COUNCIL DECISION (CFSP) 2016/1990

of 14 November 2016

amending Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo * (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 ([1]).

(2) On 14 June 2016, the Council adopted Decision (CFSP) 2016/947 ([2]), which amended Joint Action 2008/124/CFSP, extended the mandate of EULEX KOSOVO until 14 June 2018 and provided a new financial reference amount for the implementation of its mandate in Kosovo until 14 December 2016 and for support to the relocated judicial proceedings within a Member State until 14 June 2017.

(3) A new reference amount should be provided for the implementation of the mandate of EULEX KOSOVO until 14 June 2017.

(4) Nothing in this Decision should be understood as prejudicing the independence and the autonomy of the judges and prosecutors.

(5) Due to the special character of the activities of EULEX KOSOVO in support of the relocated judicial proceedings within a Member State, it is appropriate to identify in this Decision the amount envisaged to cover the support to the relocated judicial proceedings within a Member State and to provide for the implementation of that part of the budget through a grant.

(6) The rules on participation in the Mission's procurement procedures and the rules of origin applicable to the goods that it purchases should be aligned with provisions for other civilian CSDP missions.

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

(8) 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,

HAS ADOPTED THIS DECISION:

Article 1

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

(1) 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.

* 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.

([1]) 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).

([2]) Council Decision (CFSP) 2016/947 of 14 June 2016 amending Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo (EULEX Kosovo) (OJ L 157, 15.6.2016, p. 26).

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 intended to cover the expenditure of EULEX KOSOVO from 15 October 2014 until 14 June 2015 shall be EUR 55 820 000.

The financial reference amount intended to cover the expenditure of EULEX KOSOVO from 15 June 2015 until 14 June 2016 shall be EUR 77 000 000.

The financial reference amount intended to cover the expenditure of EULEX KOSOVO from 15 June 2016 until 14 June 2017 shall be EUR 86 850 000.

Out of the amount referred to in the ninth subparagraph, the amount intended to cover the expenditure of EULEX KOSOVO for the implementation of its mandate in Kosovo shall be EUR 34 500 000 from 15 June until 14 December 2016 and EUR 23 250 000 from 15 December 2016 until 14 June 2017; EUR 29 100 000 shall cover the support to the relocated judicial proceedings within a Member State from 15 June 2016 until 14 June 2017 and shall also retroactively cover expenditure arising from the support to the relocated judicial proceedings as of 1 April 2016. The Commission shall sign a grant agreement with a registrar acting on behalf of a registry in charge of the administration of the relocated judicial proceedings for that amount. The rules on grants provided for in Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (*) shall apply to this grant agreement.

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

(*) Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).';

(b) paragraph 2 is replaced by the following:

'2. All expenditure shall be managed in accordance with the rules and procedures applicable to the general budget of the Union. The participation of natural and legal persons in the award of procurement contracts financed out of the Mission's budget shall be open without limitations. Moreover, no rule of origin shall apply for goods purchased by EULEX KOSOVO.';

(c) paragraph 3 is replaced by the following:

'3. Subject to the Commission's approval, the Head of Mission may conclude technical arrangements with EU Member States, participating third States and other international actors deployed in Kosovo regarding the provision of equipment, services and premises to EULEX KOSOVO. The position of contract holder of contracts or under arrangements concluded by EUPT Kosovo for EULEX KOSOVO during the planning and preparation phase shall be transferred to EULEX KOSOVO, as appropriate. Assets owned by EUPT Kosovo shall be transferred to EULEX KOSOVO.'.

(2) In Article 18, paragraph 1 is replaced by the following:

'1. The HR shall be authorised to release to the United Nations, NATO/KFOR, other third parties associated with this Joint Action and Frontex 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.'.

Article 2

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

Done at Brussels, 14 November 2016.

For the Council
The President
F. MOGHERINI