

DECISIONS

COUNCIL DECISION (CFSP) 2021/1031

of 24 June 2021

amending Council Decision 2012/642/CFSP concerning restrictive measures in view of the situation in Belarus

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 15 October 2012, the Council adopted Decision 2012/642/CFSP ⁽¹⁾, concerning restrictive measures against Belarus.
- (2) On 24 and 25 May 2021, the European Council adopted conclusions in which it strongly condemned the forced landing of a Ryanair flight in Minsk, Belarus, on 23 May 2021 endangering aviation safety, and the detention by Belarusian authorities of journalist Raman Pratasevich and Sofia Sapega. It called on the Council to adopt further targeted economic sanctions.
- (3) In view of the gravity of that incident, and given the escalation of serious human rights violations in Belarus, and the violent repression of civil society, democratic opposition and journalists as well as of persons belonging to national minorities, additional targeted economic measures should be adopted.
- (4) In this context, it is appropriate to introduce further restrictions related to the trade of arms.
- (5) It is also appropriate to prohibit the sale, supply, transfer or export of equipment, technology or software intended primarily for use in the monitoring or interception by, or on behalf of, the Belarusian authorities of the internet and of telephone communications on mobile or fixed networks.
- (6) Furthermore, the sale, supply or transfer of dual-use items for military use and to specified persons, entities or bodies in Belarus should be prohibited.
- (7) In addition, it is appropriate to introduce further trade restrictions concerning petroleum products, potassium chloride ('potash') and goods used for the production or manufacturing of tobacco products.
- (8) Furthermore, restrictions on access to Union capital markets should be imposed in relation to the Belarusian Government, as well as Belarusian state-owned financial institutions and entities. A prohibition should also be introduced on providing insurance and re-insurance to the Belarusian Government and Belarusian public bodies and agencies.
- (9) Certain prohibitions should be imposed on the European Investment Bank in relation to projects in the public sector. Member States should also be required to take actions in order to limit the involvement in Belarus of multilateral development banks of which they are members.
- (10) Further action by the Union is needed in order to implement certain measures.
- (11) Decision 2012/642/CFSP should therefore be amended accordingly,

⁽¹⁾ Council Decision 2012/642/CFSP of 15 October 2012 concerning restrictive measures in view of the situation in Belarus (OJ L 285, 17.10.2012, p. 1).

HAS ADOPTED THIS DECISION:

Article 1

Decision 2012/642/CFSP is amended as follows:

- (1) in Article 2, paragraphs 3, 4, and 5 are deleted;
- (2) the following Articles are inserted:

Article 2b

1. The direct or indirect sale, supply, transfer or export to any natural or legal person, entity or body in Belarus, or for use in Belarus, of equipment, technology or software intended primarily for use in the monitoring or interception by, or on behalf of, the Belarusian authorities of the internet and of telephone communications on mobile or fixed networks, including the provision of any telecommunication or internet monitoring or interception services of any kind, as well as the provision of financial and technical assistance to install, operate or update such equipment, technology or software, by nationals of Member States or from the territories of Member States shall be prohibited.

2. By derogation from paragraph 1, Member States may authorise the sale, supply, transfer or export of the equipment, technology or software, including the provision of any telecommunication or internet monitoring or interception services of any kind, as well as the related provision of financial and technical assistance, referred to in paragraph 1 if they have reasonable grounds to determine that the equipment, technology or software would not be used for repression by the Belarusian Government, public bodies, corporations or agencies, or any natural or legal person or entity acting on their behalf or at their direction.

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.

3. The Union shall take the necessary measures in order to determine the relevant elements to be covered by this Article.

Article 2c

1. The direct or indirect sale, supply, transfer or export of all dual-use goods and technology listed in Annex I to Council Regulation (EC) No 428/2009⁽²⁾ for military use in Belarus or for any military end-user in Belarus by nationals of Member States or from the territories of Member States or using their flag vessels or aircraft shall be prohibited, whether such goods and technology originate or not in their territories.

2. It shall be prohibited:

- (a) to provide technical assistance, brokering services or other services related to the goods and technology referred to in paragraph 1 and to the provision, manufacture, maintenance and use of those goods and technology, directly or indirectly to any natural or legal person, entity or body in Belarus, for military use in Belarus or for any military end-user in Belarus;
- (b) to provide financing or financial assistance related to the goods and technology referred to in paragraph 1, including in particular grants, loans and export credit insurance, for any sale, supply, transfer or export of those goods and technology, or for the provision of related technical assistance, brokering services or other services, directly or indirectly to any natural or legal person, entity or body in Belarus, for military use in Belarus or for any military end-user in Belarus.

