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European Union

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL REGULATION amending Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine

COUNCIL REGULATION (EU) 2022/...

of ...

**amending Regulation (EU) No 269/2014 concerning restrictive measures
in respect of actions undermining or threatening the territorial integrity,
sovereignty and independence of Ukraine**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 215 thereof,

Having regard to Council Decision 2014/145/CFSP of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine¹,

Having regard to the joint proposal of the High Representative of the Union for Foreign Affairs and Security Policy and of the European Commission,

¹ OJ L 78, 17.3.2014, p. 16.

Whereas:

- (1) Council Regulation (EU) No 269/2014¹ gives effect to restrictive measures provided for in Decision 2014/145/CFSP.
- (2) On ... 2022, the Council adopted Decision (CFSP) 2022/...²⁺ amending Decision 2014/145/CFSP, whereby it introduced a further derogation from the asset freeze and the prohibition to make funds and economic resources available to designated persons and entities in order to urgently prevent or mitigate an event likely to have a serious and significant impact on human health and safety or the environment.
- (3) In view of the Union's determined stance to avoid and combat food insecurity around the world, and in order to avoid disruptions in the payment channels for agricultural products, Decision (CFSP) 2022/...³⁺ also introduces a derogation from the asset freeze and the prohibition to make funds and economic resources available to designated banks.
- (4) Decision (CFSP) 2022/...⁴⁺ also introduces a derogation from the asset freeze and the prohibition to make funds and economic resources available for the orderly wind-down of operations, including correspondent banking relations, with one designated bank.

¹ Council Regulation (EU) No 269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ L 78, 17.3.2014, p. 6).

² Council Decision (CFSP) 2022/... of ... (OJ L ...).

+ OJ: Please insert in the text the number of the Decision contained in document ST 11447/22 and insert the number, date and OJ reference of that Decision in the footnote.

³ Council Decision (CFSP) 2022/... of ... (OJ L ...).

+ OJ: Please insert in the text the number of the Decision contained in document ST 11447/22 and insert the number, date and OJ reference of that Decision in the footnote.

⁴ Council Decision (CFSP) 2022/... of ... (OJ L ...).

+ OJ: Please insert in the text the number of the Decision contained in document ST 11447/22 and insert the number, date and OJ reference of that Decision in the footnote.

- (5) In order to ensure effective and uniform implementation of Regulation (EU) No 269/2014, and in view of the increasing complexity of sanction evasion schemes, which hamper such implementation, it is necessary to oblige designated persons and entities with assets within the jurisdiction of a Member State to report these assets and to cooperate with the competent authority in the verification of this reporting. It is also appropriate to strengthen the provisions on reporting obligations for Union operators, with a view to preventing the breach and circumvention of the asset freezes. Failure to respect this obligation would constitute a circumvention of the freezing of assets and would be subject to penalties if the conditions for such penalties are met under applicable national rules and procedures.
- (6) This Regulation should be applied in compliance with the rights and principles recognised by the Charter of Fundamental Rights of the European Union, in particular the right to property, the right to an effective remedy and to a fair trial, respect for private and family life, the protection of personal data, as well as notably the lawyers' duty of confidentiality to their clients.
- (7) These amendments fall within the scope of the Treaty and therefore regulatory action at the level of the Union is necessary in order to implement them, in particular with a view to ensuring their uniform application in all Member States.
- (8) Regulation (EU) No 269/2014 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 269/2014 is amended as follows:

(1) Article 6b is amended as follows:

(a) the following paragraphs are inserted:

‘2a. By way of derogation from Article 2, the competent authorities of a Member State may authorise the release of certain frozen funds or economic resources belonging to the entity listed under entry number 108 in Annex I, or the making available of certain funds or economic resources to that entity, under such conditions as the competent authorities deem appropriate and after having determined that such funds or economic resources are necessary for the termination by ...*[OJ: please insert the date 13 months after the entry into force of this Regulation]*, of operations, contracts, or other agreements, including correspondent banking relations, concluded with that entity before ...*[OJ: please insert the date of the entry into force of this Regulation]*.’;

2b By way of derogation from Article 2, the competent authorities of a Member State may, under such conditions as they deem appropriate, authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources to the entity listed under entry number 108 in Annex I, after having determined that the funds or economic resources are necessary for the completion, by 31 October 2022, of an ongoing sale and transfer of proprietary rights directly or indirectly owned by that entity in a legal person, entity or body established in the Union.’

