

**COUNCIL DECISION (CFSP) 2023/927****of 5 May 2023****on an assistance measure under the European Peace Facility to support the Ukrainian Armed Forces through the provision of ammunition**

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 <sup>(1)</sup> establishes the European Peace Facility (EPF) for the financing by Member States of Union actions under the common foreign and security policy (CFSP) 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 Ukrainian Armed Forces have been countering Russian aggression, with continued military and civilian casualties, for several years. The Russian aggression dramatically escalated in February 2022 due to an unprovoked full-scale invasion of Ukraine by armed forces of the Russian Federation.
- (3) On 25 February 2022, the Government of Ukraine made an urgent request to the Union for assistance through the provision of military equipment. In response, support has been provided under the EPF since 28 February 2022, pursuant to Council Decisions (CFSP) 2022/338 <sup>(2)</sup> and (CFSP) 2022/339 <sup>(3)</sup>.
- (4) During the 24th EU-Ukraine summit on 3 February 2023, the Union and its Member States reiterated their continued support for Ukraine and the Ukrainian people against Russia's ongoing war of aggression for as long as it takes. At the special meeting of the European Council on 9 and 10 February 2023, the President of Ukraine emphasised the urgent need for further military support for Ukraine.
- (5) On 2 March 2023, the High Representative of the Union for Foreign Affairs and Security Policy ('the High Representative') received a request from Ukraine for the Union to assist the Ukrainian Armed Forces with the supply of 155-mm-calibre artillery rounds.
- (6) On 20 March 2023, the Council agreed on a three-track approach with a view to, in particular, speeding up delivery and joint procurement, aiming at one million rounds of artillery ammunition for Ukraine in a joint effort within the next 12 months, and called for the swift implementation of those three tracks, which are interlinked and need to be pursued in parallel and in a coordinated way. The Council called on Member States to urgently deliver ground-to-ground and artillery ammunition to Ukraine and, if requested, missiles. As regards the third track, the Council also invited the Commission to present concrete proposals to urgently support the ramp-up of the manufacturing capacities of the European defence industry, secure supply chains, facilitate efficient procurement procedures, address shortfalls in production capacities and promote investments, including, where appropriate, mobilising the Union budget.

<sup>(1)</sup> 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).

<sup>(2)</sup> Council Decision (CFSP) 2022/338 of 28 February 2022 on an assistance measure under the European Peace Facility for the supply to the Ukrainian Armed Forces of military equipment, and platforms, designed to deliver lethal force (OJ L 60, 28.2.2022, p. 1).

<sup>(3)</sup> Council Decision (CFSP) 2022/339 of 28 February 2022 on an assistance measure under the European Peace Facility to support the Ukrainian Armed Forces (OJ L 61, 28.2.2022, p. 1).

- (7) The Council further called on Member States to jointly procure 155-mm-calibre ammunition and, if requested, missiles for Ukraine in the fastest way possible before 30 September 2023 from the European defence industry (and Norway) within the parameters defined in the context of an existing European Defence Agency (EDA) project or through complementary joint acquisition projects led by a Member State.
- (8) The terms and conditions as laid down in this Decision are relevant only for joint procurements referred to in paragraph 3 of the note on 'Speeding up delivery and joint procurement of ammunition for Ukraine' approved by the Council on 20 March 2023 and are without prejudice to any terms and conditions of future decisions or regulations concerning the European defence industry.
- (9) 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 <sup>(4)</sup>, and in accordance with the rules for the implementation of revenue and expenditure financed under the EPF ('the EPF implementing rules'), including the rules on the origin of military equipment. By way of derogation from Article 50 of Book 3 of the EPF implementing rules, and due to the particular circumstances, participation in joint procurement procedures for ammunitions and missiles to be financed through this assistance measure is open only to economic operators established in the Union or Norway, and producing these ammunitions and missiles in the Union or Norway, without prejudice to any future decisions. The rules of origin laid down in Article 60 of Regulation (EU) No 952/2013 of the European Parliament and of the Council <sup>(5)</sup> should apply. Ammunitions and missiles which have undergone an important stage of manufacture in the Union or Norway which consists of final assembly should also be deemed eligible. Supply chains of these operators may include operators established or having their production outside of the Union or Norway. The security and defence interests of the Member States should be taken into account in this regard.
- (10) 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.
- (11) The Council will receive regular monthly updates on the implementation of the assistance measure under this Decision in order to monitor progress towards achieving the aim of providing one million rounds of artillery ammunition to Ukraine. Regular meetings at the level of the National Armament Directors with the Defence Joint Procurement Task Force (Commission, European External Action Service, EDA) will also be organised to assess the needs and the industrial capabilities as well as to ensure the necessary close coordination, especially regarding the provision from stocks, the reprioritisation of existing orders and the different joint acquisition projects, in order to ensure the adequate implementation of the three different tracks.
- (12) The Permanent Representatives Committee will monitor the coordinated and parallel implementation of the three-track approach.
- (13) The Council also noted that it remains committed to providing political and military support to Ukraine, in particular through the EPF and the EU Military Assistance Mission in support of Ukraine, without prejudice to the specific character of the security and defence policies of certain Member States and ensuring that the security and defence interests of all Member States are duly taken into account,

<sup>(4)</sup> 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).

