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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION amending Decision (CFSP) 2021/509 establishing a European Peace Facility

COUNCIL DECISION (CFSP) .../...

of ...

**amending Decision (CFSP) 2021/509
establishing a European Peace Facility**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 28(1), Article 41(2) and Article 42(4) thereof,

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

Whereas:

- (1) Article 75(1) of Council Decision (CFSP) 2021/509¹ stipulates that the Council is to review that Decision every three years following its entry into force.
- (2) The mid-term revision of Decision (CFSP) 2021/509 should streamline and improve relevant European Peace Facility (EPF) processes in a targeted manner, while codifying existing practice, on the basis of the experience gathered to date.
- (3) In order to align the political with the budgetary cycle, the Political and Security Committee (PSC) should provide strategic orientation for the year $n + 1$ by 31 May of year n . This should inform the preparation of the forecast for the ceiling for payments of the year $n + 1$.

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, ELI: <http://data.europa.eu/eli/dec/2021/509/oj>).

- (4) The High Representative should be responsible for ensuring the implementation of Council decisions establishing assistance measures in accordance with Article 27(1) TEU and for the planning and monitoring of the overall financial ceiling and the annual ceilings of the EPF. The European External Action Service (EEAS) should monitor and evaluate the implementation of the High Representative's arrangements with the beneficiary in order to ensure compliance with the requirements and conditions set by the Council in relation to assistance measures. The indicative strategic orientation document should be informed by a prior consultation of Member States.
- (5) On an exceptional case-by-case basis and subject to the approval of the Facility Committee established by Article 11 of Decision (CFSP) 2021/509 (the 'Committee'), and taking into account Article 10(4) of Decision (CFSP) 2021/509, if necessary to fulfil duties for the EPF that exceed the capacity or expertise of staff provided by the EEAS, expenditure related to contract staff working for the EPF may be financed by the EPF.
- (6) Assistance measures and operations established before but not completed by 31 December 2027 should continue to be implemented beyond that date and until their completion, as set in the Council decision establishing them. To this end, the relevant rules, in particular those regarding budget, amending budgets, transfers of appropriations, and carryovers, should remain applicable as appropriate.

- (7) Subject to the decisions of the Committee and in accordance with Article 25(2) and Article 29 of Decision (CFSP) 2021/509, each administrator should continue to send calls for contributions for the payment appropriations pertaining to their respective responsibilities beyond 2027 as necessary for the continuation of the ongoing operations and for the management of assistance measures established before but not completed by 31 December 2027.
- (8) Drawing on the experience gathered, the financial planning of the EPF should be improved, and the effects of the constructive abstentions should be adjusted accordingly. Consequently, in cases where Member States provide additional contributions to an assistance measure as a result of abstaining from a different measure, those contributions should reduce the amounts owed by Member States to the assistance measure receiving the additional funding. Those additional contributions could finance up to 50 % of the reference amount of the receiving assistance measure, unless the Council decides otherwise. An assistance measure should not be financed exclusively by additional contributions.

- (9) The composition of the draft annual budget should cover the common costs for ongoing or planned operations and the costs of assistance measures established or to be approved by the Council in the first quarter of the following financial year according to the indicative strategic orientation proposed by the High Representative and the strategic orientation provided by the PSC. Additionally, the budgetary calendar should be adjusted, in particular as regards the decision on the ceiling for payments and the submission of the draft budget. Furthermore, the content of the financial estimates provided periodically should be improved by incorporating forecasts for the amounts and an indicative schedule for the calls for contributions.
- (10) In view of the experience collected by the EPF since its establishment and due to the specific situation of operations and assistance measures with reimbursement schemes, it is appropriate in duly justified cases and on an exceptional basis to allow for the extension of carryovers subject to approval by the Committee.
- (11) The experience gathered shows that the evolving global environment in which the EPF operates may affect the implementation of operations and assistance measures. It is appropriate to introduce additional budgetary flexibility to make commitment appropriations corresponding to the amount of decommitments made as a result of total or partial non-implementation of an operation or assistance measure available again for other operations or assistance measures respectively, subject to approval by the Committee.

