

COUNCIL DECISION (CFSP) 2022/1908**of 6 October 2022****amending Decision (CFSP) 2022/266 concerning restrictive measures in response to the recognition of the non-government controlled areas of the Donetsk and Luhansk oblasts of Ukraine and the ordering of Russian armed forces into those areas**

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 23 February 2022, the Council adopted Decision (CFSP) 2022/266 ⁽¹⁾.
- (2) On 24 February 2022, the Russian Federation launched an illegal, unprovoked and unjustified aggression against Ukraine.
- (3) The Union remains unwavering in its support for Ukraine's sovereignty and territorial integrity.
- (4) On 21 September 2022, notwithstanding numerous calls by the international community on the Russian Federation to immediately stop its military aggression against Ukraine, the Russian Federation decided to further escalate its aggression against Ukraine by supporting the organisation of illegal 'referenda' in the parts of the Donetsk, Kherson, Luhansk and Zaporizhzhia regions that are currently occupied by the Russian Federation. The Russian Federation also further escalated its aggression against Ukraine by announcing a mobilisation in the Russian Federation and by again threatening to use weapons of mass destruction.
- (5) On 28 September 2022, the High Representative of the Union for Foreign Affairs and Security Policy (the 'High Representative') issued a declaration on behalf of the Union condemning in the strongest possible terms the illegal sham 'referenda' conducted in parts of the Donetsk, Kherson, Luhansk, and Zaporizhzhia regions of Ukraine currently and partially occupied by Russia. The High Representative also declared that the Union does not and will never recognise those illegal sham 'referenda' and their falsified outcome, nor any decision taken on the basis of this outcome, and urged all Members of the United Nations to do the same. By organising those illegal sham 'referenda', Russia aimed to change by force the internationally recognised borders of Ukraine, which constitutes a clear and serious breach of the Charter of the United Nations (the 'UN Charter'). The High Representative also indicated that all those involved in organising those illegal sham 'referenda' as well as those responsible for other violations of international law in Ukraine will be held accountable and that additional restrictive measures against Russia will be brought forward in this regard. The High Representative recalled that the Union remains unwavering in its support for Ukraine's independence, sovereignty and territorial integrity within its internationally recognised borders, and demands that Russia immediately, completely and unconditionally withdraw all of its troops and military equipment from the entire territory of Ukraine. The High Representative further declared that the Union and its Member States will continue to support Ukraine's efforts to this end, as long as necessary.

⁽¹⁾ Council Decision (CFSP) 2022/266 of 23 February 2022 concerning restrictive measures in response to the recognition of the non-government controlled areas of the Donetsk and Luhansk oblasts of Ukraine and the ordering of Russian armed forces into those areas (OJ L 42 I, 23.2.2022, p. 109).

- (6) On 30 September 2022, the members of the European Council adopted a statement in which they firmly rejected and unequivocally condemned the illegal annexation by Russia of Ukraine's Donetsk, Kherson, Luhansk and Zaporizhzhia regions. By wilfully undermining the rules-based international order and blatantly violating the fundamental rights of Ukraine to independence, sovereignty and territorial integrity, core principles as enshrined in the UN Charter and international law, Russia is putting global security at risk. The members of the European Council stated that they do not and will never recognise the illegal 'referenda' that Russia has engineered as a pretext for this further violation of Ukraine's independence, sovereignty and territorial integrity, nor their falsified and illegal results. They declared that they will never recognise the illegal annexation, that those decisions are null and void and cannot produce any legal effect whatsoever and that Crimea, Donetsk, Kherson, Luhansk and Zaporizhzhia are Ukraine. They called on all States and international organisations to unequivocally reject the illegal annexation and recalled that Ukraine is exercising its legitimate right to defend itself against the Russian aggression to regain full control of its territory and has the right to liberate occupied territories within its internationally recognised borders. The members of the European Council stated that they will strengthen the Union's restrictive measures countering Russia's illegal actions and further increase pressure on Russia to end its war of aggression.
- (7) In view of those grave circumstances, the Council considers that the title of Decision (CFSP) 2022/266 should be amended and the geographical scope of the restrictions contained therein should be extended to cover all the non-government controlled areas of Ukraine in the oblasts of Donetsk, Kherson, Luhansk and Zaporizhzhia.
- (8) Further action by the Union is needed in order to implement certain measures.
- (9) Decision (CFSP) 2022/266 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision (CFSP) 2022/266 is amended as follows:

- (1) the title is replaced by the following:

'Council Decision (CFSP) 2022/266 of 23 February 2022 concerning restrictive measures in response to the illegal recognition, occupation or annexation by the Russian Federation of certain non-government controlled areas of Ukraine';

- (2) Article 1 is replaced by the following:

'Article 1

1. The import into the Union of goods originating in the non-government controlled areas of Ukraine in the oblasts of Donetsk, Kherson, Luhansk, and Zaporizhzhia shall be prohibited.

