



Council of the
European Union

Brussels, 18 January 2016
(OR. en)

5002/2/16
REV 2

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: POLITICAL AND SECURITY COMMITTEE DECISION concerning the implementation by EUNAVFOR MED operation SOPHIA of United Nations Security Council Resolution 2240 (2015) (EUNAVFOR MED operation SOPHIA/1/2016)

POLITICAL AND SECURITY COMMITTEE DECISION (CFSP) 2016/...

of ... 2016

**concerning the implementation
by EUNAVFOR MED operation SOPHIA
of United Nations Security Council Resolution 2240 (2015)
(EUNAVFOR MED operation SOPHIA/1/2016)**

THE POLITICAL AND SECURITY COMMITTEE,

Having regard to the Treaty on European Union, and in particular the third paragraph of Article 38 thereof,

Having regard to Council Decision (CFSP) 2015/778 of 18 May 2015 on a European Union military operation in the Southern Central Mediterranean (EUNAVFOR MED operation SOPHIA)¹, and in particular Article 6(1) thereof,

¹ OJ L 122, 19.5.2015, p. 31.

Whereas:

- (1) Council Decision (CFSP) 2015/778 provides that the European Union military operation in the Southern Central Mediterranean (EUNAVFOR MED operation SOPHIA) (the 'operation') is to be conducted in different phases.
- (2) On 14 September 2015, the Council concluded that all the conditions had been met for the operation to move to a part of the second phase of the operation on the high seas. On 28 September 2015, the Political and Security Committee adopted Decision (CFSP) 2015/1772¹ concerning the transition by EUNAVFOR MED operation SOPHIA to the second phase of the operation, as provided for in point (b)(i) of Article 2(2) of Decision (CFSP) 2015/778 which also approved adapted Rules of Engagement for that phase of the operation.

¹ OJ L 258, 3.10.2015, p. 5.

- (3) On 9 October 2015, the United Nations Security Council (UNSC) adopted Resolution 2240 (2015). That resolution reinforces the authority to take measures against the smuggling of migrants and human trafficking from the territory of Libya and off its coast. In particular, in paragraphs 7, 8 and 10 it authorises Member States, acting nationally or through regional organisations that are engaged in the fight against migrant smuggling and human trafficking, for a period of one year, "to inspect on the high seas off the coast of Libya vessels that they have reasonable grounds to suspect are being used for migrant smuggling or human trafficking from Libya, provided that such Member States and regional organisations make good faith efforts to obtain the consent of the vessel's flag State prior to using the authority outlined in this paragraph". It also authorises Member States "to seize vessels inspected under the authority of paragraph 7 that are confirmed as being used for migrant smuggling or human trafficking from Libya, and underscores that further action with regard to such vessels inspected under the authority of paragraph 7, including disposal, will be taken in accordance with applicable international law with due consideration of the interests of any third parties who have acted in good faith" and "to use all measures commensurate to the specific circumstances in confronting migrant smugglers or human traffickers in carrying out activities under paragraphs 7 and 8 and in full compliance with international human rights law, as applicable".
- (4) On 16 October 2015, the Operation Commander of EUNAVFOR MED operation SOPHIA indicated that the operation was ready to implement UNSC Resolution 2240 (2015).

- (5) Following agreement by the Political and Security Committee, the Council on 18 January 2016 concluded that the conditions have been met for the operation to implement the authority given by UNSC Resolution 2240 (2015) on the high seas off the coast of Libya, in accordance with Council Decision (CFSP) 2015/778.
- (6) The operation should therefore be authorised to conduct boarding, search, seizure and diversion, on the high seas, of vessels suspected of being used for human smuggling or trafficking under the conditions set out in UNSC Resolution 2240 (2015) and adapted Rules of Engagement should be approved to that effect.
- (7) Transition to subsequent phases of the operation, including measures in the territorial and internal waters of a coastal State pursuant to point (b)(ii) of Article 2(2) of Decision (CFSP) 2015/778, will be subject to a further assessment by the Council as to whether the conditions for that transition have been met, taking into account any applicable UNSC Resolution and consent by the coastal states concerned, and the decision by the Political and Security Committee on when to make the transition, in accordance with Decision (CFSP) 2015/778 and Council Decision (CFSP) 2015/972¹,

HAS ADOPTED THIS DECISION:

¹ OJ L 157, 23.6.2015, p. 51.

Article 1

The European Union military operation in the Southern Central Mediterranean (EUNAVFOR MED operation SOPHIA) is hereby authorised to conduct boarding, search, seizure and diversion, on the high seas, of vessels suspected of being used for human smuggling or trafficking under the conditions set out in UNSC Resolution 2240 (2015), in accordance with Decision (CFSP) 2015/778, for the period set out in that Resolution including any subsequent extensions of that period by the Security Council.

Article 2

The adapted Rules of Engagement to give effect to the authorisation in Article 1 are hereby approved.

Article 3

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

Done at Brussels,

*For the Political and Security Committee
The Chairperson*