

Council Regulation (EU) 2017/2063 of 13 November 2017  
concerning restrictive measures in view of the situation in Venezuela

*Article 1*

For the purposes of this Regulation, the following definitions apply:

- (a) ‘claim’ means any claim, whether asserted by legal proceedings or not, made before, on or after the date of entry into force of this Regulation, under or in connection with a contract or transaction, and includes in particular:
  - (i) a claim for performance of any obligation arising under or in connection with a contract or transaction;
  - (ii) a claim for extension or payment of a bond, financial guarantee or indemnity of whatever form;
  - (iii) a claim for compensation in respect of a contract or transaction;
  - (iv) a counterclaim;
  - (v) a claim for the recognition or enforcement, including by the procedure of *exequatur*, of a judgment, an arbitration award or an equivalent decision, wherever made or given;
- (b) ‘contract or transaction’ means any transaction of whatever form and whatever the applicable law, whether comprising one or more contracts or similar obligations made between the same or different parties; for this purpose, ‘contract’ includes a bond, guarantee or indemnity, in particular a financial guarantee or financial indemnity, and credit, whether legally independent or not, as well as any related provision arising under, or in connection with, the transaction;
- (c) ‘competent authorities’ refers to the competent authorities of the Member States as identified on the websites listed in Annex III;
- (d) ‘economic resources’ means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds, but may be used to obtain funds, goods or services;
- (e) ‘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;
- (f) ‘freezing of funds’ means preventing any move, transfer, alteration or 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 or destination or other change that would enable the funds to be used, including portfolio management;
- (g) ‘funds’ means financial assets and benefits of every kind, including, but not limited to:
  - (i) cash, cheques, claims on money, drafts, money orders and other payment instruments;
  - (ii) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;

- (iii) publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;
- (iv) interest, dividends or other income on or value accruing from or generated by assets;
- (v) credit, right of set-off, guarantees, performance bonds or other financial commitments;
- (vi) letters of credit, bills of lading, bills of sale; and
- (vii) documents showing evidence of an interest in funds or financial resources;
- (h) ‘technical assistance’ means any technical support related to repairs, development, manufacture, assembly, testing, maintenance or any other technical service, and may take forms such as instruction, advice, training, transmission of working knowledge or skills, or consulting services, including verbal forms of assistance;
- (i) ‘brokering services’ means:
  - (i) the negotiation or arrangement of transactions for the purchase, sale or supply of goods and technology or financial and technical services from a third country to any other third country, or
  - (ii) the selling or buying of goods and technology or financial and technical services that are located in a third country for their transfer to another third country;
- (j) ‘territory of the Union’ means the territories of the Member States to which the Treaty is applicable, under the conditions laid down in the Treaty, including their airspace.

### *Article 2*

- 1 It shall be prohibited:
  - a to provide, directly or indirectly, technical assistance, brokering services and other services related to the goods and technology listed in the EU Common List of Military Equipment (‘the Common Military List’) and to the provision, manufacture, maintenance and use of goods and technology listed in the Common Military List to any natural or legal person, entity or body in, or for use in, Venezuela;
  - b to provide, directly or indirectly, financing or financial assistance related to the goods and technology listed in the Common Military List, including in particular grants, loans and export credit insurance, as well as insurance and reinsurance, for any sale, supply, transfer or export of such items, or for the provision of related technical assistance, brokering services and other services, directly or indirectly to any person, entity or body in, or for use in, Venezuela.

2 The prohibition in paragraph 1 shall not apply to the execution of contracts concluded before 13 November 2017 or to ancillary contracts necessary for the execution of such contracts, provided that they comply with Council Common Position 2008/944/CFSP<sup>(1)</sup>, in particular with the criteria set out in Article 2 thereof and that the natural or legal persons, entities or bodies seeking to perform the contract have notified the contract to the competent authority of the Member State in which they are established within 5 working days of the entry into force of this Regulation.

### *Article 3*

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 I, whether or not originating in the Union, to any natural or legal person, entity or body in, or for use in, Venezuela;
- (b) to provide technical assistance and brokering and other services related to the equipment referred to in point (a), directly or indirectly to any natural or legal person, entity or body in, or for use in, Venezuela;
- (c) to provide financing or financial assistance, including in particular grants, loans and export credit insurance, as well as insurance and reinsurance, related to the equipment referred to in point (a), directly or indirectly to any natural or legal person, entity or body in, or for use in, Venezuela.

### *Article 4*

1 By way of derogation from Articles 2 and 3, the competent authorities of Member States as listed in Annex III may authorise, under such conditions as they deem appropriate:

- a the provision of financing and financial assistance and technical assistance related to:
  - (i) non-lethal military equipment intended solely for humanitarian or protective use, or for institution-building programmes of the United Nations (UN) and the Union or its Member States or of regional and sub-regional organisations;
  - (ii) material intended for crisis-management operations of the UN and the Union or of regional and sub-regional organisations;
- b the sale, supply, transfer or export of equipment which might be used for internal repression and associated financing and financial and technical assistance, intended solely for humanitarian or protective use or for institution-building programmes of the UN or the Union, or for crisis-management operations of the UN and the Union or of regional and subregional organisations;
- c the sale, supply, transfer or export of demining equipment and materiel for use in demining operations and associated financing and financial and technical assistance.

