

COUNCIL DECISION (CFSP) 2022/1968
of 17 October 2022
on a European Union Military Assistance Mission in support of Ukraine (EUMAM Ukraine)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 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) The European Council, in its conclusions of 24 February 2022, condemned in the strongest possible terms the Russian Federation's unprovoked and unjustified military aggression against Ukraine. It reiterated its unwavering support for the independence, sovereignty and territorial integrity of Ukraine within its internationally recognised borders.
- (2) The European Council, in its conclusions of 24 February, 24-25 March and 30-31 May 2022, demanded that Russia immediately stop its military aggression in the territory of Ukraine, immediately and unconditionally withdraw all forces and military equipment from the entire territory of Ukraine, and fully respect Ukraine's territorial integrity, sovereignty and independence within its internationally recognised borders.
- (3) The European Council in its conclusions of 23-24 June 2022 further stated that the Union remains strongly committed to providing further military support to help Ukraine exercise its inherent right of self-defence against the Russian aggression and defend its territorial integrity and sovereignty. To that end, the European Council called on the Council to swiftly work on a further increase of military support.
- (4) By letter dated 30 September 2022, the Minister for Foreign Affairs and the Minister of Defence of Ukraine jointly requested military support to Ukraine from the Union, confirmed that Ukraine's current needs in that regard include basic and collective military training, as well as specialised military training of personnel in medicine, logistics, chemical, biological and radiation protection, engineering support, cyber security and cyber defence, and combined arms instructors training, without prejudice to other areas which may be of interest in the future, and welcomed the establishment for that purpose, as a matter of urgency, of a Union military assistance mission in support of Ukraine.
- (5) On 10 October 2022 the Council approved a Crisis Management Concept for a possible non-executive Common Security and Defence Policy (CSDP) Military Assistance Mission in support of Ukraine (EUMAM Ukraine), with an initial duration of 2 years after it is launched.
- (6) EUMAM Ukraine should have the strategic objective to contribute to enhancing the military capability of Ukraine's Armed Forces (UAF) to regenerate and effectively conduct operations, in order to allow Ukraine to defend its territorial integrity within its internationally recognised borders, effectively exercise its sovereignty and protect the civilians in Ukraine.
- (7) EUMAM Ukraine will be part of the EU Integrated Approach in providing support to Ukraine, which includes military assistance measures under the European Peace Facility (EPF) established by Decision (CFSP) 2021/509 ⁽¹⁾ to supply military equipment to the UAF. EUMAM Ukraine will cooperate with the Union's delegation in Kyiv and with the civilian CSDP mission EUAM Ukraine established by Decision 2014/486/CFSP ⁽²⁾.

⁽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 Decision 2014/486/CFSP of 22 July 2014 on the European Union Advisory Mission for Civilian Security Sector Reform Ukraine (EUAM Ukraine) (OJ L 217, 23.7.2014, p. 42).

- (8) In response to Ukraine's request for military support, EUMAM Ukraine should provide individual, collective and specialised training to the UAF, training to the Territorial Defence Forces of the UAF, and coordination and synchronisation of Member States' activities supporting the delivery of training to the UAF.
- (9) The design of EUMAM Ukraine should be scalable, modular and flexible, so that its activities are able to swiftly adapt to the situation in Ukraine and to evolving and longer-term UAF needs.
- (10) Given the exceptional circumstances resulting from Russia's war of aggression against Ukraine and for as long as those circumstances prevail, EUMAM Ukraine should operate in the territory of the Member States, as a temporary measure, in line with Article 42(1) of the Treaty on European Union (TEU), until the Council decides otherwise.
- (11) The Political and Security Committee (PSC) should exercise, under the responsibility of the Council and of the High Representative of the Union for Foreign Affairs and Security Policy (HR), political control over EUMAM Ukraine, provide it with strategic direction and take the relevant decisions in accordance with the third paragraph of Article 38 TEU.
- (12) The Union's Status of Forces Agreement (EU SOFA) ⁽³⁾ should apply to Union-led units and personnel of EUMAM Ukraine deployed in the territory of the Member States. The status of the UAF personnel participating in the organisation of, or benefiting from, training provided by EUMAM Ukraine should be defined in arrangements between the competent authorities of the Member States hosting the training and the competent authorities of Ukraine. EUMAM Ukraine may also enter into arrangements with the competent authorities of Ukraine regarding the conditions under which UAF personnel will be hosted by EUMAM Ukraine.
- (13) EUMAM Ukraine should be open to the participation of like-minded third States, upon invitation, subject to agreements between the Union and those third States on their participation and to acceptance by the PSC.
- (14) Pursuant to Article 41(2) TEU and in accordance with Decision (CFSP) 2021/509, the operating expenditure arising from this Decision, which has military or defence implications, is to be borne by the Member States.
- (15) Given the unique needs of EUMAM Ukraine and the specific conditions for establishing it, resulting from the magnitude of the training to be provided and the speed with which it needs to be delivered to Ukraine, it is necessary to determine that certain incremental costs, in addition to those qualifying as common costs in accordance with Decision (CFSP) 2021/509, will be regarded as common costs for EUMAM Ukraine. For EUMAM Ukraine, due to the extraordinary circumstances, funding in common as an exceptional measure items necessary to support the UAF trainees and the training activities will enable the Union to mobilise the necessary resources in order to provide support to Ukraine on the required scale.
- (16) Given the urgency, as soon as possible, ammunition and equipment or platforms designed to deliver lethal force should be funded from a dedicated EPF assistance measure complementing EUMAM Ukraine. Any other equipment, including personal training kits, should be provided under another assistance measure. Assistance measures under the EPF could also provide specialised equipment and, if so requested by Ukraine, maintenance and repair of military equipment donated to Ukraine under the EPF.
- (17) In order to maximise efficiency in meeting Ukraine's needs, EUMAM Ukraine should coordinate its activities with like-minded international partners providing military support, in particular military training, to the UAF,

