its provisions shall be applicable from the day on which the ordinance enters into force until the entry into force of the Agreement itself.