Council of the European Union
General Secretariat

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CM 5464/25

LIMITE

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COMMUNICATION

WRITTEN PROCEDURE

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Subject:	COUNCIL REGULATION on emergency measures addressing the serious economic difficulties caused by Russia's actions in the context of the war of aggression against Ukraine **Outcome of the written procedure initiated by CM 5399/25** – Adoption **=** END of written procedure

Delegations are informed that the written procedure, opened by CM 5399/25 + COR 1 of 12 December 2025 and extended by CM 5399/25 REV 1 and REV 2 was completed on 12 December 2025 and that all delegations voted in favour, except for Hungary and Slovakia that voted against, of COUNCIL REGULATION on emergency measures addressing the serious economic difficulties caused by Russia's actions in the context of the war of aggression against Ukraine, as set out in document ST 16629/25 and ST 16629/1/25 REV 1 (en).

The required qualified majority has been reached. Therefore, the above act is adopted.

The statement made by Hungary is set out in document ST 16628/25 ADD1 and reproduced in the Annex to this CM. The statements made during the written procedure by Belgium, Bulgaria, Italy and Malta, and by the Commission, are reproduced in the Annex to this CM.

The above statements will be included in the summary of the acts adopted by written procedure as statements to be entered in the Council minutes, in accordance with the third subparagraph of Article 12(1) of the Council's Rules of Procedure.

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ANNEX

COMMISSION STATEMENT TO COUNCIL REGULATION ON EMERGENCY MEASURES ADDRESSING THE SERIOUS ECONOMIC DIFFICULTIES CAUSED BY RUSSIA'S ACTIONS IN THE CONTEXT OF THE WAR OF AGGRESSION AGAINST UKRAINE

The emergency measures proposed by the Commission and adopted by the Council in accordance with Article 122(1) TFEU appropriately address the serious economic difficulties in the Member States caused by Russia's actions in the context of the war of aggression against Ukraine and its hybrid activities against the Union and the Member States. They pursue objectives different from those pursued by restrictive measures adopted in the context of the Common Foreign and Security Policy (CFSP). The parallel application of both sets of rules in the current context is exceptional and is a consequence of the unprecedented and critical situation that the Union and its Member States are confronted with.

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DECLARATION BY BELGIUM, BULGARIA, ITALY AND MALTA ON THE PROPOSAL FOR A COUNCIL REGULATION ON EMERGENCY MEASURES ADDRESSING THE SERIOUS ECONOMIC DIFFICULTIES CAUSED BY RUSSIA'S ACTIONS IN THE CONTEXT OF THE WAR IN UKRAINE

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Belgium, Bulgaria, Italy and Malta are fully committed to continuing to provide Ukraine with regular and predictable financial support in the long term, together with like-minded partners and allies. Any solution is to remain fully in line with international and EU law. As underlined by the European Council, subject to EU law, Russia's assets should remain immobilised until Russia ceases its war of aggression against Ukraine and compensates it for the damage caused by its war.

In our view, the use of the procedure based on Article 122 of the TFEU for the prohibition of transfer (Art. 2) envisaged by the proposed Council Regulation implies legal, financial, procedural, and institutional consequences that might go well beyond this specific case. That is why we continue to think that such a decision should have been discussed by the European Council before a final decision is taken by the Council, following to and in compliance with the Conclusions on Ukraine adopted on the occasion of the October 2025 European Council.

In view of the December 2025 European Council and in a fully constructive spirit, Belgium, Bulgaria, Italy and Malta invite the Commission and the Council to continue exploring and discussing alternative options in line with EU and international law, with predictable parameters, presenting significantly less risks, to address Ukraine's financial needs, based on an EU loan facility or bridge solutions, so as to ensure continuity of support before any of the options on the table can effectively enter into force.

In a spirit of cooperation, Belgium, Bulgaria, Italy and Malta are voting YES in the current written procedure but specify that this vote does not pre-empt in any circumstances the decision on the possible use of Russian immobilised assets that needs to be taken at Leaders' level and that it does not constitute precedent for the Common Foreign and Security Policy (CFSP) area, and request the above declaration to be attached to the minutes of the written procedure.

