



**SUDAN PEOPLES' LIBERATION MOVEMENT**  
**GENERAL HEADQUARTERS**



**SPLM/SPLA POSITION**  
**ON**  
**NATIONAL SECURITY SERVICE REFORM**

**ADDIS ABABA, ETHIOPIA**

**AUGUST 28, 2014**

SPLM/SPLA© 2014

## **CHAPTER I:**

### **Article (1)**

#### **THE NATIONAL SECURITY SERVICE (NSS)**

##### **1. Restructuring NSS**

1.1.1 Dissolving and Restructuring NSS

1.1.2 All irregular police forces shall be regularized.

1.1.3 The NSS under the command of SPLM/SPLA and SSPS under GRSS shall be restructured and have a new command structure under the Federal government. The NSS shall be drawn from the ranks and files of NSS under SPLM/SPLA command, the present NSS under GRSS, as well as from civilians with appropriate background and experience.

1.1.4 The SPLM/SPLA police force shall constitute 60%, SSPS under GRSS 30% and 10% shall be new recruits

##### **1.2 Doctrine**

1.2.1 be subject to democratic and civil control;

1.2.2 be non-partisan;

1.2.3 respect the fundamental rights and dignity of all its members.

1.2.4 respect the fundamental human and people rights and the diversity of the people South Sudan

##### **1.3 Principles**

1.3.1 In executing its mission and functions, NSS personnel shall adhere to the following principles:-

1.3.1.1 perform its functions in accordance with the provisions of this agreement, the Transitional Federal Constitution and international law regulating the conduct of security personnel;

1.3.1.2 promote the highest standard of professionalism and discipline within its rank and file;

1.3.1.3 reflect the ethnic diversity and national character of the people of South Sudan.

## Article (2)

### **Establishment**

1. There shall be established a national security body to be known as the “National Security Service”.
2. This body shall be a national regular force working under the general supervision of the Secretary of National Security.
3. The Director General of the National Security Service shall directly be responsible for the administration of the body.

## Article (3)

### **Mission statement**

1. The National Security Service shall be charged with alerting the State competent bodies as to the occurrence or existence of imminent internal or external threat jeopardizing the country or any part thereof whether by way of war, invasion, siege, natural or environmental disaster or jeopardizing its economic situation, democratic system or social fabric, and shall see to restoring peace and tranquility among the citizens.
2. The service rendered by NSS shall be national and professional reflecting fair representation, diversity and multiplicity of South Sudan.

## Article (4)

### **Scope of Application**

The following shall be subject to the provisions of this Agreement:

1. NSS officers.
2. NSS NCOs and privates.
3. Any person appointed or seconded by virtue of the provisions of this Agreement.
4. Associates if the Director General decides so in accordance with the regulations.
5. Any other person accused of being involved with any other NSS member in committing a crime pursuant to the provisions of this Agreement.

## CHAPTER II

The National Security Council (NSC), the Technical Committee, States and Local Committees

## Article (5)

### **Establishment of the Council**

1. There shall be established a security council to be known as the National Security Council as follows:

- (a) The President of the Republic, Chairperson
  - (b) Vice President of the Republic, Deputy Chairperson
  - (c) Secretary of Defense, Member
  - (d) Secretary of Foreign Affairs, Member
  - (e) Secretary of Interior, Member
  - (f) Secretary of National Security, Member and Rapporteur
  - (g) Secretary of Justice, Member
  - (h) Secretary of Finance, Member
  - (i) Chairperson of the Joint Command Council, Member
  - (j) NSS Director General, Member
2. The Chairperson of the Council may invite any person to attend the Council meetings if this person has relation with the subject of the meeting, provided that such invitee may not vote in deciding any matter.

#### Article (6)

#### **Competences and Powers of the Council**

1. The Council shall approve the country national security strategies, plans and policies. It shall be charged with the coordination and general supervision of their progress in a manner that ensures security and stability of the country.
2. Without prejudice to the generality of Para (1) above, the National Security Council shall:
  - (a) Draw up the security policy of the country.
  - (b) Generally supervise progress of the security work.
  - (c) Coordinate between security bodies.
  - (d) Follow-up implementation of the security policy plans and receives reports in this respect.
  - (e) Adopt regulations organizing business of the Council and its Committees.

#### Article (7)

#### **Council Meetings**

1. The Council shall convene regular meetings four times a year.
2. The Chairperson of the Council may invite the Council to an extraordinary meeting at any time.
3. The Council Rapporteur shall set the Council meetings agenda in consultation with Chairperson of the Council.
4. The Council shall take its decisions by consensus.

## Article (8)

### **Council Rapporteur**

1. The Council Rapporteur shall be responsible for keeping the Council minutes, documents and administrative affairs.
2. The Council Rapporteur shall prepare a report on the Council performance once a year or whenever the Council Chairperson requires so and shall submit the same thereto.

### **Technical Security Committee**

## Article (9)

### **Committee Formation**

1. There shall be established a committee to assist the NSC and be known as the “the Technical Security Committee” as follows:
  - (a) NSS Director General, Chairperson
  - (b) NSS Deputy Director General, Deputy Chairperson
  - (c) Inspector General of Police, Member
  - (d) Director of Military Intelligence, Member
  - (e) Undersecretary of Justice, Member
  - (f) JPG Commander, Member
  - (g) One NSS officer, Member and Rapporteur

## Article (10)

### **Competences of the Technical Security Committee**

1. The Committee shall be competent to:
  - (a) Submit to the National Security Council, on the basis of the information available, proposals and recommendations on the events and situations related to South Sudan internal and external security.
  - (b) Draw, as early as possible, the National Security Council attention to direct or indirect threat be it political, military or economic.
  - (c) Coordinate security plans of the different competent security bodies.
  - (d) Study security plans presented by Security Committees and competent bodies and submit the same to the Council for approval, follow-up of their implementation and receiving reports in relation thereto.
  - (e) Coordinate between the businesses of the security committees in accordance with the security plans laid down by the Council.
2. The Committee shall submit its technical reports to the Council during its session.

