

Council Regulation (EU) 2020/1998 of 7 December 2020 concerning
restrictive measures against serious human rights violations and abuses

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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 (CFSP) 2020/1999 of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses⁽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) On 7 December 2020, the Council adopted Decision (CFSP) 2020/1999, which establishes a framework for targeted restrictive measures to address serious human rights violations and abuses worldwide. That Decision provides for the freezing of funds and economic resources of, and the prohibition to make funds and economic resources available to, natural or legal persons, entities or bodies responsible for, providing support to or otherwise involved in serious human rights violations or abuses, as well as those associated with the natural and legal persons, entities and bodies covered. Natural and legal persons, entities and bodies subject to the restrictive measures are listed in the Annex to Decision (CFSP) 2020/1999. That Decision emphasises the importance of international human rights law and of the interaction between international human rights law and international humanitarian law when considering the application of targeted restrictive measures.
- (2) This Regulation respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, in particular the right to an effective remedy, the right to defence, and the right to the protection of personal data. This Regulation should be applied in accordance with those rights.
- (3) The power to establish and amend the list in Annex I to this Regulation should be exercised by the Council in order to ensure consistency with the process for establishing, amending and reviewing the Annex to Decision (CFSP) 2020/1999.
- (4) For the implementation of this Regulation, and in order to ensure maximum legal certainty within the Union, the names and other relevant data concerning natural and legal persons, entities and bodies whose funds and economic resources are to be frozen in accordance with this Regulation should be made public. Any processing of personal

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) 2020/1998. (See end of Document for details)

data should comply with Regulations (EU) 2016/679⁽²⁾ and (EU) 2018/1725⁽³⁾ of the European Parliament and of the Council.

- (5) Member States and the Commission should inform each other of the measures taken pursuant to this Regulation and of other relevant information at their disposal in connection with this Regulation.
- (6) Member States should lay down rules on penalties applicable to infringements of the provisions of this Regulation and make sure that they are implemented. Those penalties should be effective, proportionate and dissuasive,

HAS ADOPTED THIS REGULATION:

Article 1

For the purposes of this Regulation, the following definitions apply:

- (a) ‘claim’ means any claim, whether asserted by legal proceedings or not, made before or after the date of entry into force of this Regulation, under or in connection with a contract or transaction, and in particular:
 - (i) a claim for performance of any obligation arising under or in connection with a contract or transaction;
 - (ii) a claim for extension or payment of a bond, financial guarantee or indemnity of whatever form;
 - (iii) a claim for compensation in respect of a contract or transaction;
 - (iv) a counterclaim;
 - (v) a claim for the recognition or enforcement, including by the procedure of *exequatur*, of a judgment, an arbitration award or an equivalent decision, wherever made or given;
- (b) ‘contract or transaction’ means any transaction of whatever form and whatever the applicable law, whether comprising one or more contracts or similar obligations made between the same or different parties; for that purpose ‘contract’ includes a bond, guarantee or indemnity, particularly a financial guarantee or financial indemnity, and credit, whether legally independent or not, as well as any related provision arising under, or in connection with, the transaction;
- (c) ‘competent authorities’ refers to the competent authorities of the Member States as identified on the websites listed in Annex II;
- (d) ‘economic resources’ means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds, but may be used to obtain funds, goods or services;
- (e) ‘freezing of economic resources’ means preventing the use of economic resources to obtain funds, goods or services in any way, including, but not limited to, by selling, hiring or mortgaging them;
- (f) ‘freezing of funds’ means preventing any move, transfer, alteration, use of, access to, or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or other change that would enable the funds to be used, including portfolio management;

- (g) ‘funds’ means financial assets and benefits of every kind, including, but not limited to:
 - (i) cash, cheques, claims on money, drafts, money orders and other payment instruments;
 - (ii) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;
 - (iii) publicly- and privately-traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;
 - (iv) interest, dividends or other income on or value accruing from or generated by assets;
 - (v) credit, right of set-off, guarantees, performance bonds or other financial commitments;
 - (vi) letters of credit, bills of lading, bills of sale;
 - (vii) documents showing evidence of an interest in funds or financial resources;
- (h) ‘territory of the Union’ means the territories of the Member States to which the Treaty on European Union (TEU) is applicable, under the conditions laid down in the TEU, including their airspace.

