

COUNCIL DECISION (CFSP) 2022/2319
of 25 November 2022
concerning restrictive measures in view of the situation in Haiti

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 21 October 2022, the United Nations Security Council (the 'Security Council') adopted Resolution 2653 (2022), reaffirming its strong commitment to the sovereignty, independence, territorial integrity and unity of Haiti.
- (2) United Nations Security Council Resolution (UNSCR) 2653 (2022) recalls all the Security Council's previous resolutions on Haiti, in particular its UNSCR 2645 (2022), which inter alia demanded an immediate cessation of gang violence and criminal activity, and expressed the Security Council's readiness to take appropriate measures, as necessary, against those engaged in or supporting gang violence, criminal activities or human rights abuses, or who otherwise take action that undermines the peace, stability, and security of Haiti and the region.
- (3) Determining that the situation in Haiti continues to constitute a threat to international peace and security, UNSCR 2653 (2022) requires that travel restrictions be applied to persons designated by the Committee established by paragraph 19 of UNSCR 2653 (2022) (the 'Sanctions Committee'), that all funds and economic resources of persons or entities designated by the Sanctions Committee be frozen, and that an arms embargo be applied to persons or entities designated by the Sanctions Committee.
- (4) Action by the Union is needed in order to implement certain measures,

HAS ADOPTED THIS DECISION:

Article 1

1. The direct or indirect supply, sale, transfer or export of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned to, or for the benefit of, the persons and entities designated by the Committee established by paragraph 19 of United Nations Security Council Resolution (UNSCR) 2653 (2022) (the 'Sanctions Committee') by nationals of Member States or from the territories of Member States or using their flag vessels or aircraft, shall be prohibited whether originating or not in their territories.

The persons and entities referred to in this paragraph are listed in the Annex.

2. It shall be prohibited to:

- (a) provide technical assistance, training or other assistance, including the provision of armed mercenary personnel, related to military activities or the provision, maintenance or use of any arms and related materiel, directly or indirectly to any person or entity referred to in paragraph 1;
- (b) provide financing or financial assistance related to military activities, including in particular grants, loans and export credit insurance, as well as insurance and reinsurance for any sale, supply, transfer or export of arms and related materiel, or for the provision of related technical or other assistance, directly or indirectly to any person or entity referred to in paragraph 1.

3. Member States shall inspect, in accordance with their national authorities and legislation and consistent with international law, all cargo to Haiti in their territory, including seaports and airports, if they have information that provides reasonable grounds to believe that the cargo contains items the supply, sale, transfer or export of which is prohibited under this Article.
4. Member States shall report in a timely manner to the Sanctions Committee cases of violations of the measures under paragraphs 1 and 2.
5. Member States shall ensure that adequate marking and recordkeeping measures are in place to trace arms, including small arms and light weapons, in accordance with the international and regional instruments to which they are parties, and to consider how best to assist, where relevant and upon their request, neighbouring countries in preventing and detecting illicit trafficking and diversion in violation of measures imposed in paragraphs 1 and 2.

Article 2

1. Member States shall take the necessary measures to prevent the entry into, or transit through, their territories of persons designated by the Sanctions Committee as responsible for or complicit in, or having engaged in, directly or indirectly, actions that threaten the peace, stability and security of Haiti, including but not limited to:
 - (a) engaging in, directly or indirectly, or supporting criminal activities and violence involving armed groups and criminal networks that promote violence, including forcible recruitment of children by such groups and networks, kidnappings, trafficking in persons and the smuggling of migrants, and homicides and sexual and gender-based violence;
 - (b) supporting illicit trafficking and diversion of arms and related materiel, or illicit financial flows related thereto;
 - (c) acting for or on behalf of or at the direction of or otherwise supporting or financing a person or entity designated in connection with the activity described in points (a) and (b), including through the direct or indirect use of the proceeds from organised crime, including proceeds from illicit production and trafficking in drugs and their precursors originating in or transiting through Haiti, the trafficking in persons and the smuggling of migrants from Haiti, or the smuggling and trafficking of arms to or from Haiti;
 - (d) acting in violation of the arms embargo, or as having directly or indirectly supplied, sold, or transferred to armed groups or criminal networks in Haiti, or as having been the recipient of, arms or any related materiel, or any technical advice, training, or assistance, including financing and financial assistance, related to violent activities of armed groups or criminal networks in Haiti;
 - (e) planning, directing or committing acts that violate international human rights law or acts that constitute human rights abuses, including those involving extrajudicial killing, including of women and children, and the commission of acts of violence, abduction, enforced disappearances or kidnappings for ransom in Haiti;
 - (f) planning, directing or committing acts involving sexual and gender-based violence, including rape and sexual slavery, in Haiti;
 - (g) obstructing delivery of humanitarian assistance to Haiti or access to, or distribution of, humanitarian assistance in Haiti;
 - (h) attacking personnel or premises of United Nations missions and operations in Haiti, or providing support for such attacks.