<sup>(5)</sup> Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

HAS ADOPTED THIS DECISION:

#### *Article 1*

##### **Establishment, objectives, scope and duration**

1. An assistance measure benefitting Ukraine ('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 contribute to strengthening the capabilities and resilience of the Ukrainian Armed Forces to defend the independence, sovereignty and territorial integrity of Ukraine, and protect the civilian population against the ongoing military aggression, through the provision of 155-mm-calibre artillery rounds and, if requested, missiles, jointly procured from the European defence industry in the fastest way possible.
3. To achieve the objective set out in paragraph 2, the assistance measure shall finance the provision to the Ukrainian Armed Forces of 155-mm-calibre artillery rounds, and, if requested, missiles. Such ammunition and missiles shall be jointly procured from economic operators established in the Union or Norway and producing these ammunitions and missiles in the Union or Norway. The rules of origin laid down in Article 60 of Regulation (EU) No 952/2013 shall apply. Ammunitions and missiles which have undergone an important stage of manufacture in the Union or Norway which consists of final assembly shall also be deemed eligible. Supply chains of these operators may include operators established or having their production outside of the Union or Norway. The security and defence interests of the Member States shall be taken into account in this regard. The joint procurements made under this assistance measure shall be carried out by the entities listed in Article 4(3) within the parameters defined in the context of an existing European Defence Agency project or through complementary joint acquisition projects led by a Member State.
4. The duration of the assistance measure shall be 56 months from the date of 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 1 000 000 000.
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 ('the EPF implementing rules'), including the rules on the origin of military equipment. By way of derogation from Article 50 of Book 3 of the EPF implementing rules, participation in joint procurement procedures shall be open only to economic operators as referred to in Article 1(3).
3. In accordance with Article 29(5) of Decision (CFSP) 2021/509, the administrator for assistance measures may call for contributions following the adoption of this Decision, up to EUR 1 000 000 000. The funds called by the administrator for assistance measures shall only be used to pay expenditure within the limits approved by the Committee established by Decision (CFSP) 2021/509 in the related amending and annual budgets corresponding to the assistance measure.
4. Procurement contracts or purchase orders related to the implementation of the assistance measure shall be concluded in the fastest way possible between 20 March 2023 and 30 September 2023. Related expenditure shall be eligible from 20 March 2023 and until a date to be determined by the Council.

#### *Article 3*

##### **Arrangements with the beneficiary**

1. The High Representative shall make the necessary arrangements with the beneficiary to ensure its compliance with international law, in particular international human rights and international humanitarian law, and Article 62(2) of Decision (CFSP) 2021/509, as a condition for the provision of support under the assistance measure.

2. 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 referred to in paragraph 1.

#### *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 EPF implementing rules, in line with the Integrated Methodological Framework for assessing and identifying the required measures and controls for assistance measures under the EPF.

2. The specifications of the 155-mm-calibre artillery rounds and missiles to be provided under the assistance measure shall correspond to the priorities communicated by Ukraine via the EU Military Staff. The Committee established by Decision (CFSP) 2021/509 shall decide on the framework applicable to the financing of the activities outlined in Article 1(3) and on the arrangements for reimbursement, where appropriate.

3. The implementation of the activities referred to in Article 1(3) may be carried out by the following:

- (a) the Ministry of Defence of Belgium;
- (b) the Ministry of Defence of Bulgaria;
- (c) the Ministry of Defence of Croatia;
- (d) the Ministry of Defence of Cyprus;
- (e) the Ministry of Defence of the Czech Republic;
- (f) the Ministry of Defence of Denmark;
- (g) the Estonian Centre for Defence Investments (ECDI) on behalf of the Ministry of Defence of Estonia;
- (h) the Ministry of Defence of Finland;
- (i) the Ministry of Defence of France;
- (j) the Ministry of Defence, the Federal Foreign Office and the Federal Ministry of the Interior and Community of Germany;
- (k) the Ministry of Defence of Greece;
- (l) the Ministry of Defence of Italy;
- (m) the Ministry of Defence of Latvia and the State Defence Logistics and Procurement Centre of Latvia;
- (n) the Ministry of National Defence of Lithuania;
- (o) the Directorate of Defence of the Ministry of Foreign and European Affairs of Luxembourg;
- (p) the Ministry of Defence of the Netherlands;
- (q) the Ministry of Defence of Poland;
- (r) the Ministry of Defence of Portugal;
- (s) the Ministry of National Defence of Romania;
- (t) the Ministry of Defence of the Slovak Republic;
- (u) the Ministry of Defence of Slovenia;
- (v) the Ministry of Defence of Spain;
- (w) the Ministry of Defence of Sweden/the Swedish Defence Materiel Administration.

*Article 5***Support by Member States**

The Member States shall permit the transit of 155-mm-calibre artillery rounds and missiles, including accompanying personnel, through their territories, including their airspace, in a manner consistent with Article 56(3) of Decision (CFSP) 2021/509.

*Article 6***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 units of the Ukrainian Armed Forces supported under the assistance measure.
2. The post-shipment control of equipment shall be organised in a manner consistent with the Integrated Methodological Framework for assessing and identifying the required measures and controls for assistance measures under the EPF.

*Article 7***Reporting**

During the period of implementation, the High Representative shall provide the Political and Security Committee (PSC) with six-monthly reports on the implementation of the assistance measure, in accordance with Article 63 of Decision (CFSP) 2021/509. This will be supplemented by regular monthly updates to the Council on the implementation of the assistance measure including on the progress made towards achieving its objective, based on information, provided by the Member States, on deliveries of 155-mm-calibre artillery rounds, and if requested, missiles. 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 8***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 9***Entry into force**

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

It shall apply from 20 March 2023.

Done at Brussels, 5 May 2023.

*For the Council*  
*The President*  
J. ROSWALL

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