



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 23 January 2014

**10022/12
EXT 1**

LIMITE

**CSDP/PSDC 810
PESC 607
COPS 164
CIVCOM 182
COWEB 69
JAI 338
EU-LEX 26**

PARTIAL DECLASSIFICATION

of document:	10022/12 RESTREINT UE/EU RESTRICTED
dated:	16 May 2012
new status:	LIMITE
Subject:	Revised Operation Plan (OPLAN) for the European Union rule of law Mission in Kosovo, EULEX KOSOVO

Delegations will find attached the partially declassified version of the above-mentioned document.



ANNEX

**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 16 May 2012

**10022/12
EXT 1 (23.01.2014)**

LIMITE

**COPS 164
PESC 607
CIVCOM 182
COSDP 405
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EU-LEX 26**

COVER NOTE

From :	European External Action Service
To :	Political and Security Committee
Subject:	Revised Operation Plan (OPLAN) for the European Union rule of law Mission in Kosovo, EULEX KOSOVO

Delegations will find attached EEAS document EEAS 00834/12 regarding the draft Operation Plan (OPLAN) for the European Union rule of law Mission in Kosovo, EULEX KOSOVO.

Encl. EEAS document EEAS 00834/12

EUROPEAN EXTERNAL ACTION SERVICE



Civilian Planning and Conduct Capability – CPCC

Brussels, 16 May 2012

**EEAS 00834/12
(st 10022/12)**

RESTREINT UE

**COPS
PESC
CIVCOM
COSDP
JAI
COWEB
EU-LEX**

NOTE

From:	European External Action Service
To:	General Secretariat of the Council
Subject:	Revised Operation Plan (OPLAN) for the European Union rule of law Mission in Kosovo, EULEX KOSOVO

The General Secretariat of the Council will find attached the EEAS document EEAS 00834/12 regarding the draft Operation Plan (OPLAN) for the European Union rule of law Mission in Kosovo, EULEX KOSOVO.

5 COMMAND

Article 5.1, page 25: NOT DECLASSIFIED

5.2 Command arrangements

5.2.1 Transfer of Authority (ToA)

Staff members seconded by Contributing States will be deployed in Kosovo by their respective countries. The HoM will exercise operational control (OPCON) upon their arrival. All seconded staff members remain under full command of their national authorities or EU institution.

Staff members will carry out their duties and act in the interest of the Mission, and recognise to be responsible to the HoM for the tasks entrusted to them.

5.2.2 Discipline

The EULEX KOSOVO HoM will be responsible for disciplinary control over the staff. For seconded personnel, disciplinary action will be exercised by the national authority or EU institutions concerned. To this end, each Contributing State should appoint a National Contingent Leader or National Point of Contact (NCL/NPC) to represent each national contingent in the mission, responsible for contingent discipline.

5.2.3 Technical guidance

The CivOpsCdr, assisted by the EEAS (CPCC), will provide technical guidance and support and will be the first point of contact for EULEX KOSOVO. To this end, the EEAS (CPCC) will be in liaison with the Brussels Support Element of EULEX KOSOVO.

5.2.4 Reporting

In line with the relevant Council documents¹, the HoM reports through the CivOpsCdr to the HR, the PSC and Contributing Third States, as appropriate. The reports will provide adequate and relevant information and analysis on the progress and achievements of EULEX KOSOVO, including on progress in benchmarking. They will be precise and concise in relation to the subject matter and will contain, as appropriate, separate assessments on the Mission aims and achievements. The Mission will actively seek and exchange information with relevant EU bodies.

EULEX KOSOVO reports will, as required, be classified according to Council security regulations.

The following reports will be provided by EULEX KOSOVO: 1) Weekly Operations Summary; 2) Monthly Report; 3) Six-Monthly Report, including lessons identified and a financial annex; 4) Special Report; 5) Incident Report.

In addition, as appropriate, the EEAS and the Mission will provide oral updates and briefings to the relevant Council preparatory bodies.

