

COUNCIL DECISION (CFSP) 2015/1836
of 12 October 2015
amending Decision 2013/255/CFSP concerning restrictive measures against Syria

THE COUNCIL OF THE EUROPEAN UNION,

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

Whereas:

- (1) On 9 May 2011, the Council adopted Decision 2011/273/CFSP ⁽¹⁾ concerning restrictive measures against Syria.
- (2) Since then, the Council has continued to strongly condemn the violent repression against the civilian population in Syria pursued by the Syrian regime. The Council has repeatedly expressed grave concern about the deteriorating situation in Syria and, in particular, the widespread and systematic violations of human rights and international humanitarian law.
- (3) On 14 April 2014, in line with the Council Conclusions of 23 January 2012, wherein the Council confirmed the Union's commitment to continue its policy of imposing additional measures against the regime as long as the repression continues, the Council stated that the EU would continue its policy of restrictive measures targeting the regime as long as the repression continues.
- (4) The Council has repeatedly noted with great concern the attempts that have been made by the Syrian regime to circumvent EU restrictive measures in order to continue to finance and support the regime's policy of violent repression against the civilian population.
- (5) The Council notes that the Syrian regime continues to pursue its policy of repression and, in view of the gravity of the situation which persists, the Council considers it necessary to maintain and ensure the effectiveness of the restrictive measures in place, by further developing them while maintaining its targeted and differentiated approach and bearing in mind the humanitarian conditions of the Syrian population. The Council considers that certain categories of persons and entities are of particular relevance for the effectiveness of these restrictive measures, given the specific context prevailing in Syria.
- (6) The Council has assessed that because of the close control exercised over the economy by the Syrian regime, an inner cadre of leading businesspersons operating in Syria is only able to maintain its status by enjoying a close association with, and the support of, the regime, and by having influence within it. The Council considers that it should provide for restrictive measures to impose restrictions on admission and to freeze all funds and economic resources belonging to, owned, held or controlled by those leading businesspersons operating in Syria, as identified by the Council and listed in Annex I, in order to prevent them from providing material or financial support to the regime and, through their influence, to increase pressure on the regime itself to change its policies of repression.
- (7) The Council has assessed that, in the context of power in Syria traditionally being exercised on a family basis, power in the present Syrian regime is concentrated in influential members of the Assad and Makhlof families. The Council considers that it should provide for restrictive measures to freeze all funds and economic resources belonging to, owned, held or controlled by certain members of the Assad and Makhlof families, and to impose restrictions on admission for such persons, as identified by the Council and listed in Annex I, both to directly influence the regime through members of those families to change its policies of repression, as well as to avoid the risk of circumvention of restrictive measures through family members.
- (8) Ministers within the Syrian Government should be considered jointly and severally responsible for the policy of repression pursued by the Syrian regime. The Council has assessed that former Ministers of the Government of Syria, in the particular context of the present Syrian regime, are likely to have a continuing influence within that

⁽¹⁾ Council Decision 2011/273/CFSP of 9 May 2011 concerning restrictive measures against Syria (OJ L 121, 10.5.2011, p. 11).

regime. The Council therefore considers that it should provide for restrictive measures to freeze all funds and economic resources belonging to, owned, held or controlled by both Ministers within the Syrian Government, and Ministers who held office after May 2011, and to impose restrictions on admission for such persons, as identified by the Council and listed in Annex I.