Article 2

- 1 This Regulation applies to:
 - a genocide;
 - b crimes against humanity;
 - c the following serious human rights violations or abuses:
 - (i) torture and other cruel, inhuman or degrading treatment or punishment;
 - (ii) slavery;
 - (iii) extrajudicial, summary or arbitrary executions and killings;
 - (iv) enforced disappearance of persons;
 - (v) arbitrary arrests or detentions;
 - d other human rights violations or abuses, including but not limited to the following, in so far as those violations or abuses are widespread, systematic or are otherwise of serious concern as regards the objectives of the common foreign and security policy set out in Article 21 TEU:
 - (i) trafficking in human beings, as well as abuses of human rights by migrant smugglers as referred to in this Article;
 - (ii) sexual and gender-based violence;
 - (iii) violations or abuses of freedom of peaceful assembly and of association;
 - (iv) violations or abuses of freedom of opinion and expression;
 - (v) violations or abuses of freedom of religion or belief.

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2 For the purpose of applying paragraph 1, regard should be had to customary international law and widely accepted instruments of international law, such as:

- a the International Covenant on Civil and Political Rights;
- b the International Covenant on Economic, Social and Cultural Rights;
- c the Convention on the Prevention and Punishment of the Crime of Genocide,
- d the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment;
- e the International Convention on the Elimination of All Forms of Racial Discrimination;
- f the Convention on the Elimination of All Forms of Discrimination against Women;
- g the Convention on the Rights of the Child;
- h the International Convention for the Protection of All Persons from Enforced Disappearance;
- i the Convention on the Rights of Persons with Disabilities;
- j the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;
- k the Rome Statute of the International Criminal Court.
- l the European Convention for the Protection of Human Rights and Fundamental Freedoms.

3 For the purposes of applying this Regulation, natural or legal persons, entities or bodies may include:

- a State actors;
- b other actors exercising effective control or authority over a territory;
- c other non-State actors, subject to Article 1(4) of Decision (CFSP) 2020/1999.

Article 3

1 All funds and economic resources belonging to, owned, held or controlled by any natural or legal person, entity or body as listed in Annex I shall be frozen.

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

3 Annex I shall include, as identified by the Council in accordance with Article 3 of Decision (CFSP) 2020/1999:

- a natural or legal persons, entities or bodies, who are responsible for acts set out in Article 2(1);
- b natural or legal persons, entities or bodies, who provide financial, technical, or material support for or are otherwise involved in acts set out in Article 2(1), including by planning, directing, ordering, assisting, preparing, facilitating, or encouraging such acts;
- c natural or legal persons, entities or bodies, who are associated with the natural or legal persons, entities or bodies covered by points (a) and (b).

Article 4

1 By way of derogation from Article 3, the competent authorities of the Member States may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as they deem appropriate, after having determined that the funds or economic resources concerned are:

- a necessary to satisfy the basic needs of natural or legal persons, entities or bodies listed in Annex I, and dependent family members of such natural persons, including

- payments for food, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;
- b intended exclusively for the payment of reasonable professional fees or the reimbursement of incurred expenses associated with the provision of legal services;
 - c intended exclusively for the payment of fees or service charges for the routine holding or maintenance of frozen funds or economic resources;
 - d necessary for extraordinary expenses, provided that the relevant competent authority has notified the competent authorities of the other Member States and the Commission of the grounds on which it considers that a specific authorisation should be granted, at least two weeks prior to the authorisation; or
 - e to be paid into or from an account of a diplomatic or consular mission or an international organisation enjoying immunities in accordance with international law, insofar as such payments are intended to be used for official purposes of the diplomatic or consular mission or international organisation.
- 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.

Article 5

- 1 By way of derogation from Article 3, the competent authorities of the Member States may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as they deem appropriate, after having determined that the provision of such funds or economic resources is necessary for humanitarian purposes, such as delivering or facilitating the delivery of assistance, including medical supplies, food, or the transfer of humanitarian workers and related assistance or for evacuations.
- 2 The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under paragraph 1 within four weeks of the authorisation.

Article 6

- 1 By way of derogation from Article 3(1), the competent authorities of the Member States may authorise the release of certain frozen funds or economic resources, if 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 natural or legal person, entity or body referred to in Article 3 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.
- 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.