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COUNCIL DECISION 2010/96/CFSP

of 15 February 2010

on a European Union military mission to contribute to the training of Somali security forces

(OJ L 44, 19.2.2010, p. 16)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Council Decision 2011/483/CFSP of 28 July 2011	L 198	37	30.7.2011
►**M2**	Council Decision 2012/835/CFSP of 21 December 2012	L 357	13	28.12.2012
►**M3**	Council Decision 2013/44/CFSP of 22 January 2013	L 20	57	23.1.2013
►**M4**	Council Decision 2015/441/CFSP of 16 March 2015	L 72	37	17.3.2015

Corrected by:

►**C1**	Corrigendum, OJ L 201, 4.8.2011, p. 19 (2010/96/CFSP)

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COUNCIL DECISION 2010/96/CFSP

of 15 February 2010

on a European Union military mission to contribute to the training of Somali security forces

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal by the High Representative of the Union for Foreign Affairs and Security Policy (HR),

Whereas:

(1) In its Resolution 1872 (2009) on the situation in Somalia, adopted on 26 May 2009, the United Nations Security Council (UNSC) stressed the importance of the re-establishment, training, equipping and retention of Somali security forces, and urged Member States and regional and international organisations to offer technical assistance for the training and equipping of the Somali security forces. In its Resolution 1897 (2009), adopted on 30 November 2009, the UNSC recalled its previous resolutions and reaffirmed its respect for the sovereignty, territorial integrity, political independence and unity of Somalia.

(2) In its conclusions of 27 July 2009, the Council decided to step up the engagement for promoting peace and development in Somalia. To this end, the Council studied the possibilities for the Union to contribute to international efforts, including in the field of security.

(3) In its conclusions of 17 November 2009, the Council stated that further Union support to the Somali security sector should be considered within a comprehensive EU approach to the situation in Somalia, and that this support should be part of a larger and coherent framework involving close EU cooperation and coordination with the African Union, the United Nations and other relevant partners, in particular the United States of America. With regard to the African Union, the Council furthermore underlined the importance of the role of the African Union Mission in Somalia (AMISOM).

(4) On 17 November 2009, the Council approved a Crisis Management Concept on a possible European Security and Defence mission to contribute to the training of the security forces of the Somali Transitional Federal Government (TFG) and requested further planning work. Subsequently, the Political and Security Committee (PSC) appointed a Planning Authority.

(5) By letters dated 18 November 2009 and 23 January 2010 respectively, the TFG expressed its appreciation for the Union's efforts to coordinate the training of the Somali security forces and its efforts towards peace and stability in Somalia, and assured the Union of its commitment to bear its responsibility with regard to the recruitment, training and retention of recruits; it also emphasised its commitment to a broader security sector policy in Somalia.

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(6) By letter dated 30 November 2009, African Union Deputy Special Representative for Somalia, on behalf of the African Union Commission, welcomed the positive reflection of the EU regarding the training of over 2 000 Somali security forces.

(7) On 8 December 2009, the Council selected a military strategic option for the potential EU military mission.

(8) In its report to the UNSC of 31 December 2009, the United Nation's Secretary-General referred to the Crisis Management Concept regarding a possible European Security and Defence Policy mission to support the training of the Somali security forces and underlined that when the EU planning for the delivery of training would be implemented, the EU trainers would be expected to follow harmonised and approved curricula.

(9) By letter dated 5 January 2010, the Minister of Defence of Uganda welcomed the Union's envisaged mission in support of the Somali security sector and invited the Union to participate in the training of Somali security forces in Uganda for a period of at least one year.

(10) On 20 January 2010, the Union made an offer to the TFG to contribute to the training of the Somali security forces.

