

COUNCIL JOINT ACTION 2005/826/CFSP**of 24 November 2005****on the establishment of an EU Police Advisory Team (EUPAT) in the Former Yugoslav Republic of Macedonia (fYROM)**

THE COUNCIL OF THE EUROPEAN UNION,

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

Whereas:

- (1) Pursuant to the Ohrid Framework Agreement, the Union's contribution is based upon a broad approach with activities to address the whole range of rule of law aspects, including institution building programmes and police activities which should be mutually supportive and reinforcing. The activities of the Union, supported, *inter alia*, by the Community's institution building programmes under the CARDS Regulation, will contribute to the overall peace implementation in the Former Yugoslav Republic of Macedonia as well as to the achievements of the Union's overall policy in the region, notably the stabilisation and association process.
- (2) The Union appointed a European Union Special Representative (EUSR) to contribute to the consolidation of the peaceful political process and the full implementation of the Ohrid Framework Agreement, to help to ensure the coherence of the EU external action and to ensure coordination of the international community's efforts to help in the implementation and sustainability of the provisions of that Framework Agreement.
- (3) The UN Security Council Resolution 1371(2001) adopted on 26 September 2001 welcomes the Framework Agreement and supports its full implementation by the efforts of, *inter alia*, the EU.
- (4) In the interest of preserving and building upon the significant results achieved in the Former Yugoslav Republic of Macedonia through a considerable commitment of EU political effort and resources, the EU has enhanced its role in policing to further contribute to a stable secure environment to allow the Former Yugoslav Republic of Macedonia government to implement the Ohrid Framework Agreement.
- (5) The security situation in the Former Yugoslav Republic of Macedonia has continued to improve since the conflict in 2001. In 2005 stability has been further strengthened. Steps in the preparation for and implementation of key Ohrid Framework Agreement reforms were taken and efforts to address other reform priorities, including in the field of rule of law, were made. A continued commitment of EU political effort and resources will nonetheless help to further embed stability in the country as well as in the region.
- (6) On 16 September 2003, the authorities of the Former Yugoslav Republic of Macedonia invited the EU to assume responsibility for an enhanced role in policing and the deployment of an EU Police Mission (EUPOL Proxima).
- (7) Council Joint Action 2003/681/CFSP⁽¹⁾ established EUPOL Proxima for the 12-month period from 15 December 2003 to 14 December 2004. Council Joint Action 2004/789/CFSP⁽²⁾ extended EUPOL Proxima for the 12-month period from 15 December 2004 to 14 December 2005.
- (8) During consultations with the EU, the Government of the former Yugoslav Republic of Macedonia (fYROM) have indicated they would welcome, under certain conditions, a EU Police Advisory Team bridging between the end of EUPOL Proxima and a planned project funded by CARDS aiming at providing technical assistance in the field.
- (9) In accordance with the guidelines of the European Council meeting at Nice on 7 and 9 December 2000, this Joint Action should determine the role of the Secretary-General/High Representative (hereinafter referred to as 'SG/HR'), in accordance with Articles 18(3) and 26 of the Treaty in the implementation of measures falling within the political control and strategic direction exercised by the PSC.

⁽¹⁾ OJ L 249, 1.10.2003, p. 66. Joint Action as amended by Joint Action 2004/87/CFSP (OJ L 21, 28.1.2004, p. 31).

⁽²⁾ OJ L 348, 24.11.2004, p. 40.

- (10) Article 14(1) of the Treaty 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.
- (11) Recourse should be made to the extent possible to redeployment of equipment left over from other EU operational activities, especially EUPOL Proxima, taking into account operational needs and the principles of sound financial management.
- (12) The mandate of EUPAT will be implemented in the context of a situation where the rule of law is not fully secured and which could harm the objectives of the Common Foreign and Security Policy as set out in Article 11 of the Treaty,

HAS ADOPTED THIS JOINT ACTION:

Article 1

Objective

1. The European Union hereby establishes a European Union Police Advisory Team (EUPAT) in the former Yugoslav Republic of Macedonia (fYROM) from 15 December 2005 to 14 June 2006.
2. The objective of EUPAT shall be to further support the development of an efficient and professional police service based on European standards of policing.

Article 2

Mandate

EUPAT, in line with the objectives of the Ohrid Framework Agreement, in partnership with the relevant authorities, and within a broader Rule of Law perspective shall further support the development of an efficient and professional police service based on European standards of policing, in close coordination with the Commission, notably in view of the implementation of relevant Community institution-building programmes and in complementarity with OSCE and bilateral programmes. Under the guidance of the EUSR and in partnership with the host Government authorities, EU police experts shall monitor and mentor the country's police on priority issues in the field of Border Police, Public Peace and Order and Accountability, the fight against corruption and Organised Crime. EUPAT activities shall focus on the middle and senior levels of management.

To this end, EUPAT shall give special attention to:

- overall implementation of police reform in the field,
- police-judiciary cooperation,
- professional standards/internal control.

Article 3

Planning phase

1. In preparation for the establishment of EUPAT, the EUPOL Proxima Police Head of Mission shall, building on the work done by EUPOL Proxima, and on the basis of the guidance given by the Political and Security Committee (PSC), draw up a General Plan and develop all technical instruments necessary to execute the establishment of EUPAT.
2. To this end, the current Head of Mission shall consult and coordinate with the Commission and the OSCE in Skopje, as well as with the Government of the former Yugoslav Republic of Macedonia, as appropriate.