STATEMENT BY HUNGARY ON THE COUNCIL REGULATION ON EMERGENCY MEASURES ADDRESSING THE SERIOUS ECONOMIC DIFFICULTIES CAUSED BY RUSSIA'S ACTIONS IN THE CONTEXT OF THE WAR OF AGGRESSION AGAINST UKRAINE

PUBLIC

Hungary is deeply concerned by the recent tendency of circumventing unanimous decision-making procedures in the field of common foreign and security policy and, in particular, adopting restrictive measures in relation with the interruption or reduction of economic and financial relations with a third country on legal bases different from Article 215 TFEU and without a prior decision, adopted unanimously in accordance with Chapter 2 of Title V of the TEU.

We regret that the European Commission, now tendentiously contributing to this approach, has set aside its role as guardian of the Treaties in order to push through its political agenda by circumventing decision-making procedures and voting rules enshrined in the Treaties, thus guiding the Council into legally unjustifiable decisions and the risk of legal disputes.

As regards the Regulation in question, Hungary cannot concur with the conclusion that Article 122(1) TFEU constitutes a correct legal basis to adopt the envisaged measures. According to settled case-law, the choice of the legal basis for a European Union measure must be based on objective factors amenable to judicial review, which include the aim and content of that measure. (see e.g. judgement in case C-490/10. p. 44).

Hungary notes that the so called emergency measures to be established by this Regulation (i.e. prohibition of transfer of assets or reserves of the Central Bank of Russia and related entities) are *de facto* sanctions, having substantially the same form and effect as a restrictive measure already in force in parallel under the sanctions regime (i.e. immobilisation of assets and reserves of the Central Bank of Russia) pursuant to Article 29 TEU and Article 215 TFEU. It is also clear from the context of the whole package proposed by the Commission as well as related political statements that the main aim of this Regulation is to keep Russia's assets immobilised until Russia ceases its war of aggression against Ukraine and compensates it for the damage caused by its war. However, the latter objective could only be achieved within the framework of the Treaty-based procedure for adopting, extending or amending restrictive measures, i.e. on the basis of Article 29 TEU and Article 215 TFEU. This is clear both in general from the established case law of the CJEU, which states that *where the Treaty contains a more specific provision that is capable of constituting the legal basis for the measure in question, the measure must be founded on that provision* (see e.g. judgement in case C-155/07, p. 34), as well as, in particular, from the wording of Article 122(1) TFEU, which could be applied only *without prejudice to any other procedures provided for in the Treaties.*

Hungary also recalls that, as confirmed by the case law of the CJEU (e.g. judgement in case C-5/73) as well as the Council Legal Service (doc. st 9062/20), measures adopted under Article 122(1) TFEU must be temporary. This condition is not fulfilled in case of the Regulation, which establishes measures for an indefinite period, which would cease to apply only if the qualified majority of Member States so decides, provided that highly unlikely circumstances occur (*Russia ceases its war of aggression against Ukraine, provides reparations to Ukraine to the extent necessary to allow for reconstruction without adverse economic or financial consequences for the Union; and Russia's actions in connection with its war of aggression against Ukraine have objectively ceased to pose a serious risk of severe difficulties to the economy of the Union and its Member States*). The compatibility of such measures with the principle of proportionality also raises valid questions.

Furthermore, Hungary notes that by duplicating the measures already in place under a different legal basis, the Regulation creates overlaps and leads to difficulties in application, increase of unnecessary administrative burden and undermining legal certainty.

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The adoption of this Regulation constitutes an unfortunate precedent, which is a symbolic and substantial shift from the Treaty-based EU legal order to an unchartered territory.

Therefore, Hungary votes against the adoption of the Regulation and reserves its rights to initiate the review of its legality before the Court of Justice pursuant to Article 263 TFEU for the sake of preserving respect for the common values on which the European Union is founded in accordance with Article 2 TEU, in particular democracy and rule of law.

As far as the procedure is concerned, Hungary sees no reason for taking a decision in issues of such gravity in a matter of a few days, and notably before the European Council scheduled for 18–19 December 2025. The assets of the Central Bank of Russia are frozen until 31 January 2026.

As far as the geopolitical implications of the decision are concerned, it carries the risk of derailing ongoing negotiations to secure a sustainable peace agreement to end the war between Russia and Ukraine. This is a burden of historical proportions that those supporting the decision will have to carry. *Dixi et salvavi animam meam.*

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