## Article (11)

### **Meetings of the Technical Security Committee**

1. The Committee shall convene at an invitation from its Chairperson at the date and place specified by him/her.
2. Its Rapporteur shall be one of NSS officers selected by the Committee Chairperson.
3. The Committee may invite whoever it deems fit for attending its sessions.

## Article (12)

### **Establishment of the State Security Committee**

1. There shall be established in each state a Security Committee as follows:
  - (a) Governor, Chairperson
  - (b) Deputy Governor, Deputy Chairperson
  - (c) Advisor for Security Affairs, Member
  - (d) Minister of Local Government, Member
  - (e) Minister of Finance, Member
  - (f) Commander SSAF, Member
  - (g) Police Commissioner, Member
  - (h) Competent Prosecutor, Member
  - (i) Director of National Security, Member and Rapporteur

## Article (13)

### **Competences and Powers of the Security Committee in the State**

The State Security Committee shall:

1. Maintain security.
2. Coordinate between security bodies at the state level, as the case may be.
3. Receive reports from security committees in local government level.
4. Submit regular reports to the Technical Security Committee.
5. Perform any functions assigned thereto by the Council and Technical Security Committee.
6. The Committee shall have the right to form any technical taskforce in the state to assist it in performing its functions or implementing the tasks assigned thereto.

#### Article (14)

##### **Meetings of the State Security Committee**

1. The State Security Committee shall convene regular meetings.
2. The State Security Committee may invite whoever it deems fit to attend its sessions whenever it thinks appropriate.

#### Article (15)

##### **Formation of the Local Government Security Committee**

1. The Local Government Security Committee shall be formed as follows:
  - (a) The Commissioner/Mayor, Chairperson
  - (b) The Military Commander, Member
  - (c) The Police Director, Member
  - (d) The Competent Prosecutor in the Local Government level, Member
  - (e) Head of the Security Unit, Member and Rapporteur
2. In case of absence of head of security unit in the Local Government level, the Police Director shall be member and rapporteur.

#### Article (16)

##### **Competences of the Security Committee in the Local Government**

The Security Committee in the Local Government level shall:

1. Maintain security.
2. Coordinate between security bodies at this level.
3. Submit regular reports to the State Security Committee.
4. Any other tasks assigned thereto by the State Security Committee.

#### Article (17)

##### **Meetings of the Security Committee in the Local Government level**

1. The Committee shall convene regular meetings.
2. The Committee may invite whoever it deems fit to attend any of its sessions whenever it deems it appropriate.

## CHAPTER III

### NSS Powers, Competences and Members Ranks

#### Article (18)

##### **NSS Competences**

NSS shall:

1. Maintain South Sudan national security, safeguard the Constitution and maintain social fabric and safety of its people from any internal or external threat.
2. Collect information pertaining to internal or external security of the country, analyze and assess same, and make recommendation on the necessary preventive measures to be taken.
3. Conduct necessary search and investigation to detect any situation, facts, activities or elements that would jeopardize the national security of the country and its integrity in accordance with the provisions of this Agreement.
4. Provide opinion, advise, consultation and services in matters pertaining to security and intelligence to the different bodies in the country to ensure its security and integrity.
5. Detect threats emanating from destructive activities of espionage, terrorism, extremism, conspiracy and sabotage.
6. Detect and control activities of sabotage exercised by organizations, groups, individuals, foreign countries or South Sudanese groups in the country or abroad.
7. Cooperate with similar or friendly bodies in exchange of information and control of terrorism and acts threatening common security and order as well as in issues pertaining to external security.
8. Protect VIPs and public utilities and ensure security of cities and towns in coordination with the other regular forces.
9. Any other competences assigned thereto by the President of the Republic or the Vice President.

#### Article (19)

##### **Powers of the Council**

The Council shall exercise the following powers in accordance with the law:

1. Demand information, data, documents or things from any person with a view to examining or keeping them or otherwise take whatever NSS thinks appropriate or necessary.
2. Summon and interrogate people and take statements therefrom.
3. Monitoring, investigation and search.
4. Seize moneys and assets in accordance with law.



5. Arrest and detain individuals in accordance with the provision of Article (44) of this Agreement.

#### Article (20)

#### **Ranks of Members**

1. Ranks of NSS officers shall be as follows:

- (a) General.
- (b) Lieutenant General.
- (c) Major General.
- (d) Brigadier.
- (e) Colonel.
- (f) Lieutenant Colonel.
- (g) Major.
- (h) Captain.
- (i) First Lieutenant.
- (j) Lieutenant.

2. NSS other ranks shall be as follows:

- (a) Warrant Officer.
- (b) Sergeant-major.
- (c) Sergeant.
- (d) Corporal.
- (e) Lance-corporal.
- (f) Private.

