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(Acts adopted under the EU Treaty)

ACTS ADOPTED UNDER TITLE V OF THE EU TREATY

COUNCIL JOINT ACTION 2008/38/CFSP

of 20 December 2007

amending Joint Action 2007/405/CFSP on the European Union police mission undertaken in the framework of reform of the security sector (SSR) and its interface with the system of justice in the Democratic Republic of the Congo (EUPOL RD Congo)

THE COUNCIL OF THE EUROPEAN UNION,

Head of Mission to the Commission for implementation of the Mission's budget.

Having regard to the Treaty on European Union, and in particular Article 14 thereof,

(4) The Watch-Keeping Capability established within the Council Secretariat should be activated for this Mission.

Whereas:

(5) Joint Action 2007/405/CFSP should be amended accordingly,

(1) On 12 June 2007, the Council adopted Joint Action 2007/405/CFSP on the European Union police mission undertaken in the framework of reform of the security sector (SSR) and its interface with the system of justice in the Democratic Republic of the Congo (EUPOL RD Congo) ⁽¹⁾ for an initial duration of one year. The mission was launched on 1 July 2007.

HAS ADOPTED THIS JOINT ACTION:

Article 1

Joint Action 2007/405/CFSP is hereby amended as follows:

1. the following Article 3a shall be inserted:

(2) On 18 June 2007, the Council approved Guidelines for Command and Control Structure for EU Civilian Operations in Crisis Management. Those Guidelines provide, *inter alia*, that a Civilian Operation Commander will exercise command and control at strategic level for the planning and conduct of all civilian crisis management operations under the political control and strategic direction of the Political and Security Committee (PSC) and the overall authority of the Secretary-General/High Representative for the CFSP (SG/HR). Those Guidelines further provide that the Director of the Civilian Planning and Conduct Capability (CPCC) established within the Council Secretariat will, for each civilian crisis management operation, be the Civilian Operation Commander.

*'Article 3a***Civilian Operation Commander**

1. The Civilian Planning and Conduct Capability (CPCC) Director shall be the Civilian Operation Commander for EUPOL RD Congo.

2. The Civilian Operation Commander shall exercise command and control of EUPOL RD Congo at the strategic level under the political control and strategic direction of the Political and Security Committee (PSC) and the overall authority of the SG/HR.

(3) The abovementioned Command and Control Structure is without prejudice to the contractual responsibility of the

3. The Civilian Operation Commander shall ensure proper and effective implementation of the Council's decisions and the PSC's decisions, in particular by issuing instructions at strategic level as required to the Head of Mission.

⁽¹⁾ OJ L 151, 13.6.2007, p. 46.

4. All seconded staff shall remain under the full command of the national authorities of the sending State or EU institution. National authorities shall transfer Operational Control (OPCON) of their personnel, teams and units to the Civilian Operation Commander.

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

6. The Civilian Operation Commander and the EUSR shall consult each other as required.;

2. paragraphs 2 to 8 of Article 5 shall be replaced by the following:

'2. The Head of Mission shall assume responsibility and exercise command and control of the mission at theatre level.

3. 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 over assets, resources and information put at the disposal of the mission.

4. The Head of Mission shall issue instructions to all mission staff for the effective conduct of EUPOL RD Congo in theatre, assuming its coordination and day-to-day management, in accordance with the Civilian Operation Commander's instructions at strategic level.

5. The Head of Mission shall be responsible for the implementation of the Mission's budget. For that purpose the Head of Mission shall sign a contract with the Commission.

6. The Head of Mission shall be responsible for disciplinary control over staff. In the case of seconded staff, disciplinary action shall be exercised by the national or EU authority concerned.

7. The Head of Mission shall represent EUPOL RD Congo in the operations area and shall ensure appropriate visibility of the Mission.

8. The Head of Mission shall coordinate with other EU actors on the ground as appropriate. Without prejudice to the chain of command, the Head of Mission shall receive local political guidance from the EUSR.;

3. paragraph 3 of Article 6 shall be replaced by the following:

'3. 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 2001/264/EC of 19 March 2001 adopting the Council's security regulations (*).

(*) OJ L 101, 11.4.2001, p. 1. Decision as amended by Decision 2007/438/EC (OJ L 164, 26.6.2007, p. 24).;

4. Article 7 shall be replaced by the following:

'Article 7

Chain of Command

1. EUPOL RD Congo shall have a unified chain of command as a crisis management operation.

2. Under the responsibility of the Council, the Political and Security Committee (PSC) shall exercise political control and strategic direction of EUPOL RD Congo.

3. Under the political control and strategic direction of the PSC and the overall authority of the SG/HR the Civilian Operation Commander shall be the commander of EUPOL RD Congo at strategic level and, as such, shall issue instructions to the Head of Mission and provide him with advice and technical support.

4. The Civilian Operation Commander shall report to the Council through the SG/HR.

5. The Head of Mission shall exercise command and control of EUPOL RD Congo at theatre level and shall be directly responsible to the Civilian Operation Commander.;

5. Article 8 shall be replaced by the following:

'Article 8

Political control and strategic direction

1. Under the responsibility of the Council, the PSC shall exercise political control and strategic direction of the mission. The Council hereby authorises the PSC to take the relevant decisions for that purpose in accordance with Article 25 of the Treaty on European Union. This authorisation shall include the power to amend the OPLAN. It shall also include powers to take subsequent decisions regarding the appointment of the Head of Mission. The powers of decision with respect to the objectives and termination of the mission shall remain vested in the Council.

2. The PSC shall report to the Council at regular intervals.

3. The PSC shall receive reports by the Civilian Operation Commander and the Head of Mission on a regular basis and as required on issues within their areas of responsibility.;

6. Article 14 shall be replaced by the following:

'Article 14

Security

1. The Civilian Operation Commander shall direct the Head of Mission's planning of security measures and ensure their proper and effective implementation for EUPOL RD Congo in accordance with Articles 3a and 7 in coordination with the Council Security Office.

2. The Head of Mission shall be responsible for the security of the operation and for ensuring compliance with minimum security requirements applicable to the operation, in line with the policy of the European Union on the security of personnel deployed outside the European Union in an operational capacity under Title V of the Treaty on European Union 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 Council Security Office.

4. EUPOL RD Congo staff shall undergo mandatory security training before their entry into function, in accordance with the OPLAN. They shall also receive regular in theatre refresher training organised by the MSO.;

7. the following Article shall be inserted:

'Article 14a

Watch-Keeping

The Watch-Keeping Capability shall be activated for EUPOL RD Congo.;

8. the following paragraph shall be added to Article 17:

'The Decisions of the PSC pursuant to Article 8(1), regarding the appointment of the Head of Mission, shall also be published in the *Official Journal of the European Union*.'

Article 2

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

Article 3

This Joint Action shall be published in the *Official Journal of the European Union*.

Done at Brussels, 20 December 2007.

For the Council
The President

F. NUNES CORREIA