⁽³⁾ Agreement between the Member States of the European Union concerning the status of military and civilian staff seconded to the institutions of the European Union, of the headquarters and forces which may be made available to the European Union in the context of the preparation and execution of the tasks referred to in Article 17(2) of the Treaty on European Union, including exercises, and of the military and civilian staff of the Member States put at the disposal of the European Union to act in this context (EU SOFA) (OJ C 321, 31.12.2003, p. 6).

HAS ADOPTED THIS DECISION:

Article 1

Mission

1. The Union shall conduct a Military Assistance Mission in support of Ukraine (EUMAM Ukraine).
2. The strategic objective of EUMAM Ukraine shall be to contribute to enhancing the military capability of Ukraine's Armed Forces (UAF) to regenerate and to effectively conduct operations, in order to allow Ukraine to defend its territorial integrity within its internationally recognised borders, effectively exercise its sovereignty and protect the civilians in Ukraine.
3. To achieve the objective set out in paragraph 2, EUMAM Ukraine shall provide:
 - (a) individual and collective training to UAF personnel at basic, advanced and specialised levels: in particular in junior leadership from section/squad and platoon levels up to company, battalion and brigade levels, including operational training; and preparation of companies, battalions and brigades in collective manoeuvre and tactics up to brigade level, including advice on the planning, preparation and conduct of live firing exercises;
 - (b) specialised training to UAF personnel;
 - (c) training to the Territorial Defence Forces of the UAF;
 - (d) coordination and synchronisation of Member States' activities supporting the delivery of training support to the UAF.
4. International humanitarian law, human rights, protection of civilians including against gender-based violence, as well as the 'Women, Peace and Security', 'Youth, Peace and Security' and 'Children and Armed Conflict' agendas shall be fully integrated in EUMAM Ukraine's operational planning, training and reporting.
5. Until the Council decides otherwise and amends this Decision accordingly, EUMAM Ukraine shall operate in the territory of the Member States.
6. The training provided by EUMAM Ukraine may take place in multiple locations across the Union, subject to the explicit consent of the host Member State. It shall be adapted to evolving and longer-term UAF needs.
7. The mandate of EUMAM Ukraine shall be non-executive.

Article 2

Designation of the Headquarters

1. In terms of the EUMAM Ukraine command and control, the Military Planning and Conduct Capability (MPCC) shall be the Operations Headquarters and shall also ensure overall coordination and synchronisation at the strategic level within EUMAM Ukraine's framework.
2. In this framework, a multinational Combined Arms Training Command (CAT-C) shall be established at the operational level on the basis of an existing and already fully operational national command and control structure in a neighbouring Member State where the integration of the training components to create formed units shall take place.
3. Another Member State shall make available a multinational Special Training Command, which shall command training activities on its soil. That multinational Special Training Command shall be established on the basis of an existing national command and control structure, to further enhance the training offer in full coordination with the CAT-C.

4. The functions of the CAT-C and the multinational Special Training Command as well as other training commands established in Union Member States shall be further developed in the relevant planning documents in accordance with the established rules for military command and control in the Union.

Article 3

Appointment of the EU Mission Commander

The Director of the MPCC shall be EUMAM Ukraine Mission Commander.

