

DECISIONS

COUNCIL DECISION (CFSP) 2023/891

of 28 April 2023

concerning restrictive measures in view of actions destabilising the Republic of Moldova

THE COUNCIL OF THE EUROPEAN UNION,

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

Whereas:

- (1) On 23 June 2022, the European Council granted the status of candidate country to the Republic of Moldova.
- (2) In its conclusions of 23 March 2023, the European Council pledged to continue to provide all relevant support to the Republic of Moldova, including to strengthen the country's resilience, security, stability, economy and energy supply in the face of destabilising activities by external actors.
- (3) The current leadership of the Republic of Moldova has made important progress in strengthening democracy and the rule of law, as well as fighting corruption, and has deployed considerable efforts in implementing the steps specified in the European Commission's Opinion on its application for EU membership.
- (4) While continuing on its ambitious reform agenda, the Moldovan government has also been tackling multiple crises and has been increasingly faced with direct threats to its stability coming from both internal groups with vested interests and from Russia, which often collude to derail the country from its reform path.
- (5) The Union remains ready to use all policy instruments at its disposal in order to contribute to an effective way out of the current crisis and to react to destabilising actions posing a serious threat to democracy and the rule of law in the Republic of Moldova, also by strengthening the implementation of technical assistance and capacity-building programmes to enhance the Republic of Moldova's ability to autonomously prevent and fight such actions by way of judiciary and police cooperation with Member States.
- (6) The unprecedentedly high intensity of such destabilising actions calls for immediate reaction, also given the importance of a stable Republic of Moldova, an EU candidate country bordering the Union and Ukraine.
- (7) A threat to democracy and the rule of law, as well as to the stability and security of the Republic of Moldova, is posed by persons who obstruct or undermine the holding of elections or attempt to overthrow the constitutional order, including through acts of violence, in the Republic of Moldova. The efforts to destabilise the Republic of Moldova increased in particular since the beginning of the Russian war of aggression against Ukraine.
- (8) A threat to stability, to democracy and to the rule of law is also posed by persons who engage in serious financial misconduct concerning public funds and the unauthorised export of capital, insofar as they could take control over or seriously influence the activities of state authorities. Such acts may also threaten the constitutional order.
- (9) Destabilisation efforts against the Republic of Moldova threaten the stability and security of the external borders of the Union.
- (10) The Republic of Moldova has requested Union support against actions which threaten to destabilise the country by adopting restrictive measures.

(11) In the current circumstances, travel restrictions and asset freeze measures should be imposed against persons responsible for, supporting or implementing actions or policies which undermine or threaten the sovereignty and independence of the Republic of Moldova, and democracy, the rule of law, stability or security in the Republic of Moldova, and persons, entities or bodies associated with them.

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

HAS ADOPTED THIS DECISION:

Article 1

1. Member States shall take the necessary measures to prevent the entry into, or transit through, their territories of:
 - (a) natural persons responsible for, supporting or implementing actions or policies which undermine or threaten the sovereignty and independence of the Republic of Moldova, or democracy, the rule of law, stability or security in the Republic of Moldova through any of the following actions:
 - (i) obstructing or undermining the democratic political process, including by obstructing or seriously undermining the holding of elections or attempting to destabilise or overthrow the constitutional order;
 - (ii) planning, directing, engaging in, directly or indirectly, supporting or otherwise facilitating violent demonstrations or other acts of violence; or
 - (iii) serious financial misconduct concerning public funds and the unauthorised export of capital;
 - (b) natural persons associated with persons designated under point (a);
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 the 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) under the 1929 Treaty of Conciliation (Lateran pact) concluded by the Holy See (State of the Vatican City) and Italy.
4. Paragraph 3 shall also apply in cases where a Member State is host country of the Organization 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 paragraphs 3 or 4.
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 or 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, including support for the rule of law, democracy, stability and security of the Republic of Moldova.
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 Member States raise an objection in writing within two working days of receiving notification of the proposed exemption. Should one or more Member States raise an objection, the Council, acting by qualified majority, may decide to grant the proposed exemption.

