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► **B** **COUNCIL DECISION (CFSP) 2015/778**
of 18 May 2015
**on a European Union military operation in the Southern Central Mediterranean (► M1 EUNAVFOR
 MED operation SOPHIA ◀)**
 (OJ L 122, 19.5.2015, p. 31)

Amended by:

		Official Journal		
		No	page	date
► <u>M1</u>	Council Decision (CFSP) 2015/1926 of 26 October 2015	L 281	13	27.10.2015
► <u>M2</u>	Council Decision (CFSP) 2016/993 of 20 June 2016	L 162	18	21.6.2016
► <u>M3</u>	Council Decision (CFSP) 2016/2314 of 19 December 2016	L 345	62	20.12.2016
► <u>M4</u>	Council Decision (CFSP) 2017/1385 of 25 July 2017	L 194	61	26.7.2017
► <u>M5</u>	Council Decision (CFSP) 2018/717 of 14 May 2018	L 120	10	16.5.2018
► <u>M6</u>	Council Decision (CFSP) 2018/2055 of 21 December 2018	L 327I	9	21.12.2018

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- **C1** Corrigendum, OJ L 19, 25.1.2017, p. 96 (2016/2314)

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COUNCIL DECISION (CFSP) 2015/778
of 18 May 2015

on a European Union military operation in the Southern Central Mediterranean (► **M1 EUNAVFOR MED operation SOPHIA ◀)**

Article 1

Mission

▼ **M2**

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).

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2. The area of operation shall be defined, before the launching of ► **M1** EUNAVFOR MED operation SOPHIA ◀, in the relevant planning documents to be approved by the Council.

Article 2

Mandate

1. ► **M1** EUNAVFOR MED operation SOPHIA ◀ shall operate in accordance with the political, strategic and politico-military objectives set out in the Crisis Management Concept approved by the Council on 18 May 2015.

2. ► **M2** 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. ◀ ► **M1** EUNAVFOR MED operation SOPHIA ◀ shall:

(a) in a first phase, support the detection and monitoring of migration networks through information gathering and patrolling on the high seas in accordance with international law;

(b) in a second phase,

(i) conduct boarding, search, seizure and diversion on the high seas of vessels suspected of being used for human smuggling or trafficking, under the conditions provided for by applicable international law, including UNCLOS and the Protocol against the Smuggling of Migrants;

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- (ii) in accordance with any applicable UN Security Council Resolution or consent by the coastal State concerned, conduct boarding, search, seizure and diversion, on the high seas or in the territorial and internal waters of that State, of vessels suspected of being used for human smuggling or trafficking, under the conditions set out in that Resolution or consent;
 - (c) in a third phase, in accordance with any applicable UN Security Council Resolution or consent by the coastal State concerned, take all necessary measures against a vessel and related assets, including through disposing of them or rendering them inoperable, which are suspected of being used for human smuggling or trafficking, in the territory of that State, under the conditions set out in that Resolution or consent.
3. The Council shall assess whether the conditions for transition beyond the first phase have been met, taking into account any applicable UN Security Council Resolution and consent by the coastal States concerned.

▼ M3

4. EUNAVFOR MED operation SOPHIA may collect and store, in accordance with applicable law, personal data concerning persons taken on board ships participating in EUNAVFOR MED operation SOPHIA related to characteristics likely to assist in their identification, including fingerprints, as well as the following particulars, with the exclusion of other personal data: surname, maiden name, given names and any alias or assumed name; date and place of birth, nationality, sex, place of residence, profession and whereabouts; driving licenses, identification documents and passport data. ► **M4** It may transmit such data as well as data related to the vessels and equipment used by such persons, and the relevant information acquired while carrying out this core task, to the relevant law enforcement authorities of Member States and to competent Union bodies. ◀

▼ M2*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.

▼ M2

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.

▼ M4

4a. For the purpose of the supporting task referred to in paragraph 1, a monitoring mechanism shall be established in close coordination with other relevant stakeholders.

▼ M3

► C1 5. Insofar as required by the supporting task referred to in paragraph 1, EUNAVFOR MED operation SOPHIA may collect, store and exchange with the relevant authorities of Member States, competent Union bodies, UNSMIL, INTERPOL, the International Criminal Court and the United States of America ◀ the information, including personal data, gathered for the purpose of the 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 provided that they have given their consent in writing.

▼ M2*Article 2b*

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

▼ M3

► C1 1. Insofar as required by its supporting task to implement the UN arms embargo on the high seas off the coast of Libya, EUNAVFOR MED operation SOPHIA shall gather and exchange 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 'SECRET UE/EU SECRET', it may be exchanged with relevant partners and agencies in accordance with Council Decision 2013/488/EU ⁽¹⁾ and based on arrangements concluded at the operational level in accordance with Article 12(9) of this Decision, and 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.

