COUNCIL JOINT ACTION 2003/681/CFSP

of 29 September 2003

on the European Union Police Mission in the Former Yugoslav Republic of Macedonia (EUPOL 'Proxima')

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 14, Article 25, third paragraph, Article 26 and Article 28(3) thereof,

Whereas:

(1) Pursuant to the Ohrid Framework Agreement, the Union's contribution is based upon a broad approach with activities to address the whole range of rule of law aspects, including institution building programmes and police activities which should be mutually supportive and reinforcing. The activities of the Union, supported, *inter alia*, by the Community's institution building programmes under the CARDS Regulation, will contribute to the overall peace implementation in the Former Yugoslav Republic of Macedonia as well as to the achievements of the Union's overall policy in the region, notably the stabilisation and association process.

(2) The Union appointed a European Union Special Representative (EUSR) to contribute to the consolidation of the peaceful political process and the full implementation of the Ohrid Framework Agreement, to help to ensure the coherence of the EU external action and to ensure coordination of the international community's efforts to help in the implementation and sustainability of the provisions of that Framework Agreement.

(3) The UN Security Council Resolution 1371 (2001) adopted on 26 September 2001 welcomes the Framework Agreement and supports its full implementation by the efforts of, *inter alia*, the EU.

(4) In the interest of preserving and building upon the significant results achieved in the Former Yugoslav Republic of Macedonia through a considerable commitment of EU political effort and resources, the EU is to enhance its role in policing to further contribute to a stable secure environment to allow the Former Yugoslav Republic of Macedonia government to implement the Ohrid framework agreement.

(5) The current security situation in the Former Yugoslav Republic of Macedonia is stable but may deteriorate with potentially serious repercussions on international security. A commitment of EU political effort and resources will help to embed stability in the region.

(6) On 16 September 2003, the authorities of the Former Yugoslav Republic of Macedonia invited the EU to assume responsibility for an enhanced role in policing and the deployment of an EU Police Mission (EUPOL 'Proxima'). An agreement will need to be concluded to this end between the authorities of the Former Yugoslav Republic of Macedonia and the EU.

(7) Operations EUPOL 'Proxima' and Concordia must be considered as separate operations, subject to separate decisions.

(8) The Political and Security Committee should exercise political control of and provide strategic direction to EUPOL 'Proxima', including the planning team, and take the relevant decisions in accordance with Article 25, third subparagraph of the Treaty on the European Union (TEU). The Political and Security Committee (PSC) should be informed on a regular basis on all aspects of the mission, including through briefings by the EUSR and the Head of Mission/Police Commissioner as necessary.

(9) In conformity 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 Secretary-General/High Representative (SG/HR) in accordance with Articles 18 and 26 of the TEU in the implementation of measures falling within the political control and strategic direction exercised by the PSC, in accordance with Article 25 of the TEU.

(10) Third States should participate in the operation in accordance with the guidelines laid down by the European Council at Nice.

(11) Article 14(1) of the TEU 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 Community budget illustrates the will of the legislative authority and is subject to the availability of commitment appropriations during the respective budget year,

HAS ADOPTED THIS JOINT ACTION:

Article 1

Mission

1. The European Union hereby establishes a European Union Police Mission (EUPOL 'Proxima') comprised of a planning team to be established not later than 1 October and an operational phase starting from 15 December 2003 at the latest.

2. EUPOL 'Proxima' shall operate in accordance with the objectives and other provisions as contained in the mission statement set out in Article 3.

Article 2

Planning phase

1. During the planning phase, the Planning Team shall comprise a Police Head of Mission/Head of the Planning Team and the necessary staff to deal with functions ensuing from the needs of the mission.

2. A comprehensive risk assessment will be carried out as a priority in the planning process and may be updated as necessary.

3. The General Secretariat of the Council shall elaborate the Concept of Operations (CONOPS) with the assistance of the Police Head of Mission/Head of the Planning Team. The Planning Team shall subsequently draw up the Operation Plan (OPLAN) and develop all technical instruments necessary to execute EUPOL 'Proxima'. CONOPS and OPLAN will take into account the comprehensive risk assessment. The Council shall approve the CONOPS and the OPLAN.

