



Two years European Peace Facility

The European Peace Facility (EPF) was established two years ago, and a lot has changed since then. The aim of this paper is to provide an overview of the practical implementation of the EPF under these circumstances, with an analysis of what has happened over the two years. In order to do so, this paper will summarise the main purposes of the EPF and see how they have materialised. It will follow up on the statement by the European Peacebuilding Liaison Office (EPLO) from 2021 on minimising significant risks in the implementation of the EPF, consider how the concerns of civil society have been addressed and end with updated recommendations.

On 22 March 2021, the Council of the European Union established the European Peace Facility¹ as an off-budget instrument to enable financing for EU actions that have military implications. The EPF replaces and expands the former Athena mechanism² and African Peace Facility³ in enabling the EU to provide military equipment to third countries, or regional or international organisations, relating to military operations. The fund's budget was set at EUR 5 billion for a period of seven years (2021-2027). However, use of the instrument has been much greater than foreseen and two-thirds of the budget had already been allocated to Ukraine by the end of 2022; it therefore had to be readjusted to ensure the continuation of the EPF. On 12 December 2022, the Council agreed to increase the financial ceiling by EUR 2 billion in 2023⁴. There is

a likelihood of a further EUR 3.5 billion increase later this year. The decision to provide finance assistance in a particular instance is made by a committee of representatives of each member state following the request from a potential beneficiary. EU member states make yearly direct contributions to the EPF based on their gross national income. The Council then decides whether to reimburse them for the military equipment they provide⁵. With this new tool, the Union wants “to prevent conflicts, build peace and strengthen international security”⁶.

Assistance measures

The EPF consists of two pillars⁷; the operations pillar and the assistance measures pillar. The first is focused on funding the shared costs of military Common Security and Defence Policy (CSDP) missions and operations, and military-related aspects of Peace Support Operations. The second pillar offers the EU the possibility to bilaterally provide military training, equipment and infrastructure in partner countries worldwide. The operations pillar is often accompanied by a training component. The risks of delivering material and the risks of providing training are inherently different. In the context of arms export policy, the danger that is implied in the delivery of equipment relates principally to the risks of diversion and misuse. Consequently, in the present report attention will be paid in particular to the risks related to the delivery of equipment, rather than those related to training. Nevertheless, all the existing assistance measures will be laid out hereunder for comparison and comprehension reasons.

As of mid-June 2023, there are thirteen countries or regions that have received assistance measures under the EPF⁸:

- **The African Union (AU)**⁹: two assistance measures for a total of EUR 730 million in the form of a general programme to support the AU until 2024, with the objectives of reducing the incidence, duration and intensity of violent conflicts in Africa, and strengthening the role of the AU in achieving peace and security on the African continent. Under these measures, continuous support is provided to military components of African-led Peace Support Operations previously funded under the African Peace Facility.
So far, the following sums have been provided:
 - o EUR 185 million to the *African Union Mission in Somalia* to support the military component of the mission, including troop allowances.
 - o EUR 20 million to the *Somali National Army* for military training facilities and non-lethal equipment for the soldiers trained by the European Union Training Mission (EUTM).
 - o EUR 20 million to the *Multi-national Joint Task Force against Boko Haram* to enhance the operational effectiveness of the task force.
 - o EUR 35 million to the *G5 Sahel Joint Force* to strengthen the resilience of the joint force.
 - o EUR 15 million to the *Southern African Development Community mission to Mozambique* to support the military component of the mission, including camp fortifications and storage containers, medical equipment, vehicles and boats, and technological devices.
- **Bosnia and Herzegovina**¹⁰: two assistance measures for a total of EUR 20 million, to (1) enhance and upgrade the capabilities of the armed forces through the provision of demining equipment, transport and medical vehicles; (2) upgrade its tactical support brigade with field equipment, key tools for military engineering and CBRN (Chemical, Biological, Radiological and Nuclear) material.
- **Mozambique**¹¹: two assistance measures in relation to a CSDP mission for a total of EUR 85 million, to support capacity building for and the deployment of units of the Mozambican armed forces, to be trained by EUTM Mozambique, to restore safety and security in Cabo Delgado province. Includes ground and amphibious mobility assets, technical devices and a field hospital.

