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COUNCIL DECISION (CFSP) 2023/1599

of 3 August 2023

on a European Union Security and Defence Initiative in support of West African countries of the Gulf of Guinea

(OJ L 196, 4.8.2023, p. 25)

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► <u>M2</u>	Council Decision (CFSP) 2023/2786 of 11 December 2023	L 2786	1	12.12.2023

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COUNCIL DECISION (CFSP) 2023/1599
of 3 August 2023
on a European Union Security and Defence Initiative in support of
West African countries of the Gulf of Guinea

Section I

General provisions

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Article 1

Establishment

1. The Union shall conduct a Mission under the Common Security and Defence Policy (CSDP) with the strategic objective to assist the West African countries of the Gulf of Guinea in which that Mission is established in developing the adequate capabilities within their security and defence forces to contain and respond to the pressure exercised by terrorist armed groups.
2. The Mission referred to in paragraph 1 shall be named “European Union Security and Defence Initiative in support of West African countries of the Gulf of Guinea” (the “Initiative”).
3. The Initiative is hereby established in Benin, Côte d’Ivoire, Ghana and Togo.

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Article 2

Mandate

1. In pursuit of the strategic objective set out in Article 1(1), as regards the countries referred to in Article 1(3), the Initiative shall:
 - a) contribute to enhancing resilience in vulnerable areas in their northern regions through capacity building of their security and defence forces;
 - b) provide pre-deployment operational training of their security and defence forces;
 - c) support the enhancement in technical areas of their security and defence forces;
 - d) promote the rule of law and good governance in their security sectors, focusing on their security and defence forces, and support trust-building between civil society and security and defence forces.

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2. International humanitarian law, human rights and the principle of gender equality, the protection of civilians and the agendas under United Nations Security Council Resolution (UNSCR) 1325 (2000) on Women, Peace and Security, UNSCR 2250 (2015) on Youth, Peace and Security and UNSCR 1612 (2005) on Children and Armed Conflict shall be fully integrated and proactively mainstreamed in the Initiative's strategic and operational planning, activities and reporting.

3. In a flexible and modular approach, and as necessary to implement its tasks, the Initiative shall in particular deploy mobile training teams, visiting experts and crisis response teams to the countries referred to in Article 1(3). The Initiative shall implement civilian and military projects in those countries in pursuit of its strategic objective set out in Article 1(1) and the tasks set out in Article 2(1).

4. The Initiative shall facilitate the implementation of assistance measures under the European Peace Facility which may be decided by the Council in support of the countries referred to in Article 1(3).

*Article 3***Political control and strategic direction**

1. Under the responsibility of the Council and of the High Representative of the Union for Foreign Affairs and Security Policy (the 'High Representative'), the Political and Security Committee (PSC) shall exercise the political control and strategic direction of the Initiative. The Council hereby authorises the PSC to take relevant decisions in accordance with Article 38 of the Treaty on European Union (TEU). That authorisation shall include powers to amend the planning documents, including the Operation Plan for the civilian pillar of the Initiative and the Mission Plan for the military pillar of the Initiative, and the chain of command. It shall also include powers to take decisions on the appointment of the heads of the civilian and the military command and support cells. Powers of decision with respect to the objectives and termination of the Initiative 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, reports from the chairman of the EU Military Committee (EUMC) regarding the activities of the military pillar of the Initiative. The PSC shall receive, on a regular basis and as required, reports from the Civilian Operation Commander regarding the activities of the civilian pillar of the Initiative. The PSC may invite the Civilian Operation Commander and the Military Commander to its meetings, as appropriate.

▼B*Article 4***Chain of command and structure**

1. The Initiative shall have a unified chain of command as a crisis management operation.
2. The Initiative shall have its headquarters in Brussels.
3. The Initiative shall have a civilian pillar under the strategic command and control of the Civilian Operation Commander (the ‘civilian pillar’), and a military pillar under the strategic command and control of the Military Commander (the ‘military pillar’).
4. The Joint Support Coordination Cell, co-chaired for the Initiative by the Civilian Operation Commander and the Military Commander, shall ensure the unity of the chain of command.