(b) in paragraph 3, point (a) is replaced by the following:

‘(a) the funds or economic resources are necessary for the sale and transfer by 31 December 2022, or within 6 months from the date of listing in Annex I, whichever is latest, of proprietary rights in a legal person, entity or body established in the Union where those proprietary rights are directly or indirectly owned by a natural or legal person, entity or body listed in Annex I; and,’;

(2) the following Articles are inserted:

Article 6d

1. By way of derogation from Article 2, the competent authorities of a Member State may authorise, under such conditions as they deem appropriate, the release of certain frozen economic resources, after having determined that:
 - (a) the release of such economic resources is necessary for the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health and safety or the environment; and
 - (b) the proceeds resulting from the release of such economic resources are frozen.
2. The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under paragraph 1, within two weeks of the authorisation.

Article 6e

1. By way of derogation from Article 2, the competent authorities of a Member State may authorise the release of certain frozen funds or economic resources belonging to the entities listed under entry numbers 53, 54, 55, 79, 80, 81, 82 and 108 in Annex I, or the making available of certain funds or economic resources to those entities, under such conditions as the competent authorities deem appropriate and after having determined that such funds or economic resources are necessary for the purchase, import or transport of agricultural and food products, including wheat and fertilisers.
2. The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under paragraph 1, within two weeks of the authorisation.';

(3) Article 8 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Notwithstanding the applicable rules concerning reporting, confidentiality and professional secrecy, natural and legal persons, entities and bodies shall:

(a) supply immediately any information which would facilitate compliance with this Regulation, such as information on accounts and amounts frozen in accordance with Article 2 or information held about funds and economic resources within Union territory belonging to, owned, held or controlled by natural or legal persons, entities or bodies listed in Annex I and which have not been treated as frozen by the natural and legal persons, entities and bodies obliged to do so, to the competent authority of the Member State where they are resident or located, and shall transmit such information, directly or through the Member State, to the Commission; and

(b) cooperate with the competent authority in any verification of such information.’;

(b) the following paragraphs are added:

‘4. The competent authorities of the Member States, including enforcement authorities and administrators of official registers wherein natural persons, legal persons, entities and bodies as well as immovable or movable property are registered, shall process and exchange information, including personal data, with other competent authorities of the Member States and the Commission.

5. Any processing of personal data shall be carried out in accordance with this Regulation and Regulations (EU) 2016/679* and (EU) 2018/1725** of the European Parliament and of the Council and only in so far as necessary for the application of this Regulation and to ensure effective cooperation between Member States as well as with the Commission in the application of this Regulation.

* Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

** Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).’;

- (4) Article 9 is replaced by the following:

Article 9

1. It shall be prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the measures referred to in Article 2.

2. Natural or legal persons, entities or bodies listed in Annex I, shall:
 - (a) report before ... [*OJ: please insert date 6 weeks after entry into force of this Regulation*] or within 6 weeks from the date of listing in Annex I, whichever is latest, funds or economic resources within the jurisdiction of a Member State belonging to, owned, held or controlled by them, to the competent authority of the Member State where those funds or economic resources are located; and
 - (b) cooperate with the competent authority in any verification of such information.
3. Failure to comply with paragraph 2 shall be considered as participation, as referred to in paragraph 1, in activities the object or effect of which is to circumvent the measures referred to in Article 2.
4. The Member State concerned shall inform the Commission within two weeks of the information received pursuant to paragraph 2(a).
5. The obligation in paragraph 2(a) shall not apply until 1 January 2023 with regard to funds or economic resources located in a Member State that had laid down a similar reporting obligation under national law before [*OJ: please insert date of entry into force of this Regulation*].

6. Any information provided or received in accordance with this Article shall be used only for the purposes for which it was provided or received.
7. Any processing of personal data shall be carried out in accordance with this Regulation, Regulation (EU) 2016/679 and Regulation (EU) 2018/1725 of the European Parliament and of the Council and only in so far as necessary for the application of this Regulation.’.

Article 2

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council

The President