- **Georgia**¹²: three assistance measures for a total of EUR 62.75 million to strengthen the capacities of the Georgian Defence Forces' military medical, engineering and logistics units, and cyber-defence services.
- **Moldova**¹³: three assistance measures for a total of EUR 87 million to strengthen the capacities of the armed forces with medical equipment and explosive ordnance disposal equipment, and with logistics, mobility, command and control, cyber-defence, unmanned aerial reconnaissance and tactical communications.
- **Ukraine**¹⁴: eight assistance measures, for a total of EUR 4.6 billion in lethal and non-lethal equipment, to help it defend its territory and population against the Russian aggression (see below for more on this). This includes EUR 1 billion solely of ammunition, part of an EU three-track plan to speed up delivery and joint procurement. The EPF also launched the EU Military Assistance Mission in support of Ukraine (EUMAM Ukraine).
- **Mali**¹⁵: in relation to the EU Training Mission in Mali, EUR 24 million to strengthen the capacities of the armed forces to enable military operations to restore the country's territorial integrity and reduce the threat of terrorism. This included training infrastructure and non-lethal equipment. But these components have been suspended due to the presence of Wagner Group mercenaries in Mali, and the inability of the Malian military junta to guarantee non-interference by the Russian mercenaries¹⁶.
- **The Balkans**¹⁷: EUR 6 million to support capacity building of the Balkan Medical Task Force by procuring mobility assets, medical components, laboratory, IT and communication equipment.
- **Niger**¹⁸: four assistance measures, for a total of EUR 70 million in lethal and non-lethal equipment, to help it defend its territory and population in the fight against terrorism. EUR 25 million "to strengthen the capabilities" of the armed forces "to enable them to defend the territorial integrity and the sovereignty of Niger and to better protect the civilian population against, in particular, the mounting terrorist threat". This includes the establishment of a training centre and a forward operating base in the Tillabéri region. Subsequently, the EUMPM Niger, a Union military partnership mission, was established to support the capacity building of the Nigerien Armed Forces. This led to the establishment of a second assistance measure, in conjunction with the EUMPM Niger, worth EUR 40 million to enhance the military capacity of the armed forces. Goods "not designed to deliver lethal force" include ground mobility assets, surveillance radar and drones, ICT, and countermeasures equipment. In June 2023, the Council approved two assistance measures. One was of EUR 4.7 million to support the Nigerien Armed Forces with military equipment. Niger became the second country receiving lethal equipment under the EPF, in the form of air-to-ground ammunition for helicopters. An additional assistance measure of EUR 297,000 is meant to finance activities that complement the provision of military equipment by ensuring its adequate use, maintenance, storage and monitoring.
- **Lebanon**¹⁹: EUR 6 million to enhance the medical equipment and provide individual equipment for the logistic brigade.
- **Mauritania**²⁰: EUR 12 million to help the armed forces of the Islamic Republic of Mauritania respond to the security threats with "equipment not designed to deliver lethal force", including "riverine and technical equipment for the *Bataillon des fusiliers marins*", individual protective equipment and medical equipment.
- **Rwanda Defence Force in Mozambique**²¹: EUR 20 million to support the continued deployment of the Rwandan forces in Cabo Delgado province with collective and personal (non-lethal) equipment and by covering the costs related to the strategic airlift.
- **Jordan**²²: EUR 7 million to enhance the capacities of the Jordanian Armed Forces by enhancing its military medical services, engineer brigades and operational units in charge of securing its borders.

Lethal equipment for Ukraine

No one could have foreseen that the main use of the EPF would be supporting Ukraine in its international armed conflict with Russia, after the latter's invasion on 24 February 2022²³. The EU has since demonstrated its support towards Ukraine in many ways and has strongly condemned the Russian attack. On 28 February 2022, the EPF was used for the first time to enable the supply of lethal military equipment. Article 1 of the Council decision establishing the assistance measure stated that the objective of providing Ukraine with military equipment and platforms to deliver lethal force was to “contribute to strengthening the capabilities and resilience of the Ukrainian Armed Forces to defend the territorial integrity and sovereignty of Ukraine and protect the civilian population against the ongoing military aggression”²⁴.