(11) In its conclusions of 25 January 2010, the Council agreed to set up an EU military mission to contribute to the training of Somali security forces in Uganda, where Somali forces are already being trained. The mission would also facilitate the coordination of EU action with AMISOM. The Council furthermore agreed that the EU military mission would be launched with the next intake of trainees, scheduled to start in spring 2010, and that it would be conducted in close coordination with partners, including the TFG, Uganda, the African Union, the United Nations and the United States of America. The Council recognised the need to carry out this training as part of a wider international effort and encompassing, inter alia, the vetting of trainees, the monitoring and mentoring of the forces once back in Mogadishu and the funding and payment of the salaries of the soldiers.

(12) The PSC should exercise, under the responsibility of the Council and of the HR, political control over the EU military mission, provide it with strategic direction and take the relevant decisions in accordance with the third subparagraph of Article 38 of the Treaty on European Union (TEU).

(13) It is necessary for international agreements relating to the participation of third States in EU missions and to the status of EU units and personnel to be negotiated and concluded.

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(14) The operational expenditure arising from this Decision, which has military or defence implications, should be borne by the Member States pursuant to Article 41(2) of the TEU and in accordance with Council Decision 2008/975/CFSP of 18 December 2008 establishing a mechanism to administer the financing of the common costs of European Union operations having military or defence implications (Athena) ([1]) (hereinafter 'ATHENA').

(15) Article 28(1) of the TEU calls for Council decisions to lay down the means to be made available to the Union. The financial reference amount, for a 12-month period, for the common costs of the EU military mission constitutes the best current estimate and is without prejudice to the final figures to be included in a budget to be approved in accordance with the rules laid down in ATHENA.

▼C1

(16) In accordance with Article 5 of the Protocol on the position of Denmark annexed to the Treaty on the European Union and to the Treaty on the Functioning of the European Union, Denmark does not participate in the elaboration and implementation of decisions and actions of the Union which have defence implications. Denmark does not participate in the implementation of this Decision and therefore does not participate in the financing of this mission,

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HAS ADOPTED THIS DECISION:

▼M3

Article 1

Mission

1. The Union shall conduct a military training mission, in order to contribute to the building up and strengthening of the Somali National Armed Forces ('SNAF') accountable to the Somali National Government, consistent with Somali needs and priorities.

▼M4

2. In order to achieve the objectives set out in paragraph 1, the EU military mission shall be deployed in Somalia in order to address both institutional building in the defence sector through strategic advice as well as direct support to the Somali National Army through training, advice and mentoring. The EU military mission shall also be ready to provide support, within its means and capabilities, to other Union actors in the implementation of their respective mandates in the security and defence area in Somalia.

▼M3

3. The implementation of the mandated activities in Somalia shall depend on the security conditions in Somalia and political guidance by the Political and Security Committee.

▼B

Article 2

Appointment of the EU Commander

▼M3

1. Brigadier General Gerald AHERNE is hereby appointed EU Mission Commander with effect from 1 February 2013.

([1]) OJ L 345, 23.12.2008, p. 96.

▼B

2. The EU Mission Commander shall exercise the functions of EU Operation Commander and EU Force Commander.

▼M4

Article 3

Designation of the Mission Headquarters

1. The Mission Headquarters shall be located in Somalia, at Mogadishu International Airport in Mogadishu. It shall perform the functions of both Operational Headquarters and Force Headquarters.

2. The Mission Headquarters shall include a liaison and support office in Nairobi and a support cell in Brussels.

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Article 4

Planning and launch of the mission

The Decision to launch the EU military mission shall be adopted by the Council following approval of the Mission Plan.

Article 5

Political control and strategic direction

1. Under the responsibility of the Council and the High Representative of the Union for Foreign Affairs and Security Policy (HR), the Political and Security Committee (PSC) shall exercise the political control and strategic direction of the EU military mission. The Council hereby authorises the PSC to take the relevant decisions in accordance with Article 38 of the Treaty on European Union (TEU). This authorisation shall include the powers to amend the planning documents, including the Mission Plan and the Chain of Command. It shall also include the powers to take decisions on the appointment of the EU Mission Commander. The powers of decision with respect to the objectives and termination of the EU military mission shall remain vested in the Council.

