# Council Regulation (EU) 2015/735 of 7 May 2015 concerning restrictive measures in respect of the situation in South Sudan, and repealing Regulation (EU) No 748/2014

## COUNCIL REGULATION (EU) 2015/735

## of 7 May 2015

## concerning restrictive measures in respect of the situation in South Sudan, and repealing Regulation (EU) No 748/2014

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 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 748/2014[(1)] gives effect to Council Decision 2014/449/CFSP[(2)] providing for restrictions on admission and the freezing of funds and economic resources of persons obstructing the political process in South Sudan, including by acts of violence or violations of ceasefire agreements, as well as persons responsible for serious violations of human rights in South Sudan.

(2) On 3 March 2015, the United Nations Security Council adopted Resolution (UNSCR) 2206 (2015) providing for restrictions on admission and the freezing of funds and economic resources of certain persons responsible for, complicit in or having engaged in, directly or indirectly, actions or policies that threaten the peace, security or stability of South Sudan.

(3) In Decision (CFSP) 2015/740[(3)], the Council decided to integrate the restrictive measures provided for by UNSCR 2206 (2015) and the restrictive measures imposed by Decision 2014/449/CFSP into a single legal instrument.

(4) Some of those measures fall within the scope of the Treaty and regulatory action at the level of the Union is therefore necessary in order to give effect to them, in particular with a view to ensuring their uniform application by economic operators in all Member States.

(5) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union and notably the right to an effective remedy and to a fair trial and the right to the protection of personal data. This Regulation should be applied in accordance with those rights.

(6) The power to amend the list in Annexes I and II to this Regulation should be exercised by the Council, in view of the specific threat to international peace and security in the region posed by the situation in South Sudan and in order to ensure consistency with the process for amending and reviewing the Annexes to Decision (CFSP) 2015/740.

**Changes to legislation:** *There are outstanding changes not yet made to Council Regulation (EU) 2015/735. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(7) 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 must be frozen in accordance with this Regulation, must be made public. Any processing of personal data should comply with Directive 95/46/ECof the European Parliament and of the Council[(4)] and Regulation (EC) No 45/2001of the European Parliament and of the Council[(5)].

(8) Regulation (EU) 748/2014 should be repealed and replaced by this Regulation,

HAS ADOPTED THIS REGULATION:

*Article 1*

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

(a) 'brokering services' means:

(i) the negotiation or arrangement of transactions for the purchase, sale or supply of goods and technology or of financial and technical services, from a third country to any other third country; or

(ii) the selling or buying of goods and technology or of financial and technical services, that are located in third countries for their transfer to another third country;

(b) '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 includes 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;

(c) '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, in particular 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;

(d) 'competent authorities' means the competent authorities of the Member States as identified on the websites listed in Annex III;

(e) '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;

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(f) '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;

(g) '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;

(h) '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; and

(vii) documents showing evidence of an interest in funds or financial resources;

(i) 'technical assistance' means any technical support related to repairs, development, manufacture, assembly, testing, maintenance, or any other technical service, and may take forms such as instruction, advice, training, transmission of working knowledge or skills or consulting services, including verbal forms of assistance;

(j) 'territory of the Union' means the territories of the Member States to which the Treaty is applicable, under the conditions laid down in the Treaty, including their airspace.

***[F1** Article 2*

It shall be prohibited to provide:

(1) technical assistance, brokering services or other services related to military activities or to the provision, manufacture, maintenance and use of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts therefor, directly or indirectly to any natural or legal person, entity or body in, or for use in South Sudan;

(2) 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 assistance, brokering services or other services directly or indirectly to any natural or legal person, entity or body in, or for use in South Sudan;

(3) technical assistance, financing or financial assistance or brokering services related to the provision of armed mercenary personnel in South Sudan or for use in South Sudan.**]**

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**Textual Amendments**

**F1** Substituted by Council Regulation (EU) 2018/1116 of 10 August 2018 amending Regulation (EU) 2015/735 concerning restrictive measures in respect of the situation in South Sudan.