- (12) Contributions to early financing by a Member State should not be used to fund assistance measures from which that Member State abstains in accordance with Article 5(3) of Decision (CFSP) 2021/509.
- (13) The periodic reporting on financial implementation should be improved by including the status of additional contributions from Member States and the consumption of financial ceilings.
- (14) The auditors should have access rights, including to premises, information and data necessary to perform their activities.
- (15) The tasks of the internal auditors should be more clearly defined, in particular as regards the assessment of the efficiency and effectiveness of the internal control systems applicable to the EPF, incorporating audit practices according to international standards. In this regard, internal auditors should report the results of their audits to the administrators and the EEAS on matters pertaining to their respective responsibilities. The administrators and the EEAS should ensure that the necessary actions are taken to implement the recommendations from the internal audits. The Committee should receive an annual report from the internal auditors and monitor their work as well as the proper follow-up on the internal audit recommendations by the relevant departments.
- (16) The Committee should establish, on the basis of a proposal from the College of Auditors, procedures for selecting, appointing and replacing, as necessary, members of the College of Auditors and their assistants.
- (17) The controls conducted by the College of Auditors should be expanded to include the administration and management of the EPF, including through performance audits.

- (18) Subject to approval by the Committee on disclosure, the audit report, audit opinion and annual accounts should be disclosed in full or in part, in accordance with the decision of the Committee.
- (19) In the interest of efficient procedural handling, concept notes should be submitted to the PSC for approval. Moreover, the PSC should be able to approve the start of certain urgent activities while the adoption of the relevant assistance measure by the Council is still pending.
- (20) It should be clarified in which cases of transfer and re-export of items delivered under an assistance measure the High Representative should obtain the prior consent of either the PSC or the Committee.
- (21) Military support under the EPF is to be provided in accordance with the relevant regulatory framework, including the EPF Implementing Rules as agreed by the Committee on 30 November 2022 regarding the rules of origin and the rules of nationality. Furthermore, any military support under the EPF is to be provided in full respect for the security and defence policy of the Member States, ensuring the transparency and traceability of EPF-funded support, and taking into account the security and defence interests of all Member States.
- (22) Decision (CFSP) 2021/509 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision (CFSP) 2021/509 is amended as follows:

(1) in Article 4, point (e) is replaced by the following:

‘(e) “implementing actor” means an actor that, in the context of indirect management, is entrusted with the implementation of an assistance measure or parts thereof and that concludes a contract with the Facility for that purpose.’;

(2) in Article 5, paragraph 3 is replaced by the following:

‘3. In cases where a Member State has abstained in a vote and made a formal declaration in accordance with the second subparagraph of Article 31(1) TEU regarding an assistance measure which allows for the supply of military equipment, or platforms, designed to deliver lethal force, that Member State shall not contribute to the costs of that assistance measure. Instead, that Member State shall make an additional contribution to other assistance measures that do not involve the supply of such equipment or platforms. In such a case, the reference amount of the assistance measure from which the Member State has abstained shall remain unchanged as a result of such abstention.’;

(3) in Article 7, paragraph 1 is replaced by the following:

- ‘1. The financing of any operation or assistance measure under the Facility shall require the prior adoption of a basic legal act in the form of a decision by the Council establishing the operation under Articles 42(4) and 43(2) TEU or the assistance measure under Article 28 TEU. By way of exception, a basic legal act shall not be required for the financing of common costs during the preparatory phase of an operation, of expenditure necessary to wind up an operation or of the common costs of exercises, as referred to in Article 44(1), Article 44(3) and Article 45, respectively, of this Decision. Additionally, a basic legal act shall not be required when the Council has authorised the funding of preparatory measures for an assistance measure or when the PSC has approved urgent activities pending a decision on an assistance measure, in accordance with Article 57(2) and Article 58, respectively, of this Decision.’;

(4) in Article 9, paragraphs 2 and 3 are replaced by the following:

- ‘2. In the framework of the strategic priorities referred to in paragraph 1 of this Article, the PSC shall provide strategic orientation for operations and assistance measures to be funded under the Facility with a view to preserving peace, preventing conflicts and strengthening international security, on the basis of prior discussions in other relevant Council preparatory bodies, including in formats with relevant experts, unless the PSC decides otherwise. To this end, the PSC shall hold a debate twice a year, on the basis of an indicative strategic orientation proposed by the High Representative, with the strategic orientation for year $n + 1$ to be provided by 31 May of year n . The indicative strategic orientation, informed by views expressed by Member States, shall include a brief justification of the reference amount envisaged for each assistance measure in view of its intended objectives, and an indicative timeline of the expected discussions within the Council. It shall be submitted to the PSC 30 days before the meeting in which the PSC is called to provide the strategic orientation. As regards assistance measures, the PSC shall align with the objectives and principles set out in Article 56 and shall take due account of the reports provided by the High Representative in accordance with Article 63.