Section II**Civilian pillar***Article 5***Civilian Operation Commander**

1. The Managing Director of the Civilian Planning and Conduct Capability (CPCC) shall be the Civilian Operation Commander for the civilian pillar.
2. The CPCC shall be at the disposal of the Civilian Operation Commander for the planning and conduct of the civilian pillar.
3. The Civilian Operation Commander, under the political control and strategic direction of the PSC and overall authority of the High Representative, shall exercise command and control of the civilian pillar at the strategic level.
4. The Civilian Operation Commander shall ensure the proper and effective implementation of the decisions of the Council and of the PSC with regard to the conduct of operations, including by issuing instructions at the strategic level to the staff of the civilian pillar as required and by providing them with advice and technical support.
5. The Civilian Operation Commander shall report to the Council through the High Representative.
6. All staff seconded to the civilian pillar shall remain under the full command of the national authorities of the seconding State in accordance with national rules, of the Union institution concerned or of the European External Action Service (EEAS), as appropriate. The national authority, Union institution or the EEAS, as appropriate, shall transfer operational control of its seconded staff to the Civilian Operation Commander.

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7. The Civilian Operation Commander shall have overall responsibility for ensuring that the Union's duty of care is properly discharged for staff in the civilian pillar.

8. The Civilian Operation Commander and the heads of the Union delegations to the countries referred to in Article 1(3) shall consult each other as required.

*Article 6***Head of the civilian command and support cell**

1. The CPCC shall be reinforced for the purpose of the Initiative by a civilian command and support cell.

2. The head of the civilian command and support cell shall assume responsibility for the civilian pillar and shall exercise command and control thereof, at the operational level. The head of the civilian command and support cell shall be directly responsible to the Civilian Operation Commander and shall act in accordance with the Civilian Operation Commander's instructions.

3. The head of the civilian command and support cell shall be the representative of the civilian pillar in its area of responsibility.

4. The head of the civilian command and support cell shall exercise administrative and logistic responsibility for the civilian pillar, including responsibility for the assets, resources and information placed at the disposal of the civilian pillar. The head of the civilian command and support cell may delegate management tasks relating to staff and financial matters to staff members of the civilian pillar, under the overall responsibility of the head of the civilian command and support cell.

5. The head of the civilian command and support cell shall be responsible for disciplinary control over the staff of the civilian pillar. For seconded staff, disciplinary action shall be exercised by the national authorities of the seconding State in accordance with national rules, by the Union institution concerned or by the EEAS, as appropriate.

6. The head of the civilian command and support cell shall ensure appropriate visibility of the civilian pillar.

*Article 7***Staff**

1. The civilian pillar shall consist primarily of staff seconded by Member States, by Union institutions or by the EEAS. Each Member State, each Union institution and the EEAS shall bear the costs related to any member of staff seconded by it, including travel expenses to and from the place of deployment, salaries, medical coverage and allowances other than applicable daily allowances.

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2. The Member State, the Union institution or the EEAS, as appropriate, shall be responsible for answering any claims relating to the secondment of or concerning their members of staff seconded to the civilian pillar, and for bringing any actions against such persons.

3. International and local staff may be recruited on a contractual basis by the civilian pillar if the functions required cannot be provided by personnel seconded by Member States. Exceptionally, in duly justified cases where no qualified applicants from the Member States are available, nationals from participating third States may be recruited on a contractual basis.

4. The conditions of employment and the rights and obligations of international and local staff in the civilian pillar shall be laid down in the contracts between the civilian pillar and the staff member concerned.

*Article 8***Security**

1. The Civilian Operation Commander shall direct the planning of security measures for the civilian pillar and ensure their proper and effective implementation by the Initiative in accordance with Article 5.