Almost immediately after the Russian invasion, EU member states started to send large shipments of weapons to Ukraine, sometimes bilaterally and sometimes under the Council decision²⁵. It has mostly been unclear when arms were being exported as a result of unilateral action by individual member states and when arms were given under the EPF. As of May 2023, the EU has made available a total amount of EUR 4.6 billion for military assistance to Ukraine under the EPF. In November 2022, EU foreign policy chief Joseph Borrell mentioned that the total amount provided by both the European Peace Facility and the member states directly had reached at least EUR 8 billion²⁶. Nevertheless, it is important to keep in mind that with relatively little detailed official information available, accurate numbers and the actual military equipment provided are hard to determine. Moreover, no exact definition of what constitutes reimbursement-eligible equipment has been provided. States could seek reimbursement based on either an estimate of the value of delivered equipment or the cost of replenishing stocks. Despite the large volumes and value of equipment already provided, a lot of uncertainty still remains.

Despite the almost unanimous support from the European Union, it must be noted that member states have the right to abstain from involvement in decisions to supply items for the delivery of lethal force. According to Article 5 of the Council decision establishing the EPF, any member state that has abstained from an assistance measure designed to deliver lethal force does not have to contribute to the costs of that assistance measure but shall then contribute an additional amount to assistance measures that do not involve the supply of military equipment or lethal force. Most EU member states have agreed though to help Ukraine defend its territory by providing military aid. Germany, for example, has drastically reversed its long-term policy of not sending weapons to a conflict zone²⁷.

On the other hand, Malta and Austria, as well as Cyprus, have not provided any military equipment to Ukraine and have instead focused on providing humanitarian aid. Hungary has also adopted the same practice, as the country wants to stay out of the conflict.²⁸ Initially, the Bulgarian government also officially refused to send weapons to Ukraine due to pro-Russian opposition in the parliament, and settled on providing military-technical support²⁹. However, Bulgaria has been revealed to be one of the biggest indirect suppliers of weapons to Ukraine. Indeed, Petkov, the prime minister at the time, was secretly providing ammunition and fuel to Ukraine³⁰. Bulgaria did not supply Ukraine directly, but the arms were re-exported to Ukraine after being sold to Poland and Romania by Bulgarian arms manufacturers and dealers. In June 2022, Petkov and his government fell after a motion of no confidence and in December the parliament finally approved official arms supplies to Ukraine. A list of arms was drawn up by the interim government; the list remains unpublished, but the officials have mentioned that only light weaponry and ammunition would be sent³¹.

Denmark, which usually stays outside of the EU's Common Security and Defence Policy, has also decided to provide weapons to Ukraine.³² The Danish government executed a drastic change, as it held a referendum on 1 June 2022 to approve the abolition of the 30-year-old opt-out clause related to EU defence, consequently allowing Denmark to participate in the Union's CSDP initiatives.³³ This may have implications for their participation in the implementation of current and future EPF assistance measures. Moreover, in March 2023, Denmark joined the European Defence Agency, admitting that it wanted to be fully involved in actions to ensure European security and stating that Ukraine still needs massive support from its allies³⁴.

Arms export policy

The European Peace Facility has, without a doubt, extended the powers of the European Union in security and defence matters, in line with the objectives of the Strategic Compass, through which the EU aims to strengthen its security and defence policy by 2030³⁵. The Compass offers a plan of action by assessing the environment and challenges of the Union in order to improve its ability to act in crises. Officially, the EPF, through the possibility of providing military equipment and infrastructure, is considered as playing an important role in enhancing the EU's ability to provide security for its citizens and partners³⁶. However, it must not be forgotten that the power of the Union to supply lethal military support is constrained by the arms exports' assessment criteria in the 2008 *EU Common Position* and the 2013 *Arms Trade Treaty*³⁷. Indeed, the Council decision establishing the EPF reiterates that any action under the Common Foreign and Security Policy should comply with the Union law, hence the Common Position, and that member states should respect their obligations under international law.

The EU's Common Position on arms exports is a legally binding arrangement on conventional arms exports³⁸. It lays down common rules for the control of exports of military equipment. It includes eight common criteria that member states need to consider when assessing export licence applications for items falling under the *EU Military List*, covering 22 categories of arms, munitions, military equipment and technologies. The assessment criteria encompass³⁹:

1. Respect for international obligations and commitments;
2. Respect for human rights and international humanitarian law in the country of final destination;
3. The internal situation in the country of final destination;
4. Preservation of regional peace, security and stability;
5. The national security of EU member states, allies and friendly countries;
6. Behaviour of the buyer country with regard to the international community;
7. Risk of diversion;
8. Compatibility of the exports with the technical and economic capacity of the recipient country.

