

COUNCIL REGULATION (EU) 2022/2475**of 16 December 2022****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 Ukraine ⁽¹⁾,

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

Whereas:

- (1) Council Regulation (EU) No 269/2014 ⁽²⁾ gives effect to the restrictive measures provided for in Decision 2014/145/CFSP.
- (2) On 16 December 2022, the Council adopted Decision (CFSP) 2022/2479 ⁽³⁾, amending Decision 2014/145/CFSP. Decision (CFSP) 2022/2479 introduced a new deadline for the derogation allowing the divestment by a specific listed entity. That new deadline does not retroactively validate divestments not compliant with the necessary requirements under Regulation (EU) No 269/2014, such as unauthorised divestments after the entity was listed. Decision (CFSP) 2022/2479 also extended to two newly listed entities the derogation from the asset freeze and from the prohibition to make funds and economic resources available, in order to allow the termination of operations, contracts, or other agreements, previously concluded with those entities. In order to further address food security concerns in third countries, Decision (CFSP) 2022/2479 introduced a new derogation allowing to unfreeze assets of, and to make funds and economic resources available to, certain individuals who held a significant role in international trade in agricultural and food products, including wheat and fertilisers, prior to their listing. To avoid circumvention, national competent authorities are entrusted with authorising such operations.

In doing so, they should act in close cooperation with the Commission, in order to ensure a uniform implementation across the Union. National competent authorities can take inspiration from the United Nations and World Food Programme priorities to tackle food insecurity around the globe. That derogation is without prejudice to other restrictive measures imposed by the Union on Russia and on other countries and to the respective national security concerns of Member States.

- (3) In order to ensure uniform application of the asset freeze provisions, it is appropriate to clarify that the information exchange between the Member States and the Commission includes information relating to any authorisation granted under the derogations set out in Regulation (EU) No 269/2014.
- (4) It is also appropriate to clarify that the information gathered by the Member States and subsequently exchanged with the Commission can only be used for the purposes for which it was received or provided. It is also appropriate to clarify that any information provided to or received by the Commission in accordance with Regulation (EU) No 269/2014 must be used by the Commission only for the purposes for which it was provided or received. Moreover, it is appropriate, in order to ensure the uniform application of the asset freeze provisions, to clarify the limits of the use of the information provided to and received by the Member States and the Commission respectively, in different provisions.

⁽¹⁾ OJ L 78, 17.3.2014, p. 16.

⁽²⁾ 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).

⁽³⁾ Council Decision (CFSP) 2022/2479 of 16 December 2022 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (see page 687 of this Official Journal).

- (5) 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.
- (6) 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) in Article 6b, paragraph 2b is replaced by the following:

'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 17 June 2023, 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. That deadline does not retroactively validate divestments not compliant with the necessary requirements under this Regulation.'

- (2) in Article 6b, the following paragraph is inserted:

'2c. 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 126 and 127 under the heading "Entities" 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 termination by 17 June 2023, of operations, contracts, or other agreements, including correspondent banking relations, concluded with those entities before 16 December 2022.'

- (3) in point (a) of Article 6b(3), the date '31 December 2022' is replaced by the date '28 February 2023';

- (4) in Article 6e, paragraph 1 is replaced by the following:

'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, 108, 126 and 127 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.'

- (5) in Article 6e, the following paragraph is inserted:

'1a. By way of derogation from Article 2, the competent authorities of a Member State, based on a specific and case-by-case assessment, may authorise, for each relevant transaction separately, the release of certain frozen funds or economic resources belonging to natural persons listed in Annex I who held a significant role in international trade in agricultural and food products, including wheat and fertilisers, prior to their listing, or the making available of certain funds or economic resources to those persons, under such conditions as the competent authorities deem appropriate and after having determined that such funds or resources are necessary for the sale, supply, transfer or export of agricultural and food products, including wheat and fertilisers, to third countries in order to address food security.'

- (6) in Article 6e, paragraph 2 is replaced by the following:

'2. The Member State concerned shall, when authorising such operations, act in close cooperation with the Commission. It shall inform the other Member States of any authorisation granted under paragraphs 1 and 1a, within two weeks of the authorisation.'

(7) in Article 6e, the following paragraph is added:

'3. The Commission shall report to the Council, no later than 17 June 2023 and every six months thereafter, a compilation of the information received from the Member States in relation to the derogation in paragraph 1a.;

(8) in Article 8, paragraph 3 is replaced by the following:

'3. Any information provided to or received by the competent authorities of the Member States in accordance with this Article shall be used by those authorities only for the purposes for which it was provided or received.;

(9) in Article 9, paragraph 6 is replaced by the following:

'6. Any information provided to or received by the competent authorities of the Member States in accordance with this Article shall be used by those authorities only for the purposes for which it was provided or received.;

(10) in Article 12, paragraph 1 is replaced by the following:

'1. The Commission and the Member States shall inform each other of the measures taken under this Regulation and share any other relevant information at their disposal in connection with this Regulation, in particular information:

(a) in respect of funds frozen under Article 2 and authorisations granted under the derogations set out in this Regulation;

(b) in respect of violation and enforcement problems and judgments handed down by national courts.;

(11) the following Article is inserted:

'Article 16a

Any information provided to or received by the Commission in accordance with this Regulation shall be used by the Commission only for the purposes for which it was provided or received.;

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, 16 December 2022.

For the Council
The President
M. BEK