## CHAPTER IV

### NSS Administration

#### Article (21)

##### **Appointment and Competences of the Director General**

1. During the pre-transitional and transitional period, the Principals shall agree to appoint the Director General and determine his/her remunerations and privileges.
2. The President of the Republic, upon consultation with the Secretary of National Security shall appoint NSS Director General and determine his/her remunerations and privileges.
3. The Director General shall have the following functions:
  - (a) Running all executive, technical and administrative affairs pertaining to NSS or its members and he/she shall have, to that end, the power to issue directives, orders and decisions necessary for the organization of NSS and businesses thereof.
  - (b) Securing the system of NSS operations, ensuring its development and improvement of its performance.
  - (c) Representing NSS and fostering its relations with other entities.
  - (d) Submitting regular and emergency reports and recommendations to the Secretary.
4. The Director General shall report to the Secretary on the implementation of his/her competences and performance of NSS.

#### Article (22)

##### **Appointment and Competences of the Deputy Director General**

1. During the pre-transitional and transitional period, the Principals shall agree to appoint the Deputy Director General and determine his/her remunerations and privileges.
  2. The President of the Republic, upon consultation with the Secretary of National Security shall appoint NSS Deputy Director General and determine his/her remunerations and privileges.
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2. The Deputy Director General shall have the following competences:
    - (a) Assuming competences and powers of the Director General provided for in this Agreement during his/her absence.
    - (b) Exercising the powers and competences bestowed upon him/her by virtue of the provisions of this Agreement or whatsoever assigned to him/her by the Director General.
    - (c) Assisting the Director General in running NSS and monitoring its performance.

#### Article (23)

##### **Appointment of Directors**

1. During the pre-transitional and transitional period, the Principals shall agree to appoint the Directors and determine their remunerations and privileges.
2. The President of the Republic, upon consultation with the Secretary of National Security shall appoint NSS Director and determine their remunerations and privileges.
3. The Director General in consultation with his/her Deputy shall determine the competences of the Directors.
4. The Directors shall assist the Director General and his/her Deputy in running NSS.

#### Article (24)

Consistence and Consultation with regard to NSS Command NSS Director General, his/her Deputy and Directors shall, in their capacity as NSS leaders, run NSS and perform their functions as provided for in this Agreement with a spirit of comradeship, consistence and consultation.

#### Article (25)

##### **Appointment of Staff and their Competences**

The Director General shall appoint the staff in accordance with NSS approved organizational and professional hierarchy. Regulations shall specify their competences.

#### Article (26)

##### **Requirements for Appointment of Members**

Any person to be appointed in NSS shall:

1. be a South Sudanese.
2. be fully eligible.
3. be known of his/her integrity, honesty, good conduct and reputation.
4. have not been convicted for committing a crime of turpitude or honesty.
5. Meet the medical and educational requirements.

#### Article (27)

##### **Appointment of Officers and Other Ranks**

1. During the pre-transitional and transitional period, the Principals shall agree to appoint officers in accordance with the provisions of this Agreement.

2. The President of the Republic, upon consultation with the Secretary of National Security shall appoint officers in accordance with the provisions of this Agreement and regulations and orders issued thereunder.
3. The Director General shall appoint qualified persons to fill vacancies of other ranks pursuant to the provisions of this Agreement and regulations and orders issued thereunder.
4. There shall not be deemed appointed in accordance with the provisions of Paragraphs (1), (2) and (3) above any person who receives moneys from NSS without having met the requirements of appointment in accordance with the provisions of Article (26) of this Agreement.

#### Article (28)

##### **Oath**

1. The Director General, his/her Deputy and Directors shall take, upon appointment, the oath appended to this Agreement before the President.
2. NSS commissioned officers shall take the same oath before the President of the Republic.
3. Other members shall take the same oath before the Director General.

#### Article (29)

##### **Appointment & Retention of Officers in Service**

1. New officers shall be appointed for a period of two probationary years starting from the date of issuance of the appointment decision. The Director General may:
  - (a) Reduce the probation period stipulated in Para (1) above by not more than one year; provided that the officer concerned has a previous similar service with good conduct, a distinguished academic qualification or an outstanding performance.
  - (b) Dismiss the officer concerned if he proves unfit to work for NSS.
2. Any officer who successfully completes the probation period mentioned in Para (1) shall be retained in the permanent NSS service.

#### Article (30)

##### **Secondment**

1. The Director General may second any:
  - (a) Person to work for NSS, with the consent of the seconded person and his/her mother employer, for two renewable years, after which the seconded person may choose to be permanently transferred to NSS or else return to his/her mother employer.
  - (b) NSS member to work for any other entity in accordance with the regulations.

2. The person seconded to work for NSS shall be considered, during secondment period, a member of NSS and shall have all rights and obligations of regular NSS members in his/her rank.
3. Notwithstanding the provisions of Para (1), the Director General may terminate secondment of any person if the interest of work in NSS requires so. The Director General shall, in this case, notify that person and his/her mother employer thirty days before the date of termination of secondment unless there are reasons justifying immediate termination.

#### Article (31)

##### **Recruitment of Persons as Associates**

1. The Director General may recruit any person to work with NSS as associate in accordance with the requirements specified by him/her and the regulations issued pursuant to the provisions of this Agreement.
2. The Director General may terminate services of any associate at any time. He/she shall immediately notify that associate and take measures necessary for terminating his/her services.

#### Article (32)

##### **Transfer of Members**

1. The President of the Republic or his/her Deputy may, upon a consultation with the Secretary of National Security on recommendation of the Director General, permanently transfer any NSS member to any of the other regular forces or any of the public service institutions.
2. The President of the Republic or his/her Deputy may upon a consultation with the Secretary of National Security on recommendation of the Director General, transfer any of the employees of any other regular forces or any public service institution to NSS.