The Arms Trade Treaty (ATT) is an international treaty regulating the international trade of conventional arms and seeking to prevent and eradicate illicit trade and diversion⁴⁰. Both the Common Position and the ATT constitute legal frameworks around international arms control, requiring a thorough assessment before sending weapons. In the case of the EPF, this takes the form of the requirement to establish a risk and safeguards methodology for assistance measures, which includes assessments of conflict sensitivity, risk and impact, possible mitigating measures, arrangements for monitoring and evaluations, and strict controls and safeguards. The instrument to be used to implement this methodology is called the *Integrated Methodological Framework (IMF)*. The IMF is not a public document, but the European External Action Service (EEAS) has publically stated that four key principles underpin it⁴¹:

1. Compliance with all relevant legal instruments and best practices in the area of the supply of military equipment, and respect for international law by the beneficiary;
2. Protection of the EU and local populations;
3. Proportionality;
4. Post-delivery controls.

The process of the IMF entails a case-by-case assessment of the context and conflict analysis, followed by a verification of compliance and the identification of control measures that are required to implement the assistance measure. Through the obligation of complying with EU and international law, the IMF acknowledges the importance of conforming with the assessment criteria of the ATT and the Common Position.

The situation in Ukraine, as the country that has been provided with the largest chunk of lethal equipment under the EPF so far, allows further examination of how the EPF has been used in practice since its establishment, and identification of any specific weaknesses or strengths in the management of this new tool, in particular with regards to risk assessments, as well as transparency and reporting about the specifics of the equipment delivered. In March 2023, the EU pledged to deliver lethal equipment to Niger and Somalia as well. In June 2023, it made its pledge official with the delivery of air-to-ground ammunition to Niger. Due to the recency of the decision and the absence of further public information, it is hard to analyse the recommendations in the case of Niger. No official decision has been made yet regarding Somalia.

Follow-up on recommendations

EPLO and its member peace organisations have long expressed strong reservations about the EPF and its effects on human security, questioning the necessity and added value of this new tool. In 2021, they provided a list of recommendations to the EU and its member states on how they could reduce the risks of harming civilians in conflict-affected places where the EU has established EPF assistance measures⁴². In this paper, three main recommendations will be analysed in light of the evolution of the EPF within the recent context of Ukraine.

1. Put human security at the core of each EPF assistance measure's rationale

Human security should be considered as a key priority. It centres on the safety of individuals, and EU actors should not only increase human security but also address the root causes of conflict. EPLO initially called for, among other things, explicit reference to human security, using assistance measures as a last resort once it is clear that no other tool could achieve the long-term peace and development goals of the EU in the partner country, excluding the transfer of military equipment that delivers lethal force, and consulting and engaging with civil society organisations.

Human security was not explicitly mentioned in the Council decision establishing the EPF. A year later, in March 2022, the EU adopted the Strategic Compass. In its priorities, particularly the one to act rapidly and robustly whenever a crisis erupts, it makes the commitment to promote and advance human security⁴³. The EPF being a specific tool of the Strategic Compass, this would entail the incorporation of human security in the decision-making. Nevertheless, human security was not mentioned in the Council decisions establishing the assistance measures in Ukraine either. Without explicit mention of human security, it is difficult to assess whether and how human security was taken into consideration in the rationale of the decision-making process.

It is important to recall that strengthening armies without strict conditions and directives may harm the very same civilians that they are supposed to protect. Not only does it increase the risk of diversion and the likelihood of misusing the equipment, but it also increases the risks of aggravating violence against civilians. Indeed, by being better equipped, state actors also become more likely to inflict harm and violate human rights. To fulfil its goal to strengthen security, the EPF must be able to secure the protection of civilians. Having strict safeguards in place and implementing them would enhance the credibility of the stated goal. According to Article 62 of the Council decision establishing the EPF, “The High Representative shall make the necessary arrangements with the beneficiary to ensure compliance with the requirements and conditions established by the Council in relation to assistance measures”⁴⁴. This article indicates that strict conditions and safeguards exist and are implemented when adopting an assistance measure. Nevertheless, what is still lacking is clarity over what kind of safeguards are put into place, how they are implemented, and how compliance with the strict conditions is ensured. As Ukraine is the only country that has received lethal equipment until now, it suggests that the EU may avoid transferring such equipment unless it felt it ‘necessary’ due to the perceived urgency of the situation. Nonetheless, the strict conditions and safeguards have not been made public.

