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COUNCIL DECISION 2012/392/CFSP

of 16 July 2012

on the European Union CSDP mission in Niger (EUCAP Sahel Niger)

(OJ L 187, 17.7.2012, p. 48)

Amended by:

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COUNCIL DECISION 2012/392/CFSP

of 16 July 2012

on the European Union CSDP mission in Niger (EUCAP Sahel Niger)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union and in particular Article 28, Article 42(4) and Article 43(2) thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

(1) On 21 March 2011, the Council welcomed the European Union Strategy for Security and Development in the Sahel, underlining that the Union has a longstanding interest in reducing insecurity and improving development in the Sahel region. More recently, the intensification of terrorist actions and the consequences of the conflict in Libya have increased the urgency of protecting Union citizens and interests in the region and preventing the extension of those threats to the Union, while helping to reduce regional security threats.

(2) On 23 March 2012, the Council approved the Crisis Management Concept for a possible common security and defence policy (CSDP) civilian mission in the Sahel.

(3) On 1 June 2012, the Prime Minister of Niger addressed to the High Representative of the Union for Foreign Affairs and Security Policy (HR) an invitation letter with regard to the planned CSDP mission, welcoming the Union's CSDP deployment with the aim of reinforcing the capacities of the Nigerien Security Forces, in particular to fight terrorism and organised crime in an effective, coherent and coordinated manner.

(4) The Watch-Keeping Capability should be activated for EUCAP Sahel Niger.

(5) EUCAP Sahel Niger will be conducted in the context of a situation which may deteriorate and could impede the achievement of the objectives of the Union's external action as set out in Article 21 of the Treaty on European Union (TEU),

HAS ADOPTED THIS DECISION:

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Article 1

Mission

The Union hereby establishes a European Union CSDP mission in Niger to support the capacity building of the Nigerien security actors to fight terrorism and organised crime (EUCAP Sahel Niger).

Article 2

Objectives

In the context of the implementation of the European Union Strategy for Security and Development in the Sahel, EUCAP Sahel Niger shall aim at enabling the Nigerien authorities to implement the security dimension of their own Strategy for Security and Development, as well as at improving regional coordination in tackling common security challenges. In particular, EUCAP SAHEL Niger shall aim at contributing to the development of an integrated, multidisciplinary, coherent, sustainable, and human rights-based approach among the various Nigerien security actors in the fight against terrorism and organised crime.

Article 3

Tasks

1. In order to fulfil the objectives set out in Article 2, EUCAP Sahel Niger shall:

(a) advise and assist in the implementation of the security dimension of the Nigerien Strategy for Security and Development at national level, complementary to other actors,

(b) support the development of comprehensive regional and international coordination in the fight against terrorism and organised crime,

(c) strengthen the rule of law through the development of the criminal investigation capacities, and in this context develop and implement adequate training programmes,

(d) support the development of Nigerien Security Forces' sustainability,

(e) contribute to the identification, planning and implementation of projects in the security field.

2. EUCAP Sahel Niger shall initially focus on the activities mentioned in paragraph 1 which contribute to improving the control of the territory of Niger, including in coordination with the Nigerien Armed Forces.

3. EUCAP Sahel Niger shall not carry out any executive function.

Article 4

Chain of command and structure

1. EUCAP Sahel Niger shall have a unified chain of command as a crisis management operation.

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2. EUCAP Sahel Niger shall have its Headquarters in Niamey.

3. EUCAP Sahel Niger shall be structured as follows:

(a) Head of Mission;

(b) Planning and Operations component, including regional liaison officers;

(c) Mission Support component;

(d) Reporting, Security, Analytical and Advisory/Public Information elements;

(e) Brussels Support Element.

4. EUCAP Sahel Niger shall have a Project Cell for identifying and implementing projects. EUCAP Sahel Niger may, as appropriate, coordinate, facilitate and provide advice on projects implemented by Member States and third States under their responsibility, in areas related to EUCAP SAHEL Niger and in support of its objectives.

Article 5

Civilian Operation Commander

1. The Civilian Planning and Conduct Capability (CPCC) Director shall be the Civilian Operation Commander for EUCAP Sahel Niger.

2. The Civilian Operation Commander, under the political control and strategic direction of the Political and Security Committee (PSC) and overall authority of the HR, shall exercise command and control of EUCAP Sahel Niger at the strategic level.

3. The Civilian Operation Commander shall ensure, with regard to the conduct of operations, the 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 Civilian Operation Commander shall report to the Council through the HR.

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

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

7. The Civilian Operation Commander and the Head of Union delegation in Niamey shall consult each other as required.

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Article 6

Head of Mission

1. The Head of Mission shall assume responsibility for, and exercise command and control of, EUCAP Sahel Niger at theatre level and shall be directly responsible to the Civilian Operation Commander.

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 EUCAP Sahel Niger.