4. The Planning Team shall work in close cooperation with the OSCE.

5. As from 15 December 2003, the Police Head of Mission/Head of the Planning Team shall become Head of Mission/Police Commissioner as set out in Article 5.

Article 3

Mission statement

EUPOL 'Proxima', in line with the objectives of the Ohrid Agreement, in strong partnership with the relevant authorities, and within a broader rule of law perspective shall, in full coordination and complementarity with Community institution building as well as OSCE and bilateral programmes, support, including through monitoring and mentoring, as appropriate:

— the consolidation of law and order, including the fight against organised crime, focussing on the sensitive areas,

— the practical implementation of the comprehensive reform of the Minister of Interior, including the police,

— the operational transition towards, and the creation of a border police, as a part of the wider EU effort to promote integrated border management,

— the local police in building confidence within the population,

— enhanced cooperation with neighbouring States in the field of policing.

Article 4

Structure

EUPOL 'Proxima' shall in principle be structured as follows:

(a) headquarters in Skopje, composed of the Head of the Mission/Police Commissioner and staff as defined in the OPLAN;

(b) one central co-location unit at the Ministry of Interior level;

(c) some units co-located within the Former Yugoslav Republic of Macedonia at appropriate levels.

Article 5

Head of Mission/Police Commissioner

1. The Council, upon a proposal by the SG/HR, shall appoint a Head of Mission/Police Commissioner. The Head of Mission/Police Commissioner shall exercise Operational Control (OPCON) over EUPOL 'Proxima' and assume the day-to-day management of EUPOL 'Proxima' operations.

2. The Head of Mission/Police Commissioner shall sign a contract with the Commission.

3. All police officers shall remain under full command of the appropriate national authority. National authorities will transfer Operational Control (OPCON) to the Head of EUPOL 'Proxima'.

4. The Head of Mission/Police Commissioner shall be responsible for disciplinary control over the personnel. For seconded personnel, disciplinary action shall be exercised by the national or EU authority concerned.

Article 6

Staff

1. The numbers and competence of EUPOL 'Proxima' staff shall be consistent with the mission statement set out in Article 3 and the structure set out in Article 4.

2. Police officers shall be seconded by Member States. The minimum period of secondment should be one year. Each Member State shall bear the costs related to the police officers seconded by it, including salaries, medical coverage, allowances other than per diems, and travel expenses to and from the Former Yugoslav Republic of Macedonia.

3. International civilian staff and local staff shall be recruited on a contractual basis by EUPOL 'Proxima' as required.

4. Contributing States or Community institutions may also, if required, second international civilian staff, for a minimum period of one year. Each contributing State or Community institution shall bear the costs related to any of the staff seconded by it including salaries, medical coverage, allowances other than per diems, and travel expenses to and from the Former Yugoslav Republic of Macedonia.

Article 7

Chain of command

The structure of EUPOL 'Proxima' as part of the broader EU Rule of Law approach in the Former Yugoslav Republic of Macedonia shall have a unified chain of command, as a crisis management operation.

— The European Union Special Representative (EUSR) shall report to the Council through the SG/HR.

— The Political and Security Committee shall provide the political control and strategic direction.

— The Head of Mission/Police Commissioner shall lead EUPOL 'Proxima' and assume its day-to-day management.

— The Head of Mission/Police Commissioner shall report to the SG/HR through the EUSR.

— The SG/HR shall give guidance to the Head of Mission/Police Commissioner through the EUSR.

Article 8

Political control and strategic direction

1. The Political and Security Committee shall exercise under the responsibility of the Council the political control and strategic direction of the mission. The Council hereby authorises the Political and Security Committee to take the relevant decisions in accordance with Article 25 of the TEU. This authorisation shall include the powers to amend the operation plan, the chain of command and the rules of engagement. The powers of decision with respect to the objectives and termination of the operation shall remain vested in the Council, assisted by the Secretary-General/High Representative.

2. The Political and Security Committee shall report to the Council at regular intervals.

3. The Political and Security Committee shall receive reports by the Police Head of Mission regarding the conduct of the mission at regular intervals. The Political and Security Committee may invite the Police Head of Mission to its meetings as appropriate.

