Council Regulation (EU) No 1100/2012 of 26 November 2012 amending Regulation (EU) No 101/2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Tunisia

COUNCIL REGULATION (EU) No 1100/2012

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amending Regulation (EU) No 101/2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Tunisia

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 215(2) thereof,

Having regard to Council Decision 2011/72/CFSP of 31 January 2011 concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia[(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 101/2011[(2)] gives effect to the measures provided for in Decision 2011/72/CFSP.

(2) Council Decision 2012/724/CFSP[(3)] provides for an amendment to Decision 2011/72/CFSP in order to permit the release of certain frozen funds or economic resources where they are required to satisfy a judicial or administrative decision rendered in the Union, or a judicial decision enforceable in a Member State.

(3) Article 9 of Regulation (EU) No 101/2011 concerns information to be supplied by persons, entities and bodies to the competent authorities of Member States, which has to be transmitted to the Commission, in order to facilitate compliance with that Regulation. In accordance with Article 9(2), any information provided or received is to be used only for the purposes for which it was provided or received. However, this should not prevent Member States from sharing such information, in accordance with their national law, with the relevant authorities of Tunisia and other Member States where necessary for the purpose of assisting the recovery of misappropriated assets.

(4) Regulation (EU) No 101/2011 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 101/2011 is hereby amended as follows:

(1) Article 5 is replaced by the following:

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) No 1100/2012. (See end of Document for details)*

Article 5

1 By way of derogation from Article 2, the competent authorities in Member States, as indicated on the websites listed in Annex II, may authorise the release of certain frozen funds or economic resources, provided 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 2 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 recognising 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 this Article.;

(2) Article 6(1) is replaced by the following:

1. Article 2(2) shall not apply to the addition to frozen accounts of:

a interest or other earnings on those accounts; or

b payments due under contracts, agreements or obligations that were concluded or arose before the date on which the natural or legal person, entity or body referred to in Article 2 has been listed in Annex I; or

c payments due under judicial, administrative or arbitral decisions rendered in the Union or enforceable in the Member State concerned,

provided that such interest, other earnings and payments are frozen in accordance with Article 2(1).;

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

3. Paragraph 2 shall not prevent Member States from sharing that information, in accordance with their national law, with the relevant authorities of Tunisia and other Member States where necessary for the purpose of assisting the recovery of misappropriated assets..

Article 2

This Regulation shall enter into force on the day following that 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.