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COUNCIL DECISION 2014/219/CFSP

of 15 April 2014

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

(OJ L 113, 16.4.2014, p. 21)

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COUNCIL DECISION 2014/219/CFSP

of 15 April 2014

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

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 region (the 'EU Sahel Strategy'), underlining that the Union has a long-standing interest in reducing insecurity and improving development in the Sahel region.

(2) On 16 July 2012, by Decision 2012/392/CFSP ([1]), the Council launched the common security and defence policy (CSDP) mission EUCAP Sahel Niger, which assists in training and advising internal security forces in Niger and reinforces regional coordination with Mali and Mauritania in the security field.

(3) On 23 July 2012, the Council stated that it was alarmed at the deteriorating situation in Mali and its adverse impact on regional and international peace and stability. In order to continue implementation of the EU Sahel Strategy, the Council invited the High Representative of the Union for Foreign Affairs and Security Policy (HR) and the Commission to make specific proposals with a view to the swift implementation of all action relating to governance, security, development and conflict settlement envisaged in the EU Sahel Strategy for the north of Mali.

(4) On 18 February 2013, by Decision 2013/87/CFSP ([2]), the Council launched a military training mission of the Malian armed forces (EUTM Mali) to provide advice and training for the Malian armed forces operating under the control of Mali's legitimate civilian authorities.

([1]) 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).

([2]) Council Decision 2013/87/CFSP of 18 February 2013 on the launch of a European Union military mission to contribute to the training of the Malian Armed Forces (EUTM Mali) (OJ L 46, 19.2.2013, p. 27).

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(5) On 27 May 2013, the Council reiterated its readiness to discuss, particularly in the context of the CSDP, the options for urgent support for the Malian authorities in the area of internal security and justice, including the fight against terrorism and organised crime.

(6) On 20 February 2014, the Republic of Mali sent a letter inviting the Union to deploy a Union civilian mission to support the Malian security forces.

(7) On 17 March 2014, the Council approved the Crisis Management Concept for a possible CSDP action to support Mali's internal security forces.

(8) EUCAP Sahel Mali 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:

Article 1

Mission

The Union shall conduct a civilian mission in Mali (EUCAP Sahel Mali) in support of the Malian internal security forces (ISF) (police, gendarmerie, national guard).

Article 2

Objective and tasks

1. The objective of EUCAP Sahel Mali shall be to allow the Malian authorities to restore and maintain constitutional and democratic order and the conditions for lasting peace in Mali, and to restore and maintain State authority and legitimacy throughout the territory of Mali by means of an effective redeployment of its administration.

2. With the support of the Malian dynamic in restoring State authority, and in close coordination with other international actors, in particular MINUSMA, EUCAP Sahel Mali shall assist and advise the ISF in the implementation of the security reform set out by the new Government, with a view to:

— improving their operational efficacy;

— re-establishing their respective hierarchical chains;

— reinforcing the role of judicial and administrative authorities with regard to the management and supervision of their missions; and

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— facilitating their redeployment to the north of the country.

3. To achieve its objective, EUCAP Sahel Mali shall operate in accordance with the strategic lines of operation defined in the Crisis Management Concept approved by the Council on 17 March 2014 and set out in the operational planning documents approved by the Council.

Article 3

Chain of command and structure

1. EUCAP Sahel Mali shall have a unified chain of command for crisis management operations.

2. EUCAP Sahel Mali shall have its Headquarters in Bamako.

Article 4

Planning and launch of EUCAP Sahel Mali

1. The mission shall be launched by a Council Decision on the date recommended by the Civilian Operation Commander of EUCAP Sahel Mali once it has reached its initial operating capability.

2. The tasks of the core party of EUCAP Mali shall be to prepare the installation of the mission in terms of logistics and infrastructure, open communication with Malian contacts, in particular the government and central authorities, in order to conduct exploratory assessments with them regarding the implementation of the mission objectives, start to outline the framework for cooperation and coordination with international partners, in particular MINUSMA, and provide the input needed to draw up the concept of operations (CONOPS), the operation plan (OPLAN) and the second budgetary impact statement.

Article 5

Civilian Operation Commander

1. The Director of the Civilian Planning and Conduct Capability (CPCC) of EUCAP Sahel Mali shall be the EUCAP Sahel Mali Civilian Operation Commander. The CPCC shall be at the disposal of the Civilian Operation Commander for the planning and conduct of EUCAP Sahel Mali.

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 Mali.

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 as required to the Head of Mission and providing him with advice and technical support.

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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, the Union institution concerned, or the European External Action Service (EEAS). Those authorities shall transfer Operational Control of their staff 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.

Article 6

Head of Mission

1. The Head of Mission shall assume responsibility for, and exercise command and control of, EUCAP Sahel Mali at theatre level. The Head of Mission shall be directly responsible to the Civilian Operation Commander and shall act in accordance with the instructions given by him.

2. The Head of Mission shall be the representative of EUCAP Sahel Mali in its action area. The Head of Mission may delegate management tasks in staff and financial matters to staff members of EUCAP Sahel Mali, under his overall responsibility.

3. The Head of Mission shall exercise administrative and logistic responsibility for EUCAP Sahel Mali, including over assets, resources and information placed at the disposal of the mission.