- (9) The Syrian Armed Forces are a key means by which the regime implements its repressive policies and commits violations of human rights and international humanitarian law, and their serving officers present a serious risk of further committing such violations. Furthermore, in the particular context of the Syrian Armed Forces, the Council has assessed that former senior officers in the Armed Forces are likely to have a continuing influence within the regime. The Council therefore considers that it should provide for restrictive measures to freeze all funds and economic resources belonging to, owned, held or controlled by both senior officers in the Syrian Armed Forces and former senior officers in the Syrian Armed Forces who held such a position after May 2011, and to impose restrictions on admission for such persons, as identified by the Council and listed in Annex I.
- (10) The Syrian security and intelligence services are a key means by which the regime implements its repressive policies and commits violations of human rights and international humanitarian law, and their serving officers present a serious risk of further committing such violations. Furthermore, in the particular context of the Syrian security and intelligence services, the Council has assessed that former officers in those services are likely to have a continuing influence within the regime. The Council therefore considers that it should provide for restrictive measures to freeze funds and economic resources belonging to, owned, held or controlled by both members of the Syrian security and intelligence services and former members of those services who held such a position after May 2011, and to impose restrictions on admission for such persons, as identified by the Council and listed in Annex I.
- (11) The Council has assessed that regime-affiliated militias support the Syrian regime in its repressive policies, commit abuses of human rights and violations of international humanitarian law on the order, and in the name of, the Syrian regime and that their members present a serious risk of further committing such violations. The Council therefore considers that it should provide for restrictive measures to freeze all funds and economic resources belonging to, owned, held or controlled by members of Syrian regime-affiliated militias, and to impose restrictions on admission for such persons, as identified by the Council and listed in Annex I.
- (12) In order to prevent violations of human rights and international humanitarian law through the use of chemical weapons in Syria, the Council considers that it should provide for restrictive measures against persons, entities, units, agencies, bodies or institutions operating in that sector, as identified by the Council and listed in Annex I.
- (13) The restrictive measures are without prejudice to the privileges and immunities enjoyed by members of diplomatic and consular missions who are accredited to an EU Member State, in accordance with international law, including the Vienna Convention on Diplomatic Relations, 1961 and the Vienna Convention on Consular Relations, 1963. Furthermore, the restrictive measures are without prejudice to the performance of diplomatic functions and consular assistance of Member States in Syria.
- (14) Persons or entities within one of the categories referred to in recitals 6 to 12 should not be subject to restrictive measures if there is sufficient information that they are not, or are no longer, associated with the regime or exercise influence over it or do not pose a real risk of circumvention.
- (15) All listing decisions should be made on an individual and case-by-case basis taking into account the proportionality of the measure.
- (16) Decision 2013/255/CFSP ⁽¹⁾, which replaced Decision 2011/273/CFSP, should therefore be amended accordingly,

⁽¹⁾ Council Decision 2013/255/CFSP of 31 May 2013 concerning restrictive measures against Syria (OJ L 147, 1.6.2013, p. 14).

HAS ADOPTED THIS DECISION:

Article 1

Decision 2013/255/CFSP is amended as follows:

(1) the following recitals are added:

- '(3) The Council has repeatedly noted with great concern the attempts that have been made by the Syrian regime to circumvent EU restrictive measures in order to continue to finance and support the regime's policy of violent repression against the civilian population.
- (4) The Council notes that the Syrian regime continues to pursue its policy of repression and, in view of the gravity of the situation which persists, the Council considers it necessary to maintain and ensure the effectiveness of the restrictive measures in place, by further developing them while maintaining its targeted and differentiated approach and bearing in mind the humanitarian conditions of the Syrian population. The Council considers that certain categories of persons and entities are of particular relevance for the effectiveness of these restrictive measures, given the specific context prevailing in Syria.
- (5) The Council has assessed that because of the close control exercised over the economy by the Syrian regime, an inner cadre of leading businesspersons operating in Syria is only able to maintain its status by enjoying a close association with, and the support of, the regime and by having influence within it. The Council considers that it should provide for restrictive measures to impose restrictions on admission and to freeze all funds and economic resources belonging to, owned, held or controlled by those leading businesspersons operating in Syria, as identified by the Council and listed in Annex I, in order to prevent them from providing material or financial support to the regime and, through their influence, to increase pressure on the regime itself to change its policies of repression.
- (6) The Council has assessed that, in the context of power in Syria traditionally being exercised on a family basis, power in the present Syrian regime is concentrated in influential members of the Assad and Makhoul families. The Council considers that it should provide for restrictive measures to freeze all funds and economic resources belonging to, owned, held or controlled by certain members of the Assad and Makhoul families, and to impose restrictions on admission for such persons, as identified by the Council and listed in Annex I, both to directly influence the regime through members of those families to change its policies of repression, as well as to avoid the risk of circumvention of restrictive measures through family members.
- (7) Ministers within the Syrian Government should be considered jointly and severally responsible for the policy of repression pursued by the Syrian regime. The Council has assessed that former Ministers of the Government of Syria, in the particular context of the present Syrian regime, are likely to have a continuing influence within that regime. The Council therefore considers that it should provide for restrictive measures to freeze all funds and economic resources belonging to, owned, held or controlled by both Ministers within the Syrian Government, and Ministers who held office after May 2011, and to impose restrictions on admission for such persons, as identified by the Council and listed in Annex I.
- (8) The Syrian Armed Forces are a key means by which the regime implements its repressive policies and commits violations of human rights and international humanitarian law, and their serving officers present a serious risk of further committing such violations. Furthermore, in the particular context of the Syrian Armed Forces, the Council has assessed that former senior officers in the Armed Forces are likely to have a continuing influence within the regime. The Council therefore considers that it should provide for restrictive measures to freeze all funds and economic resources belonging to, owned, held or controlled by both senior officers in the Syrian Armed Forces and former senior officers in the Syrian Armed Forces who held such a position after May 2011, and to impose restrictions on admission for such persons, as identified by the Council and listed in Annex I.
- (9) The Syrian security and intelligence services are a key means by which the regime implements its repressive policies and commits violations of human rights and international humanitarian law, and their serving officers present a serious risk of further committing such violations. Furthermore, in the particular context of the Syrian security and intelligence services, the Council has assessed that former officers in those services are