¹ Civilian CSDP missions reporting – revised OPLAN annexes on reporting (doc 7192/11 dated 3rd March 2011)

CODE OF CONDUCT AND DISCIPLINE**1. PRINCIPLES**

- 1.1 The following principles are i.a. based on the document of the Council of the European Union, 8373/05 (18 May 2005), on Generic Standards of Behaviour for ESDP Operations.
- 1.2 All staff members must familiarise themselves with the Code of Conduct and Discipline (COC). It is the responsibility of supervisors and line managers at all levels to ensure that it is respected and applied in a consistent manner. Contravention should be met promptly with decisive managerial action.
- 1.3 The COC is complementary to the obligations of staff members under international law and the law of the staff member's home jurisdiction.
- 1.4 The COC is to be considered as a written order applicable to all staff members. Failure to adhere to any of the following sections constitutes grounds for the initiation of disciplinary process that may result in disciplinary measures. This is independent of possible criminal or civil procedures.
- 1.5 The HoM may promulgate additional specific mission regulations, instructions and Standard Operating Procedures (SOP) to supplement this COC.

2. GENERAL BEHAVIOUR REQUIREMENTS**2.1 Respect for the Law**

Staff members will observe the laws applicable in the place of deployment.

2.2 Discriminatory conduct

Staff members will show respect towards other staff members. Discrimination of any kind based upon protected grounds under the law applied in Kosovo is prohibited. Behaviour that may be construed as abusive, oppressive, condescending or likely to cause humiliation is prohibited.

2.3 Bringing the Mission into Disrepute

Staff members will not, whether on or off duty, take any action that will foreseeably bring the Mission into disrepute.

Staff members must never address any member of the public in a manner that may be construed as abusive or oppressive.

Foul, obscene, vulgar or offensive speech or gestures are specifically prohibited for all staff members whilst on duty.

2.4 Physical Violence

Except where duty requires, in cases of self-defence or in legitimate defence of others, no staff member will partake in fights or demonstrate physical violence towards others.

2.5 Sexual harassment

EULEX Kosovo is committed to promoting and maintaining the dignity of all our staff. EULEX Kosovo wish its staff to work in an environment that is free from bullying, harassment, and sexual harassment. Therefore it is the responsibility of EULEX Kosovo to provide such a working environment and it is the responsibility of all EULEX Kosovo staff to uphold this policy.

It is incumbent upon all staff members to conduct themselves with decency and decorum at all times and for their conduct to be above reproach. No interaction that could be construed by either party as sexual harassment, exploitation or abuse can be tolerated.

Sexual harassment for the purposes of this document includes any inappropriate sexual advance, act of physical intimacy, request for sexual favours or other lewd verbal or physical conduct. It also includes the display or distribution of pornographic material at the work place, and other acts or conduct including spoken words, gestures, or the production, display or circulation of written words, pictures or the material that is unwelcome and could reasonably be regarded as sexually, or otherwise on the gender ground, offensive, humiliating or intimidating. Sexual harassment includes harassment of a woman by a man, of a man by a woman, and the same sex harassment. A single incident may constitute sexual harassment.

2.6 Harassment

Harassment is different from sexual harassment as it is not necessarily based on gender. Unlike bullying, a single incident can be harassment and many forms of behaviour are included.

Harassment for the purposes of this document, is: Any act or conduct including spoken words, gestures or the production, display or circulation of written words, pictures or other material if the action or conduct is unwelcome to the employee and could reasonably be regarded as offensive, humiliating or intimidating.

2.7 Bullying

Bullying, for the purposes of this document is repeated inappropriate behaviour, direct or indirect whether verbal, physical or otherwise, conducted by one or more persons against another, or others, at the place of work and / or in the course of employment, or at work-related social or business occasions, which could reasonably be regarded as undermining the individual's right to dignity at work. An isolated incident of the behaviour described in this definition may be an affront to dignity at work but, as a once-off incident, is not considered to be bullying.

3. PROFESSIONAL CONDUCT REQUIREMENTS

The following provides general guidance for the professional conduct of staff members.

3.1 Chain of Command

Staff members will obey all lawful orders received from superior officers, and respect the Mission's chain of command. International judges and prosecutors will not be made subject to any order or instruction directly pertaining to the exercise of their independent judicial or autonomous prosecutorial functions, except when expressly stipulated in the OPLAN.