4. 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.

5. The Head of Mission shall ensure appropriate visibility of EUCAP Sahel Mali.

Article 7

Political control and strategic direction

1. The PSC shall exercise, under the responsibility of the Council and the HR, political control and strategic direction of EUCAP Sahel Mali. The Council shall authorise the PSC to take the relevant decisions in accordance with the third paragraph of Article 38 TEU. That authorisation shall include, in particular, the powers to appoint a Head of Mission, upon a proposal of the HR, and to review the CONOPS and the OPLAN. The powers of decision with respect to the objectives and termination of EUCAP Sahel Mali 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 8

Staff

1. EUCAP Sahel Mali 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 may also be recruited on a contractual basis by EUCAP Sahel Mali 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 the contracts to be concluded between EUCAP Sahel Mali and the staff members concerned.

Article 9

Status of EUCAP Sahel Mali and its staff

The status of EUCAP Sahel Mali and its staff, including where appropriate the privileges, immunities and further guarantees necessary for the completion and smooth functioning of EUCAP Sahel Mali, 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 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 Mali, provided that they bear the cost of the

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staff seconded by them, including salaries, all risk insurance cover, daily subsistence allowances and travel expenses to and from Mali, and that they contribute to the running costs of EUCAP Sahel Mali, as appropriate.

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

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 Mali in accordance with Article 5.

2. The Head of Mission shall be responsible for the security of EUCAP Sahel Mali and for ensuring compliance with minimum security requirements applicable to EUCAP Sahel Mali, 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.

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. As regards security, EUCAP Sahel Mali staff shall receive mandatory security training, adapted to the risk as it is evaluated in the zone of deployment. They shall also receive regular in-theatre refresher training organised by the MSO.

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

([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).

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Article 12

Watch-Keeping Capability

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

Article 13

Legal arrangements

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

Article 14

Financial arrangements

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1. The financial reference amount intended to cover the expenditure related to EUCAP Sahel Mali from 15 April 2014 to 14 January 2015 shall be EUR 5 500 000. The financial reference amount intended to cover the expenditure related to EUCAP Sahel Mali from 15 January 2015 to 14 January 2016 shall be EUR 11 400 000. The financial reference amount for the subsequent periods 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. Nationals of third States and host country nationals shall be allowed to tender for contracts. Subject to the Commission's approval, the Mission may conclude technical arrangements with Member States, the host State, participating third States and other international actors regarding the provision of equipment, services and premises to EUCAP Sahel Mali.

3. EUCAP Sahel Mali shall be responsible for the implementation of its budget. For this purpose, EUCAP Sahel Mali shall sign an agreement with the Commission.

4. The financial arrangements shall respect the chain of command as provided for in Articles 3, 5 and 6 and the operational needs of EUCAP Sahel Mali, including compatibility of equipment and interoperability of its teams.

5. Expenditure shall be eligible from the date when the agreement referred to in paragraph 3 is signed.

Article 15

Project Cell

1. EUCAP Sahel Mali shall have a Project Cell for identifying and implementing projects. EUCAP Sahel Mali shall, as appropriate, coordinate, facilitate, and provide advice on projects implemented by

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Member States and third States under their responsibility in areas related to EUCAP Sahel Mali and in support of its objectives.

2. Subject to paragraph 3, EUCAP Sahel Mali 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 Mali's other actions, if the project is:

— provided for in the financial statement relating to this Decision; or

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

EUCAP Sahel Mali 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 the Head of Mission in the use of the funds provided by those States.

Under no circumstances may the contributing Member States hold the Union or the HR liable for acts or omissions by the Head of Mission in the use of the funds provided by those States.

3. The PCS shall agree on the acceptance of a financial contribution from third States to the Project Cell.

Article 16

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 Mali to ensure the consistency of Union action in Mali. Without interfering in the chain of command, the Head of Delegation in Bamako, in close coordination with the European Union Special Representative for the Sahel (EUSR Sahel) shall give political direction at local level to the EUCAP Sahel Mali Head of Mission. The EUCAP Sahel Mali Head of Mission, the Head of Delegation in Bamako and the EUSR Sahel shall initiate consultations as necessary.

3. Cooperation shall be established between the EUCAP Sahel Mali Head of Mission, the EUTM Mali Mission Commander, the EUCAP Sahel Niger Head of Mission and the EUBAM Libya Head of Mission.

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4. In addition, EUCAP Sahel Mali shall coordinate and harmonise its actions in the area of security reform with MINUSMA and other international partners.

Article 17

Release of information

1. The HR shall be authorised, if necessary and as required for EUCAP Sahel Mali, to release EU classified information up to 'RESTREINT UE/EU RESTRICTED' level generated for the purposes of EUCAP Sahel Mali to the third States associated with this Decision, in accordance with Decision 2013/488/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 generated for the purposes of EUCAP Sahel Mali, in accordance with Decision 2013/488/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 Mali 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 such authorisations, as well as the ability to conclude the arrangements referred to in paragraph 2, to EEAS officials, to the EU Civilian Operation Commander and/or to the Head of Mission in accordance with section VII of Annex VI to Decision 2013/488/EU.

Article 18

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 starting from the date on which EUCAP Sahel Mali is launched.

([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).