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COUNCIL DECISION 2010/576/CFSP

of 23 September 2010

on the European Union police mission undertaken in the framework of reform of the security sector (SSR) and its interface with the system of justice in the Democratic Republic of the Congo (EUPOL RD Congo)

(OJ L 254, 29.9.2010, p. 33)

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on the European Union police mission undertaken in the framework of reform of the security sector (SSR) and its interface with the system of justice in the Democratic Republic of the Congo (EUPOL RD Congo)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 28 and 43(2) thereof,

Whereas:

(1) On 12 June 2007, the Council adopted Joint Action 2007/405/CFSP ([1]) establishing a European Union police mission undertaken in the framework of reform of the security sector (SSR) and its interface with the system of justice in the Democratic Republic of the Congo (EUPOL RD Congo) (hereinafter referred to as 'EUPOL RD Congo' or 'the Mission').

(2) On 23 June 2008, the Council adopted Joint Action 2008/485/CFSP ([2]) amending and extending Joint Action 2007/405/CFSP until 30 June 2009.

(3) On 15 June 2009, the Council adopted Joint Action 2009/466/CFSP ([3]) amending and extending Joint Action 2007/405/CFSP until 30 June 2010.

(4) On 14 June 2010, the Council adopted Council Decision 2010/329/CFSP ([4]) amending and extending Joint Action 2007/405/CFSP until 30 September 2010.

(5) EUPOL RD Congo should be continued for a further year until 30 September 2011.

(6) The command and control structure of the Mission should be without prejudice to the contractual responsibility of the Head of Mission towards the Commission for implementing the budget of the Mission.

(7) The Watch-Keeping Capability established within the General Secretariat of the Council should be activated for the Mission.

(8) The Mission will be conducted in the context of a situation which may deteriorate and could harm the objectives of the Common Foreign and Security Policy (CFSP) as set out in Article 21 of the Treaty,

HAS ADOPTED THIS DECISION:

([1]) OJ L 151, 13.6.2007, p. 46.
([2]) OJ L 164, 25.6.2008, p. 44.
([3]) OJ L 151, 16.6.2009, p. 40.
([4]) OJ L 149, 15.6.2010, p. 11.

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Article 1

The Mission

1. The European Union police mission undertaken in the framework of reform of the security sector (SSR) and its interface with the system of justice in the Democratic Republic of the Congo (hereinafter referred to as 'EUPOL RD Congo' or 'the Mission'), established by Joint Action 2007/405/CFSP, shall be extended for the period from 1 October 2010 to 30 September 2012.

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2. EUPOL RD Congo shall operate in accordance with the Mission statement set out in Article 2 and shall carry out the tasks set out in Article 3. It shall operate without prejudice to DRC ownership of SSR.

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Article 2

Mission Statement

1. In order to improve the maturity and sustainability of the reform process of the Congolese National Police (PNC), EUPOL RD Congo shall assist the Congolese authorities in the implementation of the Police Action Plan, covering the priorities of the Police Reform process for the period 2010-12, and building on the guidelines of the Strategic Framework. The mission will contribute to local and international efforts for the reinforcement of PNC capabilities, which are also needed in view of the security of the forthcoming elections. EUPOL RD Congo shall focus on concrete activities and projects to underpin its action at the strategic level of the reform process, on capacity building and on enhancement of the interaction between the PNC and the wider criminal justice system with a view to better supporting the fight against sexual violence and impunity. EUPOL RD Congo shall work in close coordination and cooperation with other Union, international and bilateral donors, with a view to avoiding duplication of efforts.

2. The particular objectives of the Mission shall be:

(a) to support the PNC and Ministry of Interior and Security (MIS) in the finalisation of the concepts of the Police Reform and its implementation, through operational advice, as a basic pillar of the mandate of the Mission;

(b) to enhance the operational capacity of the Congolese National Police through mentoring, monitoring and advising as well as training activities, as a basic pillar of the mandate of the Mission;

(c) to support the fight against impunity in the fields of human rights and sexual violence, and to reinforce the interaction of the Police and the Judiciary, as a cross-cutting horizontal component of the mandate, influencing all activities of the Mission.

3. The Mission shall have a Project Cell for identifying and implementing projects. The Mission shall advise the Member States and third States and shall coordinate and facilitate, under their responsibility, the implementation of their projects in fields which are of interest to the Mission and in furtherance of its objectives.

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Article 4

Structure of the Mission

1. EUPOL RD Congo shall be structured as follows:

(a) HQ in Kinshasa. The HQ shall consist of the Office of the Head of Mission and of the HQ Staff, providing all necessary functions of advice at strategic and operational level, command and control, as well as mission and administrative support;

(b) Field Office. A Field Office shall be established in Goma. The nation-wide implications of the Mission mandate may also require in-country actions and possibly temporary presence (also for a longer term) of experts in other locations, still subject to security considerations.

2. The elements referred to in paragraph 1 shall be subject to further detailed arrangements in the Operation Plan (OPLAN).