3.2 Supervisory Responsibilities

Line managers must exercise due diligence in the discharge of their supervisory responsibilities, and lead by example. Supervisors will be accountable for the professional conduct of staff members under their control, and share responsibility in ensuring that the COC is adhered to. In particular, misconduct by staff members under their supervision must be addressed promptly with appropriate managerial action and recordkeeping, which, depending on severity, may include reference to IIU. Failure to do so may constitute neglect of duty.

Staff members will treat their subordinates fairly and impartially without favouritism or preferential treatment.

3.3 Mission Assets

Staff members will appropriately account for any monies or property assigned to them in their official capacities and will maintain all such allocations in good order. Any damage, destruction or loss of Mission assets must be reported immediately through the chain of command or through established procedures. Staff members may not make personal use of Mission assets unless authorised to do so.

3.4 Truth and Accuracy

No staff member will knowingly make any false, misleading or inaccurate statement whilst on duty, or when the staff members is in any situation whereby the staff member's utterings may be perceived to represent the views of the Mission.

3.5 Alteration or Destruction of Official Reports

No staff member without proper authorisation will destroy, damage or alter official reports or records of the Mission.

3.6 Disclosure of Information

Staff members will not improperly disclose confidential information obtained as a result of their work with the Mission. Subject to due process of law, this obligation will continue even after employment/deployment ceases.

Confidential information means all information that has been accorded an official EU classification level, as well as the identities of individuals, political information, operating procedures or any other information that may cause prejudice to the security of individuals, information that may cause public danger, disorder or crime, or information that may cause damage to the Mission or its reputation.

Improper disclosure means disclosure that was not within a staff member's general delegated authority to disclose, or which was not expressly authorised by a superior officer.

It is the obligation of staff members to report through the chain of command any cases of malpractice, corruption and incompetence.

Statements by staff members to the press, newspapers, radio or television or any other media are not permitted, unless proper authorisation from the HoM or his designate has been obtained through the chain of command.

3.7 Improper Use of Authority

No staff member will use, or attempt to use, his or her authority in such a manner as to gain special

favours or benefits. Staff members will ensure that all lawful debts incurred by them are satisfied, and they will not attempt to utilise the name of the Mission and the status accorded to it to default on or to reduce such debts, or gain other undue benefits.

3.8 Use of Vehicles

A staff member found to be in violation of any provision relating to the use of Mission vehicles may be considered to be in breach of the COC.

3.9 Use of Mission Networks

EULEX communications and Information Technology equipment and network (including telephones, Internet access, email account, radios and all other communications equipment and facilities) is provided to staff members for the performance of their official duties only, except where authorised by the chain of command. The network may be used for limited non-duty related purposes. Any other use is prohibited.

Except for official duty-related purposes, the use or display of pornographic material through the Mission network is prohibited at all times unless duty-related and either authorised by or notified to the staff member's supervisor.

3.10 Dress Code

Staff members on duty or otherwise representing the Mission must dress in accordance with the nature of their tasks, and in a manner that should avoid distracting or causing offence to their colleagues or to the public.

When practicable, uniformed staff members will wear their national or Mission uniform with the Mission armlet/cloth insignia while on duty or while travelling on duty in Mission vehicles, unless otherwise authorised. Uniforms must be neat, clean and worn in a professional manner at all times. The official national or Mission uniform will under no circumstances be varied or combined with

private or civilian clothes. Uniformed staff members may wear civilian clothing during off-duty hours.

3.11 Absence from Duty

Staff members will not, without proper authorisation or notification, be absent from duty or leave any assigned duty. Illness, medical emergency or any other unusual circumstance preventing a staff member from reporting for duty must be reported to the staff member's superiors as soon as possible. In addition, staff members will ensure that any leave or absence is documented in accordance with the relevant Mission regulations.

3.12 False Claims or Benefits

Staff members will not knowingly misrepresent or make a false certification in connection with any claim, benefit or investigation, including failure to disclose a fact that may be relevant for a claim or investigation.

3.14 Acceptance of Gratuities

Staff members should refrain from accepting gifts or gratuities from official persons or members of the public, except where considered both legal and necessary in the line of duty, and not disproportionate to the financial standing of the giver or the donee. All gratuities received in an official capacity must be immediately notified to the staff member's supervisor and handed over to the mission where so required.

