COUNCIL DECISION 2014/349/CFSP

of 12 June 2014

amending Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo [1], EULEX KOSOVO

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 4 February 2008, the Council adopted Joint Action 2008/124/CFSP [2].

(2) On 8 June 2010, the Council adopted Decision 2010/322/CFSP [3] which amended Joint Action 2008/124/CFSP and extended the duration of European Union Rule of Law Mission in Kosovo (EULEX KOSOVO) for a period of two years until 14 June 2012.

(3) On 6 June 2012, the Council adopted Decision 2012/291/CFSP [4] which amended Joint Action 2008/124/CFSP and extended the duration of EULEX KOSOVO for a period of two years until 14 June 2014.

(4) Following the recommendations in the Strategic Review adopted in 2014, it is necessary to extend the duration EULEX KOSOVO for a further period of two years.

(5) On 27 May 2013, the Council adopted Decision 2013/241/CFSP [5] which amended Joint Action 2008/124/CFSP to provide a new financial reference amount intended to cover the period from 15 June 2013 until 14 June 2014. Joint Action 2008/124/CFSP should be amended to provide a new financial reference amount intended to cover the transitional period from 15 June 2014 until 14 October 2014.

(6) EULEX KOSOVO 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.

(7) Joint Action 2008/124/CFSP should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Joint Action 2008/124/CFSP is amended as follows:

(1) Article 8 is amended as follows:

(a) the following paragraph is inserted:

'1a. The Head of Mission shall be the representative of the Mission. The Head of Mission may delegate management tasks in staff and financial matters to staff members of the Mission, under his/her overall responsibility.';

(b) paragraph 5 is deleted;

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[1] This designation is without prejudice to positions on status, and is in line with UNSCR 1244 (1999) and the ICJ Opinion on the Kosovo declaration of independence.

[2] Council Joint Action 2008/124/CFSP of 4 February 2008 on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO (OJ L 42, 16.2.2008, p. 92).

[3] Council Decision 2010/322/CFSP of 8 June 2010 amending and extending Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO (OJ L 145, 11.6.2010, p. 13).

[4] Council Decision 2012/291/CFSP of 5 June 2012 amending and extending Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO (OJ L 146, 6.6.2012, p. 46).

[5] Council Decision 2013/241/CFSP of 27 May 2013 amending Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO (OJ L 141, 28.5.2013, p. 47).

(c) paragraph 9 is replaced by the following:

'9. The Head of Mission shall ensure that EULEX KOSOVO works closely and coordinates with the competent Kosovo authorities and with relevant international actors, as appropriate, including NATO/KFOR, UNMIK, OSCE and third States involved in the rule of law in Kosovo.'.

(2) Article 9(4) is replaced by the following:

'4. All staff shall carry out their duties and act in the interest of the Mission. All staff shall respect the security principles and minimum standards established by Council Decision 2013/488/EU (*).

(*) 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).';

(3) Article 10 (3) is replaced by the following:

'3. 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 EULEX KOSOVO and the staff member concerned.';

(4) Article 14 (7) is replaced by the following:

'7. The Head of Mission shall ensure the protection of EU classified information in accordance with Decision 2013/488/EU.';

(5) The following Article is inserted:

'Article 15a

Legal arrangements

EULEX KOSOVO 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 Joint Action.';

(6) Article 16 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. The financial reference amount intended to cover the expenditure of EULEX KOSOVO until 14 October 2010 shall be EUR 265 000 000.

The financial reference amount intended to cover the expenditure of EULEX KOSOVO from 15 October 2010 until 14 December 2011 shall be EUR 165 000 000.

The financial reference amount intended to cover the expenditure of EULEX KOSOVO from 15 December 2011 until 14 June 2012 shall be EUR 72 800 000.

The financial reference amount intended to cover the expenditure of EULEX KOSOVO from 15 June 2012 until 14 June 2013 shall be EUR 111 000 000.

The financial reference amount intended to cover the expenditure of EULEX KOSOVO from 15 June 2013 until 14 June 2014 shall be EUR 110 000 000.

The financial reference amount intended to cover the expenditure of EULEX KOSOVO from 15 June 2014 until 14 October 2014 shall be EUR 34 000 000.

The financial reference amount for the subsequent period for EULEX KOSOVO shall be decided by the Council.'

(b) paragraphs 4 to 6 are replaced by the following:

'4. EULEX KOSOVO shall be responsible for the implementation of the Mission's budget. For this purpose, the EULEX KOSOVO shall sign an agreement with the Commission.

5. EULEX KOSOVO shall be responsible for any claims and obligations arising from the implementation of the mandate starting from 15 June 2014, with the exception of any claims relating to serious misconduct by the Head of Mission, for which the Head of Mission shall bear the responsibility.

6. The implementation of the financial arrangements will be without prejudice to the chain of command as provided for in Articles 7, 8 and 11 and the operational requirements of EULEX KOSOVO, including compatibility of equipment and interoperability of its teams.

7. Expenditure shall be eligible as of the date of entry into force of this Joint Action.'.

(7) The following Article is inserted:

'*Article 16a*

Project Cell

1. EULEX KOSOVO shall have a Project Cell for identifying and implementing projects. EULEX KOSOVO shall, as appropriate, coordinate, facilitate, and provide advice on projects implemented by Member States and third States under their responsibility in areas related to EULEX KOSOVO and in support of its objectives.

2. EULEX KOSOVO 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 EULEX KOSOVO's other actions, if the project is:

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

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

(8) In Article 18 paragraphs 1 and 2 are replaced by the following:

'1. The HR shall be authorised to release to the United Nations, NATO/KFOR and to other third parties, associated with this Joint Action, EU classified information and documents generated for the purposes of EULEX KOSOVO up to the level of the relevant classification respectively for each of them, in accordance with Decision 2013/488/EU. Local technical arrangements shall be drawn up to facilitate this.

2. In the event of a specific and immediate operational need, the HR shall also be authorised to release to the competent local authorities EU classified information and documents up to the level "RESTREINT UE/EU RESTRICTED" generated for the purposes of EULEX KOSOVO, in accordance with Decision 2013/488/EU. In all other cases, such information and documents shall be released to the competent local authorities in accordance with the procedures appropriate to those authorities' level of cooperation with the EU.'.

(9) In Article 20, the second subparagraph is replaced by the following:

'It shall expire on 14 June 2016.'

Article 2

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

Done at Luxembourg, 12 June 2014.

For the Council
The President
Y. MANIATIS