Council Regulation (EC) No 765/2006 of 18 May 2006 concerning restrictive measures in respect of Belarus

[[F1]COUNCIL REGULATION (EC) No 765/2006

of 18 May 2006

concerning restrictive measures in respect of Belarus**]**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 60 and 301 thereof,

Having regard to Common Position 2006/362/CFSP of 18 May 2006 amending Common Position 2006/276/CFSP concerning restrictive measures against certain officials of Belarus[(1)],

Having regard to the proposal from the Commission,

Whereas:

(1) On 24 March 2006, the European Council deplored the failure of the Belarus authorities to meet OSCE commitments to democratic elections, considered that the Presidential elections of 19 March 2006 were fundamentally flawed and condemned the action of the Belarus authorities of that day in arresting peaceful demonstrators exercising their legitimate right of free assembly to protest at the conduct of the Presidential elections. The European Council therefore decided that restrictive measures should be applied against those responsible for the violation of international electoral standards.

(2) On 10 April 2006, the Council decided to adopt restrictive measures against President Lukashenko, the Belarusian leadership and officials responsible for the violations of international electoral standards and international human rights law, as well as for the crackdown on civil society and democratic opposition. These individuals should be subjected to a visa ban and possible further targeted measures.

(3) Common Position 2006/362/CFSP provides that the funds and economic resources of President Lukashenko and certain officials of Belarus that have been identified for this purpose should be frozen.

(4) These measures fall within the scope of the Treaty and, therefore, notably with a view to ensuring their uniform application by economic operators in all Member States, Community legislation is necessary to implement them as far as the Community is concerned. For the purposes of this Regulation, the territory of the Community should be deemed to encompass the territories of the Member States to which the Treaty is applicable, under the conditions laid down in the Treaty.

(5) Member States should determine the rules on penalties applicable to infringements of the provisions of this Regulation. The penalties provided for should be proportionate, effective and dissuasive.

Changes to legislation: *There are outstanding changes not yet made to Council Regulation (EC) No 765/2006. 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*

(6) In order to ensure that the measures provided for in this Regulation are effective, this Regulation should enter into force immediately,

HAS ADOPTED THIS REGULATION:

Textual Amendments

F1 Substituted by Council Regulation (EU) No 588/2011 of 20 June 2011 amending Regulation (EC) No 765/2006 concerning restrictive measures against President Lukashenko and certain officials of Belarus.

Article 1

For the purpose of this Regulation, the following definitions shall apply:

1. ‘funds’ means financial assets and benefits of every kind, including but not limited to:

   (a) cash, cheques, claims on money, drafts, money orders and other payment instruments;

   (b) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;

   (c) publicly- and privately-traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;

   (d) interest, dividends or other income on or value accruing from or generated by assets;

   (e) credit, right of set-off, guarantees, performance bonds or other financial commitments;

   (f) letters of credit, bills of lading, bills of sale;

   (g) documents evidencing an interest in funds or financial resources.

2. ‘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 use of the funds, including portfolio management.

3. ‘economic resources’ means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but can be used to obtain funds, goods or services.

4. ‘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.

5. **[**[F1]‘territory of the Community’ means the territories of the Member States, including their airspace, to which the Treaty is applicable, under the conditions laid down in the Treaty.**]**

6. **[**[F2]‘technical assistance’ means any technical support related to repairs, development, manufacture, assembly, testing, maintenance, or any other technical service, and may

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take forms such as instruction, advice, training, transmission of working knowledge or skills or consulting services; including verbal forms of assistance.**]**

Textual Amendments

F1 Substituted by Council Regulation (EU) No 588/2011 of 20 June 2011 amending Regulation (EC) No 765/2006 concerning restrictive measures against President Lukashenko and certain officials of Belarus.

F2 Inserted by Council Regulation (EU) No 588/2011 of 20 June 2011 amending Regulation (EC) No 765/2006 concerning restrictive measures against President Lukashenko and certain officials of Belarus.

[F2 Article 1a

1 It shall be prohibited:

a to sell, supply, transfer or export, directly or indirectly, equipment which might be used for internal repression as listed in Annex III, whether or not originating in the Union, to any person, entity or body in Belarus or for use in Belarus;

b to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the prohibitions referred to in point (a).

2 Paragraph 1 shall not apply to protective clothing, including flak jackets and helmets, temporarily exported to Belarus by United Nations (UN) personnel, personnel of the Union or its Member States, representatives of the media or humanitarian and development workers and associated persons exclusively for their personal use.

3 By way of derogation from paragraph 1, the competent authorities in the Member States as listed in Annex II may authorise the sale, supply, transfer or export of equipment which might be used for internal repression, under such conditions as they deem appropriate, if they determine that such equipment is intended solely for humanitarian or protective use.

[F3 4 Paragraph 1 shall not apply to the rifles and their ammunition and sights that are listed in Annex IV and which also comply with the specifications for biathlon equipment as defined in the event and competition rules of the International Biathlon Union (IBU) and are intended exclusively for use in biathlon events and training.**]**

[F4 5 By way of derogation from paragraph 1, the competent authorities in the Member States as listed in Annex II may authorise the sale, supply, transfer or export of sporting rifles, sporting pistols and their ammunition, as listed in Annex V, which also comply with the specifications defined in the equipment control guide of International Shooting Sport Federation, under such conditions as those authorities deem appropriate, if they determine that such equipment is intended exclusively for use in sports events and sports training recognised by the International Shooting Sport Federation.

