

**COUNCIL DECISION (CFSP) 2016/993****of 20 June 2016****amending Decision (CFSP) 2015/778 on a European Union military operation in the Southern Central Mediterranean (EUNAVFOR MED operation SOPHIA)**

THE COUNCIL OF THE EUROPEAN UNION,

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

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

Whereas:

- (1) On 18 May 2015, the Council adopted Decision (CFSP) 2015/778 <sup>(1)</sup>.
- (2) On 23 May 2016, the Council, in its conclusions on EUNAVFOR MED operation SOPHIA, welcomed the expressed readiness by the President of the Presidency Council of the Libyan Government of National Accord to cooperate with the Union on the basis of those conclusions, agreed to extend the mandate of EUNAVFOR MED operation SOPHIA by 1 year and, while retaining the focus on its core mandate, to add two further supporting tasks:
  - capacity building and training of, and information sharing with, the Libyan Coastguard and Navy, based on a request by the legitimate Libyan authorities taking into account the need for Libyan ownership,
  - contributing to information sharing, as well as implementation of the UN arms embargo on the high seas off the coast of Libya on the basis of a new UN Security Council Resolution.
- (3) The UN Security Council imposed, modified and reaffirmed an arms embargo on Libya by UN Security Council Resolutions (UNSCR) 1970 (2011), 1973 (2011), 2009 (2011), 2040 (2012), 2095 (2013), 2144 (2014), 2174 (2014), 2213 (2015), 2214 (2015) and 2278 (2016).
- (4) On 14 June 2016, the UN Security Council adopted UNSCR 2292 (2016) on the arms embargo on Libya, expressing in particular concern that the situation in Libya is exacerbated by the smuggling of illegal arms and related materiel.
- (5) The Council underlines the urgency to start the operational implementation of the two supporting tasks before the end of the initial mandate of EUNAVFOR MED operation SOPHIA.
- (6) Decision (CFSP) 2015/778 should be amended accordingly,

HAS ADOPTED THIS DECISION:

*Article 1*

Decision (CFSP) 2015/778 is amended as follows:

- (1) Article 1(1) is replaced by the following:

‘1. The Union shall conduct a military crisis management operation contributing to the disruption of the business model of human smuggling and trafficking networks in the Southern Central Mediterranean (EUNAVFORMED operation SOPHIA), achieved by undertaking systematic efforts to identify, capture and dispose of vessels and assets used or suspected of being used by smugglers and traffickers, in accordance with applicable international law, including UNCLOS and any UN Security Council Resolution. To that end, EUNAVFOR MED operation SOPHIA shall also provide training to the Libyan Coast Guard and Navy. In addition, the operation shall contribute to preventing arms trafficking within its agreed area of operation in accordance with UNSCR 1970 (2011) and subsequent Resolutions on the arms embargo on Libya, including UNSCR 2292 (2016).’;

<sup>(1)</sup> Council Decision (CFSP) 2015/778 of 18 May 2015 on a European Union military operation in the Southern Central Mediterranean (EUNAVFOR MED operation SOPHIA) (OJ L 122, 19.5.2015, p. 31).

(2) in Article 2(2), the first sentence is replaced by the following:

‘As regards its core tasks in relation to human smuggling and trafficking, EUNAVFOR MED operation SOPHIA shall be conducted in sequential phases, and in accordance with the requirements of international law.’;

(3) the following Articles are inserted:

*‘Article 2a*

#### **Capacity building and training of Libyan Coast Guard and Navy**

1. As a supporting task, EUNAVFOR MED operation SOPHIA shall assist in the development of the capacities and in the training of the Libyan Coast Guard and Navy in law enforcement tasks at sea, in particular to prevent human smuggling and trafficking.

2. When the PSC decides that the necessary preparations have been made, in particular as regards force generation and vetting procedures for the trainees, the supporting task referred to in paragraph 1 shall be carried out on the high seas in EUNAVFOR MED operation SOPHIA’s agreed area of operation as defined in the relevant planning documents.