Article 4

Structure

1. EUPAT shall consist of the following elements:
 - (a) headquarters in Skopje, composed of the Head of EUPAT and staff as defined in the General Plan;
 - (b) one central co-location unit at the Ministry of Interior level;
 - (c) mobile units co-located within the fYROM at appropriate levels.
2. These elements shall be developed in the General Plan.

Article 5

Head of EUPAT and staff

1. The Head of EUPAT shall be responsible for managing and coordinating EUPAT activities.
2. The Head of EUPAT shall assume the day-to-day management of EUPAT and shall be responsible for staff and disciplinary matters. For seconded personnel, disciplinary action shall be exercised by the national or EU authority concerned.
3. The Head of EUPAT shall sign a contract with the Commission.
4. Police officers shall be seconded by Member States. The period of secondment shall be 6 months beginning on 15 December 2005. Each Member State shall bear the costs related to the police officers seconded by it, including salaries, medical coverage, travel expenses to and from the fYROM, and allowances other than *per diems*.

5. EUPAT shall recruit international civilian staff and local staff on a contractual basis as required.

6. Member States or Community institutions may, if required, also second international civilian staff for a period of six months beginning on 15 December 2005. Each Member State or EU institution shall bear the costs related to any of the staff seconded by it including salaries, medical coverage, travel expenses to and from the FYROM, and allowances other than *per diems*.

7. While remaining under the authority of their sending Member States or Community institutions, all experts in EUPAT shall carry out their duties and act in the sole interest of the EU supporting action. 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 ⁽¹⁾ (hereinafter referred to as Council's security regulations).

8. Through appropriate measures, the members of EUPAT shall ensure visibility of the EU action.

Article 6

Chain of Command

1. The structure of EUPAT as part of the broader EU Rule of Law approach in the FYROM shall have a unified chain of command.

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

3. The Secretary-General/High Representative (SG/HR) shall give guidance to the Head of EUPAT through the EUSR.

4. The Head of EUPAT shall lead EUPAT and assume its day-to-day management.

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

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

Article 7

Political control and strategic direction

1. The Political and Security Committee shall exercise, under the responsibility of the Council, the political control and strategic direction of EUPAT.

2. The Council hereby authorises the PSC to take the relevant decisions in accordance with Article 25 of the Treaty. This authorisation shall include the powers to appoint a Head of EUPAT, upon a proposal from the SG/HR, and to approve and amend the General Plan and the chain of command. The Council, assisted by the SG/HR, shall decide on objectives and termination of EUPAT.

3. The EUSR shall provide local political guidance to the Head of EUPAT. The EUSR shall ensure coordination with other EU actors as well as relations with host party authorities and media.

4. The PSC shall receive reports by the Head of EUPAT regarding the conduct of the supporting action at regular intervals. The PSC may invite the Head of EUPAT to its meetings as appropriate.

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

Article 8

Financial arrangements

1. The financial reference amount intended to cover the expenditure related to EUPAT shall be EUR 1,5 million.

2. The expenditure financed by the amount referred to in paragraph 1 shall be managed in accordance with the rules and procedures applicable to the general budget of the EU, with the exception that any pre-financing shall not remain the property of the Community.

3. The Head of EUPAT 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 EUPAT, including compatibility of equipment and interoperability of its teams.

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

⁽¹⁾ OJ L 101, 11.4.2001, p. 1. Decision as last amended by Council Decision 2005/571/EC (OJ L 193, 23.7.2005, p. 31).

*Article 9***Consistency with Community action**

The Council and the Commission shall, each in accordance with its respective powers, ensure consistency between the implementation of this Joint Action and other external activities of the Community in accordance with the second subparagraph of Article 3 of the Treaty. The Council and the Commission shall cooperate to this end.

*Article 10***Release of classified information**

1. The SG/HR shall be authorised to release to NATO/KFOR and to the third parties associated with this Joint Action, EU classified information and documents up to the level 'CONFIDENTIEL UE' generated for the purposes of the supporting action, in accordance with the Council's security regulations.

2. The SG/HR shall be also authorised to release to the OSCE, 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 supporting action, in accordance with the Council's security regulations. Local arrangements shall be drawn up for this purpose.

3. In the event of a specific and immediate operational need, the SG/HR shall also be authorised to release to the host State EU classified information and documents up to the level 'CONFIDENTIEL UE' generated for the purposes of the supporting action, in accordance with the Agreement between the FYROM and the European Union on the security procedures for the exchange of classified information ⁽¹⁾.

4. The SG/HR shall be authorised to release to third parties associated with this Joint Action EU non-classified documents related to the deliberations of the Council with regard to the supporting action covered by the obligation of professional secrecy pursuant to Article 6(1) of Council Decision 2004/338/EC, Euratom of 22 March 2004 adopting the Council's Rules of Procedure ⁽²⁾.

*Article 11***Status of staff of EUPAT**

1. The necessary arrangements shall be made regarding the extension of the Agreement between the European Union and the FYROM on the status and activities of the European Union Police Mission in the former Yugoslav Republic of Macedonia (EUPOL Proxima) ⁽³⁾ to EUPAT.

2. The Member State or Community institution having seconded a staff member shall be responsible for answering any claims 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 secondee.

*Article 12***Entry into force and duration**

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

It shall apply until 14 June 2006.

*Article 13***Publication**

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

Done at Brussels, 24 November 2005.

For the Council
The President
I. LEWIS

⁽¹⁾ OJ L 94, 13.4.2005, p. 39.

⁽²⁾ OJ L 106, 15.4.2004, p. 22. Decision as amended by Council Decision 2004/701/EC, Euratom (OJ L 319, 20.10.2004, p. 15).

⁽³⁾ Council Decision 2004/75/CFSP (OJ L 16, 23.1.2004, p. 65).