3. A risk and safeguards methodology for assistance measures to be funded under the Facility shall be established by the Council and reviewed regularly by the PSC. The European External Action Service (EEAS) shall monitor and evaluate the implementation of the arrangements made by the High Representative with the beneficiary in accordance with Article 62.’;

(5) Article 10 is replaced by the following:

‘Article 10

Management of the Facility

1. The Facility shall be managed, under the authority and direction of the Facility Committee referred to in Article 11, by:
- (a) an administrator for operations;
 - (b) the operation commander of each operation, in relation to the operation which he or she commands and to any assistance measure, or part thereof, which the operation may implement, as provided in Article 60;
 - (c) an administrator for assistance measures; and
 - (d) an accounting officer for operations and an accounting officer for assistance measures.

2. The Facility shall make use of the institutions, bodies and agencies of the Union to the greatest possible extent. It shall resort primarily to existing administrative structures and staff of the Union institutions, bodies and agencies, and to staff seconded by Member States, upon a request from the respective administrator.
3. The Secretary-General of the Council shall provide the administrator for operations and the accounting officer for operations together with the staff and administrative resources needed for them to carry out their functions.
4. The High Representative shall be responsible for ensuring the implementation of Council decisions establishing assistance measures in accordance with Article 27(1) TEU and for the planning and monitoring of the overall financial ceiling and the annual ceilings of the Facility, without prejudice to paragraph 5.
5. For the purpose of the financial implementation of assistance measures, with the exception of assistance measures or any part thereof which are implemented by an operation, the High Representative shall be assisted by the administrator for assistance measures and the accounting officer for assistance measures. The High Representative shall exercise this responsibility with the support of the Commission department referred to in Article 9(6) of Council Decision 2010/427/EU* and other Commission services as required.

* Council Decision 2010/427/EU of 26 July 2010 establishing the organisation and functioning of the European External Action Service (OJ L 201, 3.8.2010, p. 30, ELI: <http://data.europa.eu/eli/dec/2010/427/oj>).’;

(6) Article 11 is amended as follows:

(a) paragraph 6 is replaced by the following:

‘6. The Committee shall adopt, on a joint proposal from the administrators, the following rules for the implementation of revenue and expenditure financed under the Facility, which supplement the rules set out in this Decision:

- (a) the implementing rules as regards military operations, which shall be similar in terms of flexibility to the financial rules which applied to the mechanism to administer the common costs of European Union operations having military or defence implications established by Decision (CFSP) 2015/528 (the “Athena mechanism”);
- (b) the implementing rules as regards assistance measures, which shall be consistent with and guarantee the same level of sound financial management, transparency and non-discrimination as those set out in Regulation (EU, Euratom) 2024/2509* of the European Parliament and of the Council. Those rules shall explicitly justify the cases where it is necessary to diverge from the rules of Regulation (EU, Euratom) 2024/2509 in order to allow for targeted flexibility, and shall ensure that the accounting rules adopted by the accounting officer pursuant to point (d) of Article 13(4) comply with internationally accepted accounting standards for the public sector.

The Committee shall examine the proposed implementing rules referred to in points (a) and (b) in close cooperation with the administrators, in particular with a view to ensuring that the implementing rules will comply with the principles of sound financial management and non-discrimination and respect for fundamental rights.

The implementing rules as agreed for assistance measures, including for those referred to in Article 60, shall fully respect the principles established in Article 56(2), and in particular the security and defence policy of certain Member States, ensuring the transparency and traceability of the support provided by the Facility, and taking into account the security and defence interests of all Member States.

* Regulation (EU, Euratom) 2024/2509 of the European Parliament and of the Council of 23 September 2024 on the financial rules applicable to the general budget of the Union (OJ L, 2024/2509, 26.9.2024, ELI: <http://data.europa.eu/eli/reg/2024/2509/oj>);

(b) paragraph 10 is replaced by the following:

‘10. Representatives of the EEAS shall participate in the meetings of the Committee without taking part in its votes.’;

(c) the following paragraph is inserted:

‘10a. Without prejudice to paragraph 9, representatives of the Commission shall be invited to attend meetings of the Committee, as appropriate, without taking part in its votes.’;

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

‘3. Each operation commander shall be authorised to adopt any measures, in compliance with this Decision and the rules established by the Committee pursuant to Article 11(6), which he or she deems necessary to implement the expenditure financed under the Facility, for the operation which he or she commands and for any assistance measure or part thereof that the operation may implement. He or she shall inform the administrator for operations and the Committee thereof. The Director of the Military Planning and Conduct Capability, in his or her capacity of Mission Commander, may centralise certain financial management tasks of the subordinated operations at the level of the Military Planning and Conduct Capability, acting as Mission Headquarters.’;

