

DECISIONS

COUNCIL DECISION (CFSP) 2021/1277

of 30 July 2021

concerning restrictive measures in view of the situation in Lebanon

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 7 December 2020, the Council adopted conclusions in which it noted with increasing concern that the grave financial, economic, social and political crisis that has taken root in Lebanon had continued to worsen over the previous months and that the Lebanese population is the first to suffer from the increasing difficulties in the country.
- (2) The Council underlined the urgent need for the Lebanese authorities to implement reforms in order to rebuild the confidence of the international community. It stated that the Union is ready to support reforms but the reform process must be owned by Lebanon. The Council called on the Lebanese authorities to implement their prior commitments, including those made in the context of the CEDRE conference in April 2018, and which enjoy the support of the International Support Group (ISG) for Lebanon (which brings together the United Nations and the governments of China, France, Germany, Italy, the Russian Federation, the United Kingdom and the United States, together with the European Union and the Arab League) and other members of the international community (including the World Bank and the International Monetary Fund). The Council also called on the Lebanese authorities to urgently deliver reforms building on the agreements reached after the explosion of 4 August 2020 by all of Lebanon's political leaders to bridge political differences in support for reforms. Those reforms entail in particular meaningful and profound economic and governance reforms to restore economic stability, improve delivery of public services, address the rising levels of poverty, reduce inequalities, make public finances sustainable, restore the credibility of the financial sector, guarantee the independence of the judiciary, ensure respect for human rights and the rule of law, fight corruption and meet the legitimate aspirations peacefully expressed by the Lebanese people. The Council also expressed its support for the Reform, Recovery and Reconstruction Framework (3RF) to 'build back a better Lebanon' guided by the principles of transparency, inclusion and accountability.
- (3) The 3RF, launched by the Union, the UN and the World Bank in December 2020, is co-managed by the Government of Lebanon. In addition, the Financial Recovery Plan of April 2020 was approved by the Lebanese Council of Ministers and was welcomed by the international community. Furthermore, the ISG, in a Joint Statement on 23 September 2020, welcomed the agreement reached by all of Lebanon's political leaders on a comprehensive roadmap of reforms with an implementation timetable in line with their prior commitments, including those made in the context of the 2018 CEDRE conference, and which enjoy the support of the ISG and other members of the international community.
- (4) In its conclusions of 7 December 2020, the Council continued to urge the government acting as caretaker since August 2020 to act swiftly and decisively within its constitutional limits, but noted that a programme fully supported by the Lebanese Parliament that includes precise, credible and time bound reform commitments addressing Lebanon's difficulties could only be fully implemented by a functional government. It therefore called on all Lebanese stakeholders and political forces to support the urgent formation of a mission-driven, credible and accountable government in Lebanon, able to implement the necessary reforms.

