

(Acts adopted under Title V of the Treaty on European Union)

**COUNCIL JOINT ACTION 2004/909/CFSP**

**of 26 November 2004**

**on establishing an expert team with a view to a possible European Union integrated police, rule of law and civilian administration mission for Iraq**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union and in particular Articles 14 and 26 thereof,

Whereas:

- (1) The European Union is committed to a secure, stable, unified, prosperous and democratic Iraq that will make a positive contribution to the stability of the region. The EU supports the people of Iraq and the Iraqi Interim Government in their efforts towards the economic, social and political reconstruction of Iraq in the framework of the implementation of United Nations Security Council Resolution 1546 of 8 June 2004.
- (2) The European Council on 5 November 2004 welcomed the Joint Fact Finding Mission for a possible integrated Police and Rule of Law operation for Iraq and considered its report. The European Council recognised the importance of strengthening the criminal justice system, consistent with the respect for the rule of law, human rights and fundamental freedoms. It noted the wish of the Iraqi authorities for the EU to become more actively involved in Iraq and that strengthening the criminal justice sector would respond to Iraqi needs and priorities.
- (3) The European Council decided that an expert team should be sent by the end of November 2004 to continue the dialogue with the Iraqi authorities, to start initial planning for a possible integrated police, rule of law and civilian administration mission which is expected to start after the elections, scheduled for 30 January 2005, and in particular assess the urgent security needs for such a mission. A dialogue with other countries in the region on these and other matters should also be encouraged.
- (4) The EU will use its dialogue with Iraq and its neighbours to encourage continuous regional engagement and support for improved security and for the political and reconstruction process in Iraq based on inclusiveness, democratic principles, respect for human rights and the rule of law, as well as support for security and cooperation in the region.
- (5) Such a mission should be secure, independent and distinct but would be complementary and bring added value to ongoing international efforts as well as develop synergies with ongoing Community and Member States' efforts. With regard to a mission in Iraq all security concerns need to be appropriately addressed before any decision is taken.
- (6) Bearing in mind the current security situation in Iraq and Baghdad, any deployment of the expert team, or elements thereof, inside Iraq (including the extent and duration of such deployment) should only be decided based on appropriate security advice and assessments and provided adequate security and logistic arrangements are in place to minimise the level of risk.
- (7) The expert team will implement its mandate in the context of a situation posing a threat to law and order, the security and safety of individuals, and to the stability of Iraq and which could harm the objectives of the Common Foreign and Security Policy as set out in Article 11 of the Treaty on European Union.
- (8) In conformity with the guidelines of the European Council meeting in Nice on 7 to 9 December 2000, this Joint Action should determine the role of the Secretary-General/High Representative, hereafter referred to as 'SG/HR', in accordance with Articles 18 and 26 of the Treaty on European Union,

HAS ADOPTED THIS JOINT ACTION:

*Article 1*

**Mission**

1. An expert team is hereby established to continue the dialogue with the Iraqi authorities, to start initial planning for a possible integrated police, rule of law and civilian administration mission which is expected to start after the January 2005 elections and in particular assess the urgent security needs for such a mission. A dialogue with other countries in the region on these and other matters shall also be encouraged.

2. The expert team shall be deployed by the end of November 2004.

3. The expert team shall operate in accordance with the terms of reference set out in Article 2.

*Article 2*

**Terms of reference**

1. By the end of January 2005 at the latest, the expert team is expected to produce a report setting out detailed options to address the objectives above. Its findings shall be supported by detailed analysis of both the feasibility of the options, their added value in terms of existing and planned national and international initiatives in this field and the security constraints.

2. The expert team shall base its initial planning on the declaration of the European Council that 'while judging that activities outside Iraq with a presence of liaison elements in Iraq would be feasible at this point in time, the European Council agreed that with regard to a mission inside Iraq, all security concerns need to be appropriately addressed before any decision could be taken.' Dialogue with other countries in the region should be conducted.