Article 4

Planning and launch of EUMAM Ukraine

The Decision to launch EUMAM Ukraine shall be adopted by the Council following approval of the Mission Plan for EUMAM Ukraine, including its Rules of Engagement.

Article 5

Political control and strategic direction

1. Under the responsibility of the Council and of the HR, the PSC shall exercise the political control and strategic direction of EUMAM Ukraine. The Council hereby authorises the PSC to take relevant decisions in accordance with Article 38 TEU. That authorisation shall include the powers to amend the planning documents of EUMAM Ukraine, including the Mission Plan, and the Chain of Command. That authorisation shall also include the powers to take decisions on the appointment of the EU Commanders, namely the Combined Arms Training Commander, the Special Training Commander, and any other EU Training Commanders. The powers of decision with respect to the objectives and termination of EUMAM Ukraine shall remain vested in the Council.

2. The PSC shall report to the Council at regular intervals.

3. The PSC shall, at regular intervals, receive reports from the chairman of the EU Military Committee (EUMC) regarding the conduct of EUMAM Ukraine. The PSC may invite the EU Commanders to its meetings, as appropriate.

Article 6

Military direction

1. The EUMC shall monitor the proper execution of EUMAM Ukraine conducted under the responsibility of the EU Mission Commander.

2. The EUMC shall, at regular intervals, receive reports from the EU Mission Commander. It may invite the EU Commanders to its meetings, as appropriate.

3. The chairman of the EUMC shall act as the primary point of contact with the EU Mission Commander.

Article 7

Consistency of the Union's response and coordination

1. The HR shall ensure the implementation of this Decision and its consistency with the Union's external action as a whole, including the Union's military assistance measures in support of Ukraine funded under the European Peace Facility.

2. Without prejudice to the chain of command, the EU Mission Commander shall maintain close cooperation and coordination with the Head of the Union Delegation to Ukraine and with the Head of Mission of EUMAM Ukraine. The EU Mission Commander, with the support of the EU command and control structure referred to in Article 2(2), shall maintain close cooperation and coordination with Ukrainian authorities at the appropriate levels.

3. EUMAM Ukraine shall coordinate its activities with Member States' bilateral activities in support of Ukraine, as well as with other like-minded international partners, in particular the United States of America (USA), the United Kingdom of Great Britain and Northern Ireland (UK), Canada, the International Donor Coordination Cell (IDCC) and the EUCOM Control Centre Ukraine.

Article 8

Participation of third States

1. Without prejudice to the decision-making autonomy of the Union and its single institutional framework, and in accordance with the relevant guidelines of the European Council, third States may be invited to participate in EUMAM Ukraine.
2. The Council hereby authorises the PSC to invite third States to offer contributions and to take relevant decisions on acceptance of the proposed contributions, upon the recommendation of the EU Mission Commander and of the EUMC.
3. Detailed arrangements regarding the participation of third States shall be covered by agreements concluded pursuant to Article 37 TEU and in accordance with the procedure laid down in Article 218 of the Treaty on the Functioning of the European Union. Where the Union and a third State have concluded an agreement establishing a framework for the latter's participation in crisis management missions of the Union, the provisions of such an agreement shall apply in the context of EUMAM Ukraine.
4. Third States making significant military contributions to EUMAM Ukraine shall have the same rights and obligations in terms of the day-to-day management of EUMAM Ukraine as Member States taking part in EUMAM Ukraine.
5. The Council hereby authorises the PSC to take relevant decisions on the setting-up of a Committee of Contributors in the event that third States make significant military contributions.

Article 9

Status of Union-led units and personnel

The Union's Status of Forces Agreement (EU SOFA) shall apply to Union-led units and personnel deployed in the territory of the Member States.

Article 10

Status of Ukraine's personnel

The status of the UAF personnel participating in the organisation of, or benefiting from, training provided by EUMAM Ukraine shall be defined in arrangements between the competent authorities of the Member States hosting the training and the competent authorities of Ukraine. EUMAM Ukraine and the competent authorities of Ukraine may enter into arrangements regarding the conditions under which UAF personnel will be hosted by EUMAM Ukraine.