Regarding the consultation of civil society organisations (CSOs), the EEAS has mentioned that, when assessing the risks and safeguards of an assistance measure, they engage with CSO networks in the destination country. We can only assume that consultation has happened on a case-by-case basis until now and that the EU has used a rather flexible process in this matter. Nonetheless, certain evident shortcomings have been identified. The EU has provided very little explanation on whether and how the engagement with local CSOs and communities is carried out in practice, and none of the announcements of assistance measures specified the kind of consultation that took place. In September 2022, PAX organised a roundtable in Ouagadougou with 16 representatives of CSOs from Burkina Faso and Niger who are active in peacebuilding and human rights, to discuss challenges and opportunities to engage with the EU⁴⁵. The roundtable demonstrated that none of the participants had any prior awareness of the EPF. This means that none of them had heard about prior or posterior consultation with CSOs, despite their relevance to the stated goals of the EPF. It is a common complaint from peacebuilding organisations that there is a considerable lack of communication from the EU with local CSOs and communities, which impedes genuine engagement on initiatives that affect them. Not only does the EU miss out on opportunities to acquire input on conflict analysis and an assessment of risks during the preparatory phases, but engagement with local CSOs and communities is also essential during the monitoring phases of the assistance measure. The EEAS has informally acknowledged that strategic communication with local communities could be improved and has expressed its willingness to receive proposals from CSOs on how to develop efficient strategic communication.

2. Ensure the EU’s risk management tools and procedures are fit for purpose

The EPLO’s 2021 statement contains a reminder that the Council decision establishing the EPF requires a conflict sensitivity and context analysis to be performed, as well as a risk and impact assessment, before establishing an assistance measure. Specific monitoring and evaluation arrangements should also be included. These require a thorough analysis and consultation process, taking into consideration aspects such as gender sensitivity, the diversity of the local civil society actors, civilian harm risks, and peace and conflict dynamics, as well as climate and environmental aspects.

Indeed, Article 9 of the Council decision establishing the EPF does mention that a risk and safeguards methodology shall be established, including possible mitigation and flanking elements, arrangements for monitoring and evaluation, and controls and safeguards⁴⁶. Moreover, Article 57 mentions that in the

preparatory phase, a concept note shall be submitted outlining a preliminary analysis of the conflict sensitivity, context and risks, considerations for an impact assessment, and safeguards and mitigating measures⁴⁷. However, in Article 59 it clearly states that these shall be further developed in the proposal for the assistance measure, and that the decision establishing the assistance measure shall set out controls and guarantees, as well as the necessary provisions on monitoring and evaluation in accordance with the risk and safeguards methodology⁴⁸.

In the case of Ukraine, there has been limited public evidence until now of such an assessment, which is especially concerning given the very large numbers of weapons involved and taking into consideration the potential longer-term risks (e.g. diversion to other end-users and re-exports) of sending weapons to a country in conflict. The Council decision to assist Ukraine briefly recalls the need for compliance with the EU Common Position, without articulating its assessment. It gives brief reasons for the assistance measure, mentions the risk of violations of human rights law and international humanitarian law, but does not impose detailed monitoring or follow-up requirements. The concept note of the proposal for the first assistance measure was leaked and it revealed that initial considerations were taken into account regarding conflict sensitivity, context and risks, impact assessment, and safeguards and mitigating measures⁴⁹. However, it contained no substantive in-depth analysis of the scenario, failing to demonstrate thorough and adequate analysis and assessment of the risks. The concept note, being only a part of the preliminary phase and not being thorough enough to demonstrate a real assessment of the risks in accordance with the Common Position and the ATT, raises serious questions regarding the quality of the factual analysis as part of the decision-making process. The urgency of the situation could explain why they did not have the time to produce sufficient material, but when providing lethal equipment, the importance of being complete and rigorous cannot be stressed enough. It must be noted that the leaked concept note is only one example and a document that was unwillingly made available to the public. It probably does not constitute the final version of the assessment, and maybe things have changed since. Nevertheless, it reflects our concerns regarding an insufficient analysis of the risks, and nothing else was officially published. On the other hand, the EEAS has emphasised that safeguards and monitoring are indeed incorporated in each phase of the assistance measures, and that the beneficiary is responsible for storage, monitoring, tracing and performing an inventory of the equipment, and it regards checks and on-site inspections as positive tools. It is questionable to what extent this would be sufficient to prevent diversion and misuse of the military equipment. The supply of weapons to Afghanistan by the United States can serve as an example. In 2016, the New York Times requested the data on the weapons provided. The US Department of Defense admitted having lost track of approximately half of the arms supplied to Afghanistan and Iraq, despite attempting to set up inventory management systems for the Afghan security forces⁵⁰. While oversight appears to be a key priority for weapons supplied to Ukraine, clearly, if Russian troops capture Western-supplied weapons, there is not much that can be done to recover them, unless they can be attacked or destroyed⁵¹. The EU, for its part has created a hub in Moldova as a risk-mitigating measure to prevent arms smuggling from Ukraine⁵². The hub, composed of member states' law enforcement officers, enables Frontex to help local border agencies and Europol to share information. Little more is known about the operation.

