

DECISIONS

COUNCIL DECISION 2012/312/CFSP

of 18 June 2012

on the European Union Aviation Security CSDP Mission in South Sudan (EUAVSEC-South Sudan)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union and in particular Article 28 and Articles 42(4) and 43(2) thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) In its Resolution 1996 (2011), adopted on 8 July 2011, the United Nations Security Council welcomed the establishment of the Republic of South Sudan on 9 July 2011 upon its proclamation as an independent State and underscored the need for forging stronger and well-defined partnerships among the United Nations, development agencies, bilateral partners, and other relevant actors, regional and sub-regional institutions and the international financial institutions, to implement national strategies aimed at effective institution building, which are based on national ownership, the achievement of results, and mutual accountability.
- (2) On 20 June 2011, the Council agreed to follow a comprehensive approach to Sudan and South Sudan with, inter alia, the aim of assisting South Sudan to become a viable, stable, and prosperous state. The Comprehensive Approach set out, as a short-term option, the possible deployment of a civilian common security and defence policy (CSDP) mission to strengthen airport security and, as a medium-term option, the contribution to broader border management in South Sudan.
- (3) On 19 July 2011, on behalf of the Government of South Sudan (GoSS), the South Sudanese Minister for Transport and Roads addressed a letter to the High Representative of the Union for Foreign Affairs and Security Policy (HR) welcoming the Union's proposal to contribute to the strengthening of the security at Juba International Airport (JIA) in order to raise it to internationally accepted standards, through the deployment of a CSDP mission.
- (4) On 23 January 2012 the Council approved the Crisis Management Concept for a European Union Aviation Security CSDP mission in South Sudan (EUAVSEC-South Sudan).
- (5) The Watch-Keeping Capability should be activated for EUAVSEC-South Sudan.

- (6) EUAVSEC-South Sudan will be conducted in the context of a situation which may deteriorate and could impede the achievement of the objectives of the Union's external action as set out in Article 21 of the Treaty on European Union (TEU),

HAS ADOPTED THIS DECISION:

Article 1

Mission

The Union hereby establishes a European Union Aviation Security CSDP Mission in South Sudan (EUAVSEC-South Sudan).

Article 2

Objectives

1. The strategic objective of EUAVSEC-South Sudan is to contribute to the sustainable and effective functioning of Juba International Airport (JIA), by achieving acceptable security capacity under local ownership, in line with international standards and applicable best practice.
2. In particular, EUAVSEC-South Sudan shall contribute to strengthening aviation security, border control and law enforcement at JIA, under public oversight and in accordance with human rights standards.

Article 3

Tasks

1. In order to fulfil the objectives set out in Article 2, EUAVSEC-South Sudan shall:
 - (a) assist and advise the Government of South Sudan (GoSS) and other relevant South Sudanese services to establish the aviation security organisation at the Ministry of Transport and at JIA;
 - (b) assist and advise the GoSS and other relevant South Sudanese services to develop, adopt and implement:
 - aviation security programmes and plans by the civil aviation authority of South Sudan,
 - aviation security programmes, plans and relevant standard operating procedures at JIA;

- (c) improve the performance of officials involved in aviation security operations, according to International Civil Aviation Organization (ICAO) standards and recommended procedures, through training, mentoring, monitoring, advice, assistance and coordination;
 - (d) support sustainability and long-term viability of South Sudan's achievements by working with other Union and international stake-holders;
 - (e) support the promotion of security awareness amongst the commercial and private entities operating at JIA.
2. EUAVSEC-South Sudan shall not carry out any executive function.

Article 4

Chain of command and structure

1. EUAVSEC-South Sudan shall have a unified chain of command as a crisis management operation.
2. EUAVSEC-South Sudan shall have its Headquarters in Juba.
3. During the preparatory phase of EUAVSEC-South Sudan, the Head of Mission shall be assisted by a planning team comprising the necessary staff to respond to Mission preparation needs.
4. During the implementation phase, EUAVSEC-South Sudan shall be structured as follows:
 - (a) Head of Mission;
 - (b) Planning and Operations component including training capacity;
 - (c) Mission Support component;
 - (d) Reporting, Security and Political Advisory/Public Information elements.

