EUROPEAN
COMMISSION

HIGH REPRESENTATIVE
OF THE UNION FOR
FOREIGN AFFAIRS AND
SECURITY POLICY

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2022/0224 (NLE)

Joint Proposal for a

COUNCIL REGULATION

amending Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine

EXPLANATORY MEMORANDUM

(1) Council Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine gives effect to restrictive measures provided for in Decision 2014/145/CFSP.

(2) On XXX 2022, the Council adopted Decision XXXX amending Decision 2014/145/CFSP, whereby it introduced a further derogation from the asset freeze and the prohibition to make funds and economic resources available to designated persons and entities in order to urgently prevent or mitigate an event likely to have a serious and significant impact on human health and safety or the environment. In view of the Union's determined stance to avoid and combat food and energy insecurity around the world, Decision (CFSP) 2022/XXX also extends the exemption from the prohibition from the asset freeze and the prohibition to make funds and economic resources available to specific designated entities for agricultural products.

(3) In order to ensure effective and uniform implementation of Council Regulation (EU) No 269/2014, it is appropriate to oblige designated persons and entities with assets within Union jurisdiction to report these and to cooperate with the competent authority in the verification of this reporting. It also appropriate to strengthen the provisions on reporting obligations for EU operators, with a view to limiting the breach and circumvention of the asset freezes.

(4) Further action by the Union is needed in order to give effect to these measures in Union law.

(5) The High Representative of the Union for Foreign Affairs and Security Policy and the European Commission propose to amend Regulation (EU) No 269/2014 accordingly.

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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 of the High Representative of the Union for Foreign Affairs and Security Policy and of the European Commission,

Whereas:

(1) Council Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine gives effect to restrictive measures provided for in Decision 2014/145/CFSP.

(2) On XX YY 2022, the Council adopted Decision XXXX amending Decision 2014/145/CFSP, whereby it introduced a further derogation to the asset freeze and the prohibition to make funds and economic resources available to designated persons and entities in order to urgently prevent or mitigate an event likely to have a serious and significant impact on human health and safety or the environment.

(3) In view of the Union's determined stance to avoid and combat food insecurity around the world, and in order to avoid disruptions in the payments channels for agricultural products, Decision (CFSP) 2022/XXX also introduces a derogation from the the asset freeze and the prohibition to make funds and economic resources available to designated banks.

(4) Decision XXXX also permits derogations for the orderly wind-down of operations, including correspondent banking, with one designated bank.

(5) In order to ensure effective and uniform implementation of Council Regulation (EU) No 269/2014, it is appropriate to oblige designated persons and entities with assets within Union jurisdiction to report these assets and to cooperate with the competent authority in the verification of this reporting. It is also appropriate to strengthen the provisions on reporting obligations for EU operators, with a view to limiting the breach and circumvention of the asset freezes.

[1] OJ L 078, 17.3.2014, p. 16.

(6) 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.

(7) Council Regulation (EU) No 269/2014 should therefore be amended accordingly.

HAS ADOPTED THIS REGULATION:

Article 1

Council Regulation (EU) No 269/2014 is amended as follows:

(1) in Article 6b(3), point (a) is replaced by the following:

‘(a) the funds or economic resources are necessary for the sale and transfer by 31 December 2022 or within 6 months from the date of designation in Annex I, whichever is latest, of proprietary rights in a legal person, entity or body established in the Union where those proprietary rights are directly or indirectly owned by a natural or legal person, entity or body listed in Annex I; and,’

(2) The following paragraph is inserted in Article 6b:

‘2a. 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 entity listed under entry number *[OJ: please insert the number of the newly adopted listing concerning the banking entity]* in Annex I, or the making available of certain funds or economic resources to that entity, 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 *[OJ: please insert the date 6 months after the entry into force of this Regulation]*, of operations, contracts, or other agreements, including correspondent banking relations, concluded with that entity before *[OJ: please insert the date of the entry into force of this Regulation]*.’

(3) The following Article is inserted:

‘Article 6d

‘1. By way of derogation from Article 2, the competent authorities of a Member State may authorise, under such conditions as they deem appropriate, the release of certain frozen economic resources, after having determined that:

(a) the release of such economic resources is necessary for the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health and safety or the environment; and

(b) the proceeds resulting from the release of such economic resources are frozen.

2. The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under paragraph 1 within two weeks of the authorisation.’

(4) The following Article is inserted:

‘Article 6e

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 and *[OJ: please insert the number of the newly adopted listing concerning the banking entity]* 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.

2. The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under paragraph 1 within two weeks of the authorisation.'

(5) In Article 8, paragraph 1 is replaced by the following:

'1. Notwithstanding the applicable rules concerning reporting, confidentiality and professional secrecy, natural and legal persons, entities and bodies shall:

(a) supply immediately any information which would facilitate compliance with this Regulation, such as information on accounts and amounts frozen in accordance with Article 2 and information about funds and economic resources within EU territory belonging to, owned, held or controlled by natural or legal persons, entities or bodies listed in Annex I and that have not yet been frozen by the natural and legal persons, entities and bodies obliged to do so, to the competent authority of the Member State where they are resident or located, and shall transmit such information, directly or through the Member State, to the Commission; and

(b) cooperate with the competent authority in any verification of such information.'

(6) The following paragraphs are inserted in Article 8:

'1a. The competent authorities of the Member States, including enforcement authorities and administrators of official registers where natural persons, legal persons, entities and bodies as well as immovable or movable property are registered, shall process and exchange information including personal data, with other competent authorities of the Member States and the European Commission.

1b. Any processing of personal data shall be carried out in accordance with the present Regulation, Regulation (EU) 2016/679 and Regulation (EU) 2018/1725 only in so far as necessary for the application of the present Regulation and to ensure effective cooperation between Member States as well as with the European Commission in the application of this Regulation.'

(7) Article 9 is replaced by the following:

'1. It shall be prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the measures referred to in Article 2.

2. Natural or legal persons, entities or bodies listed in Annex I, shall:

(a) supply before [*OJ: please insert date 6 weeks after entry into force of this Regulation*] or within 6 weeks after their listing, whichever comes later, any information about funds or economic resources within EU jurisdiction belonging to, owned, held or controlled by them, to the competent authority of the Member State where these funds or economic resources are located, and shall transmit such information, directly or through the Member State, to the Commission; and

(b) cooperate with the competent authority in any verification of such information.

3. Failure to comply with paragraph 2 shall be considered participation in activities the object or effect of which is to circumvent the measures referred to in Article 2.

5. Any additional information received directly by the Commission shall be made available to the Member States.

6. Any information provided or received in accordance with this Article shall be used only for the purposes for which it was provided or received.'

Article 2

This Regulation shall enter into force on the day following 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,

For the Council
The President