

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

COUNCIL JOINT ACTION 2005/355/CFSP

of 2 May 2005

on the European Union mission to provide advice and assistance for security sector reform in the Democratic Republic of the Congo (DRC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 14, the third paragraph of Article 25, Article 26 and Article 28(3), first subparagraph thereof,

Whereas:

- (1) On 12 April 2005, the Council adopted Common Position 2005/304/CFSP concerning conflict prevention, management and resolution in Africa and repealing Common Position 2004/85/CFSP ⁽¹⁾.
- (2) On 22 November 2004, the Council approved an action plan for ESDP support to Peace and Security in Africa. It approved guidelines for implementing that Action Plan on 13 December 2004.
- (3) On 13 December 2004, the Council, in its conclusions, stated the EU's readiness to contribute to security sector reform in the Democratic Republic of the Congo.
- (4) On 28 June 2004, the Council adopted Joint Action 2004/530/CFSP ⁽²⁾ extending and amending the mandate of Mr Aldo Ajello as the Special Representative of the European Union for the African Great Lakes Region.
- (5) On 9 December 2004, the Council adopted Joint Action 2004/874/CFSP on the European Union Police Mission in Kinshasa (DRC) regarding the Integrated Police Unit (EUPOL 'Kinshasa') ⁽³⁾.
- (6) The Global and Inclusive Agreement signed by the Congolese parties in Pretoria on 17 December 2002, followed by the Final Act signed in Sun City on 2 April 2003, has initiated a transition process in the DRC which includes establishing a restructured and integrated national army.
- (7) On 30 March 2005, the United Nations Security Council adopted Resolution 1592 (2005) on the situation in the Democratic Republic of the Congo, in which it reaffirmed, *inter alia*, its support for the transition process in the Democratic Republic of the Congo, urged the Government of National Unity and Transition to carry out reform of the security sector and decided to extend and strengthen the mandate of the United Nations Organisation Mission in the Democratic Republic of the Congo (MONUC), as contained in Resolution 1565 (2004).
- (8) On 26 April 2005, the DRC government sent an official invitation to the Secretary-General/High Representative for Common Foreign and Security Policy (SG/HR) with a view to obtaining assistance from the European Union through the establishment of a team to provide the Congolese authorities with advice and assistance for security sector reform.
- (9) The current security situation in the DRC may deteriorate, with potentially serious repercussions for the process of strengthening democracy, the rule of law and international and regional security. A continued commitment of EU political effort and resources will help to embed stability in the region.
- (10) On 12 April 2005, the Council approved the General Concept for setting up a mission to provide advice and assistance for security sector reform in the Democratic Republic of the Congo (DRC).
- (11) The status of the mission will be subject to consultation with the DRC government with a view to ensuring that the Status of Mission Agreement relating to EUPOL 'Kinshasa' is applicable to the mission and its staff,

⁽¹⁾ OJ L 97, 15.4.2005, p. 57.

⁽²⁾ OJ L 234, 3.7.2004, p. 13, as amended by Joint Action 2005/96/CFSP (OJ L 31, 4.2.2005, p. 70).

⁽³⁾ OJ L 367, 14.12.2004, p. 30.

HAS ADOPTED THIS JOINT ACTION:

Article 1

Mission

1. The European Union hereby establishes a mission to provide advice and assistance for security sector reform in the Democratic Republic of the Congo (DRC) called EUSEC DR Congo with the aim of contributing to a successful integration of the army in the DRC. The mission must provide the Congolese authorities responsible for security with advice and assistance, while taking care to promote policies compatible with human rights and international humanitarian law, democratic standards and the principles of good governance, transparency and respect for the rule of law.

2. The mission 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

The mission shall aim, in close cooperation and coordination with the other actors in the international community, to provide practical support for the integration of the Congolese army and good governance in the field of security, as set out in the General Concept, including identifying and contributing to the development of various projects and options that the European Union and/or its Member States may decide to support in this area.

Article 3

Structure of the mission

The mission shall be structured as follows:

- (a) an office in Kinshasa, composed of the Head of Mission and staff not attached to the Congolese authorities;
- (b) experts assigned, *inter alia*, to the following key posts within the Congolese administration:
 - the private office of the Minister for Defence,
 - the combined general staff, including the integrated military structure (IMS),
 - the army general staff,
 - the National Committee for Disarmament, Demobilisation and Reintegration (Conader), and
 - the Joint Operational Committee.

Article 4

Preparatory stage

1. The General Secretariat of the Council, assisted by the Head of Mission, shall draw up an implementation plan for the mission.
2. The implementation plan and the launching of the mission shall be approved by the Council.