2 Authorisations referred to in paragraph 1 may be granted only prior to the activity for which they are requested.

### *Article 5*

Articles 2 and 3 shall not apply to protective clothing, including flak jackets and military helmets, temporarily exported to Venezuela by UN personnel, personnel of the Union or its Member States, representatives of the media, and humanitarian and development workers and associated personnel for their personal use only.

### *Article 6*

1 It shall be prohibited to sell, supply, transfer or export, directly or indirectly, equipment, technology or software identified in Annex II, whether or not originating in the Union, to any person, entity or body in Venezuela or for use in Venezuela, unless the competent authority of the relevant Member State, as identified on the websites listed in Annex III, has given prior authorisation.

2 The competent authorities of the Member States, as identified on the websites listed in Annex III, shall not grant any authorisation under paragraph 1 if they have reasonable grounds to determine that the equipment, technology or software in question would be used for internal repression by Venezuela's government, public bodies, corporations or agencies, or any person or entity acting on their behalf or at their direction.

3 Annex II shall include equipment, technology or software intended primarily for use in the monitoring or interception of internet or telephone communications.

4 The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under this Article, within four weeks of the authorisation.

#### *Article 7*

1 Unless the competent authority of the relevant Member State, as identified on the websites listed in Annex III, has given prior authorisation in accordance with Article 6(2), it shall be prohibited:

- a to provide, directly or indirectly, technical assistance or brokering services related to the equipment, technology and software identified in Annex II, or related to the installation, provision, manufacture, maintenance and use of the equipment and technology identified in Annex II or to the provision, installation, operation or updating of any software identified in Annex II, to any person, entity or body in Venezuela or for use in Venezuela;
- b to provide, directly or indirectly, financing or financial assistance related to the equipment, technology and software identified in Annex II to any person, entity or body in Venezuela or for use in Venezuela;
- c to provide any telecommunication or internet monitoring or interception services of any kind to, or for the direct or indirect benefit of, Venezuela's government, public bodies, corporations and agencies or any person or entity acting on their behalf or at their direction.

2 For the purposes of point (c) of paragraph 1, 'telecommunication or internet monitoring or interception services' means those services that provide, in particular using equipment, technology or software as identified in Annex II, access to and delivery of a subject's incoming and outgoing telecommunications and call- associated data for the purpose of its extraction, decoding, recording, processing, analysis or storing, or any other related activity.

#### *Article 8*

1 All funds and economic resources belonging to or owned, held or controlled by any natural or legal person, entity or body listed in Annexes IV and V shall be frozen.

2 No funds or economic resources shall be made available, directly or indirectly, to or for the benefit of natural or legal persons, entities or bodies listed in Annexes IV and V.

3 Annex IV shall include:

- a natural or legal persons, entities and bodies responsible for serious human rights violations or abuses or the repression of civil society and democratic opposition in Venezuela;
- b natural or legal persons, entities and bodies whose actions, policies or activities otherwise undermine democracy or the rule of law in Venezuela.

4 Annex V shall include natural or legal persons, entities and bodies associated with the persons and entities referred to in paragraph 3.

5 Annexes IV and V shall include the grounds for the listing of the persons, entities and bodies concerned.

6 Annexes IV and V shall also include, where available, information necessary to identify the natural or legal persons, entities and bodies concerned. With regard to natural persons, such information may include names including aliases, date and place of birth, nationality, passport and ID card numbers, gender, address, if known, and function or profession. With regard to legal persons, entities and bodies, such information may include names, place and date of registration, registration number and place of business.

#### *Article 9*

1 By way of derogation from Article 8, the competent authorities of the Member States as identified on the websites listed in Annex III, 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 they deem appropriate, after having determined that the funds or economic resources are:

- a necessary to satisfy the basic needs of natural and legal persons listed in Annex IV or V, 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 payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services;
- c intended exclusively for payment of fees or service charges for routine holding or maintenance of frozen funds or economic resources;
- d necessary for extraordinary expenses, provided that the relevant competent authority has notified the grounds on which it considers that a specific authorisation should be granted to the competent authorities of the other Member States and to the Commission at least two weeks prior to 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.

2 The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under paragraph 1.

#### *Article 10*

1 By way of derogation from Article 8, the competent authorities in the Member States as identified on the websites listed in Annex III, may authorise the release of certain frozen funds or economic resources if the following conditions are met:

- a the funds or economic resources are subject to an arbitral decision rendered prior to the date on which the natural or legal person, entity or body referred to in Article 8 was included in Annex IV or V, or of a judicial or administrative decision rendered in the Union, or a judicial decision enforceable in the Member State concerned, prior to, on 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 IV or V; 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 paragraph 1.