#### Article (33)

##### **Seniority**

The Director General shall keep the members seniority lists in the manner specified by the regulations and ensuring confidentiality thereof and rights of the members.

#### Article (34)

##### **Salaries, Remunerations and Privileges**

1. Financial Regulations shall determine salaries, remunerations and privileges of members in accordance with the following:
  - (a) Members' salaries, and wages structure and salary grades.
  - (b) Remunerations, privileges, increments and allowances and conditions for approving and granting thereof in accordance with the approved budget of NSS.
2. The Director General shall approve regular increments for officers and other ranks.
3. No salaries, wages or other entitlements such as increments, allowances, remunerations and privileges of members may be seized or deducted unless for paying debts owed to government or in executing a ruling issued by a competent court provided that seized or deducted amount shall not exceed one quarter of the pay.

#### Article (35)

##### **Training**

Regulations shall determine the bases, principles, plans and standards of training programs for NSS members.

#### Article (36)

##### **Promotions**

1. Regulations shall determine conditions for selection of members to be promoted and modalities thereof.
2. Promotion of members shall be approved by a decision issued by the President of the Republic upon consultation with the Secretary of National Security on recommendation of the Director General.
3. Promotion of other ranks shall be approved by a decision issued by the Secretary on recommendation of the Director General.

#### Article (37)

##### **Referral to Provisional Retirement**

1. The Director General may refer any officer to provisional retirement for a period not exceeding one year for any of the following reasons:
  - (a) If performance of his/her duties is unsatisfactory.
  - (b) If a medical committee decided that he/she is unfit for service or has disability affecting his/her performance.
2. The Director General shall, before the end of the period of provisional retirement set forth in Para (1), form a committee to investigate reasons of referring the officer

concerned to provisional retirement and submit recommendation to return that officer to service or retire him/her on pension.

3. Pursuant to Para (1), the officer referred to provisional retirement shall commit himself/herself to the following:
  - (a) Provisions of this Agreement and regulations and orders issued thereunder.
  - (b) Inform his/her supervisor in writing of his/her residence and any change thereof.

#### Article (38)

##### **Effect of Referral to Provisional Retirement**

Notwithstanding referral of officer to provisional retirement in accordance with Article (41):

- (a) He/she shall be paid 2/3 of his/her salary subject to pension deduction.
- (b) The period of provisional retirement shall be calculated as part of his/her effective period of service.
- (c) The Director General may order, upon a recommendation from the investigation committee formed under Article (37), that the officer continue in service or submit recommendation to the President of the Republic after consultation with Secretary of National Security to retire him/her on pension.

#### Article (39)

##### **Suspension from Service**

1. If a charge is made against a member for violating provisions of this Agreement or criminal procedures are initiated against him/her, the Director General may issue an order in writing to suspend his/her service, if the interest of work requires so. The Suspension shall exclusively be the powers of the Director General, in case of officers of the rank lieutenant Colonel and above. The concerned member shall be informed of reasons of suspension.
2. In case the suspension order is related to the Director General or his/her Deputy, the order shall be issued by the President of the Republic after consultation with the Secretary of National Security.
3. If the suspension order is issued in accordance with Para (1) for some reason other than initiating criminal procedures against the concerned member, the Director General shall form a committee to interrogate the suspended member on the charge(s) made against him/her. The Director General shall decide on the case in question based on said interrogation; either to initiate criminal procedures against him/her in accordance with the provisions of this Agreement or to drop the order.
4. Regulations shall specify the manner of suspension set forth in Para (1) above.

#### Article (40)

##### **Grievance and Complaint**

Any member may file his/her grievance or complaint to his/her immediate senior officer pursuant to the regulations.

#### Article (41)

##### **End of Service**

The service of an officer shall be terminated by a decision issued by the President of the Republic upon consultation with the Secretary of National Security on recommendation of the Director General for any of the following reasons:

- (a) Attaining the age of retirement;
- (b) Acceptance of resignation;
- (c) Filling a constitutional position;
- (d) Dismissal from service if his/her service in NSS becomes undesired;
- (e) Loss of one of the requirements of eligibility or appointment;
- (f) Issuance of a ruling by NSS Court on his/her dismissal;
- (g) Issuance of imprisonment order by a court;
- (h) His/her death or martyrdom.

The service of other ranks shall be terminated by a decision issued by the Director General after consultation with the Secretary for any of the following reasons:

- (a) Attaining the age of retirement;
- (b) Terminating his/her contract of service.
- (c) Filling a constitutional position;
- (d) Loss of one of the requirements of eligibility or appointment;
- (e) Issuance of a court ruling on sentence of imprisonment against him/her.
- (f) Acceptance of resignation;
- (g) Dismissal from service if his/her service in NSS becomes undesired;
- (h) His/her death or martyrdom.
- (i) Issuance of a ruling by NSS court on his dismissal.

#### Article (42)

##### **After-service Benefits**

There shall be an NSS Pension Agreement.



## Article (43)

### **NSS Members Duties**

#### 1. An NSS member has to:

- (a) Devote all his/her time and effort to perform the duties provided for in this Agreement and the regulations and orders issued thereunder; perform, in person, meticulously and honestly, any duty or work assigned to him/her, and be responsible for any orders he/she issues; obey, at all times, within the limits of his/her duties, any lawful order issued to him/her by a senior officer; and do his/her best to execute the same.
- (b) Set an example for others through his/her behavior and good conduct and always be guided by the fear of God in work, maintain the dignity of his/her career and act with the respect required by the job.
- (c) Render himself/herself on duty 24 hours a day; and reside inside his/her station, only to be outside of it for reasons agreed upon by the Director General.
- (d) Maintain the human dignity, honor and fundamental freedoms and refrain from prosecuting acts.
- (e) Respect the diversity of South Sudan.

