

COUNCIL DECISION 2010/322/CFSP

of 8 June 2010

amending and extending Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo ⁽¹⁾, EULEX KOSOVO

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 28 and Article 43(2) thereof,

Whereas:

- (1) On 4 February 2008, the Council adopted Joint Action 2008/124/CFSP ⁽²⁾. That Joint Action applies until 14 June 2010.
- (2) On 9 June 2009, the Council adopted Joint Action 2009/445/CFSP ⁽³⁾, which amended Joint Action 2008/124/CFSP by increasing the financial reference amount to cover the Mission's expenditure until the expiry of Joint Action 2008/124/CFSP.
- (3) On 28 May 2010, the Political and Security Committee recommended the extension of Joint Action 2008/124/CFSP for a period of two years and the extension of the financial reference amount of EUR 265 000 000 until 14 October 2010.
- (4) The command and control structure of EULEX KOSOVO should be without prejudice to the contractual responsibilities of the Head of Mission towards the European Commission for implementing the budget.
- (5) EULEX KOSOVO will be conducted in the context of a situation which may deteriorate and could harm the objectives of the common foreign and security policy as set out in Article 21 of the Treaty.
- (6) Joint Action 2008/124/CFSP should be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Joint Action 2008/124/CFSP is hereby amended as follows:

1. Article 7(2) is replaced by the following:

‘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 High Representative of the Union for Foreign Affairs and Security Policy (HR), shall exercise command and control of EULEX KOSOVO at the strategic level.’;

2. Paragraphs 3, 4 and 5 in Article 9 are replaced by the following:

‘3. International civilian staff and local staff may also be recruited by EULEX KOSOVO, as required, on a contractual basis, if the functions required are not provided by personnel seconded by Member States. Exceptionally, in duly justified cases, where no qualified applications from Member States are available, nationals from participating third States may be recruited on a contractual basis, as appropriate.

4. 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.’;

3. Paragraphs 2, 3 and 4 in Article 11 are replaced by the following:

‘2. Under the responsibility of the Council and the HR, the PSC shall exercise political control and strategic direction of EULEX KOSOVO.

3. As also laid down in Article 7, the Civilian Operation Commander, under the political control and strategic direction of the PSC and the overall authority of the HR, shall be the commander of EULEX KOSOVO at strategic level and, as such, shall issue the Head of Mission with instructions and provide him with advice and technical support.

4. The Civilian Operation Commander shall report to the Council through the HR.’;

4. Paragraphs 1 and 2 in Article 12 are replaced by the following:

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

⁽¹⁾ Under United Nations Security Council Resolution 1244 (1999).

⁽²⁾ OJ L 42, 16.2.2008, p. 92.

⁽³⁾ OJ L 148, 11.6.2009, p. 33.

2. The Council hereby authorises the PSC to take the relevant decisions for this purpose, in accordance with the third paragraph of Article 38 of the Treaty. This authorisation shall include the powers to amend the OPLAN and the chain of command. It shall also include powers to take subsequent decisions regarding the appointment of the Head of Mission. The Council, on the recommendation of the HR, shall decide on the objectives and termination of EULEX KOSOVO.;
5. Article 13(4) is replaced by the following:
- ‘4. Detailed arrangements regarding the participation of third States shall be laid down in an agreement to be concluded in accordance with Article 37 of the Treaty and Article 218 of the Treaty on the Functioning of the European Union. Where the EU and a third State conclude an agreement establishing a framework for the participation of such third State in the EU crisis management operations, the provisions of such agreement shall apply in the context of EULEX KOSOVO.;
6. Paragraphs 1 and 2 in Article 16 are replaced by the following:
- ‘1. The financial reference amount intended to cover the expenditure of EULEX KOSOVO until 14 October 2010 shall be EUR 265 000 000.
- The financial reference amount for the subsequent periods for EULEX KOSOVO shall be decided by the Council.
2. All expenditure shall be managed in accordance with the rules and procedures applicable to the general budget of the EU.;
7. Article 17 is deleted;
8. Article 18 is replaced by the following:
- ‘*Article 18*
- Release of classified information**
1. The HR shall be authorised to release to the United Nations, NATO/KFOR and to other third parties associated with this Joint Action, EU classified information and documents generated for the purposes of EULEX KOSOVO up to the level of the relevant classification respectively for each of them, in accordance with Decision 2001/264/EC. Local technical arrangements shall be drawn up to facilitate this.
2. In the event of a specific and immediate operational need, the HR shall also be authorised to release to the competent local authorities EU classified information and documents up to the level “RESTREINT UE” generated for the purposes of EULEX KOSOVO, in accordance with Decision 2001/264/EC. In all other cases, such information and documents shall be released to the competent local authorities in accordance with the procedures appropriate to those authorities’ level of cooperation with the EU.
3. The HR shall be authorised to release to the United Nations, NATO/KFOR, to other third parties associated with this Joint Action and to the relevant local authorities, EU non-classified documents related to the deliberations of the Council with regard to EULEX KOSOVO covered by the obligation of professional secrecy pursuant to Article 6(1) of the Council’s Rules of Procedure (*).
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- (*) Council Decision 2009/937/EU of 1 December 2009 adopting the Council’s Rules of Procedure (OJ L 325, 11.12.2009, p. 35).;
9. Article 19 is replaced by the following:
- ‘*Article 19*
- Review**
- The Council shall evaluate, not later than 6 months before the expiry of this Joint Action whether EULEX KOSOVO should be extended.’;
10. Article 20, second subparagraph, is replaced by the following:
- ‘It shall expire on 14 June 2012.’
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- Article 2*
- This Decision shall enter into force on the date of its adoption.
- Done at Luxembourg, 8 June 2010.
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- For the Council*
The President
E. SALGADO