- (5) The Council has since 7 December 2020 repeatedly expressed grave concern about the deteriorating situation in Lebanon. Despite repeated calls from the Union and other relevant international actors on Lebanese political forces and stakeholders to act in the national interest and to no longer delay the formation of a fully empowered government capable of meeting the country's urgent needs and implementing critical reforms, there is no progress in the government formation process. Over eleven months have elapsed since the resignation of the previous government in August 2020 and nine months since the Lebanese Parliament designated a new Prime Minister-designate in October 2020 who has withdrawn in July 2021.
- (6) Meanwhile, the economic, social and humanitarian situation in Lebanon continues to deteriorate and the people continue to suffer. The World Bank reported in its Lebanon Economic Monitor of June 2021 that Lebanon is enduring a severe and prolonged economic depression, likely to rank amongst the most severe episodes of crisis globally since the mid-nineteenth century. The World Bank characterised the crisis as a 'deliberate depression' with inadequate policy responses as a result of a lack of political consensus over effective policy initiatives. The World Bank reported that more than half of the population is likely below the national poverty line, the unemployment rate is on the rise, and an increasing share of households is facing difficulty in accessing basic services, including health care. The World Bank pointed out that the sharp deterioration in basic services would have long-term implications: mass migration, loss of learning, poor health outcomes and lack of adequate safety nets, among others. The World Bank estimated that the permanent damage to human capital would be very hard to recover and that this perhaps made the Lebanon crisis unique compared to other global crises. The World Bank further notes that the increasingly dire socio-economic conditions risk systemic national failings, with growing wariness of potential triggers for social unrest and no clear turning point on the horizon.
- (7) The Lebanese population is paying an exceptionally high price for the inaction of the Lebanese political leaders. The current economic, social, humanitarian and political crisis constitutes a major threat to the stability and security of Lebanon, with possible consequences for the stability and security of the entire region.
- (8) The Union is ready to use all its policy instruments to contribute to a sustainable way out of the current crisis and to react to a further deterioration of democracy and the rule of law, and of the economic, social and humanitarian situation in Lebanon. In view of the gravity of the situation, a framework should be adopted for targeted restrictive measures against natural persons responsible for undermining democracy or the rule of law in Lebanon and natural or legal persons, entities or bodies associated with them.
- (9) Such targeted restrictive measures will pursue common foreign and security policy objectives as set out in Article 21 of the Treaty on European Union (TEU), and they will contribute to Union action to consolidate and support democracy, the rule of law, human rights and the principles of international law in accordance with point (b) of Article 21(2) TEU. Their application must be consistent with Article 3(5) TEU, in particular by contributing to peace and security, solidarity and mutual respect among peoples, and the protection of human rights, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.
- (10) A threat to democracy and the rule of law is posed by persons who obstruct or undermine the democratic political process by persistently hampering the formation of a government or by obstructing or seriously undermining the holding of elections, including notably the upcoming general election in Lebanon, scheduled for May 2022. Those persons promote their vested interests, be they their personal interests or the particular interests of their community or political group, to the detriment of the Lebanese public interest, notably by trying to misuse the rules governing the association of the political forces for the formation of a government, in order to block the formation of a new government and maintain the *status quo*. Acts threatening democracy and the rule of law could include obstructing or undermining the elections.
- (11) A threat to democracy and the rule of law is also posed by persons who obstruct the implementation of plans supported by relevant international actors to improve accountability and good governance in the public sector or the implementation of critical economic reforms, including in the banking and financial sectors. These are notably

the reforms to which Lebanese authorities committed and that enjoy the support of the Union and other relevant international actors. There has been a consistent failure to implement these reforms and to take sufficient credible measures to fight corruption and combat tax evasion, to adopt a capital control law, and to take other measures to guarantee both transparency and full accountability to the Lebanese people.

- (12) A threat to democracy and the rule of law is also posed by persons who engage in serious financial misconduct, including corruption and the unauthorised export of capital. Financial misconduct within the political and institutional system is a systemic issue at the root of the current economic, social, humanitarian and political crisis. Actors involved in financial misconduct, or who benefit personally from them, bear a major responsibility in the dire socio-economic and humanitarian situation which the Lebanese population is facing.
- (13) The Council recalls that Lebanon is a party to the United Nations Convention against Corruption of 31 October 2003 and that the Lebanese authorities have also made commitments in the fight against corruption notably in the 2018 CEDRE conference, the April 2020 Financial Recovery Plan and the September 2020 comprehensive roadmap of reforms.
- (14) 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:
- (a) natural persons responsible for undermining democracy or the rule of law in Lebanon through any of the following actions:
- (i) obstructing or undermining the democratic political process by persistently hampering the formation of a government or by obstructing or seriously undermining the holding of elections;
 - (ii) obstructing or undermining the implementation of plans approved by Lebanese authorities and supported by relevant international actors, including the Union, to improve accountability and good governance in the public sector or to implement critical economic reforms, including in the banking and financial sectors and including the adoption of transparent and non-discriminatory legislation on the export of capital;
 - (iii) serious financial misconduct concerning public funds, insofar as the acts concerned are covered by the United Nations Convention Against Corruption and the unauthorised export of capital;
- (b) natural persons associated with persons designated under point (a);

as listed in the Annex.

The plans referred to in point (ii) of point (a) are the reform plans presented in the 2018 CEDRE conference, the April 2020 Financial Recovery Plan, the September 2020 comprehensive roadmap of reforms and the December 2020 Lebanon Reform, Recovery and Reconstruction (3RF).