#### *Article 11*

1 By way of derogation from Article 8 and provided that a payment by a natural or legal person, entity or body listed in Annex IV or V is due under a contract or agreement that was concluded by, or an obligation that arose for, the natural or legal person, entity or body concerned before the date on which that natural or legal person, entity or body was included in Annex IV or V, the competent authorities of the Member States may authorise, under such conditions as they deem appropriate, the release of certain frozen funds or economic resources, provided that the competent authority concerned has determined that:

- a the funds or economic resources are to be used for a payment by a natural or legal person, entity or body listed in Annex IV or V;
- b the payment is not in breach of Article 8(2)

2 The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under paragraph 1 within four weeks of the authorisation.

3 Article 8(2) shall not prevent the crediting of the frozen accounts by financial or credit institutions that receive funds transferred by third parties to the account of a listed natural or legal person, entity or body, provided that any additions to such accounts will also be frozen. The financial or credit institution shall inform the relevant competent authority about any such transaction without delay.

4 Provided that any such interest, other earnings and payments are frozen in accordance with Article 8, Article 8(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 before the date on which the natural or legal person, entity or body referred to in Article 8 was included in Annex IV or V; or
- c payments due under judicial, administrative or arbitral decisions rendered in a Member State or enforceable in the Member State concerned.

#### *Article 12*

1 Without prejudice to the applicable rules concerning reporting, confidentiality and professional secrecy, natural and legal persons, entities and bodies shall:

- a supply immediately any information which would facilitate compliance with this Regulation, such as information on accounts and amounts frozen in accordance with Article 8, to the competent authority of the Member State where they are resident or located, and shall transmit such information, directly or through the Member State, to the Commission; and
- b cooperate with the competent authority in any verification of the information referred to in point (a).

2 Any additional information received directly by the Commission shall be made available to the Member States.

3 Any information provided or received in accordance with this Article shall be used only for the purposes for which it was provided or received.

### *Article 13*

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 or 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 any 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.

### *Article 14*

It shall be prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the measures laid down in this Regulation.

### *Article 15*

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 this 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, in particular a financial guarantee or financial indemnity, of whatever form, shall be satisfied, if they are made by:

- a designated natural or legal persons, entities or bodies listed in Annexes IV and V;
- b any natural or legal person, entity or body acting through or on behalf of one of the persons, entities or bodies referred to in point (a).

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 natural or legal person, entity or body seeking the enforcement of that claim.

3 This Article is without prejudice to the right of the natural or legal 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 16*

1 The Commission and Member States shall inform each other of the measures taken under this Regulation and share any other relevant information at their disposal in connection with this Regulation, in particular information concerning:

- a funds frozen under Article 8 and authorisations granted under Articles 9 to 11;
- b violation and enforcement problems and judgments handed down by national courts.

2 The Member States shall immediately inform each other and the Commission of any other relevant information at their disposal which might affect the effective implementation of this Regulation.

### *Article 17*

1 Where the Council decides to subject a natural or legal person, entity or body to the measures referred to in Article 8, it shall amend Annex IV or V accordingly.

2 The Council shall communicate its decision, including the grounds for listing, to the natural or legal person, entity or body referred to in paragraph 1, either directly, if the address

is known, or through the publication of a notice, providing such natural or legal person, entity or body with an opportunity to present observations.

3 Where observations are submitted, or where substantial new evidence is presented, the Council shall review its decision and inform the natural or legal person, entity or body accordingly.

4 The list set out in Annexes IV and V shall be reviewed at regular intervals and at least every 12 months.

5 The Commission shall be empowered to amend Annex III on the basis of information supplied by Member States.

#### *Article 18*

1 Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

2 Member States shall notify the Commission of the rules referred to in paragraph 1 without delay after the entry into force of this Regulation and shall notify it of any subsequent amendment.

#### *Article 19*

1 Member States shall designate the competent authorities referred to in this Regulation and identify them on the websites listed in Annex III. Member States shall notify the Commission of any changes in the addresses of their websites listed in Annex III.

2 Member States shall notify the Commission of their competent authorities, including the contact details of those competent authorities, without delay after the entry into force of this Regulation, and shall notify it of any subsequent amendment.

3 Where this Regulation sets out a requirement to notify, inform or otherwise communicate with the Commission, the address and other contact details to be used for such communication shall be those indicated in Annex III.

#### *Article 20*

This Regulation shall apply:

- (a) within the territory of the Union, including its airspace;
- (b) on board any aircraft or any vessel under the jurisdiction of a Member State;
- (c) to any person inside or outside the territory of the Union who is a national of a Member State;
- (d) to any legal person, entity or body, inside or outside the territory of the Union, which is incorporated or constituted under the law of a Member State;
- (e) to any legal person, entity or body in respect of any business done in whole or in part within the Union.

#### *Article 21*

This Regulation shall enter into force on the date 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, 13 November 2017

*For the Council*

*The President*

F. MOGHERINI

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**Status:** *This is the original version (as it was originally adopted).*

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- (1) Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment ([OJ L 335, 13.12.2008, p. 99](#)).