#### **No member may:**

- (a) Keep for himself any original of an official document or a copy thereof, or remove that original or copy from files entrusted into him/her even if the document concerns a work assigned to him/her.
- (b) Disclose any information or matters that are, by their very nature, confidential, or deemed so in accordance with special instructions, unless he/she is authorized to do so.

## Article (44)

### **Powers of the Members, Director General and Council**

- 1. Pursuant to the Transitional Federal Constitution, 2014, each and every member shall, by virtue of an order issued by the Director General, and for the purpose of executing the competences set forth in this Agreement, have the following powers:
  - (a) Any of the powers provided for in Article (19).
  - (b) Search after obtaining an order issued by the Director General in writing.
  - (c) Powers of a policeman as provided for in the Police Forces Acts and the Criminal Procedures Acts.
  - (d) Exercise any lawful powers necessary for execution of the provisions of this Agreement.
  - (e) Arrest or detain any suspected person for a period not exceeding 24 hours provided that his/her relatives are immediately informed.

- (f) After elapse of the 24 hours mentioned in Para (e) above, and if there are reasons that require more investigation, enquiry and maintaining the detained person in custody, NSS member shall refer the issue to the Director General and make the recommendations he deems appropriate.
  - (g) The Director General may renew the detention period for not more than three days with the purpose of completing investigation and enquiry and with approval of a competent court.
  - (h) If it comes to the knowledge of the Director General that maintaining any person in custody is necessary for completion of investigation and enquiry in case of an accusation related to a factor threatening the security and safety of the people; intimidating society by way of armed robbery, racial, religious sedition or terrorism; disrupting peace; exercising political violence; or plotting against the country, he/she shall refer the issue to the Council which may extend the detention period for not more than one month with the approval of a competent court.
  - (i) Without prejudice to paragraphs (f), (g) and (h), NSS authorities shall inform the competent prosecutor and hand over the suspect and all documents and appendices thereof in order to complete the procedures. In case of absence of initial evidence, NSS shall release the suspect.
- 2. For the purposes of this Article, NSS shall take into account provisions on Bill of Rights as in the Transitional Federal Constitution, 2014.
  - 3. The Director General may issue standing orders to organize exercise of the powers set forth in Para (1) above.

#### Article (45)

##### **The rights of arrested, detainee and person in custody**

- 1. Upon arresting, detaining or putting a person in custody, he/she shall be informed of the reasons why he/she is arrested, detained or put in custody.
- 2. The arrested, detainee or person in custody shall have the right to inform his/her family or mother employer of his/her detention and shall be allowed to communicate with his/her family or advocate if this does not prejudice the progress of interrogation, enquiry and investigation.
- 3. The arrested, detainee or person in custody shall be treated in a manner safeguarding his/her dignity and he/she shall not be physically or morally hurt. Regulations shall organize the manner of keeping and handing over his/her belongings.
- 4. Detainee shall have the right to obtain an additional portion of food and cultural items and clothes at his/her own expense subject to security situation and order in detention facilities.
- 5. Women detainees shall be placed only in detention facilities allocated for them. They shall be treated in a manner that is commensurate with their status as females.
- 6. A detainee's family shall be allowed to visit him/her in accordance with the regulations.

7. A detainee shall have the right to medical care.
8. The competent Prosecutor shall continuously search the detention facilities in order to ensure compliance with the detention regulations and receive any complaint from the detainees in this respect.
9. Regulations shall determine the conditions that must be fulfilled in detention facilities and the regulations and issues ensuring safeguard of the detainees' dignity.
10. A detainee shall have the right to resort to court if kept in custody or detention more than the period specified in Article (48) of this Agreement.

#### Article (46)

#### **Immunities of Members and Associates**

Members and associates shall have the following immunities:

1. There shall not be deemed a crime, an act done by any NSS member in good intention while or by reason of performing his/her functions or any duty assigned thereto or any act he/she did as part of any power bestowed on him/her pursuant to this Agreement or any other applicable Agreement, regulation or orders issued thereunder, provided that this Agreement is within the limits of the works and duties assigned thereto in accordance with the powers bestowed thereon pursuant to this Agreement.
2. No member or associate may be forced to provide any information on NSS' conditions, activities or works that he/she has obtained while performing his/her duties unless by virtue of a court decision.
3. Without prejudice to the provisions of this Agreement and any right to claiming compensation against NSS, no civil or criminal procedures may be brought against a member or associate unless upon the approval of the Director General. The Director General shall give such approval whenever it appears that the subject of such accountability is not related to official business, provided that the trial of any staff or associates shall be before a closed criminal court, during their service or after its termination, with regards to acts committed by them.
4. Subject to the provisions of Article (40) of this Agreement, and without prejudice to any right to claiming compensation against NSS, no civil or criminal procedures may be brought against a member as a result of an act associated with the official duty of the member unless upon the approval of the Director General. The Director General shall give such approval whenever it appears that the subject of such accountability is not related to NSS official business.

- (a) Any trial, in relation to acts he/she commits in connection with his/her official duty, before an ordinary court of any member during service or after termination thereof shall be closed unless the court decides otherwise.
- (b) Associates shall enjoy the same immunities provided for in this Article.

#### Article (47)

### **Prohibition of seizure**

NSS premises or movable assets may not be seized unless by virtue of a court decision.