Article 5

Civilian Operation Commander

1. The Civilian Planning and Conduct Capability (CPCC) Director shall be the Civilian Operation Commander for EUAVSEC-South Sudan.
2. The Civilian Operation Commander, under the political control and strategic direction of the Political and Security Committee (PSC) and overall authority of the High Representative of the Union for Foreign Affairs and Security Policy (HR), shall exercise command and control of EUAVSEC-South Sudan at the strategic level.
3. The Civilian Operation Commander shall ensure, with regard to the conduct of operations, 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 and providing him with advice and technical support.
4. The Civilian Operation Commander shall report to the Council through the HR.
5. All seconded staff shall remain under the full command of the national authorities of the seconding State or Union insti-

tion concerned. National authorities shall transfer Operational Control (OPCON) of their personnel, teams and units to the Civilian Operation Commander.

6. The Civilian Operation Commander shall have overall responsibility for ensuring that the Union's duty of care is properly discharged.

7. The Civilian Operation Commander, the European Union Special Representative for Sudan and South Sudan (EUSR) and the Head of Union Delegation in South Sudan shall consult each other as required.

Article 6

Head of Mission

1. The Head of Mission shall assume responsibility for, and exercise command and control of, EUAVSEC-South Sudan at theatre level and shall be directly responsible to the Civilian Operation Commander.
2. 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 placed at the disposal of EUAVSEC-South Sudan.
3. The Head of Mission shall issue instructions to all EUAVSEC-South Sudan staff for the effective conduct of the EUAVSEC-South Sudan in theatre, assuming its coordination and day-to-day management, and following the instructions at the strategic level of the Civilian Operation Commander.
4. The Head of Mission shall be responsible for the implementation of the budget of EUAVSEC-South Sudan. For this purpose, the Head of Mission shall sign a contract with the Commission.
5. The Head of Mission shall be responsible for disciplinary control over the staff. For seconded staff, disciplinary action shall be exercised by the national authority or Union institution concerned.
6. The Head of Mission shall represent EUAVSEC-South Sudan in the operations area and shall ensure appropriate visibility of EUAVSEC-South Sudan.
7. The Head of Mission shall coordinate, as appropriate, with other Union actors on the ground. The Head of Mission shall, without prejudice to the chain of command, receive local political guidance from the EUSR, in close coordination with the Head of Union Delegation in South Sudan.

Article 7

Staff

1. EUAVSEC-South Sudan shall consist primarily of staff seconded by Member States, Union institutions or the European External Action Service (EEAS). Each Member State or Union institution, or EEAS shall bear the costs related to any of the staff seconded by it, including travel expenses to and from the place of deployment, salaries, medical coverage and allowances other than applicable daily allowances.

2. The State or Union institution, or EEAS having seconded a member of staff shall be responsible for answering any claims linked to the secondment, from or concerning the member of staff and for bringing any action against the seconded person.

3. International and local staff shall be recruited on a contractual basis by the EUAVSEC-South Sudan 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. The conditions of employment and the rights and obligations of international and local staff shall be laid down in the contracts between the Head of Mission and the members of staff.

Article 8

Status of EUAVSEC-South Sudan and of its staff

The status of EUAVSEC-South Sudan and its staff, including where appropriate the privileges, immunities and further guarantees necessary for the completion and smooth functioning of EUAVSEC-South Sudan, shall be the subject of an agreement 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.

Article 9

Political control and strategic direction

1. The PSC shall exercise, under the responsibility of the Council and of the HR, political control and strategic direction of the EUAVSEC-South Sudan. The Council hereby authorises the PSC to take the relevant decisions in accordance with the third paragraph of Article 38 TEU. This authorisation shall include the powers to appoint a Head of Mission, upon a proposal of the HR, and to amend the Concept of operations (CONOPS) and the Operation Plan (OPLAN). The powers of decision with respect to the objectives and termination of the EUAVSEC-South Sudan 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.

Article 10

Participation of third States

1. Without prejudice to the decision-making autonomy of the Union and its single institutional framework, third States may be invited to contribute to EUAVSEC-South Sudan, provided that they bear the cost of the staff seconded by them, including salaries, all risk insurance cover, daily subsistence allowances and travel expenses to and from South Sudan, and that they contribute to the running costs of EUAVSEC-South Sudan, as appropriate.

2. Third States contributing to EUAVSEC-South Sudan shall have the same rights and obligations in terms of day-to-day management of EUAVSEC-South Sudan as Member States.

3. The Council hereby authorises the PSC to take the relevant decisions on acceptance of the proposed contributions and to establish a Committee of Contributors.