Article 5

Civilian Operation Commander

1. The Director of the Civilian Planning and Conduct Capability (CPCC) shall be the Civilian Operation Commander for EUPOL RD Congo.

2. The Civilian Operation Commander, under the political control and strategic direction of the Political and Security Committee (PSC) and the overall authority of the High Representative of the Union for Foreign Affairs and Security Policy (HR), shall exercise command and control of EUPOL RD Congo at the strategic level.

3. The Civilian Operation Commander shall ensure proper and effective implementation of the Council decisions as well as the PSC decisions, including by issuing instructions at the strategic level as required to the Head of Mission and providing him with advice and technical support.

4. All seconded staff shall remain under the full command of the national authorities of the seconding State or Union institution concerned. National authorities shall transfer Operational Control (OPCON) of their personnel to the Civilian Operation Commander.

5. The Civilian Operation Commander shall have overall responsibility for ensuring that the Union duty of care is properly discharged.

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Article 6

Head of Mission

1. The Head of Mission shall assume responsibility for and exercise command and control of the Mission at theatre level.

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2. The Head of Mission shall exercise OPCON over personnel from contributing States as assigned by the Civilian Operation Commander together with administrative and logistic responsibility, including over assets, resources and information placed at the disposal of the Mission.

3. The Head of Mission shall issue instructions to all Mission staff for the effective conduct of EUPOL RD Congo in theatre, assuming its coordination and day-to-day management, and following the instructions at the strategic level of the Civilian Operation Commander.

4. The Head of Mission shall be responsible for the implementation of the Mission budget. For this purpose, the Head of Mission shall sign a contract with the Commission.

5. The Head of Mission shall be responsible for disciplinary control over the staff. For seconded staff, disciplinary action shall be exercised by the national or Union authority concerned.

6. The Head of Mission shall represent EUPOL RD Congo in the operations area and shall ensure appropriate visibility of the Mission.

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7. The Head of Mission shall coordinate, as appropriate, the actions of EUPOL RD Congo with other Union actors on the ground.

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Article 7

Staff

1. EUPOL RD Congo shall consist primarily of staff seconded by Member States or Union institutions. Each Member State or Union institution shall bear the costs related to any member of the staff seconded by it, including travel expenses to and from the place of deployment, salaries, medical coverage and allowances other than applicable daily allowances, as well as hardship and risk allowances.

2. International civilian staff and local staff shall be recruited on a contractual basis by the Mission if the functions required are not provided by personnel seconded by Member States. Exceptionally, in duly justified cases, where no qualified applications from Member States are available, nationals from participating third States may be recruited on a contractual basis, as appropriate.

3. All staff shall abide by the Mission-specific minimum security operating standards and the Mission security plan supporting the Union field security policy. As regards the protection of EU classified information with which members of staff are entrusted in the course of their duties, all staff shall respect the principles and minimum standards of security established by security regulations of the Council ([1]).

([1]) Council Decision 2001/264/EC of 19 March 2001 adopting the Council's security regulations (OJ L 101, 11.4.2001, p. 1).

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Article 8

Status of the Mission and its staff

1. The status of the Mission and its staff, including where appropriate the privileges, immunities and further guarantees necessary for the completion and smooth functioning of the Mission, shall be agreed in accordance with the procedure laid down in Article 37 of the Treaty.

2. The State or Union institution having seconded a member of staff shall be responsible for answering any claims linked to the secondment, from or concerning the member of staff. The State or Union institution concerned shall be responsible for bringing any action against the seconded person.

3. The conditions of employment and the rights and obligations of international and local civilian staff shall be laid down in the contracts between the Head of Mission and the members of staff.

Article 9

Chain of command

1. EUPOL RD Congo shall have a unified chain of command, as a crisis management operation.

2. Under the responsibility of the Council and of the HR, the PSC shall exercise political control and strategic direction of EUPOL RD Congo.

3. The Civilian Operation Commander, under the political control and strategic direction of the PSC and the overall authority of the HR, shall exercise command and control of EUPOL RD Congo at the strategic level and, as such, shall issue instructions to the Head of Mission and provide him with advice and technical support.

4. The Civilian Operation Commander shall report to the Council through the HR.

5. The Head of Mission shall exercise command and control of EUPOL RD Congo at theatre level and shall be directly responsible to the Civilian Operation Commander.

Article 10

Political control and strategic direction

1. The PSC shall exercise, under the responsibility of the Council and of the HR, political control and strategic direction of the Mission. The Council hereby authorises the PSC to take the relevant decisions in accordance with the third paragraph of Article 38 of the Treaty. This authorisation shall include the powers to appoint a Head of Mission, upon a proposal of the HR, and to amend the CONOPS and the OPLAN. The powers of decision with respect to the objectives and termination of the Mission shall remain vested in the Council.

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2. The PSC shall report to the Council at regular intervals.

3. The PSC shall receive, on a regular basis and as required, reports by the Civilian Operation Commander and the Head of Mission on issues within their areas of responsibility.

