

## III

(Acts adopted under the EU Treaty)

## ACTS ADOPTED UNDER TITLE V OF THE EU TREATY

## COUNCIL JOINT ACTION 2008/736/CFSP

of 15 September 2008

## on the European Union Monitoring Mission in Georgia, EUMM Georgia

THE COUNCIL OF THE EUROPEAN UNION,

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

Whereas:

- (1) On 1 September 2008, the European Council expressed its grave concern at the open conflict which had broken out in Georgia, and expressed the readiness of the European Union (EU) to commit itself to support every effort to secure a peaceful and lasting solution to the conflict.
- (2) The European Council recalled that a peaceful and lasting solution to the conflict in Georgia must be based on full respect for the principles of independence, sovereignty and territorial integrity recognised by international law, the Final Act of the Helsinki Conference on Security and Cooperation in Europe and United Nations Security Council resolutions.
- (3) The six-point Agreement achieved on 12 August 2008 on the basis of the EU's mediation efforts, as supplemented by the Agreement reached on 8 September 2008 for its implementation, remains the basis for the stabilisation process.
- (4) The European Council also recalled on 1 September 2008 that the appointment in December 2003 of an EU Special Representative (EUSR) for the South

Caucasus was a further step in the deepening of relations with Georgia and the other two countries of the region (Armenia and Azerbaijan). The European Council decided that, in addition, an EUSR for the crisis in Georgia should be appointed.

- (5) On 2 September 2008, an exploratory mission was deployed to Georgia and began operating in view of gathering relevant information and preparing a possible civilian European Security and Defence Policy (ESDP) Mission. This should take full regard of and act in complementarity with the mandates of the existing presences of the Organization for Security and Cooperation in Europe and the United Nations in Georgia.
- (6) On 3 September 2008, the Council approved a preparatory measure for a possible future ESDP Mission in Georgia.
- (7) In a letter dated 11 September 2008, the Government of Georgia invited the EU to deploy an ESDP civilian monitoring mission in Georgia.
- (8) Any third State's participation in the Mission should be in accordance with the general guidelines defined by the European Council.
- (9) The command and control structure of the Mission should be without prejudice to the contractual responsibility of the Head of Mission towards the Commission for implementing the budget of the Mission.

- (10) The Watch-Keeping Capability established within the General Secretariat of the Council should be activated for this Mission.
- (11) The ESDP Mission 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 11 of the Treaty,

HAS ADOPTED THIS JOINT ACTION:

#### *Article 1*

##### **The Mission**

1. The European Union (EU) hereby establishes a European Union Monitoring Mission in Georgia, hereinafter referred to as 'EUMM Georgia'. EUMM Georgia shall be deployed in phases, with deployment beginning in September 2008 and the operational phase beginning no later than 1 October 2008.
2. EUMM Georgia shall operate in accordance with the mission statement as set out in Article 2 and shall carry out the tasks as set out in Article 3.

#### *Article 2*

##### **Mission statement**

1. EUMM Georgia shall provide civilian monitoring of Parties' actions, including full compliance with the six-point Agreement and subsequent implementing measures throughout Georgia, working in close coordination with partners, particularly the United Nations (UN) and the Organisation for Security and Cooperation in Europe (OSCE), and consistent with other EU activity, in order to contribute to stabilisation, normalisation and confidence building whilst also contributing to informing European policy in support of a durable political solution for Georgia.
2. The particular objectives of the Mission shall be:
- (a) to contribute to long-term stability throughout Georgia and the surrounding region;
- (b) in the short term, the stabilisation of the situation with a reduced risk of a resumption of hostilities, in full compliance with the six-point Agreement and the subsequent implementing measures.

#### *Article 3*

##### **Mission tasks**

In order to achieve the Mission, the tasks of EUMM Georgia shall be to:

##### 1. Stabilisation:

Monitor, analyse and report on the situation pertaining to the stabilisation process, centred on full compliance with the six-point Agreement, including troop withdrawals, and on freedom of movement and actions by spoilers, as well as on violations of human rights and international humanitarian law.

##### 2. Normalisation:

Monitor, analyse and report on the situation pertaining to the normalisation process of civil governance, focusing on rule of law, effective law enforcement structures and adequate public order. The Mission will also monitor the security of transport links, energy infrastructures and utilities, as well as the political and security aspects of the return of internally displaced persons and refugees.