6 The Member State concerned shall notify the other Member States and the Commission of its intention to grant an authorisation pursuant to paragraph 5 at least 10 days prior to the authorisation, including the type and quantity of the equipment concerned and the purpose for which it is intended.**]**

Textual Amendments

F2 Inserted by Council Regulation (EU) No 588/2011 of 20 June 2011 amending Regulation (EC) No 765/2006 concerning restrictive measures against President Lukashenko and certain officials of Belarus.

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F3 Inserted by Council Regulation (EU) 2017/331 of 27 February 2017 amending Regulation (EC) No 765/2006 concerning restrictive measures in respect of Belarus.

F4 Inserted by Council Regulation (EU) 2018/275 of 23 February 2018 amending Regulation (EC) No 765/2006 concerning restrictive measures in respect of Belarus.

Article 1b

1 It shall be prohibited:

a to provide, directly or indirectly, technical assistance related to the goods and technology listed in the Common Military List of the European Union[(2)] ('Common Military List'), or related to the provision, manufacture, maintenance and use of goods included in that list, to any person, entity or body in Belarus or for use in Belarus;

b to provide, directly or indirectly, technical assistance or brokering services related to equipment which might be used for internal repression as listed in Annex III, to any person, entity or body in Belarus or for use in Belarus;

c to provide, directly or indirectly, financing or financial assistance related to the goods and technology listed in the Common Military List or in Annex III, including in particular grants, loans and export credit insurance, for any sale, supply, transfer or export of such items, or for any provision of related technical assistance to any person, entity or body in Belarus or for use in Belarus;

d to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the prohibitions referred to in points (a) to (c).

2 By way of derogation from paragraph 1, the prohibitions referred to therein shall not apply to:

a non-lethal military equipment, or equipment which might be used for internal repression, intended solely for humanitarian purposes or protective use or for institution building programmes of the UN and the Union, or for EU or UN crisis management operations; or

b non-combat vehicles fitted with materials to provide ballistic protection, intended solely for the protective use of personnel of the Union and its Member States in Belarus,

provided that the provision thereof has first been approved by the competent authority of a Member State, as identified on the websites listed in Annex II.

3 Paragraph 1 shall not apply to protective clothing, including flak jackets and military helmets, temporarily exported to Belarus by UN personnel, personnel of the Union or its Member States, representatives of the media or humanitarian and development workers and associated persons exclusively for their personal use.

[F3 4 Paragraph 1 shall not apply to the rifles and their ammunition and sights that are listed in Annex IV and which also comply with the specifications for biathlon equipment as defined in the event and competition rules of the IBU and are intended exclusively for use in biathlon events and training.]

[F4 5 By way of derogation from paragraph 1, the competent authorities in the Member States as listed in Annex II may authorise the provision, directly or indirectly, of technical assistance or brokering services, financing or financial assistance related to sporting rifles, sporting pistols and their ammunition, as listed in Annex V, which also comply with the specifications defined in the equipment control guide of International Shooting Sport Federation, under such conditions as those authorities deem appropriate, if they determine that such equipment is intended exclusively for use in sports events and sports training recognised by the International Shooting Sport Federation.

***Changes to legislation:** There are outstanding changes not yet made to Council Regulation (EC) No 765/2006. 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*

6 The Member State concerned shall notify the other Member States and the Commission of its intention to grant an authorisation pursuant to paragraph 5 at least 10 days prior to the authorisation, including on the nature of the assistance or services related thereto.**]]**

Textual Amendments

F2 Inserted by Council Regulation (EU) No 588/2011 of 20 June 2011 amending Regulation (EC) No 765/2006 concerning restrictive measures against President Lukashenko and certain officials of Belarus.

F3 Inserted by Council Regulation (EU) 2017/331 of 27 February 2017 amending Regulation (EC) No 765/2006 concerning restrictive measures in respect of Belarus.

F4 Inserted by Council Regulation (EU) 2018/275 of 23 February 2018 amending Regulation (EC) No 765/2006 concerning restrictive measures in respect of Belarus.

[F5 Article 2

1 All funds and economic resources belonging to, or owned, held or controlled by the natural or legal persons, entities and bodies 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 the natural or legal persons, entities and bodies listed in Annex I.

3 The participation, knowingly and intentionally, in activities the object or effect of which is, directly or indirectly, to circumvent the measures referred to in paragraphs 1 and 2 shall be prohibited.

4 Annex I shall consist of a list of the natural or legal persons, entities and bodies who, in accordance with point (a) of Article 4(1) of Council Decision 2012/642/CFSP of 15 October 2012 concerning restrictive measures against Belarus[(3)], have been identified by the Council as being responsible for serious violations of human rights or the repression of civil society and democratic opposition, or whose activities otherwise seriously undermine democracy or the rule of law in Belarus, or any natural or legal persons, entities and bodies associated with them, as well as legal persons, entities or bodies owned or controlled by them.

5 Annex I shall also consist of a list of the natural or legal persons, entities and bodies who, in accordance with point (b) of Article 4(1) of Decision 2012/642/CFSP, have been identified by the Council as benefiting from or supporting the Lukashenka regime, as well as legal persons, entities and bodies owned or controlled by them.**]**

F6 6 . . . . . .

Textual Amendments

F5 Substituted by Council Regulation (EU) No 1014/2012 of 6 November 2012 amending Regulation (EC) No 765/2006 concerning restrictive measures in respect of Belarus.

F6 Deleted by Council Regulation (EU) 2016/277 of 25 February 2016 amending Regulation (EC) No 765/2006 concerning restrictive measures in respect of Belarus.

[F7 Article 2a

The prohibition set out in Article 2(2) shall not give rise to liability of any kind on the part of the natural or legal persons, entities or bodies concerned, if they did not know, and had no reasonable cause to suspect, that their actions would infringe this prohibition.**]**