2. The head of the civilian command and support cell shall be responsible for the security of the civilian pillar and for ensuring compliance with the minimum security requirements applicable to the Initiative, in line with the policy of the Union on the security of personnel deployed outside the Union in an operational capacity under Title V TEU, and its supporting instruments.

3. The staff of the civilian pillar shall undergo mandatory security training before taking up their duties, in accordance with the Operation Plan. They shall also receive regular in-theatre refresher training organised by the Security Officer.

4. The Civilian Operation Commander shall ensure the protection of EU classified information in accordance with Council Decision 2013/488/EU ⁽¹⁾.

*Article 9***Legal arrangements**

The civilian pillar shall have the capacity to procure services and supplies, to enter into contracts and administrative arrangements, to employ staff, to hold bank accounts, to acquire and dispose of assets and to discharge its liabilities, and to be a party to legal proceedings, as required in order to implement this Decision.

⁽¹⁾ Council Decision 2013/488/EU of 23 September 2013 on the security rules for protecting EU classified information (OJ L 274, 15.10.2013, p. 1).

▼ B*Article 10***Financial arrangements****▼ M2**

1. The financial reference amount intended to cover the expenditure related to the civilian pillar for the period from 3 August 2023 to 10 December 2025 shall be EUR 7 299 839,82.

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2. All expenditure for the civilian pillar shall be managed in accordance with the rules and procedures applicable to the general budget of the Union. Participation of natural and legal persons in the award of procurement contracts by the civilian pillar shall be open without limitations. Moreover, no rule of origin for goods purchased by the civilian pillar shall apply. Subject to the Commission's approval, the civilian pillar may conclude technical arrangements with Member States, countries referred to in Article 1(3), participating third States and other international actors regarding the provision of equipment, services and premises to the civilian pillar.

3. The civilian pillar shall be responsible for the implementation of its budget. For that purpose, the civilian pillar shall sign an agreement with the Commission. The financial arrangements shall respect the chain of command provided for in Articles 4, 5 and 6 and the operational requirements of the Initiative.

4. The civilian pillar shall report fully to, and be supervised by, the Commission as regards the financial activities undertaken in the framework of the agreement referred to in paragraph 3.

5. The expenditure related to the civilian pillar shall be eligible as of the date of adoption of this Decision.

*Article 11***Civilian project cell**

1. The civilian pillar shall have a civilian project cell for identifying and implementing civilian projects in support of its tasks set out in Article 2(1).

2. The civilian project cell shall, as appropriate, facilitate and provide advice on projects implemented by Member States and third States under their responsibility in areas related to the civilian pillar and in support of its objectives.

3. Subject to paragraph 5, the civilian pillar shall be authorised to seek recourse to financial contributions from Member States or from third States to implement projects identified as supplementing the Initiative's other actions in a consistent manner, if the project is:

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- (a) provided for in the financial statement relating to this Decision; or
- (b) integrated during the mandate of the Initiative by means of an amendment to that financial statement requested by the Civilian Operation Commander.
4. The civilian pillar shall enter into an arrangement with the relevant authorities of the States referred to in paragraph 3, covering in particular the specific procedures for dealing with any complaint from third parties concerning damage caused as a result of acts or omission by the civilian pillar in the use of the funds provided by those States.
5. Under no circumstances shall the States referred to in paragraph 3 hold the Union or the High Representative liable for acts or omissions by the civilian pillar in the use of the funds provided by those States.
6. The PSC shall agree on the acceptance of a financial contribution from third States to the civilian project cell.

