

COUNCIL DECISION (CFSP) 2018/1006
of 16 July 2018
concerning restrictive measures in view of the situation in the Republic of Maldives

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

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

Whereas:

- (1) On 26 February 2018, the Council adopted conclusions in which it noted with concern the recent deterioration of the situation in the Republic of Maldives ('the Maldives') and condemned politically motivated arrests and interference with the work of the Supreme Court of the Maldives and actions taken against the judiciary. The Council underlined that the Parliament of the Maldives and the Judiciary of the Maldives should be enabled to return to their normal functioning in accordance with the Constitution of the Maldives. It also called on the Government of the Maldives to engage with the leaders of the opposition in a genuine dialogue that paves the way for credible, transparent and inclusive presidential elections.
- (2) The Council remains deeply concerned at the continuing deterioration of the rule of law and human rights in the Maldives, in particular in the run-up to the presidential elections.
- (3) In this context, targeted restrictive measures should be imposed against persons and entities responsible for undermining the rule of law or obstructing an inclusive political solution in the Maldives as well as persons and entities responsible for serious human rights violations or abuses.
- (4) Further Union action is needed in order to implement certain measures,

HAS ADOPTED THIS DECISION:

Article 1

1. Member States shall take the measures necessary to prevent the entry into, or transit through, their territories of natural persons:
 - (a) undermining the rule of law or obstructing an inclusive political solution in the Maldives, including by acts of violence, repression or inciting violence;
 - (b) involved in planning, directing, or committing serious human rights violations or abuses;
 - (c) associated with those referred to in points (a) and (b),as listed in the Annex.
2. Paragraph 1 shall not oblige a Member State to refuse its own nationals entry into its territory.
3. Paragraph 1 shall be without prejudice to the cases where a Member State is bound by an obligation of international law, namely:
 - (a) as a host country of an international intergovernmental organisation;
 - (b) as a host country to an international conference convened by, or under the auspices of, the United Nations;
 - (c) under a multilateral agreement conferring privileges and immunities; or
 - (d) pursuant to the 1929 Treaty of Conciliation (Lateran Pact) concluded by the Holy See (Vatican City State) and Italy.

4. Paragraph 3 shall be considered as applying also in cases where a Member State is the host country of the Organisation for Security and Cooperation in Europe (OSCE).
5. The Council shall be duly informed in all cases where a Member State grants an exemption pursuant to paragraph 3 or 4.
6. Member States may grant exemptions from the measures imposed under paragraph 1 where travel is justified on the grounds of urgent humanitarian need, or on grounds of attending intergovernmental meetings and those promoted or hosted by the Union, or hosted by a Member State holding the Chairmanship in office of the OSCE, where a political dialogue is conducted that directly promotes the policy objectives of restrictive measures, including promoting human rights and the rule of law in the Maldives.
7. A Member State wishing to grant exemptions referred to in paragraph 6 shall notify the Council in writing of its wish. The exemption shall be deemed to be granted unless one or more of the Council members raises an objection in writing within two working days of receiving notification of the proposed exemption. Should one or more of the Council members raise an objection, the Council, acting by a qualified majority, may nonetheless decide to grant the proposed exemption.
8. Where, pursuant to paragraph 3, 4, 6 or 7, a Member State authorises the entry into, or transit through its territory of persons listed in the Annex, the authorisation shall be strictly limited to the purpose for which it is given and to the persons directly concerned thereby.

Article 2

1. All funds and economic resources belonging to, owned, held or controlled by:
 - (a) natural or legal persons, entities or bodies undermining the rule of law or obstructing an inclusive political solution in the Maldives, including by acts of violence, repression or inciting violence;
 - (b) natural or legal persons, entities or bodies involved in planning, directing, or committing serious human rights violations or abuses;
 - (c) natural or legal persons, entities or bodies associated with the persons, entities or bodies referred to in points (a) and (b),as listed in the Annex, shall be frozen.
2. No funds or economic resources shall be made available, directly or indirectly, to or for the benefit of the natural or legal persons, entities or bodies listed in the Annex.
3. The competent authority of a Member State may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as it deems appropriate, after having determined that the funds or economic resources concerned are:
 - (a) necessary to satisfy the basic needs of the natural or legal persons, entities or bodies listed in the Annex and dependent family members of such natural persons, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;
 - (b) intended exclusively for the payment of reasonable professional fees and the reimbursement of incurred expenses associated with the provision of legal services;
 - (c) intended exclusively for the payment of fees or service charges for the routine holding or maintenance of frozen funds or economic resources;
 - (d) necessary for extraordinary expenses, provided that the relevant competent authority has notified the competent authorities of the other Member States and the Commission of the grounds on which it considers that a specific authorisation should be granted, at least two weeks prior to the authorisation; or
 - (e) to be paid into or from an account of a diplomatic or consular mission or an international organisation enjoying immunities in accordance with international law, insofar as such payments are intended to be used for official purposes of the diplomatic or consular mission or international organisation.

