

COUNCIL DECISION (CFSP) 2022/218
of 17 February 2022
amending 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 June 2021, the Council adopted Decision (CFSP) 2021/1031 ⁽²⁾, which amended Decision 2012/642/CFSP and introduced specific sectoral restrictions.
- (3) Certain clarifications are necessary to ensure the proper application of those specific sectoral restrictions.
- (4) Decision 2012/642/CFSP should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2012/642/CFSP is amended as follows:

- (1) In Article 2d, paragraph 4 is replaced by the following:

‘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.’;
- (2) Article 2f is amended as follows:
 - (a) paragraph 1 is replaced by the following:

‘1. The purchase, import or transfer, directly or indirectly, from Belarus of petroleum and gaseous hydrocarbon products shall be prohibited.’;
 - (b) paragraph 4 is replaced by the following:

‘4. The prohibitions in paragraph 1 shall not apply to purchases in Belarus of petroleum and gaseous hydrocarbon products which are required in order to meet the essential needs of the purchaser in Belarus or of humanitarian projects in Belarus.’;
 - (c) the following paragraph is added:

‘6. The prohibitions in paragraph 1 and 2 shall be without prejudice to the freedom of transit through Belarus of petroleum and gaseous hydrocarbon products which originate in a third country.’;
- (3) in Article 2h, points (a) to (d) are replaced by the following:

‘(a) the Republic of Belarus, its Government, its public bodies, corporations or agencies;

⁽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).

⁽²⁾ 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 (OJ L 224I, 24.06.2021, p. 15).

- (b) a major credit institution established in Belarus with over 50 % public ownership or control as of 1 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 referred to in points (a) and (b) of this Article;
 - (d) a natural or legal person, entity or body acting on behalf or at the direction of an entity referred to in points (a), (b) or (c) of this Article.;
- (4) in Article 2i(1), points (a) to (d) are replaced by the following:
- '(a) the Republic of Belarus, its Government, its public bodies, corporations or agencies;
 - (b) a major credit institution established in Belarus with over 50 % public ownership or control as of 1 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 referred to in points (a) and (b) of this paragraph;
 - (d) a natural or legal person, entity or body acting on behalf or at the direction of an entity referred to in points (a), (b) or (c) of this paragraph.;
- (5) in Article 2j, paragraph 1 is replaced by the following:
1. It shall be prohibited to provide insurance or re-insurance to:
- (a) the Republic of Belarus, its 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).;
- (6) the following article is inserted:

'Article 2n

1. No claims in connection with any contract or transaction the performance of which has been affected, directly or indirectly, in whole or in part, by the measures imposed under this Decision, including claims for indemnity or any other claim of this type, such as a claim for compensation or a claim under a guarantee, notably a claim for extension or payment of a bond, guarantee or indemnity, particularly a financial guarantee or financial indemnity, of whatever form, shall be satisfied, if they are made by:

- (a) any natural or legal person, entity or body referred to in Articles 2h, 2i, 2j or listed in Annex II;
 - (b) any other Belarussian person, entity or body;
 - (c) any natural or legal person, entity or body acting through or on behalf of one of the natural or legal persons, entities or bodies referred to in point (a) or (b).;
- (7) in Article 3(1) and (8), Article 4(1) and (2), and Article 5(1), the words 'the Annex' are replaced by 'Annex I';
- (8) in Article 5(1), point (f) is replaced by the following:
- '(f) intended exclusively for:
- (i) humanitarian purposes, for the evacuation or repatriation of persons, or for initiatives providing support to victims of natural, nuclear or chemical disasters;
 - (ii) the operation of flights in the framework of international adoption procedures;

(iii) the operation of flights required for attending meetings with the objective of seeking a solution to the crisis in Belarus or promoting the policy objectives of the restrictive measures;

(iv) an emergency landing, take-off or overflight by an EU air carrier; or’;

(9) in Article 5, the following paragraph is added:

‘4. By way of derogation from Article 4(1), the competent authorities of a Member State may authorise the release of certain frozen funds or economic resources, provided that the following conditions are met:

(a) the funds or economic resources are the subject of an arbitral decision rendered prior to the date on which the person, entity or body referred to in Article 4 was listed in Annex I, or of a judicial or administrative decision rendered in the Union, or a judicial decision enforceable in the Member State concerned, prior to or after that date;

(b) the funds or economic resources will be used exclusively to satisfy claims secured by such a decision or recognised as valid in such a decision, within the limits set by applicable laws and regulations governing the rights of persons having such claims;

(c) the decision is not for the benefit of a natural or legal person, entity or body listed in Annex I; and

(d) recognition of the decision is not contrary to public policy in the Member State concerned.

The Member State concerned shall inform the other Member States and the Commission of any authorisations granted under this paragraph.’;

(10) in Article 6, paragraph 1, the words ‘the Annex’ are replaced by ‘Annex I, Annex II, and Annex III’;

(11) the following articles are inserted:

‘Article 6a

1. The Council and the High Representative of the Union for Foreign Affairs and Security Policy (the “High Representative”) may 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 Annex I;

(b) as regards the High Representative, for preparing amendments to Annex I.

2. The Council and the High Representative may process, where applicable, relevant data relating to criminal offences committed by listed natural persons, to criminal convictions or to security measures concerning such persons, only to the extent that such processing is necessary for the preparation of Annex I.

3. For the purposes of this Decision, the Council and the High Representative are designated as “controllers” within the meaning of point (8) of Article 3 of Regulation (EU) 2018/1725 of the European Parliament and of the Council (*), in order to ensure that the natural persons concerned can exercise their rights under Regulation (EU) 2018/1725.

Article 7a

Actions by natural or legal persons, entities or bodies shall not give rise to liability of any kind on their part, if they did not know, and had no reasonable cause to suspect, that their actions would infringe the measures set out in this Decision.

(*) 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 (Text with EEA relevance) (OJ L 295, 21.11.2018, p. 39).;

(12) Annex III is amended as set out in the Annex to this Decision.

Article 2

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

Done at Brussels, 17 February 2022.

For the Council
The President
J.-Y. LE DRIAN

ANNEX

Annex III is replaced by the following:

*'ANNEX III***LIST OF MAJOR CREDIT INSTITUTIONS REFERRED TO IN ARTICLES 2h AND 2i**

Development Bank of the Republic of Belarus

Belarusbank

Belinvestbank (Belarusian Bank for Development and Reconstruction)

Belagoprombank

Bank Dabrabyt'.