Section III**Military pillar***Article 12***Military Commander**

1. The Director of the Military Planning and Conduct Capability (MPCC) shall be the Military Commander for the military pillar.
2. The MPCC shall be the static command and control structure at the military strategic level outside the area of operations, and shall be responsible for the operational planning and conduct of the military pillar.
3. The Military Commander, under the political control and strategic direction of the PSC and overall authority of the High Representative, shall exercise command and control of the military pillar at the strategic level.
4. The Military Commander shall ensure the proper and effective implementation of the decisions of the Council and the PSC with regard to the conduct of operations of the military pillar, including by issuing instructions to its personnel.
5. The Military Commander shall report to the Council through the High Representative.
6. All staff seconded to the military pillar shall remain under the full command of the national authorities of the seconding State in accordance with national rules, of the Union institution concerned or of the EEAS, as appropriate. The national authority, Union institution or the EEAS, as appropriate, shall transfer operational control of its seconded staff to the Military Commander.

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7. The Military Commander shall have overall responsibility for ensuring that the Union's duty of care is properly discharged for staff in the military pillar.

*Article 13***Head of the military command and support cell**

1. The MPCC shall be reinforced for the purpose of the Initiative by a military command and support cell.
2. The head of the military command and support cell shall assume responsibility for the military pillar and shall exercise command and control thereof, at the operational level.
3. The head of the military command and support cell shall be directly responsible to the Military Commander and shall act in accordance with the Military Commander's instructions.

*Article 14***Military direction**

1. The EUMC shall monitor the proper execution of the tasks by the military pillar, conducted under the responsibility of the Military Commander.
2. The EUMC shall receive, on a regular basis, reports from the Military Commander. The EUMC may invite the Military Commander and the head of the military command and support cell to its meetings, as appropriate.
3. The chairman of the EUMC shall act as the primary point of contact with the Military Commander.

*Article 15***Financial arrangements**

1. The common costs of the military pillar shall be administered in accordance with Decision (CFSP) 2021/509.
2. The financial reference amount for the common costs of the military pillar for the period of six months following the entry into force of this Decision shall be EUR 179 000. The percentage of the reference amount referred to in Article 51(2) of Decision (CFSP) 2021/509 shall be 30 % for commitments and 15 % for payments. The financial reference amount for any subsequent period shall be decided by the Council.

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3. The financial reference amount for the common costs of the military pillar for the period from 11 December 2023 to 10 December 2025 shall be EUR 787 000. The percentage of the reference amount referred to in Article 51(2) of Decision (CFSP) 2021/509 shall be 0 % for commitments and 0 % for payments.

▼B*Article 16***Military project cell**

1. The military pillar shall have a military project cell for identifying and implementing projects with military implications in support of its tasks set out in Article 2(1).
2. The military project cell shall, as appropriate, facilitate and provide advice on projects implemented by Member States and third States under their responsibility in areas related to the military pillar and in support of its objectives.
3. Subject to paragraph 5, the Military Commander shall be authorised to seek recourse to financial contributions from Member States or from third States to implement projects identified as supplementing other actions by the military pillar in a consistent manner.
4. The European Peace Facility may manage the financial contributions referred to in paragraph 3 of this Article in accordance with Article 30 of Decision (CFSP) 2021/509.
5. Under no circumstances shall the States referred to in paragraph 3 hold the Union or the High Representative liable for acts or omissions by the military pillar in the use of funds from those States.
6. The PSC shall agree on the acceptance of a financial contribution from third States to the military project cell.

Section IV**Final provisions***Article 17***Consistency of the Union's response and coordination**

1. The High Representative shall ensure the implementation of this Decision and its consistency with the Union's external action as a whole, including the Union's development programmes and its humanitarian assistance programmes.
2. The Civilian Operation Commander, the Military Commander and the heads of the Union delegations to the countries referred to in Article 1(3) shall consult each other as required.
3. The heads of the civilian and the military command and support cells shall, without prejudice to the chain of command, receive local political guidance from the heads of the Union delegations to the countries referred to in Article 1(3).
4. The staff deployed in a Union delegation to a country referred to in Article 1(3) shall, without prejudice to the chain of command, receive local political guidance from the head of that delegation.