3. The supporting task referred to in paragraph 1 may also be carried out in the territory, including the territorial waters, of Libya or of a host third State neighbouring Libya where the PSC so decides following an assessment by the Council on the basis of an invitation by Libya or the host State concerned, and in accordance with international law.

4. In view of the exceptional operational requirements, part of the supporting task referred to in paragraph 1 may be conducted, by invitation, within a Member State, including in relevant training centres.

5. Insofar as required by the supporting task referred to in paragraph 1 EUNAVFOR MED operation SOPHIA may collect, store and share with Member States, UNSMIL, EUROPOL and Frontex the information, including personal data, gathered for the purpose of vetting procedures on possible trainees, provided that they have given their consent in writing. Moreover, EUNAVFOR MED operation SOPHIA may collect and store necessary medical information and biometric data on trainees with their written consent.

*Article 2b*

#### **Contributing to information sharing and implementation of the UN arms embargo on the high seas off the coast of Libya**

1. As part of its supporting task to contribute to the implementation of the UN arms embargo on the high seas off the coast of Libya, EUNAVFOR MED operation SOPHIA shall gather and share information with relevant partners and agencies through the mechanisms in the planning documents in order to contribute to a comprehensive maritime situational awareness in the agreed area of operation as defined in the relevant planning documents. Where such information is classified up to “RESTREINT UE/EU RESTRICTED” level, it may be shared with relevant partners and agencies in accordance with Decision 2013/488/EU and based on Arrangements concluded between the HR and those partners, in full respect of the principles of reciprocity and inclusiveness. Classified information received shall be handled by EUNAVFOR MED operation SOPHIA without any distinction between its staff and solely on the basis of operational requirements.

2. When the PSC decides that the relevant conditions are met, EUNAVFOR MED operation SOPHIA shall commence, within the agreed area of operation, as defined in the relevant planning documents, on the high seas off the coast of Libya, inspections of vessels bound to or from Libya where there are reasonable grounds to believe that such vessels are carrying arms or related materiel to or from Libya, directly or indirectly, in violation of the arms embargo on Libya, and shall take relevant action to seize and dispose of such items, including with a view to diverting such vessels and their crews to a suitable port to facilitate such disposal, with the consent of the port State, in accordance with the relevant UN Security Council Resolutions, including UNSCR 2292 (2016).

3. In accordance with the relevant UN Security Council Resolutions, including UNSCR 2292 (2016), EUNAVFOR MED operation SOPHIA may, in the course of inspections carried out in accordance with paragraph 2, collect evidence directly related to the carriage of items prohibited under the arms embargo on Libya. It may transmit such evidence to the relevant law enforcement authorities of Member States and/or to competent Union bodies.’;

(4) in Article 11, paragraph 2 is replaced by the following:

'2. For the period from 18 May 2015 to 27 July 2016, the reference amount for the common costs of EUNAVFOR MED operation SOPHIA shall be EUR 11,82 million. The percentage of the reference amount referred to in Article 25(1) of Decision (CFSP) 2015/528 shall be 70 % in commitments and 40 % for payments.'

(5) in Article 11, the following paragraph is added:

'3. For the period 28 July 2016 to 27 July 2017, the reference amount for the common costs of EUNAVFOR MED operation SOPHIA shall be EUR 6 700 000. The percentage of the reference amount referred to in Article 25(1) of Decision (CFSP) 2015/528 shall be 0 % in commitments and 0 % for payments.'

(6) in Article 12, the following paragraph is added:

'3a. In the event of specific operational need, the HR shall be authorised to release to legitimate Libyan authorities any EU classified information up to "RESTREINT UE/EU RESTRICTED" level generated for the purposes of EUNAVFOR MED operation SOPHIA, in accordance with Decision 2013/488/EU. Arrangements between the HR and the competent authorities of Libya shall be drawn up for this purpose.'

(7) in Article 13, the second paragraph is replaced by the following:

'EUNAVFOR MED operation SOPHIA shall end on 27 July 2017.'

#### *Article 2*

#### **Entry into force**

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

Done at Luxembourg, 20 June 2016.

*For the Council*  
*The President*  
F. MOGHERINI