

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

### COUNCIL JOINT ACTION 2006/623/CFSP

of 15 September 2006

#### **on the establishment of a EU-team to contribute to the preparations of the establishment of a possible international civilian mission in Kosovo, including a European Union Special Representative component (ICM/EUSR Preparation Team)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union and, in particular Article 14 and Article 25, third subparagraph, thereof,

Whereas:

- (1) Pursuant to United Nations Security Council Resolution (UNSCR) 1244, a process to determine the future status of Kosovo led by the UN Status Envoy Mr Martti Ahtisaari was launched at the beginning of November 2005. The success of this process is essential not only for providing a clearer perspective for the people of Kosovo but also for the overall stability of the region.
- (2) The United Nations will remain fully engaged in Kosovo until the end of UNSCR 1244. However, the UN has indicated that it will no longer take the lead in a post-status presence. The EU has a vital interest in a positive result of this process, as well as the responsibility and the means to contribute to such an outcome. The EU has declared that it stands ready to enhance its role in Kosovo following status settlement. The EU will thus have to undertake an important role in Kosovo in a complex environment.
- (3) The Stabilisation and Association Process is the strategic framework for the EU's policy towards the western Balkan region, and its instruments are open to Kosovo, including a European partnership, political and technical dialogue under the SAP Tracking Mechanism, and related Community assistance programmes.
- (4) On 12 July 2006 the SG/HR Solana and Commissioner Rehn submitted their report on 'The Future EU Role and Contribution in Kosovo' to the Council. The report analysed the nature, size and responsibilities of a future international engagement, the EU's role after status settlement, and practical means to realise Kosovo's future EU perspective, without prejudice to the outcome of the Status negotiations.
- (5) The Report stressed that the future international civilian mission in Kosovo (ICM) should be based on a UN SC Resolution. It should ensure the implementation of non-military aspects of the status settlement. The ICM will work with the Kosovo authorities to support implementation of the status settlement, exercising intervention powers if needed.
- (6) The Report recommended that the head of the ICM, who will be the international community representative (ICR) nominated by the UNSC, should be 'double-hatted' as EU Special Representative (EUSR). The ICR/EUSR will assume the central coordinating role with other international actors on all issues relating to the implementation of the status settlement and establish appropriate mechanisms. He/she will be an EU national appointed at the time of the status settlement. An important part of his/her mandate should be to play a major role in the establishment of the ICM during the transitional period between the status decision and the end of UNMIK's mandate.
- (7) The Report also recommended that an EU team to contribute to the preparations of the ICM, including the EUSR component, should be established as soon as possible. The European Commission should be fully associated to this effort. The ICM preparations should be carried out in close cooperation with other key international actors (notably UNOSEK, UNMIK, US).
- (8) In a letter to the SG/HR on 11 August 2006 the acting UN SRSG for Kosovo Steven P. Schook welcomed the EU's engagement in the discussions on the future international engagement in Kosovo and invited the EU to deploy an ICM/EUSR Preparation Team to Pristina.

- (9) On 10 April 2006, the Council adopted Joint Action 2006/304/CFSP<sup>(1)</sup> on the establishment of an EU Planning Team (EUPT Kosovo), regarding a possible EU crisis management operation in Kosovo; the activities of the ICM/EUSR Preparation Team should be closely coordinated with those of EUPT Kosovo.
- (10) In accordance with the guidelines of the European Council meeting at Nice on 7 to 9 December 2000, this Joint Action should determine the role of the SG/HR, in accordance with Articles 18(3) and 26 of the Treaty.
- (11) 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 general budget of the European Union illustrates the will of the legislative authority and is subject to the availability of commitment appropriations during the respective budget year.
- (12) The mandate of the ICM/EUSR Preparation Team will be implemented in the context of a situation where stability 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

##### Objectives

1. The European Union hereby establishes a team to contribute to the preparations of the establishment of a possible international civilian mission in Kosovo, including a European Union Special Representative component (ICM/EUSR Preparation Team). The ICM/EUSR Preparation Team shall be operational no later than end September 2006.
2. The objectives of the ICM/EUSR Preparation Team shall be:
  - to contribute to the preparations of the establishment of a possible international civilian mission, in cooperation with the international community and the Kosovo institutions, and in close coordination with UNMIK regarding both its plans to complete the implementation of UNSCR 1244 and any necessary transitional arrangements towards a possible ICM,
  - to prepare, in full cooperation with the European Commission, as well as in consultation with the interna-

tional community and the Kosovo institutions, the elements for the future EU contribution to a possible ICM,

- Ensuring, without prejudice to Community competences and to the mandate of EUPT Kosovo, a comprehensive, coherent and integrated EU role in Kosovo with regard to timely preparation of the EU's support for the implementation of a status settlement.