3. The Head of Mission shall issue instructions to all EUCAP Sahel Niger staff, including the Brussels Support Element and regional liaison officers, for the effective conduct of the EUCAP Sahel Niger 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 budget of EUCAP Sahel Niger. 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 authority in accordance with national rules, by the Union institution concerned or by the EEAS.

6. The Head of Mission shall represent EUCAP Sahel Niger in the operations area and shall ensure appropriate visibility of EUCAP Sahel Niger.

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 Head of Union Delegation in Niger.

8. In the context of the Project Cell, the Head of Mission shall be authorised to seek recourse to financial contributions from the Member States or third States to implement projects identified as supplementing in a consistent manner EUCAP SAHEL Niger's other actions, if the project is:

(a) provided for in the Budgetary Impact Statement relating to this Decision; or

(b) included in the course of EUCAP SAHEL Niger in the Budgetary Impact Statement at the request of the Head of Mission.

In such a case the Head of Mission shall conclude an arrangement with the States concerned, 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 Head of Mission in the use of the funds provided by the contributing States.

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

Article 7

Staff

1. EUCAP Sahel Niger shall consist primarily of staff seconded by Member States, Union institutions or the EEAS. Each Member State, Union institution, and the 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 Member State, Union institution, or the EEAS respectively shall be responsible for answering any claims linked to the secondment from or concerning the member of staff seconded, and for bringing any action against that person.

3. International and local staff shall be recruited on a contractual basis by EUCAP Sahel Niger if the functions required cannot be provided by personnel seconded by Member States. Exceptionally, in duly justified cases, where no qualified applicants from Member States are available, nationals from participating third States may be recruited on a contractual basis, as appropriate.

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

Article 8

Status of EUCAP Sahel Niger and of its staff

The status of EUCAP Sahel Niger and its staff, including where appropriate the privileges, immunities and further guarantees necessary for the completion and smooth functioning of EUCAP Sahel Niger, 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 EUCAP Sahel Niger. The Council hereby authorises the PSC to take the relevant decisions 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 of the HR, and to amend the Concept of Operations Plus (CONOPS Plus) and the Operation Plan (OPLAN). The powers of decision with respect to the objectives and termination of the EUCAP Sahel Niger 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 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 EUCAP Sahel Niger, 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 Niger, and that they contribute to the running costs of EUCAP Sahel Niger, as appropriate.

2. Third States contributing to EUCAP Sahel Niger shall have the same rights and obligations in terms of the day-to-day management of EUCAP Sahel Niger 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 or have concluded 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 EUCAP Sahel Niger.

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 EUCAP Sahel Niger in accordance with Article 5.

2. The Head of Mission shall be responsible for the security of EUCAP Sahel Niger and for ensuring compliance with minimum security requirements applicable to EUCAP Sahel Niger, 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 Mission Security Officer (MSO), who shall report to the Head of Mission and also maintain a close functional relationship with the EEAS.

4. The EUCAP Sahel Niger 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 MSO.

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5. The Head of Mission shall ensure the protection of EU classified information in accordance with Council Decision 2011/292/EU of 31 March 2011 on the security rules for protecting EU classified information ([1]).

Article 12

Watch-Keeping Capability

The Watch-Keeping Capability shall be activated for EUCAP Sahel Niger.

Article 13

Financial arrangements

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1. The financial reference amount intended to cover the expenditure related to EUCAP Sahel Niger until 31 October 2013 shall be EUR 8 700 000. The financial reference amount for the subsequent period shall be decided by the Council.

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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. Nationals of participating third States and of host and neighbouring countries 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 EUCAP Sahel Niger.

4. The financial arrangements shall respect the operational requirements of EUCAP Sahel Niger including compatibility of equipment and interoperability of its teams.

5. The Head of Mission shall report fully to, and be supervised by, the Commission on the activities undertaken in the framework of his/her contract.

6. The expenditure related to EUCAP Sahel Niger shall be eligible as of the date of adoption of this Decision.

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.

2. Without prejudice to the chain of command, the Head of Mission shall act in close coordination with the Union's delegation in Niamey to ensure the consistency of Union action in Niger.

([1]) OJ L 141, 27.5.2011, p. 17.

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3. The Head of Mission shall coordinate closely with Member States' Heads of Missions present in Niger.

Article 15

Release of 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 EUCAP Sahel Niger, EU classified information up to 'CONFIDENTIEL UE/EU CONFIDENTIAL' level generated for the purposes of EUCAP Sahel Niger, in accordance with Decision 2011/292/EU.

2. 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 EUCAP Sahel Niger, in accordance with Decision 2011/292/EU. Arrangements between the HR and the competent authorities of the host State shall be drawn up for this purpose.

3. 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 EUCAP Sahel Niger and covered by the obligation of professional secrecy pursuant to Article 6(1) of the Council's Rules of Procedure ([1]).

4. The HR may delegate the powers referred to in paragraphs 1 to 3, as well as the ability to conclude the arrangements referred to in paragraph 2 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.

It shall apply for a period of 24 months.

([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).