The persons referred to in this paragraph are 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 not apply where entry or transit is necessary for the fulfilment of a judicial process.

4. Paragraph 1 shall not apply where the Sanctions Committee determines, on a case-by-case basis, that:

- (a) entry or transit is justified on the grounds of humanitarian need, including religious obligation;
- (b) an exemption would further the objectives of peace and stability in Haiti.

5. In cases where, pursuant to paragraph 3 or 4, a Member State authorises the entry into, or transit through, its territory of persons listed in the Annex, the authorisation shall be limited to the purpose for which it is given and to the persons concerned by the authorisation.

Article 3

1. All funds and economic resources owned or controlled directly or indirectly by persons or entities designated by the Sanctions Committee as responsible for or complicit in, or having engaged in, directly or indirectly, actions that threaten the peace, stability and security of Haiti, including but not limited to:

- (a) engaging in, directly or indirectly, or supporting criminal activities and violence involving armed groups and criminal networks that promote violence, including forcible recruitment of children by such groups and networks, kidnappings, trafficking in persons and the smuggling of migrants, and homicides and sexual and gender-based violence;
- (b) supporting illicit trafficking and diversion of arms and related materiel, or illicit financial flows related thereto;
- (c) acting for or on behalf of or at the direction of or otherwise supporting or financing a person or entity designated in connection with the activity described in points (a) and (b), including through the direct or indirect use of the proceeds from organised crime, including proceeds from illicit production and trafficking in drugs and their precursors originating in or transiting through Haiti, the trafficking in persons and the smuggling of migrants from Haiti, or the smuggling and trafficking of arms to or from Haiti;
- (d) acting in violation of the arms embargo, or as having directly or indirectly supplied, sold, or transferred to armed groups or criminal networks in Haiti, or as having been the recipient of, arms or any related materiel, or any technical advice, training or assistance, including financing and financial assistance, related to violent activities of armed groups or criminal networks in Haiti;
- (e) planning, directing, or committing acts that violate international human rights law or acts that constitute human rights abuses, including those involving extrajudicial killing, including of women and children, and the commission of acts of violence, abduction, enforced disappearances or kidnappings for ransom in Haiti;
- (f) planning, directing or committing acts involving sexual and gender-based violence, including rape and sexual slavery, in Haiti;
- (g) obstructing delivery of humanitarian assistance to Haiti or access to, or distribution of, humanitarian assistance in Haiti;
- (h) attacking personnel or premises of United Nations missions and operations in Haiti, or providing support for such attacks;

or by persons or entities acting on their behalf or at their direction, or entities owned or controlled by them, shall be frozen.

The designated persons or entities referred to in this paragraph are listed in the Annex.

2. No funds or economic resources shall be made available directly or indirectly, to or for the benefit of the persons or entities listed in the Annex.

3. The measures referred to in paragraphs 1 and 2 shall not apply to funds and economic resources which the relevant Member State has determined to be:

- (a) necessary for basic expenses, including payment for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums and public utility charges;
- (b) intended exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services or fees or service charges, in accordance with national laws;
- (c) intended exclusively for the payment of fees or service charges for routine holding or maintenance of frozen funds, other financial assets and economic resources;

after notification by the relevant Member State to the Sanctions Committee of the intention to authorise, where appropriate, access to such funds, other financial assets or economic resources and in the absence of a negative decision by the Sanctions Committee within five working days of such notification.

4. The measures referred to in paragraphs 1 and 2 shall not apply to funds or economic resources which the relevant Member State has determined to be:

- (a) necessary for extraordinary expenses, provided that such determination has been notified by the Member States to the Sanctions Committee and has been approved by the Sanctions Committee;
- (b) the subject of a judicial, administrative or arbitral lien or judgment, in which case the funds, other financial assets and economic resources may be used to satisfy that lien or judgment provided that the lien was established or the judgment was rendered prior to the date on which the person or entity was included in the Annex, is not for the benefit of a person or entity designated by the Sanctions Committee and has been notified by the Member States to the Sanctions Committee.

