



Council of the
European Union

Brussels, 10 October 2022
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LIMITE

**CORLX 898
CFSP/PESC 1301
EPF AM 74
CSDP/PSDC 618
CSC 431
EUMC 316
COPS 438**

PROPOSAL

From:	High Representative of the Union for Foreign Affairs and Security Policy, signed by Mr Stefano SANNINO, Secretary-General
date of receipt:	10 October 2022
To:	Secretary-General of the Council of the European Union

Subject:	Proposal of the High Representative of the Union for Foreign Affairs and Security Policy to the Council for a Council Decision amending Council Decision (CFSP) 2022/338 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
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Delegations will find attached document HR(2022) 231.

Encl.: HR(2022) 231

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EUROPEAN EXTERNAL ACTION SERVICE



**Proposal of the High Representative of the Union
for Foreign Affairs and Security Policy
to the Council**

of 07/10/2022

**for a Council Decision amending Council Decision (CFSP) 2022/338 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**

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EXPLANATORY MEMORANDUM

On 28 February 2022, the Council adopted Decision (CFSP) 2022/338 to establish an assistance measure under the European Peace Facility with the objective to contribute to strengthening the capabilities and resilience of the Ukrainian Armed Forces to defend the territorial integrity and sovereignty of Ukraine and protect the civilian population against the ongoing war of aggression by Russia. The reference amount of this assistance measure was EUR 450 million.

On 23 March 2022, the Council adopted Decision (CFSP) 2022/471 amending Council Decision 2022/338, which doubled the EU military assistance to EUR 900 million for the supply to the Ukrainian Armed Forces of military equipment and platforms designed to deliver lethal force. On 13 April, 23 May and, subsequently, on 21 July 2022, the Council adopted Decisions (CFSP) 2022/636, 2022/809 and 2022/1285 to increase the overall EU military assistance under this assistance measure to EUR 2 330 million.

The unprovoked war of aggression by Russia continues. The proposed amendment foresees additional support to the Ukrainian Armed Forces of an amount of EUR 490 million.

In addition, the scope of this assistance measure is expanded to cover the provision of maintenance and repair of military equipment, and platforms designed to deliver lethal force to the Ukrainian Armed Forces. As the high-intensity war of aggression continues, the Ukrainian Armed Forces need to devote considerable resources to ensuring that as far as possible military equipment remains available for operational purposes. The amended assistance measure would allow for maintenance and repair services, provided by EU Member States, to be eligible for EPF reimbursement, thus offering an extra incentive for Member States to further address Ukrainian needs. Maintenance includes all actions taken to retain military equipment or material in/or to restore it to a specified condition. This includes inspection, testing, servicing and classification as to serviceability, repair, rebuilding and reclamation. Maintenance embraces all supply and repair action taken to keep a force in condition to accomplish its mission¹.

The military equipment to be provided and its maintenance and repair under the proposed amendment of the assistance measure must be in line with the priorities communicated by Ukraine via the Clearing House Cell (established in EUMS). The implementing actors remain unchanged.

¹ EU Concept for Logistic Support for EU-led Military Operations and Missions (ST 12628 2018 INIT, EEAS (2018) 626 REV3, p. 24).

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The High Representative's assessment as outlined in the Explanatory Memorandum of the High Representative's initial proposal (ST 6656/22) remains valid and applicable to the proposed amendment.

Proposal for a

COUNCIL DECISION

of [dd/mm/2022]

**amending Decision (CFSP) 2022/338 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**

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) On 28 February 2022, the Council adopted Decision (CFSP) 2022/338 which established an assistance measure with a financial reference amount of EUR 450 000 000 intended to cover the supply to the Ukrainian Armed Forces of military equipment, and platforms, designed to deliver lethal force.
- (2) On 23 March 2022, the Council adopted Decision (CFSP) 2022/471 amending Decision (CFSP) 2022/338, which increased the financial reference amount to EUR 900 000 000.
- (3) On 13 April 2022, the Council adopted Decision (CFSP) 2022/636 amending Decision (CFSP) 2022/338, which increased the financial reference amount to EUR 1 350 000 000.
- (4) On 23 May 2022, the Council adopted Decision (CFSP) 2022/809 amending Decision (CFSP) 2022/338, which increased the financial reference amount to EUR 1 840 000 000.
- (5) On 21 July 2022, the Council adopted Decision (CFSP) 2022/1285 amending Decision (CFSP) 2022/338, which increased the financial reference amount to EUR 2 330 000 000.
- (6) In light of the ongoing armed aggression by the Russian Federation against Ukraine, the financial reference amount should be increased by an additional EUR 490 000 000.
- (7) Decision (CFSP) 2022/338 should therefore be amended accordingly,

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HAS ADOPTED THIS DECISION

Article 1

Decision (CFSP) 2022/338 is amended as follows:

- (1) in Article 1, paragraph 3 is replaced by the following:

“3. To achieve the objective set out in paragraph 2, the Assistance Measure shall finance the provision to the Ukrainian Armed Forces of military equipment, and platforms, designed to deliver lethal force as well as the provision of maintenance and repair of EPF donated military equipment, and platforms, designed to deliver lethal force, by military personnel in military sites, or in mixed forms of civil-military cooperation or in factories, as requested by Ukraine.”;
- (2) in Article 2, paragraph 1 is replaced by the following:

“1. The financial reference amount intended to cover the expenditure related to the Assistance Measure shall be EUR 2 820 000 000.”;
- (3) in Article 2, paragraph 3 is replaced by the following:

“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 2 820 000 000. 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 2022 amending budget and in the budgets for subsequent years corresponding to the Assistance Measure.”;
- (4) in Article 2, paragraph 4 is replaced by the following:

“4. Expenditure related to the implementation of the Assistance Measure shall be eligible as from 1 January 2022 and until a date to be determined by the Council. The maximum eligible expenditure incurred before 11 March 2022 shall be EUR 450 000

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000. The amount of EUR 980 000 000 shall be eligible from 21 July 2022.
Expenditure related to the maintenance and repair shall be eligible from [...²]”.

Article 2

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

Done at Brussels,

For the Council

The President

² Please insert the date of adoption of this Decision.