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►B ►C1 **COUNCIL DECISION 2012/389/CFSP**

**of 16 July 2012**

**on the European Union Capacity Building Mission in Somalia (EUCAP Somalia)** ◄

(OJ L 187, 17.7.2012, p. 40)

Amended by:

| | | Official Journal | | |
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| | | No | page | date |
| ►M1 | Council Decision 2013/367/CFSP of 9 July 2013 | L 189 | 12 | 10.7.2013 |
| ►M2 | Council Decision 2013/660/CFSP of 15 November 2013 | L 306 | 17 | 16.11.2013 |
| ►M3 | Council Decision 2014/485/CFSP of 22 July 2014 | L 217 | 39 | 23.7.2014 |
| ►M4 | Council Decision 2014/726/CFSP of 20 October 2014 | L 301 | 29 | 21.10.2014 |
| ►M5 | Council Decision (CFSP) 2015/1793 of 6 October 2015 | L 260 | 30 | 7.10.2015 |
| ►M6 | Council Decision (CFSP) 2015/2275 of 7 December 2015 | L 322 | 50 | 8.12.2015 |
| ►M7 | Council Decision (CFSP) 2016/2240 of 12 December 2016 | L 337 | 18 | 13.12.2016 |
| ►M8 | Council Decision (CFSP) 2017/349 of 27 February 2017 | L 50 | 80 | 28.2.2017 |
| ►M9 | Council Decision (CFSP) 2018/226 of 15 February 2018 | L 43 | 15 | 16.2.2018 |

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| ►C1 | Corrigendum, OJ L 29, 3.2.2017, p. 69 (2016/2240) |

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# COUNCIL DECISION 2012/389/CFSP

## of 16 July 2012

## on the European Union Capacity Building Mission in Somalia (EUCAP Somalia)

▼M7

*Article 1*

**Mission**

The Union hereby establishes a Capacity Building Mission in Somalia (EUCAP Somalia).

*Article 2*

**Mission Statement**

EUCAP Somalia shall assist Somalia in strengthening its maritime security capacity in order to enable it to enforce maritime law more effectively.

*Article 3*

**Objectives and tasks**

1. In order to achieve the Mission Statement set out in Article 2, EUCAP Somalia shall:

(a) enhance the Somali maritime civilian law enforcement capacity to exert effective maritime governance over its coastline, internal waters, territorial seas and exclusive economic zones;

(b) in particular, reinforce the Somali capacity to carry out fisheries inspections and enforcement, ensure maritime search and rescue, counter smuggling, fight piracy and police the coastal zone on land and at sea;

(c) pursue these objectives through supporting Somali authorities in developing the necessary legislation and setting up judicial authorities and through providing the necessary mentoring, advice, training and equipment to Somali maritime civilian law enforcement entities.

2. In order to achieve these objectives, EUCAP Somalia shall operate in accordance with the lines of operation and tasks set out in the operational planning documents approved by the Council.

3. EUCAP Somalia shall not carry out any executive function.

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*Article 4*

**Chain of command and structure**

1. ►M7 ►C1 EUCAP Somalia ◄ ◄ shall have a unified chain of command as a crisis management operation.

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2. ►M7 ►C1 EUCAP Somalia ◄ ◄ shall be structured in accordance with its planning documents.

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*Article 5*

**Civilian Operation Commander**

1. The Civilian Planning and Conduct Capability (CPCC) Director shall be the Civilian Operation Commander for ►M7 ►C1 EUCAP Somalia ◄ ◄.

2. The Civilian Operation Commander, under the political control and strategic direction of the Political and Security Committee (PSC) and overall authority of the High Representative of the Union for Foreign Affairs and Security Policy (HR), shall exercise command and control of ►M7 ►C1 EUCAP Somalia ◄ ◄ at the strategic level.

