EUROPEAN
COMMISSION

HIGH REPRESENTATIVE
OF THE UNION FOR
FOREIGN AFFAIRS AND
SECURITY POLICY

Brussels, 7.12.2022
JOIN(2022) 56 final/2
DOWNGRADED on 06.02.2023

2022/0423 (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

2022/0423 (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

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[2] gives effect to restrictive measures provided for in Decision 2014/145/CFSP.

(2) On [XXX] 2022, the Council adopted Decision (CFSP) [XXX] amending Decision 2014/145/CFSP. Decision (CFSP) [XXX] reopened the deadline for the derogation allowing the divestment by a specific listed entity. It also added derogations from the asset freeze and the prohibition to make funds and economic resources available to certain newly listed entities, in order to allow the termination of operations, contracts, or other agreements, previously concluded with those entities, and to allow the purchase, import or transport of agricultural and food products.

(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 Commmision 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 Council Regulation (EU) No 269/2014 must be used by the Commission only for the purposes for which it was provided or received. It is moreover 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 078, 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).

(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

Council 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 *[OJ: please insert the date 6 months after the entry into force of this Regulation]*, 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.’

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

‘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 *[OJ: please insert the numbers identifying the newly adopted listings concerning the banking entities]*, 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 *[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 those entities before *[OJ: please insert the date of the entry into force of this Regulation]*.’

(3) 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, *[OJ: please insert the numbers of the newly adopted listings concerning the banking 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 purchase, import or transport of agricultural and food products, including wheat and fertilisers.’

(4) 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.’

(5) 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.’

(6) 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.’

(7) 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,

For the Council
The President