3. The prohibitions in paragraphs 1 and 2 shall be without prejudice to the execution of contracts concluded before 25 June 2021 or ancillary contracts necessary for the execution of such contracts.

⁽²⁾ Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (OJ L 134, 29.5.2009, p. 1).

Article 2d

1. The direct or indirect sale, supply, transfer or export of dual use goods and technology as included in Annex I to Regulation (EC) No 428/2009 to any person, entity or body in Belarus as listed in Annex II to this Decision by nationals of Member States or from the territories of Member States or using their flag vessels or aircraft shall be prohibited, whether such goods and technology originate or not in their territories.
2. It shall be prohibited:
 - (a) to provide technical assistance, brokering services or other services related to the goods and technology referred to in paragraph 1 and to the provision, manufacture, maintenance and use of those goods and technology, directly or indirectly to any natural or legal person, entity or body in Belarus, as listed in Annex II;
 - (b) to provide financing or financial assistance related to goods and technology referred to in paragraph 1, including in particular grants, loans and export credit insurance, for any sale, supply, transfer or export of those goods and technology, or for the provision of related technical assistance, brokering services or other services, directly or indirectly to any natural or legal person, entity or body in Belarus, as listed in Annex II.
3. The prohibitions in paragraphs 1 and 2 shall be without prejudice to the execution of contracts concluded before 25 June 2021 or ancillary contracts necessary for the execution of such contracts, and to the provision of assistance necessary for the maintenance and safety of existing capabilities within the Union.
4. The prohibitions in paragraphs 1 and 2 shall not apply to exports, sale, supplies or transfers of dual-use goods and technology, or the related provision of technical or financial assistance, for the maintenance and safety of existing civil nuclear capabilities, for non-military use or for a non-military end user.

Article 2e

1. The direct or indirect sale, supply, transfer or export to any natural or legal person, entity or body in Belarus or for use in Belarus of goods used for the production or manufacturing of tobacco products, by nationals of Member States or from the territories of Member States or using their flag vessels or aircraft shall be prohibited, whether such goods originate or not in their territories.
2. The Union shall take the necessary measures in order to determine the relevant items to be covered by this Article.
3. The prohibitions in paragraph 1 shall be without prejudice to the execution of contracts concluded before 25 June 2021 or ancillary contracts necessary for the execution of such contracts.

Article 2f

1. The purchase, import or transfer from Belarus of petroleum products shall be prohibited.
2. It shall be prohibited to provide, directly or indirectly, technical assistance, brokering services, financing or financial assistance, including financial derivatives, as well as insurance and reinsurance, related to the prohibitions referred to in paragraph 1.
3. The Union shall take the necessary measures in order to determine the relevant items to be covered by this Article.
4. The prohibitions in paragraph 1 shall not apply to purchases in Belarus of petroleum products which are required in order to meet the essential needs of the purchaser in Belarus or of humanitarian projects in Belarus.
5. The prohibitions in paragraph 1 and 2 shall be without prejudice to the execution of contracts concluded before 25 June 2021 or ancillary contracts necessary for the execution of such contracts.

Article 2g

1. The purchase, import or transfer from Belarus of potassium chloride ("potash") products shall be prohibited.
2. The Union shall take the necessary measures in order to determine the relevant items to be covered by this Article.

3. The prohibitions in paragraph 1 shall be without prejudice to the execution of contracts concluded before 25 June 2021 or ancillary contracts necessary for the execution of such contracts.

Article 2h

It shall be prohibited to directly or indirectly purchase, sell, provide investment services for or assistance in the issuance of, or otherwise deal with transferable securities and money-market instruments with a maturity exceeding 90 days, issued after 29 June 2021 by:

- (a) the Republic of Belarus, its Government, its public bodies, corporations or agencies;
- (b) a major credit or other institution established in Belarus with over 50 % public ownership or control as of 29 June 2021, as listed in Annex III;
- (c) a legal person, entity or body established outside the Union whose proprietary rights are directly or indirectly owned for more than 50 % by an entity listed in Annex III;
- (d) any legal person, entity or body acting on behalf or at the direction of a legal person, entity, or body referred to in point (c) of this Article or listed in Annex III.

