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II

(Non-legislative acts)

REGULATIONS

COUNCIL REGULATION (EU) 2023/154**of 23 January 2023****amending Regulation (EC) No 147/2003 concerning certain restrictive measures in respect of Somalia**

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 2010/231/CFSP of 26 April 2010 concerning restrictive measures against Somalia and repealing Common Position 2009/138/CFSP ⁽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 (EC) No 147/2003 ⁽²⁾ restricts the provision of financing, financial assistance and technical assistance related to military activities in relation to goods and technology included in the Common Military List of the European Union to any person, entity or body in Somalia.
- (2) On 17 November 2022, the United Nations Security Council adopted Resolution (UNSCR) 2662 (2022). That Resolution notably extends the scope of exemptions to the arms embargo and the related financing, financial assistance and technical assistance intended for certain recipients in Somalia.
- (3) On 23 January 2023, the Council adopted Decision (CFSP) 2023/160 ⁽³⁾, which amends Decision 2010/231/CFSP in accordance with UNSCR 2662 (2022).
- (4) Some of those amendments fall within the scope of the Treaty on the Functioning of the European Union and regulatory action at the level of the Union is therefore necessary in order to implement them, notably with a view to ensuring their uniform application by economic operators in all Member States.
- (5) Regulation (EC) No 147/2003 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 147/2003 is amended as follows:

- (1) Article 2a is deleted.

⁽¹⁾ OJ L 105, 27.4.2010, p. 17.

⁽²⁾ Council Regulation (EC) No 147/2003 of 27 January 2003 concerning certain restrictive measures in respect of Somalia (OJ L 24, 29.1.2003, p. 2).

⁽³⁾ Council Decision (CFSP) 2023/160 of 23 January 2023 amending Decision 2010/231/CFSP concerning restrictive measures against Somalia (see page 22 of this Official Journal).

(2) Article 3 is replaced by the following:

Article 3

1. Article 1 shall not apply to the provision of financing or financial assistance or technical assistance related to military activities in relation to goods and technology included in the Common Military List of the European Union intended solely for:

- (a) the support of, or use by United Nations personnel, including the United Nations Assistance Mission in Somalia (UNSOM);
- (b) the support of, or use by the African Union Transition Mission in Somalia (ATMIS) and its strategic partners, operating solely under the latest African Union Strategic Concept of Operations, and in cooperation and coordination with ATMIS;
- (c) the support of, or use by: European Union training and support activities, Türkiye, the United Kingdom of Great Britain and Northern Ireland and the United States of America, as well as any other State forces that are either operating within the Somalia Transition Plan, or have a status of forces agreement or a memorandum of understanding with the Federal Government of Somalia to serve the purposes of UNSC Resolution 2662 (2022) provided they inform the Sanctions Committee about concluding such agreements;
- (d) the development of Somalia's security and police institutions, at local and national level, to provide security for the Somali people.

2. By derogation from paragraph 1, point (d), the provision of financing or financial assistance or technical assistance related to military activities for the development of Somalia's security and police institutions shall be subject to:

- (a) in relation to goods and technology included in Annex IV, the absence of a negative decision by the Sanctions Committee, within five working days of the Committee receiving a notification from Somalia or a Member State or the international, regional or sub regional organisation delivering assistance;
- (b) in relation to goods and technology included in Annex V, prior notification to the Sanctions Committee for information purposes submitted five working days in advance by Somalia, the Member States or international, regional and subregional organisations delivering assistance.

3. Notifications by the European Union or Member States under paragraph 2, points (a) and (b), of this Article shall include:

- (a) details of the manufacturer and supplier of the weapons and military equipment, including serial numbers;
- (b) a description of the arms and ammunition including the type, calibre and quantity;
- (c) proposed date and place of delivery; and
- (d) all relevant information concerning the intended destination unit, or the intended place of storage.

4. The European Union or the supplying Member State delivering assistance in the form of financing, financial assistance or technical assistance in relation to goods and technology included in the Common Military List of the European Union shall, no later than 30 days after the delivery of arms and related material of all types, submit to the Sanctions Committee a post-delivery notification in the form of written confirmation of the completion of any delivery, including the serial numbers for the arms and related material delivered, shipping information, bill of lading, cargo manifests or packing lists, and the specific place of storage.