▼ M2

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).

⁽¹⁾ Council Decision 2013/488/EU of 23 September 2013 on the security rules for protecting EU classified information (OJ L 274, 15.10.2013, p. 1).

▼ M3

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 and store 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 in accordance with applicable law.

▼ M4

4. In addition, in the Area of Operation, and within its means and capabilities, EUNAVFOR MED operation SOPHIA shall conduct surveillance activities and gather information on illegal trafficking, including information on crude oil and other illegal exports that are contrary to UNSCR 2146 (2014) and UNSCR 2362 (2017), thereby contributing to situational awareness and to maritime security in the Central Mediterranean. The information gathered in this context may be released to the legitimate Libyan authorities and to the relevant law enforcement authorities of Member States and to competent Union bodies.

▼ B*Article 3***Appointment of the EU Operation Commander**

Rear Admiral Enrico Credendino is hereby appointed EU Operation Commander of ► M1 EUNAVFOR MED operation SOPHIA ◀.

*Article 4***Designation of the EU Operation Headquarters**

The Operation Headquarters of ► M1 EUNAVFOR MED operation SOPHIA ◀ shall be located in Rome, Italy.

*Article 5***Planning and launch of the operation**

The Decision to launch ► M1 EUNAVFOR MED operation SOPHIA ◀ shall be adopted by the Council, upon the recommendation of the Operation Commander of ► M1 EUNAVFOR MED operation SOPHIA ◀ following approval of the Operation Plan and of the Rules of Engagement necessary for the execution of the mandate.

*Article 6***Political control and strategic direction**

1. Under the responsibility of the Council and of the HR, the PSC shall exercise the political control and strategic direction of ► M1 EUNAVFOR MED operation SOPHIA ◀. The Council hereby authorises the PSC to take the relevant decisions in accordance with Article 38 TEU. This authorisation shall include the powers to amend the planning documents, including the Operations Plan, the Chain of Command and the Rules of Engagement. It shall also include the powers to take decisions on the appointment of the EU Operation Commander and the EU Force Commander. The powers of

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decision with respect to the objectives and termination of the EU military operation shall remain vested in the Council. Subject to Article 2(3) of this Decision, the PSC shall have the power to decide when to make the transition between the different phases of the operation.

2. The PSC shall report to the Council at regular intervals.
3. The Chairman of the EU Military Committee (EUMC) shall, at regular intervals, report to the PSC on the conduct of ► **M1** EUNAVFOR MED operation SOPHIA ◀. The PSC may invite the EU Operation Commander or the EU Force Commander to its meetings, as appropriate.

*Article 7***Military direction**

1. The EUMC shall monitor the proper execution of ► **M1** EUNAVFOR MED operation SOPHIA ◀ conducted under the responsibility of the EU Operation Commander.
2. The EU Operation Commander shall, at regular intervals, report to the EUMC. The EUMC may invite the EU Operation Commander or the EU Force Commander to its meetings, as appropriate.
3. The Chairman of the EUMC shall act as the primary point of contact with the EU Operation Commander.

*Article 8***Consistency of the Union's response and coordination**

1. The HR shall ensure the implementation of this Decision and its consistency with the Union's external action as a whole, including the Union's development programmes and its humanitarian assistance.
2. The HR, assisted by the European External Action Service (EEAS), shall act as the primary point of contact with the United Nations, the authorities of the countries in the region, and other international and bilateral actors, including NATO, the African Union and the League of Arab States.
3. ► **M1** EUNAVFOR MED operation SOPHIA ◀ shall cooperate with the relevant Member State authorities and shall establish a coordination mechanism, and as appropriate, conclude arrangements with other Union agencies and bodies, in particular FRONTEX, EUROPOL, EUROJUST, European Asylum Support Office and relevant CSDP missions.

▼ M5

4. EUNAVFOR MED operation Sophia may host a Crime Information Cell ('CIC') composed of staff of relevant law enforcement authorities of Member States and of Union agencies listed in paragraph 3 of this Article, in order to facilitate the receipt, collection and transmission of information, including personal data, on human smuggling and trafficking, the arms embargo on Libya, illegal trafficking as referred to in Article 2b(4), as well as crimes relevant to the security of the operation.

▼ M5

The processing of personal data in this context shall be carried out in accordance with the law of the flag State of the vessel on which the CIC is located and, with respect to Union agencies' staff, in accordance with the legal framework applicable to the respective agencies.

