Council Decision (CFSP) 2019/1894 of 11 November 2019 concerning restrictive measures in view of Turkey's unauthorised drilling activities in the Eastern Mediterranean

COUNCIL DECISION (CFSP) 2019/1894

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concerning restrictive measures in view of Turkey's unauthorised drilling activities in the Eastern Mediterranean

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

(1) On 18 June 2019, the Council recalled and reaffirmed previous Council and European Council conclusions, including the European Council conclusions of 22 March 2018 strongly condemning Turkey's continued illegal actions in the Eastern Mediterranean and the Aegean Sea. The Council expressed serious concerns over Turkey's illegal drilling activities in the Eastern Mediterranean and deplored that Turkey had not yet responded to the Union's repeated calls to cease such activities. It also invited the Commission and the European External Action Service (EEAS) to submit options for appropriate measures without delay.

(2) On 20 June 2019, the European Council recalled and reaffirmed previous Council and European Council conclusions strongly condemning Turkey's continued illegal actions in the Eastern Mediterranean and the Aegean Sea. Moreover, it endorsed the invitation to the Commission and to the EEAS to submit options for appropriate measures without delay, including targeted measures.

(3) On 15 July 2019, the Council adopted conclusions in which it deplored that, despite the Union's repeated calls to cease its illegal activities in the Eastern Mediterranean, Turkey had continued its drilling operations west of Cyprus and had launched a second drilling operation northeast of Cyprus within Cypriot territorial waters. It reiterated the serious immediate negative impact that such illegal actions have across the range of EU-Turkey relations and called again on Turkey to refrain from such actions, act in a spirit of good neighbourliness and respect the sovereignty and sovereign rights of Cyprus in accordance with international law. The Council, welcoming the invitation by the Government of Cyprus to negotiate with Turkey, noted that the delimitation of exclusive economic zones and of the continental shelf should be addressed through dialogue and negotiation in good faith, in full respect of international law and in accordance with the principle of good neighbourly relations.

Changes to legislation: *There are currently no known outstanding effects for the Council Decision (CFSP) 2019/1894. (See end of Document for details)*

(4) Moreover, in the light of Turkey's continued and new illegal drilling activities, the Council decided to suspend negotiations on the Comprehensive Air Transport Agreement and agreed not to hold the Association Council and further meetings of the EU-Turkey high#level dialogues for the time being. In addition, the Council endorsed the Commission's proposal to reduce the pre-accession assistance to Turkey for 2020 and invited the European Investment Bank to review its lending activities in Turkey, notably with regard to sovereign-backed lending.

(5) Furthermore, those conclusions underlined that the Council remained seized of the matter and invited the High Representative of the Union for Foreign Affairs and Security Policy (the 'High Representative') and the Commission to continue work on options for targeted measures in the light of Turkey's continued drilling activities in the Eastern Mediterranean.

(6) On 14 October 2019, in the light of Turkey's continued illegal drilling activities in the Eastern Mediterranean, the Council reaffirmed its full solidarity with Cyprus with regard to the respect of its sovereignty and sovereign rights in accordance with international law. It recalled its conclusions of 15 July 2019, in particular that the delimitation of exclusive economic zones and of the continental shelf should be addressed through dialogue and negotiation in good faith, in full respect of international law and in accordance with the principle of good neighbourly relations.

(7) Moreover, the Council agreed to put in place a framework for restrictive measures targeting natural and legal persons responsible for or involved in the illegal drilling activity of hydrocarbons in the Eastern Mediterranean and invited the High Representative and the Commission to swiftly present proposals to that effect.

(8) On 18 October 2019, the European Council endorsed the Council conclusions of 14 October 2019 on Turkey's illegal drilling activities in Cyprus' exclusive economic zone and reaffirmed its solidarity with Cyprus and stated that it will remain seized of the matter.

(9) The above-mentioned drilling activities infringe the sovereignty or sovereign rights and jurisdiction of the Republic of Cyprus in its territorial sea, exclusive economic zone and continental shelf and, when such activities are carried out in areas where the exclusive economic zone and continental shelf have not been delimited under international law with a State having an opposite coast, they jeopardise or hamper the reaching of a delimitation agreement. These actions are contrary to the principles of the United Nations Charter, including the peaceful resolution of disputes, and pose a threat to the interests and security of the Union.

(10) In that context, targeted restrictive measures should be imposed on natural or legal persons, entities or bodies responsible for, involved in, including by planning, preparing, for example by means of seismic surveys, participating in, directing, or assisting, drilling activities in relation to hydrocarbon exploration and production, or hydrocarbon extraction resulting from such activities, or providing financial, technical or material support for such activities, which have not been authorised by the Republic of Cyprus, within its territorial sea or in its exclusive economic zone or on its continental

shelf. This includes, in cases where the exclusive economic zone or continental shelf has not been delimited in accordance with international law with a State having an opposite coast, activities which may jeopardise or hamper the reaching of a delimitation agreement.

(11) This Decision should not impede the delivery and facilitation of delivery of humanitarian aid. This Decision should be amended in order to include a derogation as appropriate, if it appears that the application of restrictive measures against a designated person or entity could impede the delivery of humanitarian aid.