#### Article 2

##### Tasks

In order to carry out its objectives the ICM/EUSR Preparation Team shall focus on the following tasks:

1. conducting a close dialogue, particularly through the informal ICM task force, with all key local and international partners on their views regarding the preparations of a possible ICM;
2. initiating, with international partners and in consultation with UNOSEK, work on identifying possible elements for functions, structure and personnel strength for a possible ICM, including division of responsibilities and contributions among international actors and any transitional arrangements;
3. initiating work on identifying all necessary elements for the EU contribution to a possible ICM, including an EUSR component;
4. conducting close coordination with all relevant local and international partners, as set out in Article 10.

#### Article 3

##### Structure

The ICM/EUSR Preparation Team shall have an office of the Head of the ICM/EUSR Preparation Team in Pristina, a team of advisors and an administration team. The ICM/EUSR Preparation Team will be gradually deployed, taking into account the progress of the status talks.

#### Article 4

##### Head of the ICM/EUSR Preparation Team and staff

1. Mr Torbjörn Sohlström is hereby appointed Head of the ICM/EUSR Preparation Team.
2. The Head of the ICM/EUSR Preparation Team shall be responsible for managing and coordinating the ICM/EUSR Preparation Team's activities.

<sup>(1)</sup> OJ L 112, 26.4.2006, p. 19.

3. The Head of the ICM/EUSR Preparation Team shall assume the day-to-day management of the ICM/EUSR Preparation Team and shall be responsible for staff and disciplinary matters. For seconded personnel, disciplinary action shall be exercised by the national or EU authority concerned.

4. The ICM/EUSR Preparation Team shall primarily consist of civilian staff seconded by Member States or EU institutions. Each Member State or EU institution shall bear the costs related to any of the seconded staff seconded by it including salaries, medical coverage, travel expenses to and from Kosovo, and allowances other than per diems.

5. The ICM/EUSR Preparation Team may also recruit international staff and local staff on a contractual basis, as required.

6. While remaining under the authority of their sending Member States or EU institutions, all staff in the ICM/EUSR Preparation Team 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 the Council Decision 2001/264/EC of 19 March 2001 adopting the Council's security regulations <sup>(1)</sup> (hereafter referred to as Council's security regulations).

#### Article 5

##### Chain of command

1. The structure of the ICM/EUSR Preparation Team shall have a unified chain of command.

2. The PSC shall provide the political control and strategic direction to the ICM/EUSR Preparation Team.

3. The SG/HR shall give guidance to the Head of the ICM/EUSR Preparation Team.

4. The Head of the ICM/EUSR Preparation Team shall lead the ICM/EUSR Preparation Team and assume its day-to-day management.

5. The Head of the ICM/EUSR Preparation Team shall report to the SG/HR.

#### Article 6

##### Political control and strategic direction

1. The PSC shall exercise, under the responsibility of the Council, the political control and strategic direction of the ICM/EUSR Preparation Team.

<sup>(1)</sup> OJ L 101, 11.4.2001, p. 1. Decision as last amended by Decision 2005/952/EC (OJ L 346, 29.12.2005, p. 18).

2. The Council hereby authorises the PSC to take the relevant decisions in accordance with Article 25(3) of the Treaty on European Union. This authorisation shall include the powers to appoint a Head of the ICM/EUSR Preparation Team, upon a proposal from the SG/HR. The powers of decision with respect to the objectives and termination of the ICM/EUSR Preparation Team shall remain vested in the Council.

3. The PSC shall receive reports at regular intervals and may request specific reports by the Head of the ICM/EUSR Preparation Team on the implementation of the tasks mentioned in Article 2 and on the coordination with other actors referred to in Article 10. The PSC may invite the Head of the ICM/EUSR Preparation Team to its meetings, as appropriate.