## CHAPTER (V)

### Crimes and punishments, contraventions and penalties

### **Crimes and Punishments**

#### Article (48)

Applicability of the Provisions of the Criminal Agreement on Members

1. If a member commits a crime in violation of the provisions of this Agreement, where such a crime is also considered a crime pursuant to the provisions of the Criminal Agreement in force, such a member shall be punished under the provisions of this Agreement; provided that the Director General may, for objective reasons, refer the case to the competent court.
2. Without prejudice to the provisions of Para (1), provisions of other laws in force shall apply to members in case they commit any crime in violation of such laws, where such crimes are not provided for in this Agreement.

#### Article (49)

### **Punishments of Crimes in Relation to the Enemy**

1. There shall be sentenced to death or life imprisonment, any member who:
  - (a) abandon or dishonorably surrender any post, center or place of guard he/she has a duty to defend;
  - (b) drop or surrender dishonorably his/her weapon, ammunition, machineries or equipment in the presence of the enemy.
  - (c) convey to the enemy, directly or indirectly, any news pertaining to the country security, or assist the enemy directly or indirectly to access such information.
2. neglect to immediately report to his/her superior or any other officer what he/she comes to know of act, correspondence or contacts carried out, directly or indirectly, by any person with the enemy.

3. For the purposes of this Article, an enemy is a natural or corporate person who is in a state of war against the country, threatens its security or carries out acts of sabotage or terrorism against the State.

#### Article (50)

##### **Punishment of Crimes of Conspiracy and Mutiny**

1. There shall be punished with death or life imprisonment any NSS member who:
  - (a) Attempts to conspire, in association with any other members, to mutiny, incite or cause the same or participate therein.
  - (b) Be witness to any mutiny and fails to exert all efforts to stop it.
  - (c) Fails to report when he/she knows or has reason to believe that there is a mutiny or an attempt to mutiny or conspiracy against the legitimate constitutional government of the country.

#### Article (51)

##### **Punishment of Jeopardizing the Internal or External Security of the Country or NSS**

There shall be punished with death or life imprisonment any NSS member who intentionally commits any act or omission intending to jeopardize the internal or external security of the country or NSS.

#### Article (52)

##### **Punishment of Neglect of Duty**

There shall be punished with imprisonment for a period not exceeding ten years, a fine, or both punishments, any NSS member who:

- (a) Fails to immediately report to his superior or to any other senior officer any information brought to his/her knowledge relating to the competences of NSS.
- (b) Grossly neglects his duty or overlooks any of the duties provided for in this Agreement.

#### Article (53)

##### **Abuse of Power and Position**

There shall be punished with imprisonment for a period not exceeding ten years, a fine, or both punishments, any NSS member, who abuses the powers conferred on him/her pursuant to the provisions of this Agreement, abuse his/her position in NSS to obtain material or moral benefit for him/her or for others, or cause harm to others.

#### Article (54)

##### **Punishment of Obtaining Illegitimate Gains and Making False Statements**

There shall be punished with imprisonment for a period not exceeding ten years, a fine, or both punishments, each member who commits any of the following acts:

- (a) obtain, for themselves or others, an allowance, pension, benefit or privilege by giving false statement he/she believes to be incorrect.
- (b) deliberately present to any person or competent authority a false statement or report on the number of members under his/her command or charge, or on their situation, or on amount of money, equipment, supplies, machineries, tools, clothes or personal weapons in his/her responsibility, whether such money, clothes, equipment or personal weapons belong to such members, NSS or any person attached thereto; or deliberately refrain from or refuse to submit a statement or report on any of the above mentioned.

#### Article (55)

##### **Punishment for Accepting Benefits or Illegitimate Remuneration**

There shall be punished with imprisonment for a period not exceeding five years, a fine, or both punishments each member who accepts, directly or indirectly, any benefit or remuneration for themselves or others; or obtain such benefit or remuneration or agree thereto, in exchange for recruiting any person in NSS, or to act leniently in accepting any equipment, supplies, weapons or ammunition for a department under his/her responsibility.

#### Article (56)

##### **Punishment for Disposing of Weapons, Ammunitions and other Supplies**

There shall be punished with imprisonment for a period not exceeding ten years, a fine, or both punishments, any NSS member who unlawfully disposes of or authorizes others to dispose of weapons, ammunitions, tools, supplies, equipment, machineries, or clothes given to him/her for using them to perform his/her duty, or to be kept under his/her responsibility, trust or guard.

#### Article (57)

##### **Punishment for Financial Crimes**

There shall be punished with imprisonment for a period not exceeding ten years, a fine or both punishments, any member who:

- (a) misappropriates, with bad intention, converts for his own interest any funds, tools, supplies or equipment under his/her trust.

- (b) receives any money and property, tools, supplies or equipment with the intention of keeping same for himself/herself.
- (c) misappropriates any properties which have been subject of a crime or keeps same while he/she knows or has a reason to believe that it is so.
- (d) causes damage or destruction to any of the properties belonging to NSS, either intentionally or by negligence, disposes of same by transferring ownership or loses them.

#### Article (58)

##### **Punishment for Crimes related to Guard**

1. Any member or individual who commits any of the following acts shall be inflicted with the same punishment for the crime for which he/she has been arrested:
  - (a) Declines to hand over any arrested or detained member or individual whose guard has been entrusted to him, while performing the guard duty, for any official entity authorized by law to receive him/her.
  - (b) Releases any member or individual under his guard without any order authorizing so, or enables, by negligence, that member or individual to escape.
2. There shall be punished with imprisonment for a period not exceeding five years any member who escapes from custody.