4. ALCOHOL, ILLEGAL DRUGS AND SEXUAL SERVICES

4.1 Consumption of Alcohol

Consumption of alcohol whilst on duty is prohibited, except when authorised through the chain of command and when taken in strict moderation. Consumption of alcohol off duty to the extent that it

negatively impairs performance whilst on-duty is prohibited. Carrying a firearm whilst consuming or under the influence of alcohol is strictly prohibited at all times.

4.2 Illegal Drugs

Consumption or possession of drugs that are illegal under the law applied in Kosovo is prohibited.

4.3 Sexual Services

Except where necessary in the course of duty and either authorised through the chain of command beforehand or reported immediately through the chain of command afterwards, frequenting known places of prostitution is prohibited. Soliciting, procuring or accepting sexual services from prostitutes is strictly prohibited.

4.4 Intimate Relationships that may damage the Mission

Intimate relationships involving staff members, which may either compromise the integrity or impartiality of the Mission or are apt to be perceived by members of the public to do so, must be self-reported either through the chain of command, or to a member of the senior staff, as appropriate, so that appropriate safeguards can be put in place to protect the Mission's reputation and standing.

5. INVOLVEMENT IN CRIMINAL ACTS

5.1 It will constitute ground for immediate repatriation or termination of contract if staff members are found to be involved in crime and/or attempted crime, including but not limited to:

- a) Fraud
- b) Theft
- c) Robbery
- d) Burglary

- e) Rape and sexual harassment
- f) Child Abuse
- g) Trafficking in Human Beings
- h) Arson
- i) Assault
- j) Murder
- k) Purchase, use, sale, possession or distribution of narcotics or drugs
- l) Illegal possession of firearms, ammunition or explosive
- m) Corruption
- n) Organised crime

6. ACTING AS AN ACCESSORY TO A DISCIPLINARY OFFENCE

Any staff member found to be an accessory to any violation will be subject to investigation.

7. REPORTING OF VIOLATIONS OF THE CODE OF CONDUCT

- 7.1 It is the right and obligation of all staff members to report cases of malpractice, misconduct, incompetence and criminal acts.
- 7.2 All alleged breaches of the COC, SOPs and other applicable rules and regulations must be reported, normally through the chain of command to the HoM, and if the source of information is a staff member, the report must be submitted in writing.

If a staff member discovers information about another staff member that may be a breach of this Code, SOPs, other applicable rules and regulations, or that have serious implications for the Mission, he/she will not disclose that fact to any other person other than his /her direct supervisor or a member of the mission hierarchy that is entitled to deal with or give advice regarding the case in question. All reports pertaining to an international judge and/or an international prosecutor will also be copied to the President of the Assembly of EULEX Judges (PAEJ) and/or the Chief EULEX Prosecutor (CEP), respectively.

8. DISCIPLINE

8.1 General

Staff members found in violation of any parts of the Mission's standards of conduct will be dealt with in accordance with the Mission's Disciplinary Procedures. Disciplinary action may be taken following the findings and recommendations of the investigative process. In case disciplinary proceedings are initiated, for seconded staff national authorities will also be notified through appropriate channels, such as the NCL/NPC.

8.2 Authority

- 8.2.1 The HoM retains overall responsibility for disciplinary control over all staff members. The DHoM will be responsible for disciplinary control over all staff members in the first instance, including whether internal investigations should be initiated and disciplinary boards be convened, and deciding on recommendations of decisions of disciplinary boards and their implementation. The HoM will decide on appeals against disciplinary decisions of the DHoM. The HoM may convene Appeals Panels to review appeals.
- 8.2.2 All staff members will cooperate with the IIU. All requests for information and/or documents from the IIU will be satisfied in an expedient manner.
- 8.2.3 The HoM may, at his/her discretion, suspend a staff member under disciplinary proceedings, alternatively temporarily relieve a staff member from duty. The suspension or relief from duty will be without prejudice to any other rights or obligations emanating from the secondment or employment of the suspended staff member unless decided otherwise by the HoM.

In the case of judges and prosecutors, HoM will seek the prior assent of the President of the Assembly of EULEX Judges or the Chief EULEX Prosecutor, respectively.