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5. The Initiative shall coordinate its activities with Member States' bilateral activities in the field of security and defence in the countries referred to in Article 1(3) and, as appropriate, with like-minded partners and regional organisations, in particular the Economic Community of West African States and the Accra Initiative.

*Article 18***Participation of third States**

1. Without prejudice to the decision-making autonomy of the Union and its single institutional framework, and in accordance with the relevant guidelines of the European Council, third States may be invited to participate in the Initiative.

2. The Council hereby authorises the PSC to invite third States to offer contributions and to take relevant decisions on acceptance of the proposed contributions, upon the recommendation of the Military Commander and the EUMC, or of the Civilian Operation Commander, respectively.

3. Detailed arrangements regarding the participation of third States shall be covered by agreements concluded pursuant to Article 37 TEU and in accordance with the procedure laid down in Article 218 of the Treaty on the Functioning of the European Union (TFEU). Where the Union and a third State have concluded an agreement establishing a framework for the latter's participation in crisis management missions of the Union, the provisions of such an agreement shall apply in the context of the Initiative.

4. Third States making contributions to the civilian pillar or significant military contributions to the military pillar shall have the same rights and obligations in terms of the day-to-day management of the Initiative as Member States taking part in the Initiative.

5. The Council hereby authorises the PSC to take relevant decisions on the establishment of a civilian or a military committee of contributors, should third States make contributions to the civilian pillar or significant military contributions to the military pillar.

*Article 19***Status of the Initiative and its personnel**

The status of the Initiative and its personnel, including the privileges, immunities and further guarantees necessary for the fulfilment and smooth functioning of their mission, shall be the subject of an agreement concluded by the Union with each of the countries referred to in Article 1(3) pursuant to Article 37 TEU and in accordance with the procedure laid down in Article 218 TFEU.



Article 20

Release of information

1. The High Representative shall be authorised to release to the third States associated with this Decision, as appropriate and in accordance with the needs of the Initiative, EU classified information generated for the purposes of the Initiative, in accordance with Decision 2013/488/EU:
 - (a) up to the level provided in the applicable security of information agreements concluded between the Union and the third State concerned; or
 - (b) up to ‘CONFIDENTIEL UE/EU CONFIDENTIAL’ level in other cases.
2. In the event of a specific and immediate operational need, the High Representative shall also be authorised to release to the relevant country referred to in Article 1(3) any EU classified information up to ‘RESTREINT UE/EU RESTRICTED’ level which is generated for the purposes of the Initiative, in accordance with Decision 2013/488/EU. Arrangements between the High Representative and the competent authorities of that country shall be drawn up for that purpose.
3. The High Representative shall be authorised to release to the third States associated with this Decision any EU non-classified documents connected with the deliberations of the Council relating to the Initiative and covered by the obligation of professional secrecy pursuant to Article 6(1) of the Council’s Rules of Procedure ⁽¹⁾.
4. The High Representative may delegate the powers referred to in paragraphs 1 to 3, as well as the ability to conclude the arrangements referred to in paragraph 2, to staff of the EEAS, to the Civilian Operation Commander or to the Military Commander.

Article 21

Planning and launch of the Initiative

The Decision to launch the Initiative shall be adopted by the Council following approval of the Operation Plan for the civilian pillar and of the Mission Plan, including the Rules of Engagement, for the military pillar.

Article 22

Entry into force and termination

1. This Decision shall enter into force on the date of its adoption.
2. This Decision shall apply for a period of two years from the launch of the Initiative pursuant to Article 21.
3. This Decision shall be repealed in accordance with the plans approved for the termination of the Initiative, and without prejudice to the procedures regarding the audit and presentation of the accounts of the military pillar laid down in Decision (CFSP) 2021/509.

⁽¹⁾ Council Decision 2009/937/EU of 1 December 2009 adopting the Council’s Rules of Procedure (OJ L 325, 11.12.2009, p. 35).