The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under this paragraph.

4. By way of derogation from paragraph 1, the competent authorities of a Member State may authorise the release of certain frozen funds or economic resources, provided that the following conditions are met:

- (a) the funds or economic resources are the subject of an arbitral decision rendered prior to the date on which the natural or legal person, entity or body referred to in paragraph 1 was listed in the Annex, or of a judicial or administrative decision rendered in the Union, or a judicial decision enforceable in the Member State concerned, prior to or after that date;
- (b) the funds or economic resources will be used exclusively to satisfy claims secured by such a decision or recognised as valid in such a decision, within the limits set by applicable laws and regulations governing the rights of persons having such claims;
- (c) the decision is not for the benefit of a natural or legal person, entity or body listed in the Annex; and
- (d) recognition of the decision is not contrary to public policy in the Member State concerned.

The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under this paragraph.

5. Paragraph 1 shall not prevent a natural or legal person, an entity or body listed in the Annex from making a payment due under a contract entered into prior to the date on which such natural or legal person, entity or body was listed therein, provided that the Member State concerned has determined that the payment is not, directly or indirectly, received by a natural or legal person, entity or body referred to in paragraph 1.

6. Paragraph 2 shall not apply to the addition to frozen accounts of:

- (a) interest or other earnings on those accounts;
- (b) payments due under contracts, agreements or obligations that were concluded or arose prior to the date on which those accounts became subject to the measures provided for in paragraphs 1 and 2; or
- (c) payments due under judicial, administrative or arbitral decisions rendered in the Union or enforceable in the Member State concerned,

provided that any such interest, other earnings and payments remain subject to the measures provided for in paragraph 1.

Article 3

1. The Council, acting by unanimity upon a proposal from a Member State or from the High Representative of the Union for Foreign Affairs and Security Policy, shall establish and amend the list in the Annex.

2. The Council shall communicate the decision referred to in paragraph 1, including the grounds for the listing, to the natural or legal person, entity or body concerned, either directly, if the address is known, or through the publication of a notice, thereby providing such person, entity or body with an opportunity to present observations.

3. Where observations are submitted, or where substantial new evidence is presented, the Council shall review the decision referred to in paragraph 1 and inform the natural or legal person, entity or body concerned accordingly.

Article 4

1. The Annex shall include the grounds for listing the natural and legal persons, entities and bodies referred to in Articles 1(1) and 2(1).

2. The Annex shall also contain, where available, the information necessary to identify the natural or legal persons, entities or bodies concerned. With regard to natural persons, such information may include names, including aliases, date and place of birth, nationality, passport and identity card numbers, gender, address if known, and function or profession. With regard to legal persons, entities or bodies, such information may include names, place and date of registration, registration number and place of business.

Article 5

No claims in connection with any contract or transaction the performance of which has been affected, directly or indirectly, in whole or in part, by the measures imposed under this Decision, including claims for indemnity or any other claim of this type, such as a claim for compensation or a claim under a guarantee, in particular a claim for extension or payment of a bond, guarantee or indemnity, in particular a financial guarantee or financial indemnity, of whatever form, shall be satisfied, if they are made by:

- (a) designated natural or legal persons, entities or bodies listed in the Annex;
- (b) any natural or legal person, entity or body acting through or on behalf of one of the persons, entities or bodies referred to in point (a).

Article 6

In order to maximise the impact of the measures set out in this Decision, the Union shall encourage third States to adopt restrictive measures similar to those provided for in this Decision.

Article 7

This Decision shall apply until 17 July 2019. This Decision shall be kept under constant review. It shall be renewed, or amended as appropriate, if the Council deems that its objectives have not been met.

Article 8

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

Done at Brussels, 16 July 2018.

For the Council
The President
F. MOGHERINI

ANNEX

List of natural and legal persons, entities and bodies referred to in Articles 1 and 2

[...]
