Council Regulation (EU) No 45/2014 of 20 January 2014 amending Regulation (EU) No 204/2011 concerning restrictive measures in view of the situation in Libya

COUNCIL REGULATION (EU) No 45/2014

of 20 January 2014

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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 2011/137/CFSP of 28 February 2011 concerning restrictive measures in view of the situation in Libya[(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 204/2011[(2)] gives effect to the measures provided for in Decision 2011/137/CFSP.

(2) It is necessary to amend the non-liability clause and the no claims clause provided for in Regulation (EU) No 204/2011 in line with the wording of the Guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of the EU Common Foreign and Security Policy adopted by the Council on 15 June 2012.

(3) Regulation (EU) No 204/2011 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 204/2011 is amended as follows:

(1) Article 11 is replaced by the following:

Article 11

1 The freezing of funds and economic resources or the refusal to make funds or economic resources available, carried out in good faith on the basis that such action is in accordance with this Regulation, shall not give rise to liability of any kind on the part of the natural or legal person, entity or body implementing it, or its directors or employees, unless it is proved that the funds and economic resources were frozen or withheld as a result of negligence.

2 Actions by natural or legal persons, entities or bodies shall not give rise to liability of any kind on their part, if they did not know, and had no reasonable cause to suspect, that their actions would infringe the measures set out in this Regulation.;

(2) Article 12 is replaced by the following:

Changes to legislation: Council Regulation (EU) No 45/2014 is up to date with all changes known to be in force on or before 18 March 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Article 12

1 No claims in connection with any contract or transaction the performance of which has been affected, directly or indirectly, in whole or in part, by the measures imposed under this Regulation, including claims for indemnity or any other claim of that type, such as a claim for compensation or a claim under a guarantee, in particular a claim for extension or payment of a bond, guarantee or indemnity, particularly a financial guarantee or financial indemnity, of whatever form, shall be satisfied, if they are made by:

a designated persons, entities or bodies listed in Annex II or III;

b any other Libyan person, entity or body, including the Libyan government;

c any person, entity or body acting through or on behalf of one of the persons, entities or bodies referred to in points (a) or (b).

2 In any proceedings for the enforcement of a claim, the onus of proving that satisfying the claim is not prohibited by paragraph 1 shall be on the person seeking the enforcement of that claim.

3 This Article is without prejudice to the right of the persons, entities and bodies referred to in paragraph 1 to judicial review of the legality of the non-performance of contractual obligations in accordance with this Regulation..

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.

Done at Brussels, 20 January 2014.

For the Council

The President

C. ASHTON