

COUNCIL DECISION (CFSP) 2021/2137**of 2 December 2021****on an Assistance Measure under the European Peace Facility to support the armed forces of the Republic of Mali in conjunction with the EU Training Mission in Mali**

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) In accordance with Decision (CFSP) 2021/509 ⁽¹⁾, a European Peace Facility (EPF) was established for the financing by Member States of Union actions under the Common Foreign and Security Policy to preserve peace, prevent conflicts and strengthen international security pursuant to Article 21(2), point (c), of the Treaty. In particular, in accordance with Article 1(2), point (b)(i), of Decision (CFSP) 2021/509, the EPF may finance actions to strengthen the capacities of third States and regional and international organisations relating to military and defence matters.
- (2) The current crisis in Mali and the Sahel region is multidimensional, with a severe risk of spillover to neighbouring countries, and specifically to the Gulf of Guinea. The international community, including the Union as well as Member States, has recently invested considerable efforts to support the Republic of Mali in its fight against terrorism. The European Union Training Mission in Mali (EUTM Mali) continues its support to the capacity building of the Malian armed forces, as part of the EU Integrated Approach to the crisis in Mali.
- (3) In its Resolution 2391 (2017) as well as Resolutions 2480 (2019) and 2584 (2021) with regard to Mali, the United Nations Security Council affirmed its strong commitment to the sovereignty, independence, unity and territorial integrity of the countries of the Group of Five for the Sahel (G5 Sahel), namely Burkina Faso, Chad, Mali, Mauritania and Niger, commended the contribution of bilateral and multilateral partners to strengthening security capacities in the Sahel region, in particular the role of the European Union missions (EUTM Mali, EUCAP Sahel Mali and EUCAP Sahel Niger) in providing training and strategic advice to national security forces in the Sahel region, welcomed the efforts of the French Forces to support the operations of the G5 Sahel Joint Force, and called for adequate coordination, exchange of information and, when applicable, support between the United Nations Multidimensional Integrated Stabilisation Mission in Mali, the Malian Armed Forces, the G5 Sahel Joint Force, the French Forces and the European Union missions in Mali.
- (4) In his letter of 4 November 2021 addressed to the High Representative of the Union for Foreign Affairs and Security Policy (the 'High Representative'), the Malian Minister of Foreign Affairs requested the Union to continue and enhance its support to the Malian armed forces in three key areas, in conjunction with EUTM Mali.
- (5) This assistance measure is to be implemented taking into account the principles and requirements set out in Decision (CFSP) 2021/509, and in particular compliance with Council Common Position 2008/944/CFSP ⁽²⁾, and in accordance with the rules for the implementation of revenue and expenditure financed under the EPF.

⁽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).

⁽²⁾ Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment (OJ L 335, 13.12.2008, p. 99).

- (6) The implementation will also be subject to the regular assessment of political developments in Mali, in accordance with the integrated methodological framework for assessing and identifying the required mitigating measures and controls for assistance measures under the EPF. The implementation should, in particular, not contravene the security and defence interests of the Union and its Member States.
- (7) The Council reaffirms its determination to protect, promote and fulfil human rights, fundamental freedoms and democratic principles and to strengthen the rule of law and good governance, in compliance with the United Nations Charter, with the Universal Declaration of Human Rights and with international law, in particular international human rights and international humanitarian law,

HAS ADOPTED THIS DECISION:

Article 1

Establishment, objectives, scope and duration

1. An Assistance Measure to be financed under the European Peace Facility (EPF) (the 'Assistance Measure') is hereby established, benefiting the Republic of Mali (the 'beneficiary').
2. The objective of the Assistance Measure is to strengthen the overall capacities of the Malian armed forces with a view to enabling them to conduct military operations aiming at restoring Malian territorial integrity and reducing the threat posed by terrorist groups. This should benefit the population, and contribute to an enhanced presence of the State services in remote areas and to the better protection of civilians.
3. To achieve the objectives set out in paragraph 2, the Assistance Measure aims to further professionalise supported units of the Malian armed forces through relevant and adequate training and equipment provided through three projects:
 - (a) support to the Non-Commissioned Officers' (NCO) Academy in Banankoro;
 - (b) renovating training infrastructure in Sévaré-Mopti; and
 - (c) providing equipment not designed to deliver lethal force for three companies of the 23rd Regiment of the 2nd military region of Mali, according to the needs of the *Unité légère de reconnaissance et d'intervention* (ULRI).
4. The duration of the Assistance Measure shall be 30 months from the date of conclusion of the contract between the Administrator for Assistance Measures and the entity referred to in Article 4(3) of this Decision, in accordance with Article 32(2), point (a) of Decision (CFSP) 2021/509.

Article 2

Financial arrangements

1. The financial reference amount intended to cover the expenditure related to the Assistance Measure shall be a maximum of EUR 24 000 000. 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 21 600 000. 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 2021 amending budget corresponding to this Assistance Measure.
2. All expenditure shall be managed in accordance with Decision (CFSP) 2021/509 and the rules for the implementation of revenue and expenditure financed under the EPF.