3. Ensure high levels of transparency and accountability

Continuous transparency about the support provided by the assistance measures is essential to allow oversight and accountability to the local populations and EU citizens. Moreover, a formal alternative mechanism should be put into place for those affected by the EU's external policies and actions. EPLO has previously recommended making the information publicly available, establishing an independent and accessible complaint mechanism, making the EPF support conditional on effective and accountable

oversight of military forces, protection of human rights, anti-corruption measures and public financial management, and formalising relations with the European Parliament with regular reports to it even though the EPF is not formally subject to its oversight.

Article 71 of the Council decision establishing the EPF does mention that rules would be adopted on public access to documents⁵³. However, it does not seem like these rules have already been adopted or publicly elaborated. The concept note only became known to the public due to a leak, and the IMF is still considered to be a sensitive document with limited access to it. On 28 June 2022 the European Ombudsman decided on a case concerning the EEAS's refusal of public access to the EPF's Integrated Methodological Framework⁵⁴. In this case, in March 2021, "a non-governmental federation for human rights organizations" requested public access to the document called "Integrated methodological framework for assessing and identifying the required measures and controls for assistance measures under the European Peace Facility". The complainant said that it needed to see the document to assess whether the human rights safeguards set up in the EPF were sufficient to ensure the respect of human rights obligations, and to allow EU citizens and civil societies to hold institutions accountable for their actions—especially since lethal weapons were involved. However, the EEAS explained that disclosing this information could provide third parties with sensitive information that would negatively impact the EU's partnerships and the EU's military operations and defence forces. It argued that disclosing the document could undermine the protection of the public interest regarding defence and military matters, and international relations. The Ombudsman found that the decision by the EEAS to refuse public access was reasonable.

Individual member states have not been very transparent either. It is difficult to know the exact value, volumes or types of equipment that states are exporting to Ukraine, let alone which equipment is covered by the EPF and how reimbursement is organised. Even though it varies from country to country, civil society organisations mainly have to rely on outside sources. The Netherlands, for example, has always portrayed itself as very transparent regarding arms transfers. But now it will not publish information on all the equipment it has provided and will only give sporadic information on certain concrete deliveries. In contrast, Germany has published a list of military support provided to Ukraine, which it updates every week⁵⁵. Initially, the list was published not for transparency reasons but due to political pressure from the opposition. The government said that a total of EUR 2 billion was spent to fund the security capacity building initiative in 2022; however, the distinction between bilateral support and EPF contributions is not clear. Many member states have justified their lack of transparency by the need to protect Ukraine's military strategies. While this position may at first sound reasonable, it is undermined by the fact that US policy is to publicly notify in detail the contents of the weapons packages it supplies to Ukraine: if by far the largest supplier of weapons to Ukraine does not see this as a problem, then why can EU states not be similarly transparent? Finding a balance between the goal of transparency and intelligence risks, and creating a publicly available database, would enable civil society oversight and support member states' accountability⁵⁶. The uncertainty and lack of transparency has also led to reimbursement issues and dissatisfaction between the members⁵⁷. The initial reimbursement scheme aimed at comparing the countries' requests with the money put aside for that specific assistance measure. For the first EUR 500 million tranche, the EU received EUR 600 million in requests. By the time of the EUR 1.5 billion tranche, it had received EUR 3.3 billion in requests. Consequently, they had to significantly lower the reimbursement rate. Poland has submitted the highest volume of requests. As of January 2023, it was estimated that Poland had sent invoices for a total of EUR 2 billion, and had only received EUR 30 million back, whereas it had expected the procedure to go faster⁵⁸. Up to now, there has been a lack of clarity and transparency about the reimbursement requests, the equipment included in the requests and the exact amount of money involved.