▼ B*Article 9***Participation by third States**

1. Without prejudice to the Union's decision-making autonomy or to the single institutional framework, and in accordance with the relevant guidelines of the European Council, third States may be invited to participate in the operation.
2. The Council hereby authorises the PSC to invite third States to offer contributions and to take the relevant decisions on acceptance of the proposed contributions, upon the recommendation of the EU Operations Commander and the EUMC.
3. Detailed arrangements for the participation by third States shall be the subject of agreements concluded pursuant to Article 37 TEU and in accordance with the procedure laid down in Article 218 of the Treaty on the Functioning of the European Union (TFEU). Where the Union and a third State have concluded an agreement establishing a framework for the latter's participation in crisis management missions of the Union, the provisions of such an agreement shall apply in the context of ► **M1** EUNAVFOR MED operation SOPHIA ◀.
4. Third States making significant military contributions to ► **M1** EUNAVFOR MED operation SOPHIA ◀ shall have the same rights and obligations in terms of day-to-day management of the operation as Member States taking part in the operation.
5. The Council hereby authorises the PSC to take relevant decisions on the setting-up of a Committee of Contributors, should third States provide significant military contributions.

*Article 10***Status of Union-led personnel**

The status of Union-led units and personnel shall be defined where necessary in accordance with international law.

*Article 11***Financial arrangements**

1. The common costs of the EU military operation shall be administered in accordance with Decision (CFSP) 2015/528.

▼ M2

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.

▼ M2

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.

▼ M4

4. For the period 28 July 2017 to 31 December 2018, the reference amount for the common costs of EUNAVFOR MED operation SOPHIA shall be EUR 6 000 000. The percentage of the reference amount referred to in Article 25(1) of Decision (CFSP) 2015/528 shall be 0 % both in commitments and payments.

▼ M6

5. For the period from 1 January 2019 to 31 March 2019, the reference amount for the common costs of EUNAVFOR MED operation Sophia shall be EUR 1 100 000. The percentage of the reference amount referred to in Article 25(1) of Decision (CFSP) 2015/528 shall be 30 % for commitments and 30 % for payments.

▼ M3*Article 12***Release of Information****▼ C1**

1. The HR shall be authorised to release to designated third States and the International Criminal Court, as appropriate and in accordance with the operational needs of EUNAVFOR MED operation SOPHIA and in full respect of the principles of reciprocity and inclusiveness, any EU non-classified documents connected with the deliberations of the Council relating to the operation and covered by the obligation of professional secrecy pursuant to Article 6(1) of the Council's Rules of Procedure ⁽¹⁾. The PSC, provided that these conditions are met, shall designate on a case-by-case basis the third States concerned.

2. The HR shall be authorised to release to designated third States and the International Criminal Court, as appropriate and in accordance with the operational needs of EUNAVFOR MED operation SOPHIA, and in full respect of the principles of reciprocity and inclusiveness, EU classified information generated for the purposes of the operation, in accordance with Decision 2013/488/EU, as follows:

- (a) up to the level provided in the applicable Security of Information Agreements concluded between the Union and the third State concerned; or
- (b) up to the 'CONFIDENTIEL UE/EU CONFIDENTIAL' level in other cases.

The PSC, provided that these conditions are met, shall designate on a case-by-case basis the third States concerned.

▼ M3

3. 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.

4. The HR shall also be authorised to release to the UN, in accordance with the operational needs of EUNAVFOR MED operation SOPHIA, EU classified information up to 'RESTREINT UE/EU RESTRICTED' level which are generated for the purposes of EUNAVFOR MED operation SOPHIA, in accordance with Decision 2013/488/EU.

⁽¹⁾ Council Decision 2009/937/EU of 1 December 2009 adopting the Council's Rules of Procedure (OJ L 325, 11.12.2009, p. 35).

▼ M3

5. The HR shall be authorised to release to INTERPOL relevant information, including personal data, in accordance with the operational needs of EUNAVFOR MED operation SOPHIA.

6. Pending the conclusion of an agreement between the Union and INTERPOL, EUNAVFOR MED operation SOPHIA may exchange such information with the National Central Bureaux of INTERPOL of the Member States, in accordance with arrangements to be concluded between the EU Operation Commander and the Head of the relevant National Central Bureau.

7. 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.

8. The HR shall be authorised to conclude the arrangements necessary to implement the provisions on information exchange in this Decision.

9. The HR may delegate the authorisations to release information as well as the ability to conclude the arrangements referred to in this Decision to EEAS officials, to the EU Operation Commander or to the EU Force Commander in accordance with section VII of Annex VI to Decision 2013/488/EU.

▼ B*Article 13***Entry into force and termination**

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

▼ M6

EUNAVFOR MED operation SOPHIA shall end on 31 March 2019.

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This Decision shall be repealed as from the date of closure of the EU Operation Headquarters in accordance with the plans approved for the termination of ► **M1** EUNAVFOR MED operation SOPHIA ◀, and without prejudice to the procedures regarding the audit and presentation of the accounts of ► **M1** EUNAVFOR MED operation SOPHIA ◀ laid down in Decision (CFSP) 2015/528.