

(Acts adopted under Title V of the Treaty on European Union)

COUNCIL JOINT ACTION 2004/523/CFSP

of 28 June 2004

on the European Union Rule of Law Mission in Georgia, EUJUST THEMIS

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union and in particular Article 14, Article 25, third paragraph and Article 26 thereof,

Whereas:

- (1) The European Union (EU) has initiated a greater engagement towards the South Caucasus, as the appointment of a European Union Special Representative (EUSR) for this region already demonstrated. Through the presence of the EUSR, the EU will continue to ensure coordination of the efforts made by the international community in Georgia and contribute to ongoing reform efforts by the new government.
- (2) The EU aims to support the transition process in Georgia through the full range of EU instruments, including the Partnership and Cooperation Agreement, which is being implemented through a number of EC programmes in Georgia. In the field of the rule of law, the new Georgian Government has taken some decisive steps since coming to power. The EU is willing to help Georgia in its further progress and is committed in particular to continue to assist the new government in its efforts to bring local standards with regard to rule of law closer to international and EU standards, in full and close cooperation with other international actors, in particular the OSCE.
- (3) The security situation in Georgia is stable but may deteriorate with potentially serious repercussions on regional and international security and the strengthening of democracy and the rule of law. A commitment of EU political effort and resources will help to embed stability in the region.
- (4) On 3 June 2004, the Prime Minister of Georgia, Mr Zhvania, invited the EU to deploy an EU Rule of Law

Mission in the context of ESDP in Georgia, stating that appropriate arrangements with regard to the status and the activities of the mission should be concluded. An agreement will need to be concluded to this end between the authorities of Georgia and the EU.

- (5) In conformity with the guidelines of the European Council meeting at Nice on 7 to 9 December 2000, this Joint Action should determine the role of the Secretary General/High Representative (SG/HR) in accordance with Articles 18 and 26 of the TEU in the implementation of measures falling within the political control and strategic direction exercised by the Political and Security Committee (PSC), in accordance with Article 25 of the TEU.
- (6) In the context of this mission and in view of its limited size, only EU Member States shall participate.
- (7) Article 14(1) of the TEU calls for the indication of a financial reference amount for the whole period of implementation of the Joint Action; the indication of amounts to be financed by the Community budget illustrates the will of the legislative authority and is subject to the availability of commitment appropriations during the respective budget year,

HAS ADOPTED THIS JOINT ACTION:

Article 1

Mission

1. The European Union hereby establishes an EU Rule of Law Mission in Georgia, in the context of ESDP, EUJUST THEMIS, comprising a planning phase beginning no later than 1 July 2004 and an operational phase beginning no later than 15 July 2004.

2. EUJUST THEMIS shall operate in accordance with the objectives and other provisions as contained in the mission statement set out in Article 2.

Article 2

Mission statement

1. EUJUST THEMIS, shall, in full coordination with, and in complementarity to, EC programmes, as well as other donors' programmes, assist in the development of a horizontal governmental strategy guiding the reform process for all relevant stakeholders within the criminal justice sector, including the establishment of a mechanism for coordination and priority setting for the criminal justice reform.

2. Within its means and capabilities, EUJUST THEMIS more specifically could:

- (a) Provide urgent guidance for the new criminal justice reform strategy;
- (b) Support the overall coordinating role of the relevant Georgian authorities in the field of judicial reform and anti-corruption;
- (c) Support the planning for new legislation as necessary, e.g. Criminal Procedure Code;

secondarily:

- (d) Support the development of international as well as regional cooperation in the area of criminal justice.

3. EUJUST THEMIS shall help develop an overall policy and improve top-level planning and performance capabilities in the areas identified as requiring urgent assistance.

Article 3

Structure

1. EUJUST THEMIS shall, in principle, be structured as follows:

- (a) mission Head Office in Tbilisi, composed of the Head of the Mission and staff as defined in the Operation Plan (OPLAN);
- (b) experts co-located, for instance, at the following key positions within the Georgian authorities:

- the Prime Minister's Office,
- the Ministry of Justice,
- the National Security Council,
- the Council of Justice,

— the Prosecutor General's Office,

— the Public Defender's Office.

2. The exact deployment will depend on a more detailed needs assessment at the beginning of the mission, to be carried out in close coordination with the Georgian authorities as well as the Commission and international donors.

Article 4

Head of Mission and mission experts

1. The Head of Mission shall assume the day-to-day management of EUJUST THEMIS activities and shall be responsible for staff and disciplinary matters.