3. The report shall identify in particular and include:

— a comprehensive and detailed analysis of the security situation in Iraq, which includes a detailed threat assessment for all aspects of the possible mission in Iraq. The analysis should take into account latest developments in the country in the run-up to the presentation of the report. It should also brief on contingency planning for any elements of the mission inside Iraq, should a deterioration of the security situation occur,

— the areas in which policy advice might be delivered and the specific objectives of such advice and the profile of expertise required to deliver it,

— the specific training requirements, the precise target group for such training and the relative merits of different models for delivering the training (including in-country and out-of-country),

— any relevant international standards (in particular UN, Council of Europe or OSCE norms) that should be reflected in the training material,

— scope for collaboration with the UN, in line with the EU-UN joint declaration on crisis management,

— ongoing or planned assistance from other donors in fields relevant to the planned operation,

— the linkages to existing frameworks for coordination of assistance within Iraq and national development frameworks,

— possible areas of deployment, inside and outside Iraq,

— the timelines for deployment,

— personnel, logistics, technical and security requirements,

— the necessary items for a budget regarding the different options,

— the necessary items for draft Status of Mission agreements.

4. The expert team shall conduct appropriate dialogue with Iraqi authorities both at national and regional level, and across the criminal justice sector and with other relevant actors. It should ensure regular contact with the Iraqi Ministry of Planning, responsible for the overall coordination of assistance efforts. The team shall also establish close contact with the European Commission's office for Iraq (currently based in Amman), Member States' bilateral programmes, United Nations Assistance Mission for Iraq and the UN Development Group, other major providers of international assistance, and authorities of the region.

5. The expert team will comprise a small working core that can be supplemented, as required, by short-term expertise.

*Article 3***Head of the expert team and members of the expert team**

1. Mr Pieter Feith is appointed Head of the expert team. He shall select the members of the expert team under the authority of the SG/HR. The Head of the expert team shall consult with the Political and Security Committee, hereafter referred to as 'PSC', on matters of size and composition of the expert team.
2. The Head of the expert team and its members shall be seconded by Member States or EU institutions. All members of the expert team shall remain under the authority of the seconding Member State or institution and shall carry out their duties and act in the interest of the expert team. Both during and after the execution of their mandate, the members of the expert team shall exercise the greatest discretion with regard to all facts and information relating to the team.
3. The Member State or institution having seconded a staff member shall be responsible for answering any claims linked to the secondment from, or concerning, the staff member. The Member State or institution in question shall be responsible for bringing any action against the secondee.
4. The Head of the expert team shall lead the expert team and assume its management.

*Article 4***Political supervision and reporting**

1. The Head of the expert team shall act under the authority of the SG/HR and shall report to him. The PSC shall receive reports by the Head of the expert team at regular intervals.
2. The PSC shall exercise, under the responsibility of the Council, political supervision. The PSC shall report to the Council at regular intervals.

*Article 5***Security**

1. The Head of the expert team shall, in consultation with the Council Security Office representative of the mission, be responsible for ensuring compliance with the minimum security standards applicable to the expert team.
2. Member States shall endeavour to provide the expert team with secure accommodation, body armour and close protection within Iraq.

3. The Head of the expert team shall consult with the PSC on security issues affecting the deployment of the team as directed by the SG/HR.

*Article 6***Financial arrangements**

1. The financial reference amount intended to cover the expenditure related to the expert team shall be EUR 1 058 000.
2. The expenditure financed by the amount stipulated in paragraph 1 shall be managed in accordance with the procedures and rules applicable to the general budget of the European Union with the exception that any pre-financing shall not remain the property of the Community.
3. The Commission shall sign a contract with the Head of the expert team. He shall report fully to, and be supervised by, the Commission on the budgetary aspects of the activities undertaken in the framework of his contract. The Head of the expert team shall be accountable to the Commission for all expenditure.
4. The financial arrangements shall respect the operational requirements of the expert team, including those related to its security.
5. Expenditure shall be eligible as of the date of entry into force of this Joint Action.

*Article 7***Entry into force**

This Joint Action shall enter into force on the day of its adoption. It shall expire on 15 February 2005.

*Article 8***Publication**

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

Done at Brussels, 26 November 2004.

*For the Council*

*The President*

B. R. BOT