*Article 3***Arrangements with the beneficiary**

1. The High Representative shall make the necessary arrangements with the beneficiary to ensure its compliance with the requirements and conditions established by this Decision as a condition for the provision of support under the Assistance Measure.
2. The arrangements referred to in paragraph 1 shall include provisions obliging the beneficiary to ensure:
 - (a) compliance with relevant international law, in particular international human rights and international humanitarian law, as well as the commitment of the Malian government to enhance the fight against impunity, in particular regarding human rights violations, and to take the necessary steps to strengthen the accountability of units benefiting from the Assistance Measure;
 - (b) the proper and efficient use of any assets provided under the Assistance Measure, for the purposes for which they were provided, by units and personnel that are trained under the supervision of EUTM or accompanied by international forces which are EU partners and that have not been reported as having committed abuses or violence;
 - (c) that any assets provided under this Assistance Measure will be used only by Malian forces and, in case of any form of collaboration, exclusively with state actors which are armed forces of EU partners, in particular the G5 Sahel Joint Force and G5 Sahel armed forces;
 - (d) the sufficient maintenance of any assets provided under the Assistance Measure to ensure their usability and their operational availability over their life cycle;
 - (e) that any assets provided under the Assistance Measure will not be lost, or be transferred at the end of their life-cycle to persons or entities other than those identified in the arrangements referred to in paragraph 1 without the consent of the Facility Committee established under Decision (CFSP) 2021/509.
3. The arrangements referred to in paragraph 1 shall include provisions on the suspension and termination of support under the Assistance Measure in the event of the beneficiary being found in breach of the obligations set out in paragraph 2.
4. In case of breaches of the arrangements referred to in paragraph 1 or of the provisions and obligations set out in this Article, the High Representative shall, in response, take proportionate steps in the context of the integrated approach, up to or including requiring the return of the relevant assets provided under the Assistance Measure.

*Article 4***Implementation**

1. The High Representative shall be responsible for ensuring the implementation of this Decision in accordance with Decision (CFSP) 2021/509 and with the rules for the implementation of revenue and expenditure financed under the EPF, consistently with the Integrated Methodological Framework for assessing and identifying the required measures and controls for assistance measures under the EPF.
2. The High Representative shall authorise the delivery of the assistance only after the acceptance by the beneficiary of the various contracts, arrangements, requirements, obligations and conditions referred to or set out in this Decision.
3. The implementation of the activities referred to in Article 1(3) shall be carried out by *Expertise France*.
4. In accordance with Article 61(4) of Decision (CFSP) 2021/509, the Administrator for Assistance Measures shall conclude the necessary contracts with the implementing actors.

*Article 5***Monitoring, control and evaluation**

1. The High Representative shall ensure monitoring of compliance by the beneficiary with the obligations established in Article 3. That monitoring shall provide awareness about the context and the risks of breaches of those obligations, and shall contribute to the prevention of such breaches, including violations of international human rights and international humanitarian law, involving the use of equipment provided under the Assistance Measure. In such cases, the High Representative shall report to the Political and Security Committee (PSC) and propose proportionate measures.

2. The post-shipment control of equipment and supplies shall be organised as follows:

- (a) delivery verification, whereby delivery certificates are to be signed by the end-user forces upon transfer of ownership;
- (b) reporting on the inventory, whereby the beneficiary is to report annually on the inventory and state of designated items throughout their life-cycle or until such reporting is no longer deemed necessary by the PSC;
- (c) on-site controls, whereby the beneficiary is to grant the High Representative access to conduct on-site controls upon request.

3. Taking into account the provisions set out in Article 3(2), the High Representative shall conduct an evaluation, in the form of a first assessment of the Assistance Measure in three parts, six months after the delivery of the equipment to the three companies of the 23rd Regiment, six months after the end of the first graduating class of the NCO Academy, and six months after the completion of the construction of the training facility in Sévaré-Mopti. The evaluation will entail on-site visits to check the equipment and supplies delivered under the Assistance Measure, or any other effective forms of independently provided information.

A final evaluation shall be conducted at the end of the implementation period of the Assistance Measure to assess whether the Assistance Measure has contributed to achieving the stated objectives.

*Article 6***Reporting**

At the beginning of and during the implementation period, the High Representative shall provide the PSC with six-monthly reports that shall include up-to-date information on the state of implementation of the Assistance Measure, in accordance with Article 63 of Decision (CFSP) 2021/509, as well as upon request and in the event of any substantial reported breaches of the arrangement or in the event of any relevant political or security developments. The Administrator for Assistance Measures shall regularly inform the Facility Committee established by Decision (CFSP) 2021/509 on the implementation of revenue and expenditure in accordance with Article 38 of that Decision, including by providing information on the suppliers and subcontractors involved.

*Article 7***Suspension and termination**

1. The High Representative shall assess information on possible breaches or infringements of the commitments and obligations under the arrangement between the beneficiary and the High Representative, leading to an examination by the High Representative of the possible suspension or termination at any time of the Assistance Measure.

2. In accordance with Article 64 of Decision (CFSP) 2021/509, at the request of a Member State or the High Representative, the PSC may decide to suspend wholly or partially the implementation of the Assistance Measure in any of the following cases:

- (a) if the beneficiary is in breach of its obligations under international law, in particular those under international human rights or international humanitarian law, or if the beneficiary does not observe its obligations or commitments under the arrangements referred to in Article 3;
- (b) if the contract with an implementing actor has been suspended or terminated following a breach of its obligations thereunder;
- (c) if the situation in the country or area of concern no longer allows for the measure to be implemented whilst ensuring sufficient guarantees;
- (d) if pursuing the Assistance Measure no longer contributes to achieving the stated objectives thereof, or is no longer in the interests of the Union.

3. In urgent and exceptional cases the High Representative may provisionally suspend wholly or partially the implementation of an assistance measure pending a decision by the PSC.

4. The PSC may also recommend that the Council terminate the Assistance Measure.

Article 8

Entry into force

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

Done at Brussels, 2 December 2021.

For the Council
The President
J. VRTOVEC