Article 11

Participation of third States

1. Without prejudice to the decision-making autonomy of the Union and its single institutional framework, third States may be invited to contribute to the Mission, provided that they bear the cost of the staff seconded by them, including salaries, all risk insurance cover, daily subsistence allowances and travel expenses to and from DRC, and that they contribute to the running costs of the Mission, as appropriate.

2. Third States contributing to the Mission shall have the same rights and obligations in terms of day-to-day management of the Mission as Member States.

3. The Council hereby authorises the PSC to take the relevant decisions on acceptance of the proposed contributions and to establish a Committee of Contributors.

4. Detailed arrangements regarding the participation of third States shall be covered by agreements concluded in accordance with Article 37 of the Treaty and additional technical arrangements as necessary. Where the Union and a third State conclude an agreement establishing a framework for the participation of that third State in Union crisis-management operations, the provisions of that agreement shall apply in the context of the Mission.

Article 12

Security

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1. The Civilian Operations Commander, in coordination with the European External Action Service Security Office, shall direct the Head of Mission planning of security measures and ensure their proper and effective implementation for EUPOL RD Congo in accordance with Articles 5 and 9.

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2. The Head of Mission shall be responsible for the security of the Mission and for ensuring compliance with minimum security requirements applicable to the Mission, in line with the Union policy on the security of personnel deployed outside the Union in an operational capacity under Title V of the Treaty, and its supporting instruments.

3. The Head of Mission shall be assisted by a Senior Mission Security Officer (SMSO), who shall report to the Head of Mission and also maintain a close functional relationship with the Council Security Office.

4. EUPOL RD Congo staff shall undergo mandatory security training before taking up their duties, in accordance with the OPLAN. They shall also receive regular in-theatre refresher training organised by the SMSO.

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5. The Head of Mission shall ensure the protection of EU classified information in accordance with the Council security regulations.

Article 13

Watch-Keeping Capability

The Watch-Keeping Capability shall be activated for EUPOL RD Congo.

Article 14

Financial arrangements

1. The financial reference amount intended to cover expenditure related to the Mission for the period from 1 October 2010 to 30 September 2011 shall be EUR 6 430 000.

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The financial reference amount intended to cover the expenditure related to the Mission for the period from 1 October 2011 to 30 September 2012 shall be EUR 7 150 000.

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2. All expenditure shall be managed in accordance with the rules and procedures applicable to the general budget of the Union.

3. The Head of Mission shall report fully to, and be supervised by, the Commission regarding the activities undertaken in the framework of his contract.

4. Nationals of third States shall be allowed to tender for contracts. Subject to the Commission's approval, the Head of Mission may conclude technical arrangements with Member States, participating third States and other international actors regarding the provision of equipment, services and premises to EUPOL RD Congo.

5. The financial arrangements shall respect the operational requirements of the Mission, including compatibility of equipment and interoperability of teams of the Mission.

6. The expenditure shall be eligible as of the date of adoption of this Decision.

Article 15

Coordination

1. Without prejudice to the chain of command, the Head of Mission shall act in close coordination with the Union Delegation and EUSEC RD Congo to ensure the consistency of Union action in support of DRC.

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2. The Head of Mission shall coordinate closely with Heads of the diplomatic missions of Member States.

3. The Head of Mission shall cooperate with other international actors present in the country, and work in close coordination with the UN MONUSCO.

Article 16

Release of classified information

1. The HR shall be authorised to release to the third States associated with this Decision, as appropriate and in accordance with the needs of the Mission, EU classified information and documents up to 'CONFIDENTIEL UE' level which are generated for the purposes of the Mission, in accordance with the security regulations of the Council.

2. The HR shall be authorised to release to the UN and OSCE, in accordance with the operational needs of the Mission, EU classified information and documents up to 'RESTREINT UE' level which are generated for the purposes of the Mission, in accordance with the security regulations of the Council. Local arrangements shall be drawn up for this purpose.

3. In the event of a specific and immediate operational need, the HR shall be authorised to release to the host State any EU classified information and documents up to 'RESTREINT UE' level which are generated for the purposes of the Mission, in accordance with the security regulations of the Council. In all other cases, such information and documents shall be released to the host State in accordance with the appropriate procedures for cooperation by the host State with the Union.

4. The HR shall be authorised to release to the third States and international organisations referred to in paragraphs 1, 2 and 3, EU non-classified documents connected with the deliberations of the Council relating to the Mission and covered by the obligation of professional secrecy pursuant to Article 6(1) of the Rules of Procedure of the Council ([1]).

Article 17

Review of the Mission

A review of the Mission shall be presented to the PSC every six months, on the basis of a report by the Head of Mission.

Article 18

Entry into force and duration

This Decision shall enter into force on the date of its adoption.

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It shall apply from 1 October 2010 to 30 September 2012.

([1]) Council Decision 2009/937/EU of 1 December 2009 adopting the Council's Rules of Procedure (OJ L 325, 11.12.2009, p. 35).