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

3. The PSC shall, at regular intervals, receive reports from the chairman of the EU Military Committee (EUMC) regarding the conduct of the EU military mission. The PSC may invite the EU Mission Commander to its meetings, as appropriate.

Article 6

Military direction

1. The EUMC shall monitor the proper execution of the EU military mission conducted under the responsibility of the EU Mission Commander.

2. The EUMC shall, at regular intervals, receive reports from the EU Mission Commander. It may invite the EU Mission Commander to its meetings, as appropriate.

3. The chairman of the EUMC shall act as the primary point of contact with the EU Mission Commander.

▼M3

Article 7

Consistency of the Union's response and coordination

1. The HR shall ensure the consistency of the implementation of this Decision with the Union's external action as a whole, including the Union's development programmes.

2. Without prejudice to the chain of command, the EU Mission Commander shall receive local political guidance from the EU Special Representative for the Horn of Africa and relevant Union delegations in the region.

3. The EU military mission shall maintain and enhance coordination with EUNAVFOR Atalanta and EUCAP Nestor. The EU Operations Centre shall, in accordance with its mandate laid down in Council Decision 2012/173/CFSP of 23 March 2012 on the activation of the EU Operations Centre for the Common Security and Defence Policy missions and operation in the Horn of Africa [1], facilitate such coordination and information exchange with a view to increasing coherence, efficiency and synergies between the Common Security and Defence Policy missions and operation in the region.

▼M4

4. The EU military mission shall operate, within its means and capabilities, in close cooperation with other international actors in the region, in particular the United Nations and AMISOM in line with the agreed requirements of the Federal Government of Somalia.

▼B

Article 8

Participation by third States

1. Without prejudice to the Union's decision-making autonomy or to the single institutional framework, and in accordance with the relevant guidelines of the European Council, third States may be invited to participate in the mission.

2. The Council hereby authorises the PSC to invite third States to offer contributions and to take the relevant decisions on acceptance of the proposed contributions, upon the recommendation of the EU Mission Commander and the EUMC.

3. Detailed modalities for the participation by third States shall be the subject of agreements concluded pursuant to Article 37 of the TEU and in accordance with the procedure laid down in Article 218 of the Treaty on the Functioning of the European Union (TFEU). Where the Union and a third State have concluded an agreement establishing a framework for the latter's participation in crisis management missions of the Union, the provisions of such an agreement shall apply in the context of this mission.

4. Third States making significant military contributions to the EU military mission shall have the same rights and obligations in terms of day-to-day management of the mission as Member States taking part in the mission.

5. The Council hereby authorises the PSC to take relevant decisions on the setting-up of a Committee of Contributors, should third States provide significant military contributions.

[1] OJ L 89, 27.3.2012, p. 66.

▼B

Article 9

Status of EU-led personnel

The status of EU-led units and personnel, including the privileges, immunities and further guarantees necessary for the fulfilment and smooth functioning of their mission, may be the subject of an agreement concluded pursuant to Article 37 of the TEU and in accordance with the procedure laid down in Article 218(3) of the TFEU.

▼M3

Article 10

Financial arrangements

1. The common costs of the EU military mission shall be administered in accordance with Council Decision 2011/871/CFSP of 19 December 2011 establishing a mechanism to administer the financing of the common costs of European Union operations having military or defence implications (Athena) ([1]) ('ATHENA').

2. The financial reference amount for the common costs of the EU military mission for the period until 9 August 2011 shall be EUR 4,8 million. The percentage of the reference amount referred to in Article 25(1) of ATHENA shall be 60 %.

3. The financial reference amount for the common costs of the EU military mission for the period from 9 August 2011 until 31 December 2012 shall be EUR 4,8 million. The percentage of this reference amount referred to in Article 25(1) of ATHENA shall be 30 %.

