



Council of the
European Union

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION 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

COUNCIL DECISION (CFSP) 2023/...

of ...

**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) 2022/338¹, 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 ('the financial reference amount').
- (2) On 23 March 2022, the Council adopted Decision (CFSP) 2022/471², which increased the financial reference amount to EUR 900 000 000.
- (3) On 13 April 2022, the Council adopted Decision (CFSP) 2022/636³, which increased the financial reference amount to EUR 1 350 000 000.
- (4) On 23 May 2022, the Council adopted Decision (CFSP) 2022/809⁴, which increased the financial reference amount to EUR 1 840 000 000.

¹ 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).

² Council Decision (CFSP) 2022/471 of 23 March 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 (OJ L 96, 24.3.2022, p. 43).

³ Council Decision (CFSP) 2022/636 of 13 April 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 (OJ L 117, 19.4.2022, p. 34).

⁴ Council Decision (CFSP) 2022/809 of 23 May 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 (OJ L 145, 24.5.2022, p. 40).

- (5) On 21 July 2022, the Council adopted Decision (CFSP) 2022/1285¹, which increased the financial reference amount to EUR 2 330 000 000.
- (6) On 17 October 2022, the Council adopted Decision (CFSP) 2022/1971², which increased the financial reference amount to EUR 2 820 000 000.
- (7) On 2 February 2023, the Council adopted Decision (CFSP) 2023/230³, which increased the financial reference amount to EUR 3 120 000 000.
- (8) In line with Ukraine's urgent needs, as discussed in particular at the special meeting of the European Council on 9 February 2023, and based on the decision taken by the Council on 20 March 2023, the financial reference amount should be increased by an additional EUR 1 000 000 000.

¹ Council Decision (CFSP) 2022/1285 of 21 July 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 (OJ L 195, 22.7.2022, p. 93).

² Council Decision (CFSP) 2022/1971 of 17 October 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 (OJ L 270, 18.10.2022, p. 95).

³ Council Decision (CFSP) 2023/230 of 2 February 2023 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 (OJ L 32, 3.2.2023, p. 62).

- (9) 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. The Council will receive regular monthly updates on the implementation of the assistance measure in order to monitor progress towards achieving the aim of one million rounds of artillery ammunition for Ukraine. As regards the third track, the Council also invited the Commission to present concrete proposals to urgently support the ramp-up of 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.
- (10) Regular meetings at the level of the National Armament Directors with the Defence Joint Procurement Task Force (Commission, European External Action Service, European Defence Agency) 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.

- (11) The Permanent Representatives Committee will monitor the coordinated and parallel implementation of the three-track approach.
- (12) Decision (CFSP) 2022/338 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

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

(1) Article 2 is amended as follows:

(a) 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 4 120 000 000.’;

(b) paragraphs 3 and 4 are 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 4 120 000 000. 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. Expenditure related to the implementation of the Assistance Measure shall be eligible from 1 January 2022 and until a date to be determined by the Council:
- (a) The maximum eligible expenditure incurred before 11 March 2022 shall be EUR 450 000 000.
 - (b) The maximum amount eligible for the period from 11 March 2022 to 20 July 2022 shall be EUR 1 390 000 000.
 - (c) The maximum amount eligible for the period between 21 July 2022 and 30 November 2022 shall be EUR 677 420 154,06.
 - (d) The amount of EUR 1 602 579 845,94 shall be eligible from 1 December 2022. EUR 1 000 000 000 of that amount shall be eligible from 9 February 2023 to 31 May 2023 for financing the reimbursement of donated materiel from existing stocks or from reprioritisation of existing orders, delivered during that period, regarding ground-to-ground and artillery ammunition, and, if requested, missiles. Any unused funds from this latter amount shall be used for the reimbursement of all lethal equipment eligible under the Assistance Measure since 1 December 2022, in accordance with the priorities set in Ukraine's list of requirements.

(e) Expenditure related to maintenance and repair shall be eligible from 17 October 2022, and expenditure related to refit shall be eligible from 2 February 2023.’.

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

‘(e) the Ministry of Defence of the Czech Republic’;

(3) in Article 4, paragraph 4, point (o) is replaced by the following:

‘(o) the Ministry of National Defence of Lithuania’;

(4) in Article 7, the following paragraph is added:

‘The High Representative shall report regularly, monthly to the Council on the implementation of Article 2(4), point (d), regarding the number of artillery ammunition deliveries, and, if requested, missiles, based on information provided by Member States.’.

Article 2

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

Done at ..., ...

For the Council

The President