#### Article (59)

##### **Punishment for Conduct Violating Discipline**

There shall be punished with imprisonment for a term not exceeding five years, any member who commits any act that is deemed in violation of discipline in accordance with the provisions of the regulations and orders issued under this Agreement.

#### Article (60)

##### **False Accusation and Statements**

There shall be punished with imprisonment for a term not exceeding five years any member who:

- (a) Makes any false accusation against any other member.
- (b) Makes, with bad intention, when filing any complaint, false statements with respect to any incident or attitude relating to any other member or person or intentionally refrains from providing essential information in this respect.

#### Article (61)

##### **Deserting Service**

1. There shall be punished with imprisonment for a term not exceeding five years, with a fine or both punishments, any member who deserts service, provided that this penalty in addition to any penalty to which he/she is subject to under this Agreement.
2. For the purposes of Para (1), there shall be deemed deserter from service any member who absents himself from his/her place of work or does not report to work after elapse of his/her leave, without reasonable excuse, if his/her absence exceeds twenty one days.

#### Article (62)

##### **Punishment of NSS Member after Leaving the Service**

1. There shall be sentenced to death or life imprisonment any member referred to retirement or leaves NSS service for whatsoever reason if he/she discloses NSS confidential information to the enemy or communicates information relating to NSS that has come to his/her knowledge during his/her service therein or as a result thereof.
2. There shall be punished with imprisonment for a term not exceeding ten years, with a fine, or both punishments, any member who is subject to the provisions of Para (1) if he/she discloses confidential information or communicates the information mentioned in that paragraph to any person.
3. Any person who, after leaving service with NSS, impersonates NSS member shall be punished with imprisonment for a term not exceeding five years.

#### Article (63)

##### **Use of Criminal Force against Superiors and Ill-treatment of Subordinates**

There shall be punished with imprisonment for a term not exceeding three years, a fine or both punishments any member who uses force against:

- (a) his/her superior, assaults or attempts to assault the same, while in service or otherwise, knowing or has reason to believe that he/she is his/her superior.
- (b) any of his/her subordinates, assaults or attempts to assault him/her.



#### Article (64)

##### **Punishments for crimes related to NSS Court**

There shall be punished with imprisonment for a term not exceeding two year or a fine, any member who:

- (a) deliberately refuses to appear before court after being officially summoned to give testimony, refuses to give testimony under oath or refuses to make a statement, answer any question, bring any document or otherwise or hand over same when asked to do so.
- (b) gives false testimony under oath as witness, or when examined before NSS court or any other court competent to make them testify or be examined under oath, knowing that statement is incorrect or having reason to believe so.
- (c) deliberately makes an insult in NSS Court while in session, causes any disturbance, uses any term, make any sign or signal within courtroom that can be interpreted as threat, disrespect, violence or disobedience before court.

#### Article (65)

##### **Penalty for indecent and inappropriate conduct**

There shall be punished with dismissal or fine any member who behaves indecently and contrary to the dignity and respect of his/her job.

#### Article (66)

##### **Punishment of instigating and coercing other to commit crimes**

Any member who instigates any other member or force them to commit any of the crimes provided for in this Agreement shall be subject to same penalty set for the crime they urged any other members or coerced them to commit.

#### Article (67)

##### **Violations and penalties**

###### **Violations**

1. Any member who commits any of the following acts shall be deemed to have committed a violation and shall be punished with the penalties provided for in Article (68) herein:
  - (a) Belated themselves from work, service or attendance that they know about.

- (b) Do not perform his/her duties in the best possible manner.
  - (c) Abandon his/her duty station without permission.
  - (d) Give false information about any duty or job assigned to them.
  - (e) Reluctant to obey an order.
  - (f) Neglect to comply with any standing order issued in pursuance with this Agreement.
  - (g) Fail to respect discipline.
  - (h) Destroy by way of negligence, money, tools, supplies, equipment, machineries, or clothes under his/her trust or utilized by NSS, cause damage or loss of same in the same manner.
  - (i) Pretend to be ill or intentionally extend the treatment period.
2. There shall deemed to have committed a violation and thus shall be inflicted with penalty as a result of committing the same pursuant to the provisions of Article (68) any member who instigates or coerces any other member to commit any of the violations specified in Para (1) above.

#### Article (68)

##### **Penalties**

Any member who commits any of the violations provided for in Article (67) may be punished with any of the following penalties:

(a) Concerning officers:

- 1. Written advice.
- 2. Minor reprimand.
- 3. Severe reprimand.
- 4. Deprivation from allowances.
- 5. Deprivation from the basic salary for the period of absence without permission.
- 6. Deprivation from seniority for a period not exceeding one year.
- 7. Demotion.
- 8. Discharge.
- 9. Dismissal.

(b) As for other ranks:

1. Minor reprimand
2. Severe reprimand
3. Extra work
4. Deprivation from basic salary for a period not exceeding seven days or for the period of the absence without permission.
5. Dismissal warning
6. Detention for a period not exceeding 28 days inside the camp.
7. Detention for a period not exceeding 28 days.
8. Demotion.
9. Discharge
10. Dismissal

## CHAPTER VI

### NSS Courts

#### Article (69)

##### **Establishment of NSS Courts**

Two courts shall be established within NSS:

1. Non Summary Court: for hearing crimes provided for in the Articles from (48) to (63) of this Agreement.
2. Summary Court: for hearing other crimes and violations provided for in this Agreement.

