



Council of the  
European Union

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#### LEGISLATIVE ACTS AND OTHER INSTRUMENTS

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Subject: 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 No 22 on the position of Denmark, and amending Decision (CFSP) 2021/509 establishing a European Peace Facility and Decision 2014/401/CFSP on the European Union Satellite Centre

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**COUNCIL DECISION (CFSP) 2023/...**

**of ...**

**on the consequences of Denmark informing the other Member States  
that it no longer wishes to avail itself of Article 5  
of Protocol No 22 on the position of Denmark,  
and amending Decision (CFSP) 2021/509 establishing a European Peace Facility  
and Decision 2014/401/CFSP on the European Union Satellite Centre**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 28(1), Article 31(1),  
Article 41(2), Article 42(4) and Article 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 Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union (TEU) and to the Treaty on the Functioning of the European Union (TFEU), 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 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 exemption from participation in decisions and actions of the Union which have defence implications laid down in Article 5 of Protocol No 22.
- (3) On 20 June 2022, by means of a letter from its Minister for Foreign Affairs, Denmark, in accordance with Article 7 of Protocol No 22, informed the other Member States that it no longer wished to avail itself of Article 5 of Protocol No 22 as from 1 July 2022.

- (4) Pursuant to Article 7 of Protocol No 22, 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 as regards 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 paragraph, TEU concerning the political control and strategic direction of crisis management operations, as 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, as from 1 July 2022, all references to Article 5 of Protocol No 22 in Council decisions adopted under Title V, Chapter 2, TEU and in force on that date no longer apply.
- (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 this Decision, and implementing Article 5 of Protocol No 22, should be deleted,

HAS ADOPTED THIS DECISION:

### *Article 1*

As a consequence of Denmark informing the other Member States that, as from 1 July 2022, it no longer wishes to avail itself of Article 5 of Protocol No 22 on the position of Denmark:

- from 1 July 2022, all references to the position of Denmark based on Article 5 of Protocol No 22 in decisions adopted by the Council pursuant to Title V, Chapter 2, TEU shall no longer apply;
- from 1 July 2022, all references to the position of Denmark based on Article 5 of Protocol No 22 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, as referred to in Articles 42 and 43 TEU, which have defence implications shall no longer apply.

### *Article 2*

Council Decision (CFSP) 2021/509<sup>1</sup> is amended as follows:

- (1) in Article 5, paragraph 4 is deleted;

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<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).

- (2) in Article 26, paragraph 3 is replaced by the following:
- ‘3. 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) in Article 45, paragraph 1 is replaced by the following:
- ‘1. 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) in Article 52, paragraph 7 is replaced by the following:
- ‘7. 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.’.

### *Article 3*

Council Decision 2014/401/CFSP<sup>1</sup> is amended as follows:

- (1) in Article 10, paragraph 3 is replaced by the following:  
  
‘3. 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 deleted.

### *Article 4*

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

It shall apply from 1 July 2022.

Done at ..., ...

*For the Council*  
*The President*

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<sup>1</sup> Council Decision 2014/401/CFSP of 26 June 2014 on the European Union Satellite Centre and repealing Joint Action 2001/555/CFSP on the establishment of a European Union Satellite Centre (OJ L 188, 27.6.2014, p. 73.)