likely to have a continuing influence within the regime. The Council therefore considers that it should provide for restrictive measures to freeze funds and economic resources belonging to, owned, held or controlled by both members of the Syrian security and intelligence services and former members of those services who held such a position since May 2011, and to impose restrictions on admission for such persons, as identified by the Council and listed in Annex I.

- (10) The Council has assessed that regime-affiliated militias support the Syrian regime in its repressive policies, commit abuses of human rights and violations of international humanitarian law on the order, and in the name of, the Syrian regime and that their members present a serious risk of further committing such violations. The Council therefore considers that it should provide for restrictive measures to freeze all funds and economic resources belonging to, owned, held or controlled by members of Syrian regime affiliated militias, and to impose restrictions on admission for such persons, as identified by the Council and listed in Annex I.
- (11) In order to prevent violations of human rights and international humanitarian law through use of chemical weapons in Syria, the Council considers that it should provide for restrictive measures against persons, entities, units, agencies, bodies or institutions operating in this sector, as identified by the Council and listed in Annex I.
- (12) The restrictive measures are without prejudice to the privileges and immunities enjoyed by members of diplomatic and consular missions who are accredited to an EU Member State, in accordance with international law, including the Vienna Convention on Diplomatic Relations, 1961 and the Vienna Convention on Consular Relations, 1963. Furthermore, the restrictive measures are without prejudice to the performance of diplomatic functions and consular assistance of Member States in Syria.
- (13) Persons or entities within one of the categories referred to in recitals 5 to 11 should not be subject to restrictive measures if there is sufficient information that they are not, or are no longer, associated with the regime or exercise influence over it or do not pose a real risk of circumvention.
- (14) All listing decisions should be made on an individual and case-by-case basis taking into account the proportionality of the measure.;

(2) recital 3 is renumbered as recital 15;

(3) Article 27 is replaced by the following:

'Article 27

1. Member States shall take the necessary measures to prevent the entry into, or transit through, their territories of the persons responsible for the violent repression against the civilian population in Syria, persons benefiting from or supporting the regime, and persons associated with them, as listed in Annex I.

2. In accordance with the assessments and determinations made by the Council in the context of the situation in Syria as set out in recitals 5 to 11, Member States shall also take the necessary measures to prevent the entry into, or transit through, their territories of:

- (a) leading businesspersons operating in Syria;
- (b) members of the Assad or Makhoul families;
- (c) Syrian Government Ministers in power after May 2011;
- (d) members of the Syrian Armed Forces of the rank of "colonel" and the equivalent or higher in post after May 2011;
- (e) members of the Syrian security and intelligence services in post after May 2011;

- (f) members of regime-affiliated militias; or
- (g) persons operating in the chemical weapons proliferation sector,
and persons associated with them, as listed in Annex I.

