

COUNCIL DECISION (CFSP) 2023/1136**of 8 June 2023****on an assistance measure under the European Peace Facility to support the Nigerien Armed Forces with military equipment designed to deliver lethal force**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 28(1) and 41(2) thereof,

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

Whereas:

- (1) Council Decision (CFSP) 2021/509 ⁽¹⁾ establishes the European Peace Facility (EPF) for the financing by Member States of Union actions under the common foreign and security policy to preserve peace, prevent conflicts and strengthen international security pursuant to Article 21(2), point (c), of the Treaty. In particular, pursuant to Article 1(2) of Decision (CFSP) 2021/509, the EPF is to be used for the financing of assistance measures such as actions to strengthen the capacities of third States and regional and international organisations relating to military and defence matters.
- (2) The Republic of Niger plays a major role in key regional, European and international initiatives aimed at strengthening peace and development in the Sahel, including in the Union's Integrated Strategy in the Sahel, the Sahel Coalition and the Partnership for Security and Stability in the Sahel (P3S), as well as in the Sahel Alliance. The international community, including the Union, has invested considerable efforts to support the Republic of Niger in its fight against terrorism over the recent period.
- (3) On 10 June 2022, the High Representative of the Union for Foreign Affairs and Security Policy received a request from the Republic of Niger for the Union to assist the Nigerien Armed Forces (*Forces armées nigériennes* – FAN) with the procurement of key equipment in order to enhance the close air support capacity of the Air Force of Niger (*Armée de l'air du Niger* – AAN). On 4 April 2023, a revised request was received from the Republic of Niger reflecting the findings of a needs assessment conducted by the Union in February 2023.
- (4) This Decision on an assistance measure under the EPF to support the Nigerien Armed Forces with military equipment designed to deliver lethal force is complemented by Council Decision (CFSP) 2023/1137 ⁽²⁾. Those two Decisions should be implemented simultaneously, but administered separately.
- (5) Assistance measures are to be implemented taking into account the principles and requirements set out in Decision (CFSP) 2021/509, in particular compliance with Council Common Position 2008/944/CFSP ⁽³⁾, and in accordance with the rules for the implementation of revenue and expenditure financed under the EPF.

⁽¹⁾ Council Decision (CFSP) 2021/509 of 22 March 2021 establishing a European Peace Facility, and repealing Decision (CFSP) 2015/528 (OJ L 102, 24.3.2021, p. 14).

⁽²⁾ Council Decision (CFSP) 2023/1137 of 8 June 2023 on an assistance measure under the European Peace Facility to support the Nigerien Armed Forces (see page 85 of this Official Journal).

⁽³⁾ Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment (OJ L 335, 13.12.2008, p. 99).

- (6) The Council reaffirms its determination to protect, promote and fulfil human rights, fundamental freedoms and democratic principles and to strengthen the rule of law and good governance, in compliance with the United Nations Charter, with the Universal Declaration of Human Rights and with international law, in particular international human rights law and international humanitarian law,

HAS ADOPTED THIS DECISION:

Article 1

Establishment, objectives, scope and duration

1. An assistance measure benefitting the Republic of Niger (the 'beneficiary') to be financed under the European Peace Facility (EPF) (the 'assistance measure') is hereby established.
2. The objective of the assistance measure is to strengthen the capacity of the Nigerien Armed Forces (*Forces armées nigériennes* – FAN) in order to defend the territorial integrity and sovereignty of the Republic of Niger and to better protect the civilian population, including against the mounting terrorist threat, in full compliance with relevant international law, in particular international human rights law and international humanitarian law.
3. To achieve the objective set out in paragraph 2, the assistance measure shall finance the provision of air-to-ground ammunition (ML4 on the EU Common Military List) for helicopters MI-35 and MI-171.
4. The implementation of the assistance measure shall be complemented by activities aimed to ensure adequate use, maintenance, storage and monitoring of the air-to-ground ammunition, to be financed under Decision (CFSP) 2023/1137.
5. The duration of the assistance measure shall be 30 months from the adoption of this Decision.

Article 2

Financial arrangements

1. The financial reference amount intended to cover the expenditure related to the assistance measure shall be EUR 4 702 998.
2. All expenditure shall be managed in accordance with Decision (CFSP) 2021/509 and the rules for the implementation of revenue and expenditure financed under the EPF.

Article 3

Arrangements with the beneficiary

1. The High Representative of the Union for Foreign Affairs and Security Policy (the 'High Representative') shall make the necessary arrangements with the beneficiary to ensure its compliance with the requirements and conditions established by this Decision as a condition for the provision of support under the assistance measure.
2. The arrangements referred to in paragraph 1 shall include provisions obliging the beneficiary to ensure:
 - (a) the compliance of the Air Force of Niger with relevant international law, in particular international human rights law and international humanitarian law;
 - (b) the proper and efficient use of any assets provided under the assistance measure for the purposes for which they were provided;
 - (c) the sufficient maintenance of any assets provided under the assistance measure to ensure their usability and their operational availability over their life cycle;

(d) that any assets provided under the assistance measure will not be lost, or be transferred without the consent of the Facility Committee established under Decision (CFSP) 2021/509 to persons or entities other than those identified in those arrangements, at the end of their life cycle.

3. The arrangements referred to in paragraph 1 shall include provisions on the suspension and termination of support under the assistance measure in the event of the beneficiary being found in breach of the obligations set out in paragraph 2.

Article 4

Implementation

1. The High Representative shall be responsible for ensuring the implementation of this Decision in accordance with Decision (CFSP) 2021/509 and the rules for the implementation of revenue and expenditure financed under the EPF, in line with the Integrated Methodological Framework for assessing and identifying the required measures and controls for assistance measures under the EPF.

2. The implementation of the activities referred to in Article 1(3) shall be carried out by *Défense Conseil International* – DCI Group.

Article 5

Monitoring, control and evaluation

1. The High Representative shall monitor the compliance by the beneficiary with the obligations set out in Article 3. This monitoring shall be used to provide awareness of the context and the risks of breaches of the obligations established in accordance with Article 3, and to contribute to the prevention of such breaches, including violations of international human rights law and international humanitarian law by the Air Force of Niger.

2. The post-shipment control of equipment and supplies shall be organised as follows:

- (a) delivery verification, whereby delivery certificates are to be signed by the end-user forces upon transfer of ownership;
- (b) reporting, whereby the beneficiary is to report annually on the activities conducted with the equipment, services and infrastructure provided under the assistance measure and on the inventory of designated items, until such reporting is no longer deemed necessary by the Political and Security Committee (PSC);
- (c) on-site inspections, whereby the beneficiary is to grant the High Representative access to conduct on-site controls upon request.

3. The High Representative shall conduct a final evaluation upon completion of the assistance measure to assess whether the assistance measure has contributed to reaching the objective stated in Article 1(2).

Article 6

Reporting

During the period of implementation, the High Representative shall provide the PSC with six-monthly reports on the implementation of the assistance measure, in accordance with Article 63 of Decision (CFSP) 2021/509. The administrator for assistance measures shall regularly inform the Facility Committee established by Decision (CFSP) 2021/509 on the implementation of revenue and expenditure in accordance with Article 38 of that Decision, including by providing information on the suppliers and subcontractors involved.

*Article 7***Suspension and termination**

1. The PSC may decide to suspend wholly or partially the implementation of the assistance measure in accordance with Article 64 of Decision (CFSP) 2021/509.
2. The PSC may also recommend that the Council terminate the assistance measure.

*Article 8***Entry into force**

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

Done at Brussels, 8 June 2023.

For the Council

The President

M. MALMER STENERGARD