2. It shall be prohibited to provide, directly or indirectly, financing or financial assistance, as well as insurance and reinsurance, related to the import of goods originating in the non-government controlled areas of Ukraine referred to in paragraph 1.;

- (3) in Article 6, paragraphs 2a and 2b are replaced by the following:

'2a. The prohibitions set out in paragraphs 1 and 2 shall not apply to:

- (a) public bodies or legal persons, entities or bodies which receive public funding from the Union or Member States, provided that the goods, technology, services and assistance referred to in paragraphs 1 and 2 are necessary for exclusively humanitarian purposes in the non-government controlled areas of Ukraine referred to in Article 1;
- (b) organisations and agencies which are pillar-assessed by the Union and with which the Union has signed a financial framework partnership agreement on the basis of which the organisations and agencies act as humanitarian partners of the Union, provided that the goods, technology, services and assistance referred to in paragraphs 1 and 2 are necessary for exclusively humanitarian purposes in the non-government controlled areas of Ukraine referred to in Article 1;

- (c) organisations and agencies to which the Union has granted the Humanitarian Partnership Certificate or which are certified or recognised by a Member State in accordance with national procedures, provided that the goods, technology, services and assistance referred to in paragraphs 1 and 2 are necessary for exclusively humanitarian purposes in the non-government controlled areas of Ukraine referred to in Article 1; or
- (d) Member States' specialised agencies, provided that the goods, technology, services and assistance referred to in paragraphs 1 and 2 are necessary for exclusively humanitarian purposes in the non-government controlled areas of Ukraine referred to in Article 1.

2b. In cases not covered by paragraph 2a, and by way of derogation from paragraphs 1 and 2, the competent authorities of a Member State may grant general or specific authorisations, under such general and specific terms and conditions as they deem appropriate, for the sale, supply, transfer or export of goods or technology referred to in paragraph 1 and the provision of services and assistance referred to in paragraph 2, after having determined that such goods, technology, services and assistance are necessary for exclusively humanitarian purposes in the non-government controlled areas of Ukraine referred to in Article 1.

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

(4) in Article 7, paragraphs 1a and 1b are replaced by the following:

1a. The prohibitions set out in paragraph 1 shall not apply to:

- (a) public bodies or legal persons, entities or bodies which receive public funding from the Union or Member States, provided that the assistance and services referred to in paragraph 1 are necessary for exclusively humanitarian purposes in the non-government controlled areas of Ukraine referred to in Article 1;
- (b) organisations and agencies which are pillar-assessed by the Union and with which the Union has signed a financial framework partnership agreement on the basis of which the organisations and agencies act as humanitarian partners of the Union, provided that the assistance and services referred to in paragraph 1 are necessary for exclusively humanitarian purposes in the non-government controlled areas of Ukraine referred to in Article 1;
- (c) organisations and agencies to which the Union has granted the Humanitarian Partnership Certificate or which are certified or recognised by a Member State in accordance with national procedures, provided that the assistance and services referred to in paragraph 1 are necessary for exclusively humanitarian purposes in the non-government controlled areas of Ukraine referred to in Article 1; or
- (d) Member States' specialised agencies, provided that the assistance and services referred to in paragraph 1 are necessary for exclusively humanitarian purposes in the non-government controlled areas of Ukraine referred to in Article 1.

1b. In cases not covered by paragraph 1a, and by way of derogation from paragraph 1, the competent authorities of a Member State may grant general or specific authorisations, under such general and specific terms and conditions as they deem appropriate, for the provision of the assistance and services referred to in paragraph 1 after having determined that such assistance and services are necessary for exclusively humanitarian purposes in the non-government-controlled areas of Ukraine referred to in Article 1.

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

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 Brussels, 6 October 2022.

For the Council
The President
M. BEK