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 also apply in cases where a Member State is 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 or meetings 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 democracy and the rule of law in Lebanon.
7. Member States may also grant exemptions from the measures imposed under paragraph 1 where entry or transit is necessary for the fulfilment of a judicial process.
8. A Member State wishing to grant exemptions referred to in paragraphs 6 or 7 shall notify the Council in writing. The exemption shall be deemed to be granted unless one or more Member States raises an objection in writing within two working days of receiving notification of the proposed exemption. Should one or more Member States raise an objection, the Council, acting by a qualified majority, may decide to grant the proposed exemption.
9. Where, pursuant to paragraphs 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 persons responsible for undermining democracy or the rule of law in Lebanon through any of the following actions:
 - (i) obstructing or undermining the democratic political process by persistently hampering the formation of a government or by obstructing or seriously undermining the holding of elections;
 - (ii) obstructing or undermining the implementation of plans approved by Lebanese authorities and supported by relevant international actors, including the EU, to improve accountability and good governance in the public sector or to implement critical economic reforms, including in the banking and financial sectors and including the adoption of transparent and non-discriminatory legislation on the export of capital;
 - (iii) serious financial misconduct concerning public funds, insofar as the acts concerned are covered by the United Nations Convention Against Corruption and the unauthorised export of capital;
 - (b) natural or legal persons associated with persons designated under point (a);

as listed in the Annex, shall be frozen.

The plans referred to in point (ii) of point (a) are the reform plans presented in the 2018 CEDRE conference, the April 2020 Financial Recovery Plan, the September 2020 comprehensive roadmap of reforms and the December 2020 Lebanon Reform, Recovery and Reconstruction (3RF).

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. By way of derogation from paragraphs 1 and 2, the competent authorities of the Member States 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 they deem 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 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 within two weeks of the authorisation.

4. By way of derogation from paragraph 1, the competent authorities of the Member States may authorise the release of certain frozen funds or economic resources, or the making available of certain 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 within two weeks of the authorisation.

5. Paragraph 1 shall not prevent a natural or legal person, entity or body listed in the Annex from making a payment due under a contract or agreement entered into, or an obligation that arose, 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. By way of derogation from Article 2(1) and (2), the competent authorities of the Member States 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 they deem appropriate, after having determined that the provision of such funds or economic resources is necessary for humanitarian purposes, such as delivering or facilitating the delivery of assistance, including medical supplies, food, or the transfer of humanitarian workers and related assistance or for evacuations from Lebanon.
2. The Member State concerned shall inform the other Member States and the Commission of any authorisations granted under this Article within two weeks of the authorisation.

Article 4

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 (the 'High Representative'), 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, providing that natural or legal 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 decisions referred to in paragraph 1 and inform the natural or legal person, entity or body concerned accordingly.

Article 5

1. The Annex shall include the grounds for listing the natural and legal persons, entities and bodies referred to in Articles 1 and 2.
2. The Annex shall 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 and 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 6

1. The Council and the High Representative shall process personal data in order to carry out their tasks under this Decision, in particular:
 - (a) as regards the Council, for preparing and making amendments to the Annex;
 - (b) as regards the High Representative, for preparing amendments to the Annex.
2. The Council and the High Representative may process, where applicable, relevant data relating to criminal offences committed by listed natural persons, and to criminal convictions or security measures concerning such persons, only to the extent that such processing is necessary for the preparation of the Annex.

3. For the purposes of this Decision, the Council and the High Representative are designated as ‘controller’ within the meaning of point (8) of Article 3 of Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽¹⁾, in order to ensure that the natural persons concerned can exercise their rights under Regulation (EU) 2018/1725.

Article 7

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 natural or legal persons, entities or bodies referred to in point (a).

Article 8

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 9

This Decision shall apply until 31 July 2022 and 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.

In reviewing restrictive measures taken pursuant to Articles 1(1)(a)(iii) and 2(1)(a)(iii), the Council shall take into account as appropriate whether the persons in question are subject to judicial proceedings or not in respect of the conduct for which they were listed.

Article 10

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

Done at Brussels, 30 July 2021.

For the Council
The President
G. DOVŽAN

⁽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).

ANNEX

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

[...]
