

COUNCIL JOINT ACTION 2007/807/CFSP**of 6 December 2007****amending Joint Action 2005/889/CFSP on establishing a European Union Border Assistance Mission for the Rafah Crossing Point (EU BAM Rafah)**

THE COUNCIL OF THE EUROPEAN UNION,

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

Whereas:

- (1) On 25 November 2005, the Council adopted Joint Action 2005/889/CFSP on establishing a European Union Border Assistance Mission for the Rafah Crossing Point (EU BAM Rafah) ⁽¹⁾.
- (2) On 18 June 2007, the Council approved Guidelines for Command and Control Structure for EU Civilian Operations in Crisis Management. These Guidelines notably provide 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 and the overall authority of the Secretary-General/High Representative for the CFSP. These Guidelines further provide that the Director of the Civilian Planning and Conduct Capability established within the Council Secretariat will, for each civilian crisis management operation, be the Civilian Operation Commander.
- (3) The above mentioned Command and Control Structure should be without prejudice to the contractual responsibilities of the Head of Mission towards the Commission for implementing the budget of the Mission.
- (4) The Watch-Keeping Capability established within the Council Secretariat should be activated for the Mission.
- (5) Joint Action 2005/889/CFSP should be amended accordingly,

HAS ADOPTED THIS JOINT ACTION:

Article 1

Joint Action 2005/889/CFSP is hereby amended as follows:

1. The following Article shall be inserted:

*'Article 4a***Civilian Operation Commander**

1. The Civilian Planning and Conduct Capability Director shall be the Civilian Operation Commander for EU BAM Rafah.
2. The Civilian Operation Commander, under the political control and strategic direction of the Political and Security Committee (PSC) and the overall authority of the Secretary-General/High Representative, shall exercise command and control of EU BAM Rafah at the strategic level.
3. The Civilian Operation Commander shall ensure proper and effective implementation of the Council's decisions as well as the PSC's decisions, including by issuing instructions at the strategic level as required to the Head of Mission.
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 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 EU Special Representative shall consult each other as required.'

2. Article 5(2) to (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 including over assets, resources and information put at the disposal of the mission.

⁽¹⁾ OJ L 327, 14.12.2005, p. 28.

4. The Head of Mission shall issue instructions to all mission staff, for the effective conduct of EU BAM Rafah in theatre, assuming its coordination and day-to-day management, following the instructions at the strategic level of the Civilian Operation Commander.

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

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

7. The Head of Mission shall represent EU BAM Rafah in the operations area and shall ensure appropriate visibility of the Mission.

8. The Head of Mission shall coordinate, as appropriate, with other EU actors on the ground. The Head of Mission shall, without prejudice to the chain of command, receive local political guidance from the EU Special Representative.'

3. Article 7(5) shall be replaced by the following:

'5. 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 last amended by Decision 2007/438/EC (OJ L 164, 26.6.2007, p. 24).'

4. Article 9 shall be replaced by the following:

'Article 9

Chain of Command

1. EU BAM Rafah shall have a unified chain of command, as a crisis management operation.

2. Under the responsibility of the Council, the PSC shall exercise political control and strategic direction of EU BAM Rafah.

3. The Civilian Operation Commander, under the political control and strategic direction of the PSC and the overall authority of the Secretary-General/High Representative, is the commander of EU BAM Rafah 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 Secretary-General/High Representative.

5. The Head of Mission shall exercise command and control of EU BAM Rafah at theatre level and shall be directly responsible to the Civilian Operation Commander.'

5. Article 10 shall be replaced by the following:

'Article 10

Political control and strategic direction

1. The PSC shall exercise, under the responsibility of the Council, political control and strategic direction of the mission. The Council hereby authorises the PSC to take the relevant decisions for this purpose in accordance with Article 25 of the Treaty. This authorisation shall include the powers to appoint a Head of Mission, upon a proposal from the Secretary-General/High Representative, and 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 on a regular basis and as required reports by the Civilian Operation Commander and the Head of Mission on issues within their areas of responsibility.'

6. Article 12 shall be replaced by the following:

'Article 12

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 EU BAM Rafah in accordance with Articles 4a and 9, in coordination with the Security Office of the General Secretariat of the Council (GSC 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 EU in an operational capacity under Title V of the Treaty and its supporting documents.

3. The Head of Mission shall be assisted by a Chief Security Officer (CSO), who will report to the Head of Mission and also maintain a close functional relationship with the GSC Security Office.

4. EU BAM Rafah 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 CSO.

7. The following Article shall be inserted:

'Article 15a

Watch-Keeping

The Watch-Keeping Capability shall be activated for EU BAM Rafah.'

8. The following paragraph shall be added to Article 18:

'The Decisions of the PSC pursuant to Article 10(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 day of its adoption.

Article 3

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

Done at Brussels, 6 December 2007.

For the Council

The President

A. COSTA