(8) Article 18 is amended as follows:

(a) in paragraph 3, point (a) is replaced by the following:

‘(a) the appropriations deemed necessary to cover:

- the common costs for ongoing or planned operations,
- the costs of assistance measures established or to be approved by the Council in the first quarter of the following financial year, according to the information provided in the proposal by the High Representative under Article 9(2) and the strategic orientation provided by the PSC;’;

(b) paragraphs 7 and 8 are replaced by the following:

‘7. Revenue, subdivided by title, shall consist of:

- (a) contributions payable by the contributing Member States and, where appropriate, by contributing third parties;
- (b) miscellaneous revenue, which includes, inter alia:
 - the budget outturn from the previous financial year as decided by the Committee,
 - interest received and revenue from sales,
 - recoveries of funds unspent during implementation.

8. The administrators shall propose the draft annual budget to the Committee by 15 October at the latest. The Committee shall adopt the budget by 30 November. The administrators shall notify the Member States and contributing third parties of the budget once it is adopted.’;

(9) in Article 20, paragraph 2 is replaced by the following:

‘2. However, and subject to Article 51(5), the prior approval of the Committee shall be required where the planned transfer between chapters exceeds 2 % in titles related to operations and assistance measures, of the appropriations entered in the chapter from which the appropriations are being drawn, as appearing in the adopted budget for the financial year on the date when the proposal for the transfer in question is made. This requirement shall not apply for transfers within a title for an assistance measure taking the form of a general programme.’;

(10) in Article 21, paragraph 2 is replaced by the following:

‘2. The Committee may decide by 31 March every year, on proposals by each respective administrator, to carry over commitment appropriations which have not been committed by the end of the preceding financial year, and if necessary corresponding payment appropriations, in which case they may be committed and paid up to 31 December. If not committed or paid by this date, the Committee may decide to carry over those appropriations up until the end of the following year in duly justified cases and on an exceptional basis.’;

- (11) the following article is inserted:

‘Article 21a

Reuse of appropriations

Subject to approval by the Committee, commitment appropriations corresponding to the amount of decommitments made as a result of total or partial non-implementation of an operation or assistance measure may be made available again to the benefit of budget titles for operations or assistance measures respectively.’;

- (12) the following article is inserted:

‘Article 24a

Types of contribution

In addition to the contributions payable by Member States contributing to an operation or assistance measure in accordance with Article 26(5), the Facility may receive the following:

- (a) “additional contributions”, meaning the additional amounts that are payable by a Member State that abstained from the adoption of an assistance measure and does not contribute to that measure, and that are redirected to other assistance measures, in accordance with Article 26(7), Article 27 and Article 73(10);

- (b) “advance contributions”, meaning contributions paid in advance by Member States on a voluntary basis, in addition to the payments made following a call for contributions, in accordance with Article 29(15);
- (c) “voluntary financial contributions”, meaning amounts that may be received in accordance with Article 30.’;

(13) Article 25 is replaced by the following:

‘Article 25

Early forecasting

1. The administrators, in coordination with the EEAS and taking into account the consolidated financial planning for the Facility, shall present by 31 May of the year n:
 - (a) a forecast of the amounts and an indicative schedule for the calls for contributions for the year n;
 - (b) a forecast for the ceiling for payments for the year $n + 1$ to take into account ongoing and future or expanding operations and assistance measures, including an indicative distribution between envisaged payments necessary for assistance measures which allow the supply of military equipment, or platforms, designed to deliver lethal force and assistance measures which do not allow such support;

- (c) an indicative estimate for the annual amount of the contributions for the year $n + 2$, $n + 3$ and $n + 4$ in line with estimated needs;
 - 2. The Committee shall decide on the ceiling for payments for year $n + 1$ by 30 June of year n .
 - 3. The administrators shall present to the Committee, by 15 October of the year n :
 - (a) a forecast for the amounts and an indicative schedule for the calls for contributions for the year $n + 1$;
 - (b) a revised indicative estimate based on the best available information for the annual amounts of contributions for the years $n + 2$, $n + 3$ and $n + 4$.’;
- (14) in Article 26, paragraphs 7 and 8 are replaced by the following:
- ‘7. Where, pursuant to Article 5(3), a Member State abstains from the adoption of an assistance measure and does not contribute to that measure, it shall contribute an additional amount to assistance measures other than those concerning the supply of military equipment, or platforms, designed to deliver lethal force. Such additional amount shall ensure that the overall contribution of that Member State to assistance measures will be in accordance with its share of GNI. An assistance measure may be financed from additional contributions for up to 50 % of its reference amount, unless the Council decides otherwise. An assistance measure shall not be financed exclusively by additional contributions. The contributions due by Member States for the measures receiving such additional contributions shall be reduced by the amount of those contributions.