Article 9

Participation of third States

1. Without prejudice to the decision-making autonomy of the EU and the single institutional framework of the Union, Acceding States are invited and other third States may be invited to contribute to EUPOL 'Proxima' on the basis that they bear the cost of sending the police officers and/or the international civilian staff seconded by them, including salaries, allowances and travel expenses to and from the Former Yugoslav Republic of Macedonia, and contribute to the running costs of EUPOL 'Proxima' as appropriate.

2. Without prejudice to the decision-making autonomy of the European Union and the Single Institutional Framework, third States may be invited to participate in the operation.

3. The Council hereby authorises the PSC to take, upon the recommendation of the Police Head of Mission and the Committee for Civilian Aspects of Crisis Management, the relevant decisions on acceptance of the proposed contributions.

4. Third States making contributions to EUPOL 'Proxima' shall have the same rights and obligations in terms of day-to-day management of the operation as EU Member States taking part in the operation.

5. The PSC shall take appropriate action with regard to participation arrangements and shall, if required, submit those to the Council, including on possible financial participation from third States in the common costs.

6. Detailed arrangements regarding the participation of Third States shall be subject of an agreement, in conformity with Article 24 of the Treaty on European Union. The Secretary-General/High Representative assisting the Presidency may negotiate such arrangements on its behalf.

Article 10

Financial arrangements

1. The costs for the implementation of this Joint Action shall be:

(a) a maximum amount of EUR 7,3 million for start-up costs of the mission;

(b) a maximum of EUR 650 000 for running costs for 2003, including per diems of EUR 100 per person for 2003;

(c) a maximum of EUR 7,056 million for running costs for 2004, not including per diems, all to be financed out of the Community budget.

The financing of per diems for 2003 out of the CFSP budget shall not prejudge their amount and the modalities for their financing for 2004 and following years.

The final amount for the year 2004, including the modalities of financing per diems, shall be decided by the Council in December 2003.

2. As regards expenditure financed out of the Community budget, the following shall apply:

(a) expenditure shall be managed in accordance with the European Community rules and procedures applicable to the budget, with the exception that any pre-financing shall not remain the property of the Community. Nationals of third States shall be allowed to tender for contracts;

(b) the Head of the Planning Team/Police Commissioner shall report fully to, and be supervised by, the Commission on the activities undertaken in the framework of his contract.

3. The financial arrangements shall respect the operational requirements of EUPOL 'Proxima', including compatibility of equipment and interoperability of its teams.

Article 11

Community action

1. The Council notes the intention of the Commission to direct its action towards achieving the objectives of this Joint Action, where appropriate, by relevant Community measures.

2. The Council also notes that coordination arrangements are required in Skopje as well as in Brussels.

Article 12

Release of classified information

1. The Secretary-General/High Representative is authorised to release to NATO/KFOR and to the third parties associated with this Joint Action, EU classified information and documents up to the level 'CONFIDENTIEL UE' generated for the purposes of the operation, in accordance with the Council's security regulations.

2. The Secretary-General/High Representative is also authorised to release, in accordance with the operational needs of the Mission, to the OSCE EU classified information and documents up to the level 'RESTREINT UE' generated for the purposes of the operation, in accordance with the Council's security regulations. Local arrangements will be drawn up for this purpose.

3. In the event of a specific and immediate operational need, the Secretary-General/High Representative is also authorised to release to the host State EU classified information and documents up to the level 'CONFIDENTIEL UE' generated for the purposes of the operation, 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 procedures appropriate to the host State's level of cooperation with the European Union.

4. The Secretary-General/High Representative is 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 operation covered by the obligation of professional secrecy pursuant to Article 6(1) of the Council Rules of Procedure.

Article 13

Status of staff of EUPOL 'Proxima'

1. The status of EUPOL 'Proxima' staff in the Former Yugoslav Republic of Macedonia, including where appropriate the privileges, immunities and further guarantees necessary for the completion and smooth functioning of EUPOL 'Proxima' shall be agreed in accordance with the procedure laid down in Article 24 of the Treaty on European Union. The Secretary-General/High Representative assisting the Presidency may negotiate such arrangement on its behalf.

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

Article 14

Entry into force, duration

This Joint Action shall enter into force on the date of its adoption and shall expire on 14 December 2004.

Article 15

Publication

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

Done at Brussels, 29 September 2003.

For the Council

The President

F. FRATTINI