3. Persons within one of the categories referred to in paragraph 2 shall not be included or retained on the list of persons and entities in Annex I if there is sufficient information that they are not, or are no longer, associated with the regime or do not exercise influence over it or do not pose a real risk of circumvention.

4. All listing decisions shall be made on an individual and case-by-case basis taking into account the proportionality of the measure.

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

6. Paragraphs 1 and 2 shall be without prejudice to the cases where a Member State is bound by an obligation of international law, namely:

- (a) as a host country to an international intergovernmental organisation;
- (b) as a host country to an international conference convened by, or under the auspices of, the UN;
- (c) under a multilateral agreement conferring privileges and immunities; or
- (d) under the 1929 Treaty of Conciliation (Lateran pact) concluded by the Holy See (State of the Vatican City) and Italy.

7. Paragraph 6 shall be considered as also applying in cases where a Member State is host country to the Organisation for Security and Cooperation in Europe (OSCE).

8. The Council shall be duly informed in all cases where a Member State grants an exemption pursuant to paragraph 6 or 7.

9. Member States may grant exemptions from the measures imposed under paragraphs 1 and 2 where travel is justified on the grounds of urgent humanitarian need, or on grounds of attending intergovernmental meetings, including those promoted 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 democracy, human rights and the rule of law in Syria.

10. A Member State wishing to grant exemptions referred to in paragraph 9 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.

11. Where, pursuant to paragraphs 6 to 10, a Member State authorises the entry into, or transit through, its territory of persons listed in Annex I, the authorisation shall be limited to the purpose for which it is given and to the person concerned therewith.;

(4) Article 28 is replaced by the following:

Article 28

1. All funds and economic resources belonging to, or owned, held or controlled by persons responsible for the violent repression against the civilian population in Syria, persons and entities benefiting from or supporting the regime, and persons and entities associated with them, as listed in Annexes I and II, shall be frozen.

2. In accordance with the assessments and determinations made by the Council in the context of the situation in Syria as set out in recitals 5 to 11, all funds and economic resources belonging to, or owned, held or controlled by:

- (a) leading businesspersons operating in Syria;
- (b) members of the Assad or Makhoul families;

- (c) Syrian Government Ministers in power after May 2011;
- (d) members of the Syrian Armed Forces of the rank of “colonel” and the equivalent or higher in post after May 2011;
- (e) members of the Syrian security and intelligence services in post after May 2011;
- (f) members of regime-affiliated militias; or
- (g) members of entities, units, agencies, bodies or institutions operating in the chemical weapons proliferation sector,
and persons associated with them, as listed in Annex I, shall be frozen.

3. Persons, entities or bodies within one of the categories referred to in paragraph 2 shall not be included or retained on the list of persons and entities in Annex I if there is sufficient information that they are not, or are no longer, associated with the regime or do not exercise influence over it or do not pose a real risk of circumvention.

4. All listing decisions shall be made on an individual and case-by-case basis taking into account the proportionality of the measure.

5. No funds or economic resources shall be made available, directly or indirectly, to or for the benefit of, the natural or legal persons or entities listed in Annexes I and II.

6. 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 persons listed in Annexes I and II and their dependent family members, 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; or
- (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;
- (e) necessary for humanitarian purposes, such as delivering or facilitating the delivery of assistance, including medical supplies, food, humanitarian workers and related assistance, and provided that, in the case of release of frozen funds or economic resources, the funds or economic resources are released to the UN for the purpose of delivering or facilitating the delivery of assistance in Syria in accordance with the Syria Humanitarian Assistance Response Plan (SHARP);
- (f) 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, in so far as such payments are intended to be used for official purposes of the diplomatic or consular mission or international organisation;
- (g) necessary for evacuations from Syria;
- (h) intended for the Central Bank of Syria or Syrian State-owned entities, as listed in Annexes I and II, to make payments on behalf of the Syrian Arab Republic to the OPCW for activities related to the OPCW verification mission and the destruction of Syrian chemical weapons, and in particular to the OPCW Syrian Special Trust Fund for activities related to the complete destruction of Syrian chemical weapons outside the territory of the Syrian Arab Republic.