3. The Civilian Operation Commander shall ensure, with regard to the conduct of operations, proper and effective implementation of the Council's decisions as well as the PSC's 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. The EU Operations Centre activated by Decision 2012/173/CFSP shall provide direct support to the Civilian Operation Commander for the operational planning and conduct of ►M7 ►C1 EUCAP Somalia ◄ ◄.

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

6. All seconded staff shall remain under the full command of the national authorities of the seconding State in accordance with national rules, of the Union institution concerned or of the European External Action Service (EEAS). National authorities shall transfer Operational Control (OPCON) of their personnel, teams and units to the Civilian Operation Commander.

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

8. The Civilian Operation Commander, the European Union Special Representative for the Horn of Africa (EUSR) and the Heads of Union delegations in the region shall consult each other as required.

*Article 6*

**Head of Mission**

1. The Head of Mission shall assume responsibility for, and exercise command and control of, ►M7 ►C1 EUCAP Somalia ◄ ◄ at theatre level and shall be directly responsible to the Civilian Operation Commander.

▼M3

1a. The Head of Mission shall be the representative of ►M7 ►C1 EUCAP Somalia ◄ ◄ in its action area. The Head of Mission may delegate management tasks in staff and financial matters to staff members of ►M7 ►C1 EUCAP Somalia ◄ ◄ for whom the Head of Mission has overall responsibility.

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2. The Head of Mission shall exercise command and control over personnel, teams and units 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 ►M7 ►C1 EUCAP Somalia ◄ ◄.

3. The Head of Mission shall issue instructions to all ►M7 ►C1 EUCAP Somalia ◄ ◄ staff for the effective conduct of ►M7 ►C1 EUCAP Somalia ◄ ◄ in theatre, assuming its coordination and day-to-day management, and following the instructions at the strategic level of the Civilian Operation Commander.

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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 authority in accordance with national rules, by the Union institution concerned or by EEAS.

6. The Head of Mission shall represent ►M7 ►C1 EUCAP Somalia ◄ ◄ in the operations area and shall ensure appropriate visibility of ►M7 ►C1 EUCAP Somalia ◄ ◄.

7. The Head of Mission shall coordinate, as appropriate, with other Union actors on the ground. The Head of Mission shall, without prejudice to the chain of command, receive local political guidance from the EUSR, in close coordination with the relevant Heads of Union delegations in the region.

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*Article 7*

**Staff**

1. ►M7 ►C1 EUCAP Somalia ◄ ◄ shall consist primarily of staff seconded by Member States, Union institutions or EEAS. Each Member State or Union institution, or EEAS shall bear the costs related to any 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.

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

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3. International and local staff may also be recruited by ►M7 ►C1 EUCAP Somalia ◄ ◄ on a contractual basis 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.

▼M3

4. The conditions of employment and the rights and obligations of international and local staff shall be laid down in the contracts to be concluded between ►M7 ►C1 EUCAP Somalia ◄ ◄ and the staff member concerned.

▼B

*Article 8*

**Status of ►M7 ►C1 EUCAP Somalia ◄ ◄ and of its staff**

The status of ►M7 ►C1 EUCAP Somalia ◄ ◄ and its staff, including, where appropriate, the privileges, immunities and further guarantees necessary for the completion and smooth functioning of ►M7 ►C1 EUCAP Somalia ◄ ◄, shall be the subject of an agreement concluded pursuant to Article 37 TEU and in accordance with the procedure laid down in Article 218 of the Treaty on the Functioning of the European Union.

*Article 9*

**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 ►M7 ►C1 EUCAP Somalia ◄ ◄. The Council hereby authorises the PSC to take the relevant decisions for this purpose in accordance with the third paragraph of Article 38 TEU. This authorisation shall include the powers to appoint a Head of Mission, upon a proposal from the HR, and to amend the Concept of Operations (CONOPS) and the Operation Plan (OPLAN). The powers of decision with respect to the objectives and termination of ►M7 ►C1 EUCAP Somalia ◄ ◄ shall remain vested in the Council.