5. Paragraph 1 shall not prevent a designated person or entity from making payment due under a contract entered into prior to the listing of such a person or entity, provided that the relevant Member State has determined that the payment is not directly or indirectly received by a person or entity referred to in paragraph 1, and after notification by the relevant Member State to the Sanctions Committee of the intention to make or receive such payments or to authorise, where appropriate, the unfreezing of funds, other financial assets or economic resources for this purpose, 10 working days prior to such authorisation.

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

- (a) interest or other earnings on those accounts; or
- (b) payments due under contracts, agreements or obligations that arose prior to the date on which those accounts became subject to the measures provided for in paragraphs 1 and 2;

provided that any such interest, other earnings and payments are frozen and continue to be subject to the measures provided for in paragraph 1.

7. Without prejudice to humanitarian assistance programmes conducted elsewhere, the measures provided for in paragraphs 1 and 2 shall not apply to the payment of funds, other financial assets or economic resources necessary to ensure the timely delivery of urgently needed humanitarian assistance or to support other activities that support basic human needs in Haiti, by the United Nations, its specialised agencies or programmes, humanitarian organisations having observer status with the United Nations General Assembly that provide humanitarian assistance, and their implementing partners including bilaterally or multilaterally funded non-governmental organisations participating in the United Nations Humanitarian Response Plan for Haiti.

Article 4

The Council, acting by unanimity, shall amend the list in the Annex in accordance with determinations made by the United Nations Security Council (the 'Security Council') or by the Sanctions Committee.

Article 5

1. Where the Security Council or the Sanctions Committee designates a person or entity, the Council shall include that person or entity in the Annex. The Council shall communicate its decision, including the grounds for listing, to the person or entity concerned, either directly, if the address is known, or through the publication of a notice, providing that person or entity with an opportunity to present observations.
2. Where observations are submitted or where substantial new evidence is presented, the Council shall review its decision and inform the person or entity concerned accordingly.

Article 6

1. The Annex shall include the grounds for listing the persons and entities as provided by the Security Council or the Sanctions Committee.
2. The Annex shall also include, where available, information provided by the Security Council or by the Sanctions Committee necessary to identify the persons or entities concerned. With regard to 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 entities, such information may include names, place and date of registration, registration number and place of business.

Article 7

1. The Council and the High Representative of the Union for Foreign Affairs and Security Policy (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 Article 3, point (8), 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 that Regulation.

Article 8

This Decision shall be amended or repealed as appropriate, in accordance with determinations made by the Security Council.

Article 9

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

⁽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).

Done at Brussels, 25 November 2022.

For the Council
The President
J. SÍKELA

ANNEX

List of persons referred to in Article 1(1), Article 2(1) and Article 3(1), and of entities referred to in Articles 1(1) and 3(1)

PERSONS

1. **Jimmy Cherizier** (alias 'Barbeque') has engaged in acts that threaten the peace, security, and stability of Haiti and has planned, directed or committed acts that constitute serious human rights abuses.

Designation: 21 October 2022

Additional information from the narrative summary of reasons for listing provided by the Sanctions Committee:

Jimmy Cherizier is one of Haiti's most influential gang leaders and leads an alliance of Haitian gangs known as the 'G9 Family and Allies.'

While serving as an officer in the Haitian National Police (HNP), Cherizier planned and participated in the November 2018 deadly attack against civilians in a Port-au-Prince neighbourhood known as La Saline. During this attack, at least 71 people were killed, over 400 houses were destroyed and at least seven women were raped by armed gangs. Throughout 2018 and 2019, Cherizier led armed groups in coordinated, brutal attacks in Port-au-Prince neighbourhoods. In May 2020, Cherizier led armed gangs in a five-day attack in multiple Port-au-Prince neighbourhoods in which civilians were killed and houses were set on fire. As of 11 October 2022, Cherizier and his G9 gang confederation are actively blocking the free movement of fuel from the Varreux fuel terminal – the largest in Haiti. His actions have directly contributed to the economic paralysis and humanitarian crisis in Haiti.