4. The financial reference amount for the common costs of the EU military mission for the period starting on 1 January 2013 shall be EUR 11,6 million. The percentage of this reference amount referred to in Article 25(1) of ATHENA shall be 20 %, and the percentage for commitment referred to in Article 32(3) of ATHENA shall be 30 %.

▼M4

5. The financial reference amount for the common costs of the EU military mission for the period from 1 April 2015 until 31 December 2016 shall be EUR 17 507 399. The percentage of this reference amount referred to in Article 25(1) of ATHENA shall be 30 % and the percentage for commitment referred to in Article 32(3) of ATHENA shall be 90 %.

Article 10b

Project cell

1. The EU military mission shall have a project cell for identifying and implementing projects, to be financed by Member States or third States which are consistent with the mission's objectives and contribute to the mandate's delivery.

2. Subject to paragraph 3, the EU Mission Commander shall be authorised to seek recourse to financial contributions from the Member States or third States to implement projects identified as supplementing the EU military mission's other actions in a consistent manner. In such a case, the EU Mission Commander shall conclude an

([1]) OJ L 343, 23.12.2011, p. 35.

▼**M4**

arrangement with those States, covering in particular the specific procedures for dealing with any complaint from third parties concerning damage caused as a result of acts or omissions by the EU Mission Commander in the use of the funds provided by those States.

Under no circumstances shall the Union or the HR be held liable by contributing States as a result of acts or omissions by the EU Mission Commander in the use of the funds provided by those States.

3. The PSC shall agree on the acceptance of a financial contribution from third States to the project cell.

▼**M3**

Article 11

Release of information

1. ►**M4** 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 generated for the purposes of the Mission, in accordance with Council Decision 2013/488/EU ([1]): ◄

(a) up to the level provided in the applicable Security of Information Agreements concluded between the Union and the third State concerned;

(b) or up to the 'CONFIDENTIEL UE/EU CONFIDENTIAL' level in other cases.

2. The HR shall also be authorised to release to the United Nations (UN) and the African Union (AU) in accordance with the operational needs of the Mission, EU classified information up to 'RESTREINT UE/EU RESTRICTED' level which are generated for the purposes of the Mission, in accordance with ►**M4** Decision 2013/488/EU ◄. Arrangements between the HR and the competent authorities of the UN and the AU shall be drawn up for this purpose.

3. In the event of a specific and immediate operational need, the HR shall also be authorised to release to the host State any EU classified information up to 'RESTREINT UE/EU RESTRICTED' level which are generated for the purposes of the Mission, in accordance with ►**M4** Decision 2013/488/EU ◄. Arrangements between the HR and the competent authorities of the host State shall be drawn up for that purpose.

4. The HR shall be authorised to release to the third States associated with this Decision any 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 Council's Rules of Procedure ([2]).

5. The HR may delegate such authorisations, as well as the ability to conclude the arrangements referred to above to staff of the European External Action Service and/or to the EU Mission Commander.

([1]) Council Decision 2013/488/EU of 23 September 2013 on the security rules for protecting EU classified information (OJ L 274, 15.10.2013, p. 1).

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

▼B

Article 12

Entry into force and termination

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

▼M4

2. The mandate of the EU military mission shall end on 31 December 2016.

3. This Decision shall be repealed as from the date of closure of the EU Headquarters, the liaison and support office in Nairobi and the support cell in Brussels, in accordance with the plans approved for the termination of the EU military mission, and without prejudice to the procedures regarding the audit and presentation of the accounts of the EU military mission, laid down in ATHENA.

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Article 13

Publication

1. This Decision shall be published in the *Official Journal of the European Union*.

2. The PSC decisions on the appointment of an EU Mission Commander and on the acceptance of contributions from third States, as well as on the setting-up of a Committee of Contributors shall likewise be published in the *Official Journal of the European Union*.