# Council Regulation (EU) No 1351/2014 of 18 December 2014 amending Regulation (EU) No 692/2014 concerning restrictive measures in response to the illegal annexation of Crimea and Sevastopol

## COUNCIL REGULATION (EU) No 1351/2014

## of 18 December 2014

## amending Regulation (EU) No 692/2014 concerning restrictive measures in response to the illegal annexation of Crimea and Sevastopol

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 2014/386/CFSP of 23 June 2014 concerning restrictive measures in response to the illegal annexation of Crimea and Sevastopol[(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 692/2014[(2)] gives effect to certain measures provided for in Decision 2014/386/CFSP in particular restrictions on goods originating in Crimea or Sevastopol and on the provision of financing or financial assistance related to the import of such goods, as well as restrictions in trade and investment concerning infrastructure projects in the transport, telecommunications and energy sector and concerning the exploitation of oil, gas and minerals.

(2) In line with United Nations General Assembly Resolution 68/262 of 27 March 2014, Crimea and Sevastopol continue to be considered as part of Ukraine. The Foreign Affairs Council of 17 and 18 November 2014 reiterated that the EU condemns and will not recognise the illegal annexation of Crimea and Sevastopol.

(3) On 18 December 2014, the Council adopted Decision 2014/933/CFSP[(3)] which amends Decision 2014/386/CFSP to provide for a ban on all foreign investments in Crimea or Sevastopol. That Decision also provides for a prohibition on services directly related to the investment ban, as well as services related to tourism activities, including in the maritime sector, and in the sectors of transport, telecommunications, energy and exploitation of oil, gas and minerals in Crimea or Sevastopol. The former export prohibition on goods and technology in the sectors of transport, telecommunications, energy and exploitation of oil, gas and minerals, is broadened.

(4) In order to minimise the effect of such restrictive measures on economic operators and on the civilian population in Crimea or Sevastopol, exceptions and transitional periods should be provided.

**Changes to legislation:** *There are currently no known outstanding effects for the Council Regulation (EU) No 1351/2014. (See end of Document for details)*

(5) For the purpose of this Regulation, the place of use of goods and technology should be determined on the basis of an assessment of objective elements, including, but not limited to, the destination of the shipment, the postal codes of delivery, any indication on the place of consumption and documented indication by the importer. The notion of place of use should apply to goods or technology that are used continuously in Crimea or Sevastopol.

(6) The prohibitions and restrictions in this Regulation cannot be construed as prohibiting or restricting the transit through the territory of Crimea or Sevastopol performed by natural or legal persons of the Union or entities of the Union.

(7) The prohibitions and restrictions in this Regulation do not apply to the conduct of legitimate business with entities outside Crimea or Sevastopol that operate within Crimea or Sevastopol where there are no reasonable grounds to determine that the related goods or services are for use in Crimea or Sevastopol or where the related investments are not destined to enterprises or any subsidiary or affiliate under their control in Crimea or Sevastopol.

(8) The prohibition on providing services directly related to tourism activities, including cruise services, cannot be construed as covering services provided for the purposes of maritime safety, security and emergency, such as maintenance, repair, electronic identification and communication systems, or insurance.

(9) Those measures fall within the scope of the Treaty and, therefore, particularly with a view to ensuring its uniform application in all Member States, regulatory action at the level of the Union is necessary, following the adoption of Decision 2014/933/CFSP. Regulation (EU) No 692/2014 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EU) No 692/2014 is amended as follows:

(1) In Article 1, the following points are added:

(h) "entity in Crimea or Sevastopol" means any entity having its registered office, central administration or principal place of business in Crimea or Sevastopol, its subsidiaries or affiliates under its control in Crimea or Sevastopol, as well as branches and other entities operating in Crimea or Sevastopol;

(i) "investment services" means the following services and activities:

(i) reception and transmission of orders in relation to one or more financial instruments,

(ii) execution of orders on behalf of clients,

(iii) dealing on own account,

(iv) portfolio management,

(v) investment advice,

(vi) underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis,

(vii) placing of financial instruments without a firm commitment basis,

(viii) any service in relation to the admission to trading on a regulated market or trading on a multilateral trading facility;

(j) "Union shipowner" has the same meaning as a "Community shipowner" as defined in Article 2(2)(a) and (b) of Council Regulation (EC) No 3577/92.[4]

(2) Articles 2a, 2b, 2c and 2d are replaced by the following:

*Article 2a*

1 It shall be prohibited to:

a acquire any new or extend any existing participation in ownership of real estate located in Crimea or Sevastopol;

b acquire any new or extend any existing participation in ownership or control of an entity in Crimea or Sevastopol, including the acquisition in full of such entity or the acquisition of shares, and other securities of a participating nature of such entity;

c grant or be part of any arrangement to grant any loan or credit or otherwise provide financing, including equity capital, to an entity in Crimea or Sevastopol, or for the documented purpose of financing such entity;

d create any joint venture in Crimea or Sevastopol or with an entity in Crimea or Sevastopol;

e provide investment services directly related to the activities referred to in points (a) to (d).

2 The prohibitions and restrictions in this Article do not apply to the conduct of legitimate business with entities outside Crimea or Sevastopol where the related investments are not destined to entities in Crimea or Sevastopol.