Article 2i

1. It shall be prohibited to directly or indirectly make or be part of any arrangement to make new loans or credit with a maturity exceeding 90 days, after 29 June 2021, to:

- (a) the Republic of Belarus, its Government, its public bodies, corporations or agencies;
- (b) a major credit or other institution established in Belarus with over 50 % public ownership or control as of 29 June 2021, as listed in Annex III;
- (c) a legal person, entity or body established outside the Union whose proprietary rights are directly or indirectly owned for more than 50 % by an entity listed in Annex III;
- (d) any legal person, entity or body acting on behalf or at the direction of a legal person, entity, or body referred to in point (c) of this paragraph or listed in Annex III.

2. The prohibition referred to in paragraph 1 shall not apply to loans or credits that have a specific and documented objective to provide financing for non-prohibited imports or exports of goods and non-financial services between the Union and any third State, including the expenditure for goods and services from another third State that is necessary for executing the export or import contracts.

3. The competent authority of a Member State may also grant, under such terms as it deems appropriate, an authorisation to make or be part of the loans or credits referred to in paragraph 1 if the competent authority has determined that:

- (a) the activities concerned are for the purpose of providing support for the Belarusian civilian population, such as humanitarian assistance, environmental projects, and nuclear safety or the loan or credit is necessary to comply with legal or regulatory minimum reserve or similar requirements to meet solvency and liquidity criteria for financial entities in Belarus which are majority-owned by financial institutions of the Union; and
- (b) the activities or the loan or credit concerned do not entail funds or economic resources being made available, directly or indirectly, to or for the benefit of a person, entity or body referred to in Article 4.

When applying the conditions under points (a) and (b), the competent authority shall require adequate information as regards the use of the authorisation granted, including information concerning the purpose of, and the counterparts to, the activities concerned.

The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under this Article within two weeks of the authorisation.

4. The prohibition in paragraph 1 shall not apply to drawdowns or disbursements made under a contract concluded before 25 June 2021 provided that the following conditions are met:

- (a) all the terms and conditions of such drawdowns or disbursements:
 - (i) were agreed before 25 June 2021; and
 - (ii) have not been modified on or after that date; and

- (b) before 25 June 2021 a contractual maturity date has been fixed for the repayment in full of all funds made available and for the cancellation of all the commitments, rights and obligations under the contract; the terms and conditions of drawdowns and disbursements referred to in point (a) include provisions concerning the length of the repayment period for each drawdown or disbursement, the interest rate applied or the interest rate calculation method, and the maximum amount.

Article 2j

It shall be prohibited to provide insurance or re-insurance to:

- (a) the Belarusian Government, its public bodies, corporations or agencies;
- (b) any natural or legal person, entity or body acting on behalf or at the direction of a legal person, entity or body referred to in point (a).

Article 2k

It shall be prohibited to participate, knowingly and intentionally, in activities whose object or effect is, directly or indirectly, to circumvent the prohibitions set out in Articles 2c, 2d, 2e, 2f, 2g, 2h, 2i and 2j.

Article 2l

In addition to the prohibitions set out in Article 2i, the following shall be prohibited:

- (a) any disbursement or payment by the European Investment Bank (EIB) under or in connection with any existing agreements entered into between the Republic of Belarus or any public authority thereof and the EIB;
- (b) the continuation by the EIB of any existing Technical Assistance Service Contracts relating to projects financed under the agreements referred to in point (a), and which are intended for the direct or indirect benefit of the Republic of Belarus or any public authority thereof to be performed in Belarus.

Article 2m

Member States shall take the necessary action to limit the involvement in Belarus of multilateral development banks of which they are members, in particular the International Bank for Reconstruction and Development and the European Bank for Reconstruction and Development, including by voting against new loans or other forms of financing to the entities mentioned in Article 2i, except for those mentioned in paragraphs (2) and (3) thereof, and without affecting projects financing private sector support for small and medium enterprises.;

- (3) the Annex is amended as set out in the Annex to this Decision.

Article 2

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, 24 June 2021.

For the Council
The President
A. P. ZACARIAS

ANNEX

1. The Annex to Decision 2012/642/CFSP is renamed Annex I;
2. the following Annexes are added:

*'ANNEX II***LIST OF LEGAL PERSONS, ENTITIES OR BODIES REFERRED TO IN ARTICLE 2d***ANNEX III***LIST OF LEGAL PERSONS, ENTITIES OR BODIES REFERRED TO IN ARTICLES 2h AND 2i**

Belarusbank

Belinvestbank (Belarusian Bank for Development and Reconstruction)

Belagroprombank'.
