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PROPOSAL

From:	High Representative of the Union for Foreign Affairs and Security Policy, signed by Mr Stefano SANNINO, Secretary-General
date of receipt:	3 May 2023
To:	Ms Thérèse BLANCHET, 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 on the consequences of Denmark informing the other Member States that it no longer wishes to avail itself of Article 5 of Protocol n°22 on the position of Denmark and amending Council Decision (CFSP) 2021/509 establishing a European Peace Facility and repealing Decision (CFSP) 2015/528, as well as Council Decision 2014/401/CFSP on the European Union Satellite Centre and repealing Joint Action 2001/555/CFSP on the establishment of a European Union Satellite Centre

Delegations will find attached document HR(2023) 118.

Encl.: HR(2023) 118

HR(2023) 118
Limited

EUROPEAN EXTERNAL ACTION SERVICE



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

of 03/05/2023

for a Council Decision on the consequences of Denmark informing the other Member States that it no longer wishes to avail itself of Article 5 of Protocol n°22 on the position of Denmark and amending Council Decision (CFSP) 2021/509 establishing a European Peace Facility and repealing Decision (CFSP) 2015/528, as well as Council Decision 2014/401/CFSP on the European Union Satellite Centre and repealing Joint Action 2001/555/CFSP on the establishment of a European Union Satellite Centre

HR(2023) 118
Limited

HR(2023) 118
Limited

COUNCIL DECISION (CFSP) 2023/...

of dd/mm/2023

**on the consequences of Denmark informing the other Member States
that it no longer wishes to avail itself of Article 5 of Protocol n° 22 on the position of Denmark
and amending Council Decision (CFSP) 2021/509 establishing a European Peace Facility and
repealing Decision (CFSP) 2015/528, as well as Council Decision 2014/401/CFSP on the
European Union Satellite Centre and repealing Joint Action 2001/555/CFSP on the establishment of a
European Union Satellite Centre**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 28(1), 31(1), 41(2), 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) Pursuant to Article 5 of the Protocol n° 22 on the position of Denmark annexed to the Treaty on European Union and to the Treaty on the functioning of the European Union (hereinafter ‘the Protocol’), until 30 June 2022, Denmark did not participate in the elaboration, the adoption or the implementation of decisions and actions of the Union based on Article 26(1), Article 42, and Articles 43 to 46 of the Treaty on European Union (‘TEU’) which had defence implications. Until the same date, Denmark did not contribute to the financing of operational expenditure arising from such measures and did not make military capabilities available to the Union.
- (2) On 1 June 2022, a referendum was held in Denmark on revoking the defence opt-out laid down in Article 5 of the Protocol.

HR(2023) 118

Limited

- (3) In accordance with Article 7 of the Protocol, Denmark informed the other Member States that it no longer wished to avail itself of Article 5 of the Protocol as from 1 July 2022, by a letter from its Minister for Foreign Affairs on 20 June 2022.
- (4) Pursuant to Article 7 of the Protocol, as from 1 July 2022, Denmark applies in full all relevant measures in force on that date taken within the framework of the Union, and is in the same position as the other Member States as regards the elaboration, the adoption and the implementation of decisions and actions of the Union which have defence implications. As from the same date, Denmark is in the same position as the other Member States as regards its contribution to the financing of expenditure arising from such measures, and making military capabilities available to the Union.
- (5) Accordingly, as from 1 July 2022, Denmark applies the decisions adopted by the Council on the basis of the relevant Articles of Title V, Chapter 2, TEU. Likewise, as from that date, Denmark applies the decisions taken by the Political and Security Committee pursuant to Article 38, third subparagraph, TEU, concerning the political control and strategic direction of the crisis management operations referred to in Articles 42 and 43 TEU, which have defence implications.
- (6) In order to ensure legal certainty within the Union, it should be clarified that all references to Article 5 of the Protocol in Council decisions adopted under Title V, chapter 2 TEU and in force on 1 July 2022 have ceased to apply as from that date.
- (7) For the same reason, relevant provisions in Council decisions adopted under Title V, chapter 2 TEU and in force at the time of adoption of the present decision, and implementing Article 5 of Protocol n°22, should be repealed.

HAS ADOPTED THIS DECISION:

Article 1

As a consequence of the information from Denmark to the other Member States that as from 1 July 2022 Denmark no longer wishes to avail itself of Article 5 of the Protocol:

- all references to the position of Denmark based on Article 5 of the Protocol, in decisions adopted by the Council pursuant to Title V, Chapter 2, TEU, shall no longer apply from 1 July 2022;

HR(2023) 118

Limited

- all references to the position of Denmark based on Article 5 of the Protocol, in decisions adopted by the Political and Security Committee pursuant to Article 38(3) TEU concerning the political control and strategic direction of crisis management operations referred to in Articles 42 and 43 TEU, which have defence implications, shall no longer apply from 1 July 2022.

Article 2

Council Decision (CFSP) 2021/509¹ establishing a European Peace Facility, and repealing Decision (CFSP) 2015/528, is amended as follows:

(1) Article 5(4) is repealed;

(2) Article 26(3) is replaced by the following:

“The payment appropriations in the general part of the budget for support and preparatory expenditure on operations referred to in point (b) of Article 18(3) shall be covered by contributions from the Member States.”

(3) Article 45(1) is replaced by the following:

“The common costs of the Union’s exercises shall be financed through the Facility following the rules and procedures similar to those for operations to which all Member States contribute.”

(4) Article 52(7) is replaced by the following:

“When it is decided that the Facility is to retain equipment financed in common for an operation, the contributing Member States may ask for financial compensation from the other Member States. The Committee shall take the appropriate decisions on the basis of a proposal from the administrator for operations.”

¹ OJ L 102, 24.3.2021, p. 14.

HR(2023) 118

Limited

Article 3

Council Decision 2014/401/CFSP² on the European Union Satellite Centre and repealing Joint Action 2001/555/CFSP on the establishment of a European Union Satellite Centre is amended as follows:

(1) Article 10(3) is replaced by the following:

“The income of SATCEN shall consist of contributions from the Member States according to the gross national income scale, payments made in remuneration for services rendered and miscellaneous income.”

(2) Article 17 is repealed.

Article 4

This Decision shall enter into force on the date of its adoption.
It shall apply from 1 July 2022.

Done at Brussels,

For the Council

The President

² OJ L 188, 27.6.2014, p. 73.