Article 11

Financial arrangements

1. The common costs of EUMAM Ukraine shall be administered in accordance with Decision (CFSP) 2021/509.
2. In accordance with Article 44(6) of Decision (CFSP) 2021/509, the following specific rules shall apply to EUMAM Ukraine:

- (a) the EU command and control structure referred to in Article 2(2) and (3) is to be funded in accordance with the rules applicable to a Mission Force Headquarters, regardless of location;
 - (b) the following incremental costs are to be funded in common by the EPF:
 - (i) operational costs for support to the UAF trainees (transportation from the Ukrainian border to the training facilities and return, and on, around and between training facilities; real life support; medical support and evacuations);
 - (ii) operational costs necessary for the training activities (petroleum, oil and lubricants, maintenance of vehicles used in training; interpreters; and personal training kits, where not provided by Ukraine).
3. The personal training kits referred to in paragraph 2 shall no longer be regarded as common costs once they are provided under an EPF assistance measure.
4. The items listed in paragraph 2 may be supplied by a Member State, in which case EUMAM Ukraine will pay that Member State for those supplies under the rules applicable to payments to EUMAM Ukraine's suppliers. Alternatively, such items may be procured by EUMAM Ukraine.
5. The financial reference amount for the common costs of EUMAM Ukraine for the period of 2 years after it is launched shall be EUR 106 700 000. The percentage of the reference amount referred to in Article 51(2) of Decision (CFSP) 2021/509 shall be 30 % for commitments and 30 % for payments.

Article 12

Project cell

1. EUMAM Ukraine may have a project cell for identifying and implementing projects. EUMAM Ukraine shall, as appropriate, coordinate, facilitate and provide advice on projects implemented by Member States and third States, under their responsibility, in areas related to EUMAM Ukraine's mandate and in support of its objectives.
2. Subject to paragraph 3, the EU Mission Commander shall be authorised to seek recourse to financial contributions from the Member States or third States to implement projects identified as supplementing EUMAM Ukraine's other actions in a consistent manner. In such a case, the EU Mission Commander shall conclude an arrangement with those States, covering in particular the specific procedures for dealing with any complaint from third parties concerning damage caused as a result of acts or omissions by the EU Mission Commander in the use of the funds provided by those States.
3. Under no circumstances shall the Union or the HR be held liable by contributing States as a result of acts or omissions by the EU Mission Commander in the use of funds from those States.
4. The PSC shall agree on the acceptance of a financial contribution from third States to the project cell.

Article 13

Release of information

1. The HR shall be authorised to release to the third States associated with this Decision, as appropriate and in accordance with the needs of EUMAM Ukraine, EU classified information generated for the purposes of EUMAM Ukraine, in accordance with Decision 2013/488/EU ^(*):
 - (a) up to the level provided in the applicable security of information agreements concluded between the Union and the third State concerned; or

^(*) Council Decision 2013/488/EU of 23 September 2013 on the security rules for protecting EU classified information (OJ L 274, 15.10.2013, p. 1).

(b) up to the 'CONFIDENTIEL UE/EU CONFIDENTIAL' level in other cases.

2. The HR shall also be authorised to release to Ukraine, the USA, the UK, Canada and the IDCC, in accordance with the operational needs of EUMAM Ukraine, EU classified information up to 'RESTREINT UE/EU RESTRICTED' level which are generated for the purposes of EUMAM Ukraine, in accordance with Decision 2013/488/EU. The necessary arrangements between the HR and the competent authorities of Ukraine and the IDCC shall be drawn up for that purpose.

3. The HR shall be authorised to release to the third States associated with this Decision any EU non-classified documents connected with the deliberations of the Council relating to EUMAM Ukraine and covered by the obligation of professional secrecy pursuant to Article 6(1) of the Council's Rules of Procedure ⁽⁵⁾.

4. The HR may delegate the powers referred to in paragraphs 1 to 3, as well as the ability to conclude the arrangements referred to in paragraph 2, to staff of the European External Action Service or to EU Commanders.

Article 14

Entry into force and termination

1. This Decision shall enter into force on the date of its adoption. It shall apply until 2 years after EUMAM Ukraine is launched.

2. A strategic assessment of EUMAM Ukraine and its mandate shall be conducted by the PSC 6 months after EUMAM Ukraine is launched. A strategic review of EUMAM Ukraine shall be conducted in good time before the expiry of this Decision.

3. This Decision shall be repealed as from the date of closure of the EU command and control structure referred to in Article 2(2) and (3) in accordance with the plans approved for the termination of EUMAM Ukraine, and without prejudice to the procedures regarding the audit and presentation of the accounts of EUMAM Ukraine, laid down in Decision (CFSP) 2021/509.

Done at Luxembourg, 17 October 2022.

For the Council
The President
J. BORRELL FONTELLES

⁽⁵⁾ Council Decision 2009/937/EU of 1 December 2009 adopting the Council's Rules of Procedure (OJ L 325, 11.12.2009, p. 35).