##### 3. Confidence building:

Contribute to the reduction of tensions through liaison, facilitation of contacts between parties and other confidence building measures.

##### 4. Contribute to informing European policy and to future EU engagement.

#### *Article 4*

##### **Structure of the Mission**

##### 1. EUMM Georgia shall be structured as follows:

- (a) Headquarters (HQ). The HQ shall consist of the Office of the Head of Mission and the HQ Staff, providing all necessary functions of command and control and mission support. The HQ shall be located in Tbilisi.
- (b) Field Offices. Geographically distributed Field Offices shall conduct monitoring tasks and provide necessary functions of mission support.
- (c) Support Element. The Support Element shall be located within the General Secretariat of the Council in Brussels.

2. As an initial enabling capability, monitoring teams of pre-equipped components provided by the Member States shall be established within EUMM Georgia.

3. The above elements shall be subject to further detailed arrangements in the Operation Plan (OPLAN).

*Article 5***Civilian Operation Commander**

1. The Civilian Planning and Conduct Capability (CPCC) Director shall be the Civilian Operation Commander for EUMM Georgia.
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 Secretary-General/High Representative (SG/HR), shall exercise command and control of EUMM Georgia at the strategic level.
3. The Civilian Operation Commander shall ensure 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. All seconded staff shall remain under the full command of the national authorities of the seconding State or EU institution concerned. National authorities shall transfer Operational Control (OPCON) of their personnel, teams and units to the Civilian Operation Commander.
5. The Civilian Operation Commander shall have overall responsibility for ensuring that the EU's duty of care is properly discharged.
6. The Civilian Operation Commander and the EU Special Representative (EUSR) 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 the Mission at theatre level.
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 the Mission.
3. The Head of Mission shall issue instructions to all Mission staff, including in this case the support element in Brussels, for the effective conduct of EUMM Georgia 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 Mission's budget. 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 or EU authority concerned.

6. The Head of Mission shall represent EUMM Georgia in the operations area and shall ensure appropriate visibility of the Mission.

7. The Head of Mission shall coordinate, as appropriate, with other EU actors on the ground. The Head of Mission shall, without prejudice to the chain of command, receive local political guidance from the EUSR.

8. The Head of Mission shall draw up the OPLAN for the Mission so that it may be submitted for approval by the Council. The Head of Mission shall be assisted in this task by the General Secretariat of the Council.

*Article 7***Staff**

1. EUMM Georgia shall consist primarily of staff seconded by Member States or EU institutions. Each Member State or EU institution 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, as well as hardship and risk allowances.

2. International civilian staff and local staff shall be recruited on a contractual basis by the Mission 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.

3. All staff shall abide by the Mission-specific minimum security operating standards and the Mission security plan supporting the EU field security policy. As regards the protection of EU classified information with which staff are entrusted in the course of their duties, all staff shall respect the security principles and minimum standards established by the Council's Security Regulations <sup>(1)</sup>.

<sup>(1)</sup> Council Decision 2001/264/EC of 19 March 2001 adopting the Council's security regulations (OJ L 101, 11.4.2001, p. 1).

*Article 8***Status of Mission and staff**

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

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

3. The conditions of employment and the rights and obligations of international and local civilian staff shall be laid down in the contracts between the Head of Mission and the members of staff.

*Article 9***Chain of command**

1. EUMM Georgia shall have a unified chain of command, as a crisis management operation.

2. Under the responsibility of the Council, the PSC shall exercise political control and strategic direction of EUMM Georgia.

3. The Civilian Operation Commander, under the political control and strategic direction of the PSC and the overall authority of the SG/HR, shall be the commander of EUMM Georgia at the 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 SG/HR.

5. The Head of Mission shall exercise command and control of EUMM Georgia at theatre level and shall be directly responsible to the Civilian Operation Commander.

*Article 10***Political control and strategic direction**

1. The PSC shall exercise, under the responsibility of the Council, political control and strategic direction of the Mission. The Council hereby authorises the PSC to take the

relevant decisions in accordance with the third paragraph of Article 25 of the Treaty. This authorisation shall include the powers to appoint a Head of Mission, upon a proposal of the SG/HR, and to amend the Concept of Operations (CONOPS) and the OPLAN. The powers of decision with respect to the objectives and termination of the Mission 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 11***Participation of third States**

1. Without prejudice to the decision-making autonomy of the EU and its single institutional framework, third States may be invited to contribute to the Mission, 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 Georgia, and that they contribute to the running costs of the Mission, as appropriate.