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

Article 2

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

(a) natural persons, entities or bodies responsible for, supporting or implementing actions or policies which undermine or threaten the sovereignty and independence of the Republic of Moldova, or democracy, the rule of law, stability or security in the Republic of Moldova through any of the following actions:

(i) obstructing or undermining the democratic political process, including by obstructing or seriously undermining the holding of elections or attempting to destabilise or overthrow the constitutional order;

(ii) planning, directing, engaging in, directly or indirectly, supporting or otherwise facilitating violent demonstrations or other acts of violence; or

(iii) serious financial misconduct concerning public funds and the unauthorised export of capital;

(b) natural or legal persons, entities or bodies associated with persons designated under point (a);

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 natural or legal persons, entities or bodies listed in the Annex.

3. By way of derogation from paragraphs 1 and 2, the competent authorities of the Member States 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 concerned are:

(a) necessary to satisfy the basic needs of the persons listed in the Annex 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;

(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 mission or consular post 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 mission or consular post 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 the Member States 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 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 of 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 authorisations granted under this paragraph within two weeks of the authorisation.

5. Paragraph 1 shall not prevent a listed natural or legal person, entity or body 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 in the Annex, 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.

7. The prohibition set out in paragraph 2 shall not apply to 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 provision of the funds or economic resources referred to in paragraph 2 is necessary for exclusively humanitarian purposes in the Republic of Moldova.

8. In cases not covered by paragraph 7, and by way of derogation from paragraphs 1 and 2, the competent authorities of a Member State may grant specific or general authorisations, under such general or specific conditions as they deem appropriate, to release certain frozen funds or economic resources or to make available certain funds or economic resources, provided that the provision of such funds or economic resources is necessary for exclusively humanitarian purposes in the Republic of Moldova.

Article 3

1. The Council, acting by unanimity upon a proposal by a Member State or by the High Representative of the Union for Foreign Affairs and Security Policy (the 'High Representative'), shall decide to establish and amend the list in the Annex.

2. The Council shall communicate the decision referred to in paragraph 1, including the grounds for the listing, to the natural or legal 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.

3. Where observations are submitted, or where substantial new evidence is presented, the Council shall review the decision referred to in paragraph 1 and inform the person, entity or body concerned accordingly.

Article 4

1. The Annex shall include the grounds for listing the natural and legal persons, entities and bodies referred to in Articles 1 and 2.
2. The Annex shall contain, where available, the information necessary to identify the natural or legal persons, entities or bodies concerned. With regard to natural persons, such information may include: names and aliases; date and place of birth; nationality; passport and identity card numbers; gender; address, if known; and function or profession. With regard to legal persons, entities or bodies, such information may include: names; place and date of registration; registration number; and place of business.

Article 5

1. The Council and the High Representative may process personal data in order to carry out their tasks under this Decision, in particular:
 - (a) as regards the Council, for preparing and making amendments to the Annex;
 - (b) as regards the High Representative, for preparing amendments to the Annex.
2. The Council and the High Representative may process, where applicable, relevant data relating to criminal offences committed by listed natural persons, to criminal convictions or to security measures concerning such persons, only to the extent that such processing is necessary for the preparation of the Annex.
3. For the purposes of this Decision, the Council and the High Representative are designated as 'controllers' within the meaning of point (8) of Article 3 of Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽¹⁾, in order to ensure that the natural persons concerned can exercise their rights under Regulation (EU) 2018/1725.

Article 6

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 Decision, 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 the Annex;
- (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).

Article 7

In order to maximise the impact of the measures set out in this Decision, the Union shall encourage third States to adopt restrictive measures similar to those provided for in this Decision.

Article 8

This Decision shall apply until 29 April 2024.

This Decision shall be kept under constant review. It shall be renewed, or amended as appropriate, if the Council deems that its objectives have not been met.

⁽¹⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

In reviewing restrictive measures taken pursuant to Articles 1(1)(a)(iii) and 2(1)(a)(iii), the Council shall take into account as appropriate whether the persons in question are subject to judicial proceedings or not in respect of the conduct for which they were listed.

Article 9

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, 28 April 2023.

For the Council
The President
J. ROSWALL

ANNEX

List of natural and legal persons, entities and bodies referred to in Articles 1 and 2

[...]