*[F1 Article 3*

The prohibitions referred to in Article 2 shall not apply to the provision of financing and financial assistance, technical assistance and brokering services related to:

(a) arms and related materiel, intended solely for the support of or use by UN personnel, including the United Nations Mission in the Republic of South Sudan (UNMISS) and the United Nations Interim Security Force for Abyei (UNISFA);

(b) protective clothing, including flak jackets and military helmets, temporarily exported to South Sudan by UN personnel, representatives of the media and humanitarian and development workers and associated personnel, for their personal use only.**]**

**Textual Amendments**

**F1** Substituted by Council Regulation (EU) 2018/1116 of 10 August 2018 amending Regulation (EU) 2015/735 concerning restrictive measures in respect of the situation in South Sudan.

*[F1 Article 4*

1 By way of derogation from Article 2, the competent authorities may authorise the provision of financing and financial assistance, technical assistance and brokering services related to:

a non-lethal military equipment intended solely for humanitarian or protective use, provided that the Member State has notified the Sanctions Committee in advance in accordance with the requirements laid down in paragraph 6 of UNSCR 2428 (2018);

b arms and related materiel temporarily exported to South Sudan by the forces of a State which is taking action, in accordance with international law, solely and directly to facilitate the protection or evacuation of its nationals and those for whom it has consular responsibility in South Sudan, provided that the Member State notifies the Sanctions Committee in accordance with the requirements laid down in paragraph 6 of UNSCR 2428 (2018);

c arms and related materiel, to or in support of the African Union Regional Task Force intended solely for regional operations to counter the Lord's Resistance Army, provided that the Member State had notified the Sanctions Committee in advance in accordance with the requirements laid down in paragraph 6 of UNSCR 2428 (2018);

d arms and related materiel solely in support of the implementation of the terms of the peace agreement, provided that the Member State has obtained the advance approval of the Sanctions Committee in accordance with the requirements laid down in paragraph 6 of UNSCR 2428 (2018);

e other sales or supply of arms and related materiel, or provision of assistance or personnel, provided that the Member State has obtained the advance approval of the Sanctions Committee in accordance with the requirements laid down in paragraph 6 of UNSCR 2428 (2018).

2 The Member State concerned shall notify the other Member States and the Commission of any authorisation granted pursuant to paragraph 1.**]**

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**Textual Amendments**

**F1** Substituted by Council Regulation (EU) 2018/1116 of 10 August 2018 amending Regulation (EU) 2015/735 concerning restrictive measures in respect of the situation in South Sudan.

*Article 5*

**[**F1 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. Annex I shall include natural or legal persons, entities and bodies identified by the Committee of the UN Security Council established pursuant to paragraph 16 of UNSCR 2206 (2015) ('Sanctions Committee') as responsible for or complicit in, or having engaged in, directly or indirectly, actions or policies that threaten the peace, security or stability of South Sudan, in accordance with paragraphs 6, 7, 8 and 12 of UNSCR 2206 (2015) and paragraph 14 of UNSCR 2428 (2018).**]**

2 All funds and economic resources belonging to, owned, held or controlled by any natural or legal person, entity or body as listed in Annex II shall be frozen. Annex II shall include natural or legal persons, entities and bodies which, in accordance with Article 6(1)(b) of Decision (CFSP) 2015/740, have been identified by the Council as being responsible for obstructing the political process in South Sudan, including by acts of violence or violations of ceasefire agreements, as well as persons responsible for serious violations of human rights in South Sudan, and natural or legal persons, entities or bodies associated with them.

3 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 Annexes I and II.

**Textual Amendments**

**F1** Substituted by Council Regulation (EU) 2018/1116 of 10 August 2018 amending Regulation (EU) 2015/735 concerning restrictive measures in respect of the situation in South Sudan.

*Article 6*

By way of derogation from Article 5(1), the competent authorities 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, provided that the following conditions are met:

(a) the competent authority concerned has determined that the funds or economic resources are:

(i) necessary to satisfy the basic needs of natural or legal persons, entities or bodies listed in Annex I, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;

(ii) intended exclusively for payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services; or

(iii) intended exclusively for payment of fees or service charges for routine holding or maintenance of frozen funds or economic resources;

and