Article 5

Head of Mission

1. General Pierre Michel JOANA is hereby appointed Head of Mission. The Head of Mission shall assume day-to-day management of the mission 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 shall remain under the authority of the appropriate Member State or EU institution, and shall fulfil their duties and act in the interest of the mission. Both during and after the mission, mission experts shall exercise the greatest discretion with regard to all facts and information relating to the mission.

Article 6

Staff

1. Mission experts shall be seconded by Member States and by the EU institutions. Except for the Head of Mission, each Member State or institution shall bear the costs relating to the experts seconded by it, including salaries, medical coverage, travel expenses to and from the DRC and allowances, other than per diem and housing allowances.
2. International civilian staff and local staff shall be recruited on a contractual basis by the mission as required.

Article 7

Chain of command

The mission shall have a unified chain of command:

- The Head of Mission shall lead the advice and assistance team, assume its day-to-day management and report to the SG/HR through the EUSR.
- The EUSR shall report to the Political and Security Committee (PSC) and to the Council through the SG/HR.

- The SG/HR shall give guidance to the Head of Mission through the EUSR.
- The PSC shall exercise political control and strategic direction.

Article 8

Political control and strategic direction

1. Under the responsibility of the Council, the PSC shall exercise 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 Treaty. This authorisation shall include the power to amend the implementation plan and the chain of command. It shall also include powers to take subsequent decisions regarding the appointment of the Head of Mission. The power of decision with respect to the objectives and termination of the mission shall remain vested in the Council, assisted by the SG/HR.
2. The EUSR shall provide the Head of Mission with the political guidance required to fulfil his duties at local level.
3. The PSC shall report to the Council at regular intervals, taking into account the EUSR reports.
4. The PSC shall receive, at regular intervals, reports by the Head of Mission regarding its conduct. The PSC may invite the Head of Mission to its meetings as appropriate.

Article 9

Financial arrangements

1. The financial reference amount to cover expenditure relating to the mission shall be EUR 1 600 000.
2. As regards expenditure financed out of the amount stipulated in paragraph 1, the following shall apply:
 - (a) expenditure shall be managed in accordance with the Community rules and procedures applicable to the budget, 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;
 - (b) the Head of Mission shall report fully to, and be supervised by, the Commission regarding the activities undertaken in the framework of his contract.
3. The financial arrangements shall respect the operational requirements of the mission, including compatibility of equipment.

Article 10

Community action

1. In accordance with his mandate, the EUSR shall be responsible for coordination with other EU players as well as relations with host State authorities.
2. Without prejudice to the chain of command, the Head of Mission shall act in coordination with EUPOL 'Kinshasa' so as to ensure that the two missions are consistent with the broader context of EU activities in the DRC. The Head of Mission shall cooperate with the other international players present, in particular MONUC and the third States involved in the DRC.
3. Without prejudice to the chain of command, the Head of Mission shall also act in coordination with the Commission delegation.
4. The Head of Mission shall cooperate with the other international players present, in particular MONUC and the third States involved in the DRC.

Article 11

Release of classified information

The Council takes note of the Commission's intention to direct its action, where appropriate, towards achieving the objectives of this Joint Action.

Article 12

Release of classified information

1. The SG/HR is authorised to release to the United Nations, third States and the host State, in accordance with the operational needs of the mission, EU classified information and documents generated for the purposes of the mission, in accordance with the Council's security regulations.
2. The SG/HR is authorised to release to the United Nations, third States and the host State EU non-classified documents relating to the deliberations of the Council with regard to the mission covered by the obligation of professional secrecy pursuant to Article 6(1) of the Council Rules of Procedure.

Article 13

Status of the mission and of its staff

1. The status of the mission and of its staff shall be governed by arrangement with the competent authorities of the DRC.
2. The State or Community institution having seconded a staff member shall be responsible for dealing with any complaints linked to the secondment, from or concerning the staff member. The State or Community institution in question shall be responsible for bringing any action against the person seconded.

*Article 14***Evaluation of the mission**

The PSC shall evaluate the initial results of the mission at the latest six months after the launching of the mission and shall submit its conclusions to the Council, including, if applicable, a recommendation that the Council should take a decision to extend or amend the mandate of the mission.

*Article 15***Entry into force, duration and expenditure**

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

It shall apply until 2 May 2006.

2. The expenditure shall be eligible after the adoption of the Joint Action.

*Article 16***Publication**

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

Done at Brussels, 2 May 2005.

For the Council

The President

J. ASSELBORN