#### Article (70)

##### **Formation of NSS Court**

1. NSS courts shall be formed as follows:
  - (a) NSS summary court: Shall be formed of one officer of a rank higher than that of the defendant upon a decision by the Director General.
  - (b) NSS non summary court: shall be formed of three officers and a prosecutor upon an order by the Director General; provided that the Chair is of higher rank than that of the defendant and having a legal background and the other two members shall be of same or higher rank than that of the defendant. In crimes punishable by death penalty, the rank of the Chair shall not be below the rank of NSS colonel.
2. In crimes punishable by death penalty: the court shall be formed upon a decision from the Secretary on recommendation of the Director General.
3. The defendant may seek advice of an advocate or a friend.

#### Article (71)

##### **Court Proceedings**

1. Non summary courts formed pursuant to the provisions of this Agreement shall follow the procedures provided for in the Criminal Procedures Agreement.
2. The Secretary of Justice shall be informed before taking any action against any Non-NSS member accused of being involved in a crime committed by NSS member(s).

## Article (72)

### **Confirmation of NSS Court Decisions**

1. NSS courts judgments shall be confirmed as follows:
  - (a) In case of summary courts, by the Deputy Director General if the imprisonment period exceeds twenty eight days.
  - (b) In case of non-summary courts prosecuting members having the ranks of:
    - 1st: Colonel and below: by the Deputy Director General;
    - 2nd: brigadier and above: by the Director General.
2. The Director General shall refer capital punishment judgments confirmed by courts of appeal to the Supreme Court for revision and then to the President for endorsement.
3. Rulings of both NSS courts are final following their approval by the confirmation authority provided for in paragraphs (1) and (2) as the case may be.
4. Except for crimes punishable by death penalty or life imprisonment, rules shall determine the procedures of confirmation of judgments of both summary and non-summary courts.

## Article (73)

### **Appeals**

1. A court of appeal to consider decisions issued by NSS courts shall be formed by virtue of an order issued by the Director General in accordance with the procedures provided for in the regulations. All death penalty and life imprisonment judgments shall be referred thereto.
2. The Director General shall endorse the decisions made by the court of appeal.

## Article (74)

### **Plea for Forgiveness**

1. Any member convicted and punished by any of the NSS Courts, may plea for forgiveness or mercy to the President of the Republic, the Secretary, the Director General or Deputy Director General, as the case may be, who may, upon examination of the documents of the trial, issue a decision reducing or dropping the penalty or rejecting the plea, provided that reasons to that effect shall be mentioned.

2. Regulations shall provide for procedures for submitting pleas for forgiveness.

#### Article (75)

### **Execution of NSS Courts Decisions**

Decisions of NSS Courts shall be executed as follows:

1. Fines: According to the Civil Procedures Agreement;
2. Imprisonment:
  - (a) for a period not exceeding 28 days in a detention facility.
  - (b) for a period exceeding 28 days: in prisons.
3. Capital punishment: in prisons.

#### Chapter VII

### Financial Provisions

#### Article (76)

### **NSS Budget**

1. NSS shall have an independent budget to be prepared in accordance with sound accounting principles.
2. The Director General shall work out the annual budget proposals of NSS and submit the same to the Secretary for inclusion and approval in the general budget.
3. The Director General is responsible for the implementation of the approved NSS budget in accordance with the provisions of this Agreement and the regulations issued thereunder.

#### Article (77)

### **Auditing**

1. The Federal Auditor Chamber shall audit the NSS accounts and submit a report thereon to the Transitional Federal Legislature specialized committee on Security.
2. Without prejudice to the foregoing, the General Auditor Chamber may not audit account of the security activities and operations.

## Chapter VIII

### Final Provisions

#### Article (78)

##### **Duty to Assist**

All official institutions and citizens shall avail needed assistance and necessary help for the NSS members in implementing their duties and assuming their competencies provided for herein.

#### Article (79)

##### **Power to Issue General and Standing Orders**

The Director General may issue general or standing orders to the NSS members with regard to:

1. Good management:
  - (a) Welfare of members
  - (b) Offices, residence, training facilities and other premises utilized by NSS.
2. Training and capacity building
3. Organization of general affairs of members.
4. Clothes, supplies and equipment.

#### Article (80)

##### **Power to Make Regulations**

NSS may issue necessary regulations for the implementation of the provisions of this Agreement.

Without prejudice to the generality of the foregoing, such regulations may include the following issues:

- (a) Terms and conditions of service;
- (b) Basis for promotion, transfer and leaves.
- (c) Development of NSS, its working modalities and organizational and job structures.
- (d) Determination of the types of arms, ammunitions and clothes of NSS.
- (e) Members' code of conduct.
- (f) Expenditure and procurement system.

(g) Organization of treatment of detainees and detention facilities.

(h) NSS relation with the public.

### Oath

“I, (enter name and rank) \_\_\_\_\_, being appointed as Director General, Deputy Director General, Director, officer or a member of NSS---swear by the Almighty God, solemnly declare to give my country my truthful allegiance and serve the people, strive to respect and protect the Constitution and law, dedicate all my time and power throughout my service for the execution of the duties assigned to me under this Agreement, or any other law in force with full loyalty and commitment to protect the internal and external security of the Federal Republic of South Sudan. I also swear to obey my superior officer, safeguard the secrets of NSS, not to disclose any information I came to know regardless of their source, or secrets entrusted unto me or I came across, during my service and thereafter unless it is required for preserving the safety and security of the country and to be committed to this oath even if the same leads to risking my life. In certification whereof, I, hereunto put my hand. So help me God.