2. The Head of Mission shall sign a contract with the Commission.

3. All mission experts in the EUJUST THEMIS staff shall remain under the authority of the appropriate EU Member State or institution and shall carry out their duties and act in the interest of the mission. Both during and after the mission, the mission experts shall exercise the greatest discretion with regard to all facts and information relating to the mission.

Article 5

Planning phase

1. During the planning phase of the mission, a planning team shall be established and shall comprise the Head of Mission, who shall lead the planning team, and the necessary staff to deal with functions ensuing from the needs of the mission.

2. A comprehensive situation assessment will be carried out as a priority in the planning process and may be updated as necessary.

3. The planning team shall draw up an OPLAN and develop all technical instruments necessary to execute EUJUST THEMIS. The OPLAN will take into account the comprehensive situation assessment. The Council shall approve the OPLAN.

4. The planning team shall work in close coordination with relevant international actors including the OSCE, the Council of Europe and bilateral donors.

Article 6

Staff

1. The numbers and competences of EUJUST THEMIS staff shall be consistent with the mission statement set out in Article 2 and the structure set out in Article 3.

2. Mission experts shall be seconded by EU Member States or institutions. The period of secondment should be one year. Each Member State shall bear the costs related to the mission experts seconded by it, including salaries, medical coverage, allowances other than per diems and travel expenses to and from Georgia.

3. International staff and local staff shall be recruited on a contractual basis by EUJUST THEMIS as required.

Article 7

Status of staff

1. The status of EUJUST THEMIS staff in Georgia, including where appropriate the privileges, immunities and further guarantees necessary for the completion and smooth functioning of EUJUST THEMIS shall be agreed in accordance with the procedure laid down in Article 24 of the TEU. The SG/HR, assisting the Presidency, may negotiate such arrangement on its behalf.

2. The EU Member State or institution having seconded a staff member shall be responsible for answering any claims linked to the secondment, from or concerning the staff member. The EU Member State or institution in question shall be responsible for bringing any action against the secondee.

Article 8

Chain of command

1. The structure of EUJUST THEMIS, as part of the broader EU Rule of Law approach in Georgia, shall have a unified chain of command, as a crisis management operation.

2. The EUSR shall report to the Council through the SG/HR.

3. The PSC shall provide the political control and strategic direction.

4. The Head of Mission shall lead EUJUST THEMIS and assume its day-to-day management.

5. The Head of Mission shall report to the SG/HR through the EUSR.

6. The SG/HR shall give guidance to the Head of Mission through the EUSR.

Article 9

Political control and strategic direction

1. The PSC shall exercise, under the responsibility of the Council, the political control and strategic direction of the

mission. The Council hereby authorises the PSC to take the relevant decisions in accordance with Article 25 of the TEU. This authorisation shall include the powers to appoint, upon a proposal by the SG/HR, a Head of Mission, and to amend the OPLAN and the Chain of Command. The powers of decision with respect to the objectives and termination of the operation shall remain vested in the Council, assisted by the SG/HR.

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

3. The PSC shall receive reports by the Head of Mission regarding the conduct of the mission, at regular intervals. The PSC may invite the Head of Mission to its meetings as appropriate.

Article 10

Financial arrangements

1. The financial reference amount intended to cover the expenditure related to the mission shall be EUR 2 050 000.

2. The expenditure financed by the amount stipulated in paragraph 1 shall be managed in accordance with the procedures and rules applicable to the general budget of the European Union with the exception that any pre-financing shall not remain the property of the Community. Nationals of third states shall be allowed to tender for contracts.

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

4. The financial arrangements shall respect the operational requirements of EUJUST THEMIS, including compatibility of equipment.

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

Article 11

Community action

1. The Council notes the intention of the Commission to direct its action towards achieving the objectives of this Joint Action, where appropriate, by relevant Community instruments.

2. The Council also notes that coordination arrangements are required in Tbilisi as well as in Brussels.

*Article 12***Release of classified information**

The SG/HR is authorised to release to the host state, the OSCE and the Council of Europe, and the UN, as appropriate and in accordance with the operational needs of the Mission, EU classified information and documents up to the level 'RESTREINT UE' generated for the purposes of the operation, in accordance with the Council's security regulations. Local arrangements will be drawn up for this purpose.

*Article 13***Entry into force**

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

It shall expire on 14 July 2005.

*Article 14***Publication**

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

Done at Luxembourg, 28 June 2004.

For the Council

The President

M. CULLEN