The NCL/NPC and Line Manager will be informed accordingly.

8.3 General objective of internal investigations procedures

- 8.3.1 The purpose of internal investigations and inquiries is to determine and report the facts surrounding an incident, to enable the appropriate disciplinary authority to make an informed decision.
- 8.3.2 IIU will maintain due process observing internationally recognised standards and European best practices at every stage of the proceedings, including in particular:
- (a) Objectivity in investigations and in the representation of the Final Investigation Report;
 - (b) The right of the staff member concerned of assistance and counsel; and
 - (c) The right of the staff member concerned of contradiction, including ensuring that s/he is informed of the content of the allegations in writing, including a summary of the evidence relied upon against him/her as well as any exculpatory evidence.

8.4 Investigation Procedure

- 8.4.1 If the reported activity is suspected of constituting a breach of this COC SOP and/or other directives and orders, the DHoM will instruct the IIU to conduct an investigation in relation to the alleged violations. If the staff member is a judge or prosecutor, the DHoM will consult with PAEJ or CEP, respectively, before reaching any decision as to whether to instruct the IIU to conduct an investigation.
- 8.4.2 The staff member in question will be informed as soon as possible in writing by the IIU and served with a Notice of Allegations (NOA). A copy will also be provided to his/her line manager and the relevant national authority, if applicable.
- 8.4.3 The IIU is responsible for carrying out investigations impartially and without undue delay. IIU should request a final statement from the staff member concerned. The staff member in question is entitled to decide whether to provide such a statement or not.

- 8.4.4 All findings will be summarised into a Final Investigation Report (FIR). All other material gathered as part of the investigation will be annexed to the FIR.
- 8.4.5 Upon completion of the investigation, the IIU will submit the FIR, along with the annexes, to the DHoM
- 8.4.6 If the allegations are not substantiated, the DHoM will close the case and inform the staff member concerned in writing. A copy of this notification will be sent to the staff member's line manager and the relevant national authority, if applicable.
- 8.4.7 The decision to close a case will be communicated to the complainant who will be entitled to appeal to the HoM. The HoM will consider the appeal and can order either a continuation of the investigation, its final closure, or the convening of an appeal board. The complainant, the staff member and the relevant authority will be informed accordingly.

8.5 Rights and Obligations of Staff Members under Investigation

- 8.5.1 All communications will be conducted in English. The IIU will ensure that the concerned staff member understands the detailed nature of the allegations made against him/her.
- 8.5.2 A staff member subject to investigation is entitled to legal advice and representation during interviews by the IIU or a Disciplinary Board. Legal advice can be sought internally or privately.
- 8.5.3 Staff members under investigation are not obliged to respond to any question during an interview or investigation and he/she is not obliged to submit any written statement or to sign any document in the course of any interview or investigation.
- 8.5.4 A staff member under investigation may provide a statement.
- 8.5.5 All staff members will cooperate with the IIU. All requests for information and documentation will be dealt with expeditiously. Any deliberate delay is detrimental to the investigation and might constitute violation of the COC.

8.6 Disciplinary Actions

- 8.6.1 If the allegations likely are substantiated, the DHoM will convene a Disciplinary Board (DB) consisting of three members. The Board members elect from their midst a Chairman. The Head of the Human Rights and Legal Office or whom he designates will provide secretarial assistance and, as appropriate, legal advice to the DB.
- 8.6.2 If the staff member concerned is an international judge and the allegations against him/her is solely related to his/her judicial functions or if the PAEJ insists, the PAEJ will designate three judges to the DB. The President of the Assembly of EULEX Judges may invite the Chief EULEX Prosecutor to appoint an international prosecutor to the panel to replace a judge.
- 8.6.3 If the staff member concerned is an international prosecutor and the allegations against him/her is solely related to his/her prosecutorial functions or if the CEP insists, the CEP will designate three international prosecutors to the DB. The CEP may invite the PAEJ to appoint an international judge to the DB to replace a prosecutor.
- 8.6.4 Both the PAEJ and the CEP may be members of the DB.
- 8.6.5 Each voting member of the DB will review all reports pertaining to the investigation before it submits its conclusions. The DB should, as appropriate, recommend remedial measures.
- 8.6.6 Without prejudice to the rights of the staff member under investigation, the DB may call upon any staff member to testify during its proceedings.
- 8.6.7 The DB will prepare a written report of its deliberations to the DHoM without delay. If the concerned staff member is an international judge or prosecutor, a copy of the decision will be provided to the PAEJ or the CEP, respectively.
- 8.6.8 The DB's report will include appropriate recommended disciplinary measures if warranted. A copy of the report will be sent to the staff member and to the complainant.