8. Contributions from Member States in any given year shall not exceed their respective share of the payment ceiling specified in Article 25(2). This limit shall not apply to advance contributions as referred to in Article 29(15).’;

(15) Article 28 is replaced by the following:

‘Article 28

Early financing

1. The Facility shall have a minimum deposit system to provide early financing for Union rapid response operations, urgent activities as referred to in Article 58 and, subject to the prior authorisation by the Committee, for individual assistance measures, where sufficient funds are not available and the ordinary procedure for collecting contributions would not allow for those needs to be met in good time. The minimum deposits shall be managed by each administrator respectively.
2. The amount of the minimum deposits shall be decided, and revised as necessary, by the Committee, following proposals by the administrator.

3. For the purpose of early financing of the minimum deposits, the Member States shall either:
- (a) pay contributions to the Facility in advance, with the amount of the contributions reflecting the respective share of GNI of that Member State in the total GNI aggregate of the Member States at the time when the advance contribution is paid to the Facility. That share shall be recalculated to its final value when the rapid response operation to which they contribute is launched, and when individual assistance measures are approved by the Council or the urgent activities referred to in Article 58 are approved by the PSC; or
 - (b) pay their contributions within 15 days following dispatch of the call, at the level of the reference amount of the rapid response operation or of the authorised cost of the urgent activities or individual assistance measure when the Council decides to launch a rapid response operation to which they contribute, when the PSC approves urgent activities as referred to in Article 58, or when the Committee authorises its use for individual assistance measures pursuant to paragraph 1, and it is necessary to resort to the minimum deposit, unless the Council decides otherwise. In the case of delay, Article 31(1), shall apply.’;

(16) Article 29 is amended as follows:

(a) in paragraph 4, point (a) is replaced by the following:

‘(a) a budget for a financial year is adopted by the Committee. The first call for contributions shall cover the payment needs for up to the first eight months, taking into account the needs of Member States. The subsequent calls for contributions shall cover the remaining balance of contributions, taking into account the balance of the previous year when the Committee has decided to enter such balance in the current budget. The calls for contributions shall take into account the indicative schedule for the call for contributions referred to in Article 25(3), point (a);’;

(b) paragraph 15 is replaced by the following:

‘15. In addition to the payments made following a call for contributions issued in accordance with this Article, a Member State, on a voluntary basis and in coordination with the responsible administrator, may pay advance contributions in a given financial year. In such case, the Member State that provided the advance contribution shall indicate in coordination with the responsible administrator the financial years, which could include the year in which the advance contribution was made, in respect of which that amount is to be deducted from its future contributions.’;

(17) in Article 33, paragraph 2 is replaced by the following:

- ‘2. An assistance measure may be implemented through direct or indirect management. When an assistance measure is implemented through direct management, Articles 35, 36 and 37, as appropriate, shall apply. When an assistance measure is implemented through indirect management, the implementing actors may be designated by the Council from one of the following categories:
- (a) Member States’ ministries or Government departments, or their other public law bodies and agencies, or bodies governed by private law with a public service mission to the extent that the latter are provided with adequate financial guarantees;
 - (b) an international organisation, a regional organisation, or their bodies and agencies;
 - (c) a third State or its public law bodies and agencies, provided that such third State does not contravene the security and defence interests of the Union and its Member States and that it respects international law and, where relevant, the principle of good neighbourly relations with Member States;
 - (d) Union agencies and bodies having legal personality;

- (e) bodies or persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU and identified in the relevant basic act;
- (f) bodies established in a Member State, governed by the private law of a Member State or Union law and eligible to be entrusted, in accordance with sector-specific rules, with the implementation of Union funds or budgetary guarantees, to the extent that such bodies are controlled by bodies as set out in point (a) and are provided with adequate financial guarantees in the form of joint and several liability by the controlling bodies or equivalent financial guarantees and which may be, for each action, limited to the maximum amount of the Union support.’;

(18) Article 38 is replaced by the following:

‘Article 38

Regular financial reports to the Committee

1. Every three months, each administrator, with the support of the responsible accounting officer and operation commanders, shall present to the Committee a report on the implementation of revenue and expenditure falling under his or her responsibility since the beginning of the financial year, a cash-flow report, a report on the correspondent minimum deposit and a report on additional contributions due by Member States based on the record referred to in Article 27(4).