4. Detailed arrangements regarding the participation of third States shall be covered by agreements concluded in accordance with Article 37 TEU and additional technical arrangement as necessary. Where the Union and a third State conclude an agreement establishing a framework for the participation of that third State in Union crisis-management operations, the provisions of that agreement shall apply in the context of EUAVSEC-South Sudan.

Article 11

Security

1. The Civilian Operation Commander shall direct the Head of Mission's planning of security measures and ensure their proper and effective implementation by EUAVSEC-South Sudan in accordance with Article 5.

2. The Head of Mission shall be responsible for the security of EUAVSEC-South Sudan and for ensuring compliance with minimum security requirements applicable to EUAVSEC-South Sudan, 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 Head of Mission shall be assisted by a Mission Security Officer (MSO), who shall report to the Head of Mission and also maintain a close functional relationship with the EEAS.

4. The EUAVSEC-South Sudan staff shall undergo mandatory security training before taking up their duties, in accordance with the OPLAN. They shall also receive regular in-theatre refresher training organised by the MSO.

5. The Head of Mission shall ensure the protection of EU classified information in accordance with Council Decision 2011/292/EU of 31 March 2011 on the security rules for protecting EU classified information⁽¹⁾.

Article 12

Watch-Keeping Capability

The Watch-Keeping Capability shall be activated for EUAVSEC-South Sudan.

Article 13

Financial arrangements

1. The financial reference amount intended to cover the expenditure related to EUAVSEC-South Sudan shall be EUR 12 500 000.

⁽¹⁾ OJ L 141, 27.5.2011, p. 17.

2. All expenditure shall be managed in accordance with the rules and procedures applicable to the general budget of the Union.
3. Nationals of participating third States and of host and neighbouring countries shall be allowed to tender for contracts. Subject to the Commission's approval, the Head of Mission may conclude technical arrangements with Member States, participating third States, and other international actors regarding the provision of equipment, services and premises to EUAVSEC-South Sudan.
4. The financial arrangements shall respect the operational requirements of EUAVSEC-South Sudan including compatibility of equipment and interoperability of its teams.
5. The Head of Mission shall report fully to, and be supervised by, the Commission on the activities undertaken in the framework of his/her contract.
6. The expenditure related to EUAVSEC-South Sudan shall be eligible as of the date of appointment of the Head of Mission.

Article 14

Consistency of the Union's response and coordination

1. The HR shall ensure the consistency of the implementation of this Decision with the Union's external action as a whole, including the Union's development programmes.
2. Without prejudice to the chain of command, the Head of Mission shall act in close coordination with the Union's delegation in Juba to ensure the consistency of Union action in South Sudan.
3. The Head of Mission shall coordinate closely with Member States present in South Sudan.

Article 15

Release of information

1. The HR shall be authorised to release to the third States associated with this Decision, as appropriate and in accordance with the needs of EUAVSEC-South Sudan, EU classified information up to 'CONFIDENTIEL UE/EU CONFIDENTIAL' level generated for the purposes of EUAVSEC-South Sudan, in accordance with Decision 2011/292/EU.

2. The HR shall also be authorised to release to the United Nations (UN) and the ICAO, in accordance with the operational needs of EUAVSEC-South Sudan, EU classified information up to 'RESTREINT UE/EU RESTRICTED' level which are generated for the purposes of EUAVSEC-South Sudan, in accordance with Decision 2011/292/EU. Arrangements between the HR and the competent authorities of UN and ICAO shall be drawn up for this purpose.

3. In the event of a specific and immediate operational need, the HR shall also be authorised to release to the host State any EU classified information up to 'RESTREINT UE/EU RESTRICTED' level which are generated for the purposes of EUAVSEC-South Sudan, in accordance with Decision 2011/292/EU. Arrangements between the HR and the competent authorities of the host State shall be drawn up for this purpose.

4. The HR 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 EUAVSEC-South Sudan and covered by the obligation of professional secrecy pursuant to Article 6(1) of the Council's Rules of Procedure ⁽¹⁾.

5. The HR may delegate the powers referred to in paragraphs 1 to 4, as well as the ability to conclude the arrangements referred to in paragraphs 2 and 3 to persons placed under his/her authority, to the Civilian Operations Commander and/or to the Head of Mission.

Article 16

Entry into force and duration

This Decision shall enter into force on the day of its adoption.

It shall apply for a period of 19 months.

Done at Luxembourg, 18 June 2012.

For the Council
The President
M. GJERSKOV

⁽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).