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

#### Article 7

##### Participation of third States

Without prejudice to the decision-making autonomy of the EU and its single institutional framework, acceding States shall be invited to contribute to the ICM/EUSR Preparation Team provided that they bear the cost of the staff seconded by them, including salaries, medical coverage, allowances, high-risk insurance and travel expenses to and from the mission area, and contribute to the running costs of the ICM/EUSR Preparation Team, as appropriate.

#### Article 8

##### Security

1. The Head of the ICM/EUSR Preparation Team shall be responsible for the security of the ICM/EUSR Preparation Team and shall, in consultation with the Security Office of the General Secretariat of the Council, be responsible for ensuring compliance with minimum security requirements applicable to the mission.

2. The ICM/EUSR Preparation Team shall have a dedicated security officer reporting to the Head of the ICM/EUSR Preparation Team.

#### Article 9

##### Financial arrangements

1. The financial reference amount intended to cover the expenditure related to ICM/EUSR Preparation Team shall be EUR 869 000.

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 ICM/EUSR Preparation Team shall report fully to, and be supervised by, the Commission on the activities undertaken in the framework of his contract. To this end, the Head of the ICM/EUSR Preparation Team shall sign a contract with the Commission.

4. The financial arrangements shall respect the operational requirements of the ICM/EUSR Preparation Team.

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

#### Article 10

##### Coordination with other actors

1. The Head of the ICM/EUSR Preparation Team shall, together with international partners, and in close consultation with UNMIK, carry forward work in the informal ICM Task Force.

2. The ICM/EUSR Preparation Team shall meet regularly with EUPT Kosovo and with other EU actors in order to ensure close coordination and coherence in the preparation of the planning for the EU's post-status engagement.

3. Close coordination between the EU and all relevant actors, including the UN/UNMIK, UNOSCE, the OSCE, NATO/KFOR as well as other key actors such as the US and Russia, will continue to ensure complementarity and synergy of the efforts of the international community. To this end, the Head of the ICM/EUSR Preparation Team shall play an active role in the informal Steering Board for future arrangements in Pristina.

4. In performing his/her duties the Head of the ICM/EUSR Preparation Team shall participate in the EU coordination mechanisms established in Pristina, Kosovo.

5. All EU Member States shall be kept fully informed on the coordination process.

#### Article 11

##### Status of staff of the ICM/EUSR Preparation Team

1. Where required, the status of the ICM/EUSR Preparation Team staff in Kosovo, including where appropriate the privileges, immunities and further guarantees necessary for the completion and smooth functioning of the ICM/EUSR Preparation Team shall be agreed in accordance with the procedure laid down in Article 24 of the Treaty on European Union. The SG/HR, assisting the Presidency, may negotiate such an agreement on its behalf.

2. The Member State or EU 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 of EU institution in question shall be responsible for bringing any action against the secondee.

3. The conditions of employment and the rights and obligations of international and local contracted staff shall be laid down in the contracts between the Head of the ICM/EUSR Preparation Team and the staff member.

#### Article 12

##### 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 external activities of the Community in accordance with the second subparagraph of Article 3 of the Treaty on European Union. The Council and the Commission shall cooperate to this end.

#### Article 13

##### Release of classified information

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

2. The SG/HR shall be authorised to release to the UN/UNMIK and the OSCE, in accordance with the operational needs of the ICM/EUSR Preparation Team, EU classified information and documents up to the level 'RESTREINT UE' generated for the purposes of the action, in accordance with the Council's security regulations. Local arrangements shall be drawn up for this purpose.

3. 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 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 <sup>(1)</sup>.

*Article 14*

**Entry into force and expiry**

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

2. It shall expire on 31 March 2007 or on the day of the appointment of an EUSR for Kosovo if the appointment of an EUSR occurs before 31 March 2007.

*Article 15*

**Publication**

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

Done at Brussels, 15 September 2006.

*For the Council*

*The President*

E. TUOMIOJA

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<sup>(1)</sup> OJ L 106, 15.4.2004, p. 22. Decision as last amended by Decision 2006/34/EC, Euratom (OJ L 22, 26.1.2006, p. 32).