A Member State shall inform the other Member States and the Commission of any authorisation it grants under this paragraph.

7. By way of derogation from paragraphs 1 and 2, 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 subject of an arbitral decision rendered prior to the date on which the person or entity referred to in paragraph 1 or 2 was listed in Annex I or II 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 person or entity listed in Annex I or II; and
- (d) recognising the decision is not contrary to public policy in the Member State concerned.

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

8. Paragraphs 1 and 2 shall not prevent a designated person or entity from making a payment due under a contract entered into before the listing of such a person or entity, provided that the relevant Member State has determined that the payment is not directly or indirectly received by a person or entity referred to in paragraphs 1 and 2.

9. Paragraphs 1 and 2 shall not prevent a designated entity listed in Annex II, for a period of two months after the date of its designation, from making a payment from frozen funds or economic resources received by such entity after the date of its designation, where such payment is due under a contract in connection with the financing of trade, provided that the relevant Member State has determined that the payment is not directly or indirectly received by a person or entity referred to in paragraph 1 or 2.

10. Paragraph 5 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 prior to the date on which those accounts became subject to this Decision,

provided that any such interest, other earnings and payments remain subject to paragraphs 1 and 2.

11. Paragraphs 1, 2 and 5 shall not apply to a transfer by or through the Central Bank of Syria of funds or economic resources received and frozen after the date of its designation or to a transfer of funds or economic resources to or through the Central Bank of Syria after the date of its designation where such transfer is related to a payment by a non-designated financial institution due in connection with a specific trade contract, provided that the relevant Member State has determined, on a case-by-case basis, that the payment is not directly or indirectly received by a person or entity referred to in paragraph 1 or 2.

12. Paragraphs 1 and 2 shall not apply to a transfer by or through the Central Bank of Syria of frozen funds or economic resources where such transfer is for the purpose of providing financial institutions under the jurisdiction of Member States with liquidity for the financing of trade, provided that the transfer has been authorised by the relevant Member State.

13. Paragraphs 1, 2 and 5 shall not apply to a transfer, by or through a financial entity listed in Annex I or II, of frozen funds or economic resources where the transfer is related to a payment by a person or entity not listed in Annex I or II in connection with the provision of financial support to Syrian nationals pursuing an education, professional training or engaged in academic research in the Union, provided that the relevant Member State has determined, on a case-by-case basis, that the payment is not directly or indirectly received by a person or entity referred to in paragraph 1 or 2.

14. Paragraphs 1, 2 and 5 shall not apply to acts or transactions carried out, with regard to Syrian Arab Airlines, for the sole purpose of evacuating citizens of the Union and their family members from Syria.

15. Paragraphs 1, 2 and 5 shall not apply to the transfer by or through the Commercial Bank of Syria of funds or economic resources received from outside the Union and frozen after the date of its designation or to a transfer of funds or economic resources to or through the Commercial Bank of Syria received from outside the Union after the date of its designation where such transfer is related to a payment by a non-designated financial institution due in connection with a specific trade contract for medical supplies, food, shelter, sanitation or hygiene for civilian use, provided that the relevant Member State has determined, on a case-by-case basis, that the payment is not directly or indirectly received by a person or entity referred to in paragraph 1 or 2.;

(5) Article 30(2) is replaced by the following:

‘2. The Council shall communicate its decision on the listing, including the grounds therefor, to the person, entity or body concerned, either directly, if the address is known, or through the publication of a notice, providing such person, entity or body with an opportunity to present observations. In particular, where a person, entity or body is listed in Annex I on the basis that they fall within one of the categories of persons, entities or bodies set out in Articles 27(2) and 28(2), the person, entity or body may present evidence and observations as to why, although they fall within such a category, they consider that their designation is not justified.’

Article 2

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Done at Luxembourg, 12 October 2015.

For the Council

The President

F. MOGHERINI