2. Twice a year, the EEAS, in cooperation with both administrators, shall present to the Committee a report on the consumption of the overall ceiling referred to in Article 2(1) and of the corresponding annual ceiling.’;

(19) in Article 40, paragraph 3 is replaced by the following:

- ‘3. The persons responsible for auditing the Facility’s revenue and expenditure shall have full access to all relevant premises, information and data, without delay and without prior notice. This includes access to documents and to the contents of all data supports relating to that revenue and expenditure and to the premises where those documents and supports are kept. They may make copies thereof. The persons involved in implementing the Facility’s revenue and expenditure shall provide the administrators and the persons responsible for the audit of that revenue and expenditure with the necessary assistance for performing their task.’;

(20) Article 41 is replaced by the following:

‘Article 41

Internal auditing of the Facility

1. On a proposal from the administrator for operations and after informing the Committee, the Secretary-General of the Council shall appoint an internal auditor, and at least one deputy internal auditor, for operations. On a proposal from the administrator for assistance measures and after informing the Committee, the High Representative shall appoint an internal auditor for assistance measures.

2. Internal auditors shall be appointed for a period of four years, renewable up to a total period not exceeding eight years. Internal auditors must possess the necessary professional qualifications and adhere to the internationally accepted internal auditing standards. The internal auditors may not be an authorising officer or an accounting officer, and they may not take part in the preparation of financial statements related to the Facility.
3. Each internal auditor shall carry out audit and consulting engagements as appropriate and shall advise the responsible administrator on risk management, by issuing independent opinions on the quality of management and control systems and by making recommendations to promote sound financial management based on the results of their audit work. The internal auditors shall be responsible in particular for assessing the suitability and effectiveness of internal management systems, as well as evaluating the performance of the relevant departments in implementing policies and reaching objectives by reference to associated risks. They shall also assess the efficiency and effectiveness of the internal control systems applicable to the Facility.
4. The internal auditor for operations shall report on the results of his or her audits to the responsible administrator. Operation commanders shall be informed by the responsible internal auditor of his or her findings and recommendations. The administrator for operations shall ensure that, for matters pertaining to his or her responsibilities, the necessary actions are taken to implement the recommendations resulting from the internal audits, including by issuing the necessary instructions to operation commanders.

5. The internal auditor for assistance measures shall report on the results of his or her audits to the administrator and/or to the EEAS on matters pertaining to their respective responsibilities. The administrator for assistance measures shall inform the implementing actors about the internal auditor's findings and recommendations, as appropriate. The administrator and the EEAS shall ensure that, for matters pertaining to their respective responsibilities, the necessary actions are taken to implement the recommendations resulting from the internal audits.
6. The internal auditor shall submit a report each year to the Committee on the internal audit work done, indicating the number and type of internal audits carried out, observations and recommendations made, and the status of implementation of the recommendations issued in previous years. The Committee shall oversee the internal auditor's work and the proper follow-up of internal audit recommendations by the relevant departments.
7. The proceedings and reports of the internal auditors shall be made available to the College of Auditors established pursuant to Article 42, together with all supporting documents relating thereto.';

(21) Article 42 is replaced by the following:

‘Article 42

External auditing of the Facility

1. A College of Auditors shall be established. The revenue and expenditure arising from the implementation of this Decision pursuant to Article 1(2), as well as the annual accounts of operations and assistance measures, shall be audited by the College of Auditors.
2. The Committee, upon a proposal from the College of Auditors, shall determine the number of auditors required and agree on the procedures to select, appoint and replace, as necessary, members of the College of Auditors for a period of up to four years, renewable once, from candidates proposed by the Member States. The Committee may extend a member’s mandate by up to six months. The candidates must be members of the highest national audit body of a Member State, or recommended by that body, and offer adequate guarantees of security and independence.

3. The Committee may appoint assistants to members of the College of Auditors on a request by the College of Auditors. The Committee, upon a proposal from the College of Auditors, shall agree on the procedures to select, appoint and replace, as necessary, the assistants. The assistants must offer adequate guarantees of security and independence. Upon request from the College of Auditors, the Committee may approve recourse by the College of Auditors to qualified external support for the external auditing of the Facility.
4. The College of Auditors shall check during the financial year as well as ex post, through on-the-spot controls and supporting documents, that expenditure financed or prefinanced through the Facility is implemented in compliance with this Decision and the rules adopted pursuant to Article 11(6), as well as relevant Union and national law. In carrying out those controls, the College of Auditors shall evaluate compliance with the principles of sound financial management, namely the principles of economy, efficiency and effectiveness, and whether internal controls are adequate, and shall oversee the administration and management of the Facility, including by conducting performance audits.
5. The members of the College of Auditors and their assistants shall continue to be paid by their audit body of origin; the Facility shall bear their mission expenses in accordance with rules to be adopted by the Committee, as well as the cost of qualified external support.