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 10*

**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 ►M7 ►C1 EUCAP Somalia ◄ ◄, 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 the place of deployment, and that they contribute to the running costs of ►M7 ►C1 EUCAP Somalia ◄ ◄, as appropriate.

▼B

2. Third States contributing to ►M7 ►C1 EUCAP Somalia ◄ ◄ shall have the same rights and obligations in terms of the day-to-day management of ►M7 ►C1 EUCAP Somalia ◄ ◄ 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 TEU 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 ►M7 ►C1 EUCAP Somalia ◄ ◄.

*Article 11*

**Security**

1. The Civilian Operation Commander shall direct the Head of Mission's planning of security measures and ensure their proper and effective implementation by ►M7 ►C1 EUCAP Somalia ◄ ◄ in accordance with Article 5.

2. The Head of Mission shall be responsible for the security of ►M7 ►C1 EUCAP Somalia ◄ ◄ and for ensuring compliance with minimum security requirements applicable to ►M7 ►C1 EUCAP Somalia ◄ ◄, in line with the policy of the Union on the security of personnel deployed outside the Union in an operational capacity under Title V TEU, 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 EEAS.

4. ►M7 ►C1 EUCAP Somalia ◄ ◄ 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.

▼M3

5. The Head of Mission shall ensure the protection of EU classified information in accordance with Council Decision 2013/488/EU ([1]).

▼B

*Article 12*

**Watch-Keeping Capability**

The Watch-Keeping Capability shall be activated for ►M7 ►C1 EUCAP Somalia ◄ ◄.

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

▼M3

*Article 12a*

**Legal arrangements**

►M7 ►C1 EUCAP Somalia ◄ ◄ shall have the capacity to procure services and supplies, enter into contracts and administrative arrangements, employ staff, hold bank accounts, acquire and dispose of assets, discharge its liabilities and to be a party to legal proceedings, as required in order to implement this Decision.

*Article 13*

**Financial arrangements**

▼M6

1. The financial reference amount intended to cover the expenditure related to ►M7 ►C1 EUCAP Somalia ◄ ◄ for the period from 16 July 2012 to 15 November 2013 shall be EUR 22 880 000.

The financial reference amount intended to cover the expenditure related to ►M7 ►C1 EUCAP Somalia ◄ ◄ for the period from 16 November 2013 to 15 October 2014 shall be EUR 11 950 000.

The financial reference amount intended to cover the expenditure related to ►M7 ►C1 EUCAP Somalia ◄ ◄ for the period from 16 October 2014 to 15 December 2015 shall be EUR 17 900 000.

▼M7

The financial reference amount intended to cover the expenditure related to EUCAP Somalia for the period from 16 December 2015 to 28 February 2017 shall be EUR 12 000 000.

▼M8

The financial reference amount intended to cover the expenditure related to EUCAP Somalia for the period from 1 March 2017 to 28 February 2018 shall be EUR 22 950 000.

▼M9

The financial reference amount intended to cover the expenditure related to EUCAP Somalia for the period from 1 March 2018 to 31 December 2018 shall be EUR 27 335 900.

▼M5

2. All expenditure shall be managed in accordance with the rules and procedures applicable to the general budget of the Union. Participation of natural and legal persons in the award of procurement contracts by ►M7 ►C1 EUCAP Somalia ◄ ◄ shall be open without limitations. Moreover, no rule of origin for the goods purchased by ►M7 ►C1 EUCAP Somalia ◄ ◄ shall apply.

▼M3

3. ►M7 ►C1 EUCAP Somalia ◄ ◄ shall be responsible for the implementation of its budget. For this purpose, ►M7 ►C1 EUCAP Somalia ◄ ◄ shall sign an agreement with the Commission.

▼M3

4. Without prejudice to the existing provisions on the status of ►M7 ►C1 EUCAP Somalia ◄ ◄ and its personnel, ►M7 ►C1 EUCAP Somalia ◄ ◄ shall be responsible for any claims and obligations arising from the implementation of the mandate starting from 16 July 2014, with the exception of any claims relating to serious misconduct by the Head of Mission, for which the Head of Mission shall bear responsibility.