- 8.6.9 Once the DB has completed its deliberations, all documents received by it will be returned to IIU.
- 8.6.10 After expiration of the right to appeal, the DHoM will communicate her/his decision, including any recommended disciplinary measures, regarding seconded staff members to the relevant authority. The authority will consider the conclusions and any recommended disciplinary action and will notify the HoM of its decision.
- 8.6.11 Regarding contracted staff members, the DHoM will implement any disciplinary measures.

8.7 Appeal Procedures

- 8.7.1 Staff members concerned may appeal against any decision recommending disciplinary action or dismissal of allegations.
- 8.8.2 In case of appeal, the HoM will review the file and may decide to confirm or reject the conclusions of the DB, fully or in part, or convene an Appeals Panel to prepare conclusions and recommendations for his review and approval. Line managers and the relevant authority will be advised of his decision.

8.8 Recommended Forms of Discipline

- 8.8.1 The recommended disciplinary measures may be one or more of the following:
- Verbal warning and counselling;
 - Written warning by the National or EU Authority or his/her designate, with a copy to the DHoM;
 - Reassignment of duties;
 - Removal from position of command;
 - Redeployment to a different location;
 - Recommendation for repatriation to the relevant authority;
 - Recommendation of termination of contract, in the case of contracted staff members; and/or

- If the rules on the use of Mission vehicles or laws on traffic safety are violated, withdrawal of the privilege of operating the Mission's vehicles.

8.8.2 All decisions on sanctions will be duly recorded in the staff member's personnel file. This record may be used as justification for denial of extension of the tour of duty or contract.

8.8.3 In circumstances when the HoM is not satisfied with the content of the National or EU Authority disciplinary action, the case will be routed through EEAS (CPCC) to the relevant national or EU authorities.

8.9 Specific Procedure regarding Serious Criminal Acts

8.9.1 All criminal investigations regarding staff members will be conducted by the competent authorities of the Contributing States or EU institutions or – in the case of local staff members –, in accordance with the provisions of the relevant law.

8.9.2 In the case of serious criminal acts committed by staff members. This policy formally recognises that a staff member, on the basis of a decision made by his/her national or EU authority in the case of seconded or contracted staff members, may be placed under preliminary protective measures of precaution, for the purpose of investigation in circumstances when the staff member is alleged to have committed a criminal act;

The Mission will assist the competent authorities in implementing preliminary protective measures. This assistance may be based solely on a request submitted by the competent authorities. The decision concerning the assistance to be provided by the Mission rests with the HoM and will be determined on a case-by-case basis. If the Mission is appropriately requested to assist the competent authorities in this respect, preliminary protective measures, which must remain within the scope of the relevant national legislation, may include only the following limited precautionary actions:

- Protective removal of a suspected staff member from the scene of crime in order to prevent her/him from destroying possible evidence;

- Protective removal of a suspected staff member from the scene of crime in order to prevent him/her from injuring him or herself; and/or
- Protective seizure of the belongings of a suspected staff member, if allegedly used to commit a crime.

8.9.3 Should a criminal act be committed, the staff member concerned is not shielded from any temporary procedural remedy prescribed by the competent authorities.

8.9.4 In the course of such a procedure, the staff member concerned will be afforded the same rights as any person facing such circumstances applicable under his or her national law.

8.9.5 Upon being placed under preliminary protective measures, the continuance of these measures is solely subject to the determination of the competent authorities as to whether or not to prosecute the offending staff member.

8.9.6 At the discretion of the HoM, internal disciplinary investigations and/or measures may remain pending until all the investigative and criminal proceedings initiated and conducted by the respective national authorities or any other competent authority are concluded.