2. Third States contributing to the Mission shall have the same rights and obligations in terms of day-to-day management of the Mission as EU 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 24 of the Treaty. The SG/HR, assisting the Presidency, may negotiate such agreements on its behalf. Where the EU and a third State conclude an agreement establishing a framework for the participation of that third State in EU crisis-management operations, the provisions of that agreement shall apply in the context of the Mission.

*Article 12***Security**

1. The Civilian Operation Commander shall direct the Head of Mission's planning of security measures and ensure their proper and effective implementation for EUMM Georgia in accordance with Articles 5 and 9, in coordination with the Council Security Office.

2. The Head of Mission shall be responsible for the security of the Mission and for ensuring compliance with minimum security requirements applicable to the Mission, in line with the policy of the EU on the security of personnel deployed outside the EU in an operational capacity under Title V of the Treaty, 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 Council Security Office.

4. EUMM Georgia 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 the Council's Security Regulations.

#### Article 13

##### Watch-keeping Capability

The Watch-keeping Capability shall be activated for EUMM Georgia.

#### Article 14

##### Financial arrangements

1. The financial reference amount intended to cover the expenditure related to the Mission shall be EUR 31 000 000.

2. All expenditure shall be managed in accordance with the Community rules and procedures applicable to the general budget of the EU. Subject to the Commission's approval, the Head of Mission may conclude technical arrangements with EU Member States, participating third States, and other international actors regarding the provision of equipment, services and premises to EUMM Georgia. Nationals of third States shall be allowed to tender for contracts.

3. The Head of Mission shall report fully to, and be supervised by, the Commission regarding the activities undertaken in the framework of his contract.

4. The financial arrangements shall respect the operational requirements of the Mission including compatibility of equipment and interoperability of its teams.

5. The expenditure connected with the Mission shall be eligible as of the date of entry into force of this Joint Action.

#### Article 15

##### Coordination

1. Without prejudice to the chain of command, the Head of Mission shall act in close coordination with the Commission delegation to ensure the consistency of EU action in support of Georgia.

2. The Head of Mission shall coordinate closely with the local EU Presidency and other EU Heads of Missions.

3. The Head of Mission shall cooperate with the other international actors present in the country, in particular the UN and the OSCE.

#### Article 16

##### Release of classified information

1. The SG/HR shall be authorised to release to the third States associated with this Joint Action, as appropriate and in accordance with the needs of the Mission, EU classified information and documents up to 'CONFIDENTIEL UE' level generated for the purposes of the Mission, in accordance with the Council's Security Regulations.

2. The SG/HR shall also be authorised to release to the UN and OSCE, in accordance with the operational needs of the Mission, EU classified information and documents up to 'RESTREINT UE' level which are generated for the purposes of the Mission, 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 any EU classified information and documents up to 'RESTREINT UE' level which are generated for the purposes of the Mission, in accordance with the Council's Security Regulations. In all other cases, such information and documents shall be released to the host State in accordance with the appropriate procedures for cooperation by the host State with the EU.

4. The SG/HR shall be authorised to release to the third States associated with this Joint Action any EU non-classified documents connected with the deliberations of the Council relating to the Mission and covered by the obligation of professional secrecy pursuant to Article 6(1) of the Council's Rules of Procedure <sup>(1)</sup>.

#### Article 17

##### Review of the Mission

A Mission review shall be presented to the PSC six months after the beginning of the Mission, on the basis of a report by the Head of Mission and the General Secretariat of the Council.

<sup>(1)</sup> Council Decision 2006/683/EC, Euratom of 15 September 2006 adopting the Council's Rules of Procedure (OJ L 285, 16.10.2006, p. 47).

*Article 18***Entry into force and duration**

This Joint Action shall enter into force on the date of its adoption and its duration shall be for a period of 12 months.

*Article 19***Publication**

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

2. Decisions of the PSC pursuant to Article 10(1) regarding the appointment of the Head of Mission shall also be published in the *Official Journal of the European Union*.

Done at Brussels, 15 September 2008.

*For the Council*

*The President*

B. KOUCHNER

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