3 The prohibitions in paragraph 1 shall be without prejudice to the execution of an obligation arising from a contract concluded before 20 December 2014, or ancillary contracts necessary for the execution of such a contract, provided that the competent authority has been informed at least five working days in advance.

*Article 2b*

1 It shall be prohibited to sell, supply, transfer, or export goods and technology as listed in Annex II:

a to any natural or legal person, entity or body in Crimea or Sevastopol, or

b for use in Crimea or Sevastopol.

Annex II shall include certain goods and technologies suited for use in the following key sectors:

(i) transport;

(ii) telecommunications;

(iii) energy;

(iv) the prospection, exploration and production of oil, gas and mineral resources.

2 It shall be prohibited to:

**Changes to legislation:** *There are currently no known outstanding effects for the Council Regulation (EU) No 1351/2014. (See end of Document for details)*

a provide, directly or indirectly, technical assistance or brokering services related to the goods and technology as listed in Annex II, or related to the provision, manufacture, maintenance and use of such items to any natural or legal person, entity or body in Crimea or Sevastopol or for use in Crimea or Sevastopol;

b provide, directly or indirectly, financing or financial assistance related to the goods and technology as listed in Annex II to any natural or legal person, entity or body in Crimea or Sevastopol or for use in Crimea or Sevastopol.

3 The prohibitions under paragraphs 1 and 2, when related to point (b) of paragraph 1 do not apply where there are no reasonable grounds to determine that the goods and technology or the services under paragraph 2 are to be used in Crimea or Sevastopol.

4 The prohibitions in paragraphs 1 and 2 shall be without prejudice to the execution until 21 March 2015 of an obligation arising from a contract concluded before 20 December 2014, or by ancillary contracts necessary for the execution of such contracts, provided that the competent authority has been informed at least five working days in advance.

*Article 2c*

1 It shall be prohibited to provide technical assistance, or brokering, construction or engineering services directly relating to infrastructure in Crimea or Sevastopol in the sectors referred to in Article 2b(1) as defined on the basis of Annex II, independently of the origin of the goods and technology.

2 The prohibition in paragraph 1 shall be without prejudice to the execution until 21 March 2015 of an obligation arising from a contract concluded before 20 December 2014, or by ancillary contracts necessary for the execution of such a contract.

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

*Article 2d*

1 It shall be prohibited to provide services directly related to tourism activities in Crimea or Sevastopol.

2 In particular, it shall be prohibited for any ship providing cruise services, to enter into or call at any port situated in the Crimean Peninsula listed in Annex III. This prohibition applies to ships flying the flag of a Member State or any ship owned and under the operational control of a Union shipowner or any ship over which a Union operator assumed overall responsibility as regards its operation.

3 The prohibitions in paragraphs 1 and 2 shall not apply when a ship enters or calls at one of the ports listed in Annex III for reasons of maritime safety in cases of emergency. The competent authority shall be informed of the relevant entry into or calling at the port within five working days.

**[**[X1]4. The prohibitions in paragraphs 1 and 2 shall be without prejudice to the execution until 21 March 2015 of an obligation arising from a contract or an ancillary contract concluded before 20 December 2014, or ancillary contracts necessary for the execution of such contracts, provided that the competent authority has been informed at least five working days in advance.**]**

*Article 2e*

1 The competent authorities may grant, under such terms and conditions as they deem appropriate, an authorisation in relation to the activities referred to in Article 2a(1) and Article 2b(2), and to the goods and technology referred to in Article 2b(1) provided that they are:

a necessary for official purposes of consular missions or international organisations enjoying immunities in accordance with international law located in Crimea or Sevastopol;

b related to projects exclusively in support of hospitals, or other public health institutions providing medical services or civilian education establishments located in Crimea or Sevastopol; or

c appliances or equipment for medical use.

2 The competent authorities may also grant, under such terms and conditions as they deem appropriate, an authorisation in relation to the activities referred to in Article 2a(1), provided that the transaction is for the purpose of the maintenance in order to ensure safety of existing infrastructure.

3 The competent authorities may also grant, under such terms and conditions as they deem appropriate, an authorisation in relation to the activities referred to in Article 2a(1) and in Article 2b(2), and to the goods and technology referred to in Article 2b(1) and to the services referred to in Article 2c, where the sale, supply, transfer or export of the items or the carrying out of those activities is necessary for the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health and safety, including the safety of existing infrastructure, or the environment. In duly justified cases of emergency, the sale, supply, transfer or export may proceed without prior authorisation, provided that the exporter notifies the competent authority within five working days after the sale, supply, transfer or export has taken place, providing detail about the relevant justification for the sale, supply, transfer or export without prior authorisation.

The Commission and the Members States shall inform each other of the measures taken under this paragraph and share any other relevant information at their disposal.

(3) Article 4 is replaced by the following:

*Article 4*

It shall be prohibited to participate, knowingly and intentionally, including indirectly, in activities the object or effect of which is to circumvent the prohibitions laid down in this Regulation.

(4) Annexes II and III are deleted.

(5) Annexes I and II to this Regulation are added as Annex II and Annex III, respectively.

**Editorial Information**

**X1** Substituted by Corrigendum to Council Regulation (EU) No 1351/2014 of 18 December 2014 amending Regulation (EU) No 692/2014 concerning restrictive measures in response to the illegal annexation of Crimea and Sevastopol (Official Journal of the European Union L 365 of 19 December 2014).