Lastly, as mentioned in the first recommendation, the ability to equip third countries' armed forces also increases the risks of aggravating violence against civilians, human rights violations, impunity and corruption⁵⁹. The EU should consider its responsibility for the support that it is providing. In the case of international law violations committed with EU-provided weapons, questions of international responsibility arise. It seems that the accountability framework would be divided between the beneficiary state, the EU and its member states, making it complicated for EU and local citizens to get redress⁶⁰. A definite entity that would take responsibility in case of any violation would provide citizens with the confidence that their rights will be protected and/or remedied.

Further recommendations

Since the establishment of the European Peace Facility, its implementation has taken an important turn from its original intentions and a lot of decisions have been taken within the context of the urgency of the situation in Ukraine. It is logical that the European Union and its member states want to help Ukraine and its citizens to defend themselves against the Russian aggression. As such, the EPF has proven to be a powerful instrument through its ability to quickly deliver substantial financial backing to supply lethal military equipment. In that regard, caution and close attention remain necessary, and important aspects – such as risks, safeguards, context, mitigation possibilities, process monitoring etc. – need to be taken into consideration in a transparent way. Now that the Pandora's Box of lethal assistance has been opened, it is important to determine the kind of precedence that these decisions will set for future situations.

In March 2023, the EU held the first Schuman Security and Defence Forum. At this forum, Borrell stated: "We know that our partners are increasingly interested in lethal support. Yes, what we have done for Ukraine can and will be done for others. The first assistance measure to provide lethal equipment for African partners - Niger and Somalia - will be adopted soon"⁶¹ He officially pledged lethal equipment to Niger and Somalia, with the proposed assistance measure for Niger allegedly concerning air-to-ground ammunition for helicopters⁶². The decision to equip these countries is undoubtedly based on the precedent set by Ukraine; however, in this case the rationale is clearly missing. The situation is completely different, and therefore one can wonder what the EU expects to achieve by delivering lethal equipment to Niger and Somalia. Ukraine is a special situation, and therefore it is not possible to justify the delivery of military equipment to other countries with reference to Ukraine. The recent decision to deliver lethal equipment to Niger is being justified by the terrorism threat and by the desire to consolidate the EU-Niger defence partnership⁶³. However, what is lacking is an explanation of how providing air-to-ground ammunition to Niger will prevent the escalation of the conflict in practice and contribute towards building peace in this country or within the international community, especially in the context of human rights concerns regarding the Nigerien security forces, which have been well documented by organisations such as Human Rights Watch and Amnesty International⁶⁴.

The fear concerning the EPF lies in the initial goals for the instrument and how it is being used in practice; is it used to "to prevent conflicts, build peace and strengthen international security"⁶⁵ or is it used to maintain geopolitical influence? Clearly, these goals are not necessarily mutually exclusive, and indeed the former is often used as a formal cover to further the latter objective. Also, the extent to which the EU is able to 'compete' with other 'security providers', such as Russia, Turkey or the Arab Gulf states, remains to be seen. With the announcement of these new assistance measures being drafted, there is some fear that the EU is trying to maintain its sphere of influence and promote its defence industry at the expense of peace⁶⁶. This is where the EU needs to be clear about its intentions: it needs to guarantee that the sole aim

of the EPF is to protect civilians and build peace. Moreover, it absolutely needs to provide a rationale behind each assistance measure and detail their expected outcomes each time a decision is taken to provide equipment to a third country.

In the light of the review of the EPF in 2024, the EU should work on improving the following aspects:

- Being consistently **transparent** about how the legal framework for arms control is applied, about the risks and safeguards assessment and about the equipment provided would strengthen the legitimacy of the EU and demonstrate its engagement in respecting human rights law and international humanitarian law.
- Develop **engagement with local CSOs and communities**, prior to, during and after the establishment of assistance measures.
- Include a **theory of change** for each assistance measure that incorporates human security as a priority.
- Insist on stronger **control mechanisms** in countries receiving assistance, under the penalty of suspending or terminating the assistance measure.
- Establishing a **complaint mechanism** is essential and anticipating post-conflict disarmament possibilities would be appropriate.

Colophon

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