6. During their term in office, the members of the College of Auditors and their assistants shall:
- (a) neither request nor receive instructions other than from the Committee; within its audit mandate the College of Auditors and its members shall be completely independent and solely responsible for the conduct of their external audit;
 - (b) report on their task only to the Committee.
7. Each year, the College of Auditors shall elect its Chair from amongst its members or extend the current Chair's term of office. The College of Auditors shall adopt the rules applicable to audits carried out by its members in accordance with the highest international standards. It shall approve the audit reports drawn up by its members before their transmission to the administrators and to the Committee.
8. The administrators or persons appointed by either of the administrators may at any time carry out audits of the expenditure financed through the Facility. Furthermore, the Committee, on the basis of a proposal by either of the administrators or by a Member State, may at any time appoint additional external auditors on an ad hoc basis, whose tasks and conditions of service it shall determine.';

(22) in Article 43, paragraph 4 is replaced by the following:

- ‘4. The College of Auditors shall provide its audit report, including the audit opinion, to the Committee by 30 September following the end of the financial year. The Committee shall examine the audit report, the audit opinion and the annual accounts with a view to granting a discharge to each administrator and each operation commander. Subject to approval by the Committee on disclosure, the audit report, audit opinion and annual accounts shall be disclosed in full or in part, in accordance with the decision of the Committee. Each administrator and each operation commander shall report annually to the Committee on the implementation of recommendations issued by the College of Auditors concerning matters within their respective responsibilities.’;

(23) in Article 51, paragraph 4 is replaced by the following:

- ‘4. During the period prior to the adoption of a budget for an operation, the Committee, on the basis of a proposal by the administrator for operations, the operation commander or a Member State, may issue directives on the implementation of expenditure during that period.’;

(24) in Article 52, paragraph 4 is replaced by the following:

‘4. The final destination of equipment and infrastructure financed in common shall be approved by the Committee, taking into account operational needs and financial criteria. The final destination may be, in particular, as follows:

- (a) infrastructure may be sold, transferred or donated through the Facility to the host country, a Member State, other operations, Union institutions, bodies, offices or agencies, or a third party;
- (b) equipment may be sold, transferred or donated through the Facility to a Member State, another operation, Union institutions, bodies, offices or agencies, the host country, a third country, or a third party, or be stored and maintained by the Facility, a Member State or such a third party, for use in a subsequent operation.’;

(25) in Article 56, paragraph 2 is replaced by the following:

‘2. Assistance measures shall be underpinned by the following principles:

- (a) they must be consistent with the policies and objectives of the Union’s external action aiming at building peace, preventing conflicts and strengthening international security;

- (b) they must comply with Union law and with Union policies and strategies, in particular the EU Strategic Framework to support Security Sector Reform and the Integrated Approach to external conflicts and crises, the EU Strategic Approach to Women, Peace and Security as well as with relevant United Nations Security Council resolutions;
- (c) they must respect the obligations of the Union and its Member States under international law, in particular international human rights law and humanitarian law;
- (d) they must not prejudice the specific character of the security and defence policy of a Member State and must not contravene the security and defence interests of the Union and its Member States. To this end, the transparency and traceability of the support provided by the Facility shall be ensured.'

(26) Article 57 is amended as follows:

- (a) paragraphs 2 and 3 are replaced by the following:

'2. The concept note shall be submitted to the PSC for approval. When approving a concept note, the PSC may authorise measures to be funded under the Facility for the preparation of the possible assistance measure.'

3. The concept note shall include an initial estimated cost of the measure.
- A Member State that intends to abstain from the adoption of a measure for the supply of military equipment, or platforms, designed to deliver lethal force, as referred to in Article 5(3), and to make a formal declaration in accordance with the second subparagraph of Article 31(1) TEU shall indicate that intention by a written communication to the Council in good time before the adoption of the measure. The Member State concerned may also indicate other assistance measures to which it wishes to contribute instead.’;

(b) the following paragraph is added:

- ‘5. In principle, the Council shall not discuss proposals for assistance measures until at least 10 days after their submission. Discussions shall include military analysis, as appropriate.’;

(27) Article 58 is replaced by the following:

‘Article 58

Expedited process for the start of an assistance measure

1. Where the urgency of the situation so requires, pending a decision on an assistance measure, the PSC may approve the start of activities to be funded under the Facility, taking into account the risk and safeguards methodology established pursuant to Article 9(3). Such urgent activities, their estimated cost and the relevant implementing actor, as appropriate, may be identified in the concept note outlining a possible assistance measure or in the proposal for establishing an assistance measure pursuant to Article 57 and Article 59(1) respectively.
2. Urgent activities shall not include any provision of equipment referred to in Article 5(3).
3. By way of derogation from Article 17(6), the approval by the PSC of urgent activities shall entitle the administrator for assistance measures to commit and pay expenses for such activities up to the cost authorised.’;

(28) in Article 62, paragraph 2 is replaced by the following:

- ‘2. Arrangements made in accordance with paragraph 1 shall include provisions, in accordance with the terms of the assistance measure or any relevant decision by the Council or by the Committee, including on safeguards, to ensure:
- (a) proper and efficient use of assets for the purposes for which they were provided;
 - (b) sufficient maintenance of the assets to ensure their usability and their operational availability over the life-cycle of the assets;
 - (c) that the assets will not be lost, or transferred without the prior agreement of the High Representative to persons or entities other than those identified in the arrangements. The High Representative shall obtain the prior consent of the PSC for the transfer of items on the Common Military List of the Union and in the case of the re-export of items delivered under an assistance measure. For the transfer of other items delivered under an assistance measure, the High Representative shall obtain the prior consent of the Committee;
 - (d) compliance with any other requirements established by the Council;
 - (e) that the beneficiary grants the High Representative, and those persons indicated by him or her, including the Facility’s auditors, access and necessary assistance to conduct on-site controls and audits upon request.’;

(29) Article 63 is replaced by the following:

‘Article 63

Reporting and follow-up

The High Representative shall provide the PSC with a report on the implementation of assistance measures twice a year or when the PSC so requests. Those reports shall cover the political, operational and financial aspects of the assistance measure. They shall include the main equipment delivered, an evaluation of its impact and the management and use of assets, as well as updates on the conflict sensitivity and context analysis and the risk and impact assessment. The EEAS and the administrators shall periodically present more detailed information on the implementation of assistance measures, including, inter alia, on the activities performed related to arrangements for monitoring and evaluation, controls and safeguards, in the Committee and relevant Council bodies. The presentations shall aim at covering developments in the implementation of the assistance measures on a yearly basis.’;

(30) in Article 66, paragraph 8 is replaced by the following:

‘8. When acting as implementing actors, the administrator shall not carry out an assessment of the following entities referred to in Article 33(2):

- (a) ministries or Government departments of Member States where they are designated as implementing actors;
- (b) Union agencies and bodies;
- (c) bodies or persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU and identified in the relevant basic act.

The administrator may decide not to carry out an assessment of:

- (a) other public law bodies and agencies of Member States;
- (b) third States or the public law bodies and agencies which they have designated.’;

(31) in Article 73, the following paragraphs are added:

- ‘11. The Council shall decide on the Facility’s continuation in the next budgetary cycle, in accordance with Article 75(1) and in the context of broader budgetary negotiations regarding the post-2027 period.
12. In the absence of a decision under paragraph 11 of this Article by 15 October 2027, and subject to approval by the Committee in accordance with Article 18(8), appropriations may be entered into the annual budgets and amending budgets beyond 2027 to cover:
 - (a) the expenditures of ongoing operations and of the general part of the annual budget referred to in Article 18(3), point (b);
 - (b) the expenditures provided for in Article 18(3), point (c), to enable the management of assistance measures established before but not completed by 31 December 2027.

The commitment appropriations entered into the annual budget beyond 2027 referred to in this paragraph shall not exceed the commitment appropriations approved by the Committee in the annual budget for 2027 under the corresponding titles.

Without prejudice to the first subparagraph, point (b), and with the exception of the general part of the annual budget referred to in Article 18(3), point (c), and of appropriations carried over in accordance with Article 21, the authorising officer for assistance measures may make budgetary commitments only until 31 December 2027.’

(32) Annex II is amended as follows:

(a) the following point is inserted:

‘7a. on a case-by-case basis and subject to approval by the Committee, exploratory missions and preparations (in particular fact-finding missions and reconnaissance) by EEAS personnel to support the High Representative in proposing assistance measures included in the strategic orientation provided in accordance with Article 9(2) or carried out on the request of a Member State;’;

(b) point 8 is replaced by the following:

‘8. monitoring and evaluation, including as referred to in Article 9(3) as regards assistance measures;’;

Article 2

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

Done at ..., ...

For the Council

The President