5. The implementation of the financial arrangements shall be without prejudice to the chain of command as provided for in Articles 4, 5 and 6 and the operational requirements of ►M7 ►C1 EUCAP Somalia ◄ ◄, including compatibility of equipment and interoperability of its teams.

6. Expenditure shall be eligible as of 16 July 2012.

*Article 13a*

**Project Cell**

1. ►M7 ►C1 EUCAP Somalia ◄ ◄ shall have a Project Cell for identifying and implementing projects. ►M7 ►C1 EUCAP Somalia ◄ ◄ shall, as appropriate, facilitate and provide advice on projects implemented by Member States and third States under their responsibility in areas related to ►M7 ►C1 EUCAP Somalia ◄ ◄ and in support of its objectives.

2. ►M7 ►C1 EUCAP Somalia ◄ ◄ shall be authorised to seek recourse to financial contributions from the Member States or from third States to implement projects identified as supplementing ►M7 ►C1 EUCAP Somalia's ◄ ◄ other actions in a consistent manner, if the project is:

(a) provided for in the financial statement relating to this Decision; or

(b) integrated during the mandate by means of an amendment to the financial statement requested by the Head of Mission.

►M7 ►C1 EUCAP Somalia ◄ ◄ shall conclude an 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 ►M7 ►C1 EUCAP Somalia ◄ ◄ in the use of the funds provided by those States. Under no circumstances may the contributing States hold the Union or the HR liable for acts or omissions by ►M7 ►C1 EUCAP Somalia ◄ ◄ 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.

▼B

*Article 14*

**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.

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2. Without prejudice to the chain of command, the Head of Mission shall act in close coordination with the Union delegations in the region to ensure the consistency of Union action in the Horn of Africa region.

3. The Head of Mission shall coordinate closely with Union and Member States' Heads of Mission in the region.

4. The Head of Mission shall cooperate with the other international actors in the region, in particular the United Nations (UN) Political Office for Somalia, the UN Office on Drugs and Crime, the UN Development Programme and the International Maritime Organisation.

5. The Head of Mission shall coordinate closely with EUNAVFOR Atalanta, the European Union military mission to contribute to the training of Somali security forces (EUTM Somalia), the Maritime Security Project and the Critical Maritime Routes Programme.

*Article 15*

**Release of information and documents**

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 ►**M7** ►**C1** EUCAP Somalia ◄ ◄, EU classified information up to 'CONFIDENTIEL UE/EU CONFIDENTIAL' level generated for the purposes of ►**M7** ►**C1** EUCAP Somalia ◄ ◄, in accordance with ►**M3** Decision 2013/488/EU ◄.

2. The HR shall also be authorised to release to the UN and the African Union (AU) in accordance with the operational needs of ►**M7** ►**C1** EUCAP Somalia ◄ ◄, EU classified information up to 'RESTREINT UE/EU RESTRICTED' level generated for the purposes of ►**M7** ►**C1** EUCAP Somalia ◄ ◄, in accordance with ►**M3** Decision 2013/488/EU ◄. Arrangements between the HR and the competent authorities of UN and 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 generated for the purposes of ►**M7** ►**C1** EUCAP Somalia ◄ ◄, in accordance with ►**M3** Decision 2013/488/EU ◄. Arrangements between the HR and the competent authorities of the host State shall be drawn up for this 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 ►**M7** ►**C1** EUCAP Somalia ◄ ◄ and covered by the obligation of professional secrecy pursuant to Article 6(1) of the Council's Rules of Procedure ([1]).

([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).

▼B

5. The HR may delegate the powers referred to in paragraphs 1 to 4, as well as the ability to conclude the arrangements referred to in paragraphs 2 and 3 to persons placed under his/her authority, to the Civilian Operations Commander and/or to the Head of Mission.

*Article 16*

**Entry into force and duration**

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

▼M7

It shall apply until 31 December 2018.