

# Arms Transfer Through the European Peace Facility

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## Introduction

Since the beginning of Russia's war in Ukraine, the EU has provided about €2.5 billion worth of military assistance to Ukraine through the European Peace Facility (EPF), with some of the weapons coming from the EU countries' stocks (Preussen, 2022).

The EPF is a fund of €5 billion financed outside the EU Budget for a period of seven years (2021-2027), established by Council Decision (CFSP) 2021/509 of 22 March 2021 based on Articles 30 and 41 of the Treaty on the European Union (TEU) (Council of the European Union, 2021).

The EU has framed the EPF as one of the measures to fulfil the goals outlined in the 2016 EU Global Strategy, by allocating funding in support of Common Foreign and Security Policy (CFSP) military and security-oriented actions (EEAS, 2021).

## How it Works

The European Peace Facility enables the EU to provide military equipment to increase its partners' security and defence capabilities in compliance with international human rights law and international humanitarian law.

In addition, the EPF has a two-pillar structure articulated into operations and assistance measures. The operations pillar covers the common costs of military Common Security and Defence Policy (CSDP) missions and operations.

Assistance measures include both actions to (a) strengthen the military and defence capacities of third states bilaterally or through regional and international organizations, and (b) support military peace support operations (European Commission, 2022).

A key aspect of the EPF is its Integrated Methodological Framework (IMF), which sets out a risk assessment procedure that is to be followed in the case of EU assistance measures, including the provision of lethal armaments (Hojtink & Muehlenhoff, 2021). Essentially, the IMF underlines that the EU will follow international law and the Arms Trade Treaty (ATT).

The EPF is financed by member states' contributions outside the EU's common budget. This means that the responsibility for the EPF is in the hands of the Council, whereas the European Parliament only has an advisory position and no parliamentary control. Therefore, the Council tries to assure that the delivery of weapons will be by international standards (EEAS, 2021).

The Council of the European Union, based on a proposal by the High Representative or a Member State, decides what kind of assistance and equipment can be supplied according to the needs of EU partners. It assesses the level of guarantees and safeguards for adequate use, respect of human rights and international humanitarian law, as well as other criteria such as ownership, avoidance of diversion, traceability of equipment, local absorption capacity, and sustainability of EU investment (European Commission, 2022).

The EPF incorporates and replaces the Athena mechanism and the African Peace Facility (APF) which, since 2004, were used to fund EU CSDP military missions and operations, as well as provide financial support to African peace support operations, including those with a military component. Today, the EPF has the advantage of offering a single, efficient source of funding to support these types of EU actions and can also fill some of the gaps in these two previous initiatives.

### **Aid to the Ukrainian Army**

The European Peace Facility is on the frontline in supporting the capabilities and resilience of the Ukrainian Armed Forces, to defend the territorial integrity and sovereignty of the country and protect the civilian population against the ongoing Russian military aggression. EU foreign policy chief Josep Borrell said to journalists after the EU Foreign Ministers' meeting on Feb 27th that "we have decided to use our capacities to provide arms, lethal arms, lethal assistance to the Ukrainian army for a value of €450 million support package and €50 million more for the non-lethal supplies – [such as] fuel and protective equipment" (Fotidiadis & Schmidt, 2022). Since then, the EU has further increased EPF funds destined to provide Ukraine with lethal military equipment to €1.84 billion. This marks the first time that the EPF has been used to fund the provision of lethal military equipment (Maletta & Héau, 2022).

In Josep Borrell's opinion, EU countries' stocks of weapons are severely "depleted" in the wake of sending arms to Ukraine. He also suggested that member states need urgently to replenish their arsenals, saying that the best way of doing so is "together," because that would "be cheaper"; admitting that the EU should have begun training Ukrainian troops a year ago when some member states called for it, saying if that had happened, "we would be in a better situation." (Preussen, 2022).

On the German side, just days after saying support will not be possible anymore, Defence Minister Christine Lambrecht announced that Germany would send 50 "Dingo" armoured vehicles to Ukraine. (France24, 2022). The announcement comes as the German Government has faced mounting criticism from Ukraine, the US, and domestic politicians in recent days for not increasing its weapon deliveries. Since the outbreak of Russia's war in Ukraine, Chancellor Olaf Scholz's government has repeatedly insisted that it could not supply different types of military aid, before subsequently changing ideas due to strong domestic and international pressure (Burchard, 2022).

## The Danger of Weapons Misuse

Arms transfers to countries affected by crises and conflict bear higher risks of weapons misuse as well as potential diversions to unauthorized end-users. The prospect that the EPF could be used to finance the supply of lethal military equipment to countries that are affected by political instability including armed conflict has also sparked concerns, due to the danger that the transfer of lethal equipment could aggravate armed violence and ultimately harm civilians. How states should act to build their national arms transfer control systems and ensure the control of weapons and ammunition is regulated by the UN Programme of Action on SALW (UNPOA) with ATT.

The EU and its member states have instruments and expertise at their disposal that they should use to minimize the potential negative consequences generated by using the EPF for addressing partners' security needs (Maletta & Héau, 2022). Before the war, Ukraine was the host of one of the largest illegal arms markets in Europe, especially for small arms and ammunition. It was a place where US experts believe that end-user monitoring was very likely to fail (Fotidiadis & Schmidt, 2022).

Defence minister Oleksii Reznikov said in an interview that Ukrainians had every interest in retaining all the funds provided by western allies. "We need to survive. We have no reason to smuggle arms out of Ukraine," he said nearly five months after Russia's invasion. He also added that Ukraine is using NATO software to monitor the destination and use of weapons, that NATO allies can access. In addition, they are also developing two other tracking systems to implement NATO software. (Olearchyk & Hall, 2022). Furthermore, heavy weapons such as 155mm howitzers have GPS trackers integrated, while anti-aircraft missiles and lightweight "kamikaze" drones, whilst not GPS tracked, are limited to special forces' use under strict control (Olearchyk & Hall, 2022).

Officials hope the surge in defence spending, prompted by the war in Ukraine and the threat posed by Russia to the EU's eastern flank, will provide significant motivation. In 2020, just 11% of EU states' national defence budgets was spent in collaboration with other bloc governments — well below the 35 per cent target set by Brussels' own European Defence Agency (European Defence Agency, 2021). This has resulted in the EU's armies using various and often incompatible weapons systems (Foy, 2022).

## Recommendations

Considering the volatile contexts in which the EPF was made, the risk of weapons being diverted or misused is tangible. The Stockholm International Peace Research Institute (SIPRI) in its report analysed some recommendations that the EU and its member states should follow, including:

- Giving the European Parliament a role in the implementation of the EPF.
- Ensuring transparency on what equipment is funded by the EPF.
- Using the full range of post-shipment controls and ensuring coordination between the EU and EU member states on how these are implemented.
- Mapping and using the tools and expertise that the EU has at its disposal to conduct risk assessments and post-shipment controls.
- Building links between EPF assistance measures, arms transfer and SALW control-related assistance activities.
- Retaining and developing good practices.

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