

# DECISIONS

## COUNCIL DECISION (CFSP) 2021/542

of 26 March 2021

### amending Decision (CFSP) 2020/472 on the European Union military operation in the Mediterranean (EUNAVFOR MED IRINI)

THE COUNCIL OF THE EUROPEAN UNION,

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

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

Whereas:

- (1) On 31 March 2020, the Council adopted Decision (CFSP) 2020/472 <sup>(1)</sup>, which established a European Union military operation in the Mediterranean (EUNAVFOR MED IRINI).
- (2) In the context of the Strategic Review of the operation, the Political and Security Committee agreed that EUNAVFOR MED IRINI should be extended until 31 March 2023.
- (3) The arrangements for disposing of arms and related materiel seized when implementing the UN arms embargo on Libya, including the storage, destruction or transfer of seized items to a Member State or to a third party, in accordance with United Nations Security Council Resolution 2292 (2016), should be more precisely specified.
- (4) In accordance with Article 5 of Protocol No 22 on the position of Denmark annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark does not participate in the elaboration and implementation of decisions and actions of the Union which have defence implications. Consequently, Denmark is not participating in the adoption of this Decision, is neither bound by it nor subject to its application, and does not participate in the financing of this operation,

HAS ADOPTED THIS DECISION:

#### *Article 1*

Decision (CFSP) 2020/472 is amended as follows:

- (1) in Article 2, paragraph 5 is replaced by the following:

‘5. In view of the exceptional operational requirements, and upon invitation from a Member State, EUNAVFOR MED IRINI may divert vessels to ports of that Member State and dispose of arms and related materiel seized in accordance with paragraph 3, including by storage, destruction or transfer to a Member State or to a third party. The ports to which vessels may be diverted shall be designated in the Operations Plan.

The European Peace Facility Committee shall decide, on a proposal from the EU Operation Commander, on the final destination of seized arms and related materiel, including storage, destruction or transfer inside the Union. However, the transfer of seized items outside the Union, in accordance with UNSCR 2292 (2016), shall be decided, on a proposal from the EU Operation Commander, by the Political and Security Committee (PSC), unless a Member State requests that the matter be referred to the Council. Such transfer of seized items outside the Union shall respect the principles laid down in Council Common Position 2008/944/CFSP <sup>(\*)</sup> and comply with applicable national rules and

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<sup>(1)</sup> Council Decision (CFSP) 2020/472 of 31 March 2020 on a European Union military operation in the Mediterranean (EUNAVFOR MED IRINI) (OJ L 101, 1.4.2020, p. 4).

procedures on arms export controls; it shall be subject to any conditions and safeguards established by the PSC or by the Council respectively, taking due account of the procedures laid down in Council Decision (CFSP) 2021/509 (\*\*), in particular the risk and safeguards methodology; and it shall not include military equipment, or platforms, designed to deliver lethal force.

A Member State assisting EUNAVFOR MED IRINI in the disposal of seized arms and related materiel shall undertake to complete as swiftly as possible the procedures required to allow for the disposal of the seized items, within the framework of its national law and procedures. EUNAVFOR MED IRINI shall provide that Member State with a disposal certificate.

The European Peace Facility shall bear the costs for storage and disposal of arms and related materiel seized by EUNAVFOR MED IRINI within its Area of Operations, including costs related to the necessary port services. The European Peace Facility shall also bear the costs for any financial liability resulting from the diversion of a vessel or from subsequent actions related to the transportation, storage and disposal of the seized items, except in cases of gross negligence or wilful misconduct by the Member State assisting in the disposal or by any of its agents. Any receipt accruing to a Member State from the disposal of seized arms and related materiel shall be transferred to the European Peace Facility, taking due account of the relevant national administrative or judicial procedures in that Member State.

EUNAVFOR MED IRINI, represented by the EU Operation Commander, may conclude with the relevant authorities of a Member State assisting in the diversion of a vessel or in the disposal of seized arms and related materiel an administrative arrangement for the implementation of this paragraph.

This paragraph shall apply to ongoing seizure and disposal proceedings.

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(\*) 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).

(\*\*) 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) in Article 13, the following paragraph is added:

‘3. For the period from 1 April 2021 until 31 March 2023, the reference amount for the common costs of EUNAVFOR MED IRINI shall be EUR 16 900 000. The percentage of the reference amount referred to in Article 46(2) of Decision (CFSP) 2021/509 shall be 10 % in commitments and 10 % for payments.’;

(3) in Article 15, paragraph 2 is replaced by the following:

‘2. EUNAVFOR MED IRINI shall end on 31 March 2023.’.

#### Article 2

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

Done at Brussels, 26 March 2021.

*For the Council*  
*The President*  
A. P. ZACARIAS