



2026/2082

14.9.2026

COMMISSION IMPLEMENTING DECISION (EU) 2026/2082

of 11 September 2026

approving derogations from Regulation (EU) 2026/467 of the European Parliament and of the Council, as regards the eligibility conditions of defence products for financial assistance to Ukraine

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Regulation (EU) 2026/467 of the European Parliament and of the Council of 24 February 2026 implementing enhanced cooperation on the establishment of the Ukraine Support Loan for 2026 and 2027 ⁽¹⁾ and in particular Article 13(5) thereof,

Whereas:

- (1) In accordance with Article 14 of Regulation (EU) 2026/467 Ukraine is to draw up a schedule for each activity, expenditure or measure related to a defence product or other product for defence purposes for which it intends to receive assistance to support its defence industrial capacities, pursuant to Article 8(2), point (a)(iii) of Regulation (EU) 2026/467.
- (2) Such schedule is to set out a description of the defence product or other product for defence purposes and information on compliance with the eligibility conditions set out in Article 13 of Regulation (EU) 2026/467.
- (3) Article 13(5) of Regulation (EU) 2026/467 establishes the possibility for Ukraine to ask for derogations from the eligibility conditions of defence products for financial assistance to Ukraine under certain conditions. The Commission is to approve such derogations by means of implementing acts, taking into account the advice, expertise and support of the Ukraine's Defence Industrial Capacities Expert Group, and pending a positive opinion of the Committee referred in Article 27 of that Regulation.
- (4) On 18 August 2026, Ukraine submitted to the Commission, in accordance with Article 14 of Regulation (EU) 2026/467, a product schedule ('the fifth product schedule'), classified at a level equivalent to RESTREINT UE/EU RESTRICTED in accordance with Commission Decision (EU, Euratom) 2015/444 ⁽²⁾, relating to missiles for air defence systems (the 'defence products concerned').
- (5) For the defence products concerned, Ukraine requested to benefit from the derogation laid down in Article 13(5), point (a) of Regulation (EU) 2026/467, in respect to the eligibility conditions set out in article 13(4) of that Regulation on the manufacturers, infrastructures and components of such defence products, in order to procure these defence products from the Government of a third country.
- (6) In support to its request, Ukraine provided information to demonstrate the urgency of its need for the acquisition of the defence product concerned. More specifically, it recalled that, in the last months, Russia intensified attacks and the use of ballistic, hypersonic missiles, as well as jet engine drones. This resulted in a significant and increasing number of civilian casualties. Specifically for ballistic missiles, the Ukrainian interception rate decreased drastically because of an exhaustion of stocks of necessary interceptors. The urgent and immediate operational need for these defence products is therefore well known and justified. Moreover, Russia is continuously ramping up the manufacturing and use of defence products such as missiles and drones used to attack Ukraine, requiring the latter to possess sufficient quantities of interceptors. This situation is further exacerbated by the current global geopolitical context marked by a spike in global demand for the defence product concerned, because of rising international tensions, leading to further pressure on manufacturing capacity and existing stocks. Taking into account these elements, Ukraine insisted on its utmost need to start the procurement process as soon as possible in order to secure available manufacturing slots as early as possible.

⁽¹⁾ OJ L, 2026/467, 26.2.2026, ELI: <http://data.europa.eu/eli/reg/2026/467/oj>.

⁽²⁾ Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53, ELI: <http://data.europa.eu/eli/dec/2015/444/oj>).

- (7) Ukraine also provided information to demonstrate that, to date, there is no equivalent available defence product to the ones concerned, which would comply with the eligibility conditions set out in Article 13(2) and (4) of Regulation (EU) 2026/467. This procurement aims to replenish stocks for air defence systems already in service in the Ukrainian armed forces. The compatibility of the defence products concerned with these systems is therefore essential. It appears that the defence products concerned are the only products that can be used with the in-service systems for which Ukraine urgently needs ammunition. In addition, it is relevant to mention that Ukrainian armed forces have been trained for its use, and the product is combat tested, having already demonstrated effectiveness in countering the threats. Upon delivery, the product can therefore be immediately operational and used by the Ukraine armed forces.
- (8) In addition, Ukraine provided information to establish that the delivery lead time of the defence products concerned is commensurate with the urgency of the situation and Ukraine's immediate operational need, as well as a legal commitment by the Government of the third country concerned on compliance with the delivery time. In particular, Ukraine demonstrated that this product corresponds to an immediate operational need including the protection of civil population exposed to intensified bombing by Russia through modern weaponry and is therefore particularly urgent. The legal commitment provided by the government which acts as supplier provides for a delivery lead time that is intended to be respected throughout its internal decision-making process leading to the signature of the contract. While the delivery lead time referred to in that legal commitment does not ensure that these products will be delivered at short term due to the high demand of these products worldwide, Ukraine has also provided credible indications that the reservation of manufacturing slots through entering the procurement, entails a genuine possibility, based on past experience, to benefit from reprioritisation of orders from other countries having also reserved manufacturing slots of the same products, allowing Ukraine to receive products at an earlier date. Such a possibility provides a unique chance for Ukraine to have access to the defence products concerned which are of paramount importance to protect civil populations and critical infrastructures in a situation where, due to the geopolitical context, the access to such products worldwide is particularly difficult. In absence of such a possibility, Ukraine would be in a critical security situation, also from the point of view of its deterrence capacity, which would also be detrimental to the security interests of the Union and its Member States.
- (9) At the same time, in order to ensure that the use of the derogation over the time is made in full respect of the objectives of the Regulation to ensure a genuine economic and industrial cooperation between Ukraine and the Union on the manufacturing of defence products, as well as to ensure the progressive integration of the Ukrainian defence industry into the European defence technological and industrial base (EDTIB), it is relevant to consider that Ukraine is procuring in a parallel procedure, with the assistance of Regulation (EU) 2026/467 to support its defence industrial capacities, defence systems similar to the ones for which Ukraine intends to procure the defence products concerned and which would comply with the requirements included in Article 13(4). This procurement would thereby allow for the system's operational testing in Ukraine, which is a crucial step forward for the further diversification of suppliers of Ukraine, and Ukraine's continuous integration into the EDTIB.
- (10) On 26 August 2026, the Commission consulted the Ukraine's Defence Industrial Capacities Expert Group, established on the basis of Article 15 of Regulation (EU) 2026/467, on Ukraine's derogation request and received its advice on the same date.
- (11) In the light of all the above-mentioned circumstances and taking into account the advice of the Ukraine's Defence Industrial Capacities Expert Group, the Commission considers that the conditions for the derogation laid down in Article 13(5) of Regulation (EU) 2026/467 are met. Consequently, the derogation requested by Ukraine on 18 August 2026 should be approved.
- (12) The measures provided for in this Decision are in accordance with the opinion of the committee established by Article 27(1) of Regulation (EU) 2026/467.
- (13) In view of the urgency for Ukraine to procure the defence products concerned and to allow a swift implementation of the derogation, this Decision should enter into force on the day of its publication in the Official Journal.

HAS ADOPTED THIS DECISION:

Article 1

The Commission approves the use of the derogation in accordance with Article 13(5), point (a), of Regulation (EU) 2026/467 as requested by Ukraine in the fifth product schedule received by the Commission on 18 August 2026.

Article 2

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Union*.

Done at Brussels, 11 September 2026.

For the Commission
The President
Ursula VON DER LEYEN