(12) Further Union action is needed in order to implement certain measures,

HAS ADOPTED THIS DECISION:

Article 1

1 Member States shall take the measures necessary to prevent the entry into, or transit through, their territories of:

a natural persons who are responsible for or involved in, including by planning, preparing, participating in, directing, or assisting, drilling activities in relation to hydrocarbon exploration and production, or hydrocarbon extraction resulting from such activities, which have not been authorised by the Republic of Cyprus, within its territorial sea or in its exclusive economic zone or on its continental shelf.

That shall include, in cases where the exclusive economic zone or continental shelf has not been delimited in accordance with international law with a State having an opposite coast, activities which may jeopardise or hamper the reaching of a delimitation agreement;

b natural persons who provide financial, technical or material support for drilling activities in relation to hydrocarbon exploration and production, or hydrocarbon extraction resulting from such activities, referred to in point (a);

c natural persons associated with the natural persons referred to in points (a) and (b),

as listed in the Annex.

2 Paragraph 1 shall not oblige a Member State to refuse its own nationals entry into its territory.

3 Paragraph 1 shall be without prejudice to cases where a Member State is bound by an obligation of international law, namely:

a as a host country of an international intergovernmental organisation;

b as a host country to an international conference convened by, or under the auspices of, the United Nations;

c under a multilateral agreement conferring privileges and immunities; or

d pursuant to the 1929 Treaty of Conciliation (Lateran Pact) concluded by the Holy See (Vatican City State) and Italy.

4 Paragraph 3 shall be considered as applying also in cases where a Member State is host country of the Organisation for Security and Cooperation in Europe (OSCE).

5 The Council shall be duly informed in all cases where a Member State grants an exemption pursuant to paragraph 3 or 4.

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6 Member States may grant exemptions from the measures imposed under paragraph 1 where travel is justified on the grounds of urgent humanitarian need, or on grounds of attending intergovernmental meetings and meetings promoted or hosted by the Union, or hosted by a Member State holding the Chairmanship in office of the OSCE, where a political dialogue is conducted that directly promotes the policy objectives of the restrictive measures.

7 Member States may also grant exemptions from the measures imposed under paragraph 1 where entry or transit is necessary for the fulfilment of a judicial process.

8 A Member State wishing to grant exemptions referred to in paragraph 6 or 7 shall notify the Council in writing. The exemption shall be deemed to be granted unless one or more of the Council members raises an objection in writing within two working days of receiving notification of the proposed exemption. Should one or more of the Council members raise an objection, the Council, acting by a qualified majority, may decide to grant the proposed exemption.

9 Where, pursuant to paragraph 3, 4, 6, 7 or 8, a Member State authorises the entry into, or transit through its territory of persons listed in the Annex, the authorisation shall be strictly limited to the purpose for which it is given and to the persons directly concerned thereby.

Article 2

1 All funds and economic resources belonging to, owned, held or controlled by:

a natural or legal persons, entities or bodies who are responsible for or involved in, including by planning, preparing, participating in, directing, or assisting, drilling activities in relation to hydrocarbon exploration and production, or hydrocarbon extraction resulting from such activities, which have not been authorised by the Republic of Cyprus, within its territorial sea or in its exclusive economic zone or on its continental shelf.

That shall include, in cases where the exclusive economic zone or continental shelf has not been delimited in accordance with international law with a State having an opposite coast, activities which may jeopardise or hamper the reaching of a delimitation agreement;

b natural or legal persons, entities or bodies who provide financial, technical or material support for drilling activities in relation to hydrocarbon exploration and production, or hydrocarbon extraction resulting from such activities, referred to in point (a);

c natural or legal persons, entities or bodies associated with the natural or legal persons, entities or bodies referred to in points (a) and (b),

as listed in the Annex, 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 or bodies listed in the Annex.

3 By way of derogation from paragraphs 1 and 2, the competent authority of a Member State 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 it deems appropriate, after having determined that the funds or economic resources concerned are:

a necessary to satisfy the basic needs of the natural or legal persons, entities or bodies listed in the Annex and dependent family members of such natural persons, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;

b intended exclusively for the payment of reasonable professional fees and 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 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.

The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under this paragraph.

4 By way of derogation from paragraph 1, the competent authorities of a Member State may authorise the release of certain frozen funds or economic resources, provided that 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 paragraph 1 was listed in the Annex, 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 the Annex; and

d recognition of the decision is not contrary to public policy in the Member State concerned.

The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under this paragraph.

5 Paragraph 1 shall not prevent a natural or legal person, entity or body listed in the Annex from making a payment due under a contract entered into prior to the date on which such natural or legal person, entity or body was listed therein, provided that the Member State concerned has determined that the payment is not, directly or indirectly, received by a natural or legal person, entity or body referred to in paragraph 1.

6 Paragraph 2 shall not apply to the addition to frozen accounts of:

a interest or other earnings on those accounts;

b payments due under contracts, agreements or obligations that were concluded or arose prior to the date on which those accounts became subject to the measures provided for in paragraphs 1 and 2; or

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

provided that any such interest, other earnings and payments remain subject to the measures provided for in paragraph 1.

Article 3

1 The Council, acting by unanimity upon a proposal from a Member State or from the High Representative, shall establish and amend the list set out in the Annex.