5. Article 1 shall not apply to:

- (a) the sale, supply, transfer or export of protective clothing, including flak jackets and military helmets, temporarily exported to Somalia by United Nations personnel, representatives of the media and humanitarian and development workers and associated personnel for their personal use only;

- (b) the sale, supply, transfer or export of non-lethal military equipment by Member States, or international, regional or subregional organisations intended solely for humanitarian or protective use.’.
- (3) Annex IV is added as in Annex I to this Regulation.
- (4) Annex V is added as in Annex II to 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, 23 January 2023.

For the Council
The President
J. BORRELL FONTELLES

ANNEX I

The following Annex is added:

‘ANNEX IV

LIST OF ITEMS REFERRED TO IN ARTICLE 3(2), POINT (a)

1. Surface to air missiles, including Man-Portable Air-Defence Systems (MANPADS).
 2. Weapons with a calibre greater than 14,7 mm, and components specially designed for these, and associated ammunition. (This does not include shoulder fired anti-tank rocket launchers such as RPGs or LAWs, rifle grenades, or grenade launchers.)
 3. Mortars with a calibre greater than 82 mm and associated ammunition.
 4. Anti-tank guided weapons, including Anti-tank Guided Missiles (ATGMs) and ammunition and components specially designed for these items.
 5. Charges and devices specifically designed or modified for military use; mines and related materiel.
 6. Weapon sights with a night vision capability greater than generation 2.
 7. Fixed wing, swivel wing, tilt rotor or tilt wing aircraft, specifically designed or modified for military use.
 8. “Vessels” and amphibious vehicles specifically designed or modified for military use. (“Vessel” includes any ship, surface effect vehicle, vessel of small water plane area or hydrofoil and the hull or part of the hull of a vessel.)
 9. Unmanned combat aerial vehicles (listed as Category IV in the UN Register of Conventional Arms).’
-

ANNEX II

The following Annex is added:

'ANNEX V

LIST OF ITEMS REFERRED TO IN ARTICLE 3(2), POINT (b)

1. All types of weapons with a calibre up to 14,7 mm, and associated ammunition.
 2. RPG-7 and recoilless rifles, and associated ammunition.
 3. Weapon sights with a night vision capability generation 2 or lower.
 4. Rotor wing or helicopters specifically designed or modified for military use.
 5. Hard body armour plates providing ballistic protection equal to or greater than level III (NIJ 0101.06 July 2008) or national equivalents.
 6. Ground vehicles specifically designed or modified for military use.
 7. Communication equipment specifically designed or modified for military use.'
-

COUNCIL REGULATION (EU) 2023/155**of 23 January 2023****amending Regulation (EU) No 356/2010 imposing certain specific restrictive measures directed against certain natural or legal persons, entities or bodies, in view of the situation in Somalia**

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 2010/231/CFSP of 26 April 2010 concerning restrictive measures against Somalia and repealing Common Position 2009/138/CFSP ⁽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 356/2010 ⁽²⁾ gives effect to measures provided for in Decision 2010/231/CFSP.
- (2) On 17 November 2022, the United Nations Security Council adopted Resolution (UNSCR) 2662 (2022), which notably expands the designation criteria guiding the determination of persons and entities subject to restrictive measures.
- (3) Council Decision (CFSP) 2023/160 ⁽³⁾ amended Decision 2010/231/CFSP in order to reflect the changes in UNSCR 2662 (2022).
- (4) Those measures fall within the scope of the Treaty and, therefore, notably with a view to ensuring their uniform application in all Member States, regulatory action at the level of the Union is necessary.
- (5) Regulation (EU) No 356/2010 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 2 of Regulation (EU) No 356/2010, paragraph 3 is replaced by the following:

‘3. Annex I shall consist of natural or legal persons, entities or bodies designated by the Security Council or the Sanctions Committee as:

- (a) engaging in, or providing support for, acts that threaten the peace, security or stability of Somalia, where such acts include, but are not limited to:
 - (i) planning, directing or committing acts involving sexual and gender-based violence;
 - (ii) acts that threaten the peace and reconciliation process in Somalia;
 - (iii) acts that threaten the Federal Government of Somalia or the African Union Transition Mission in Somalia (ATMIS) by force;
- (b) having acted in violation of the arms embargo or the prohibition against providing related assistance or the arms resale and transfer restrictions as stipulated in paragraph 34 of UNSCR 2093 (2013);

⁽¹⁾ OJ L 105, 27.4.2010, p. 17.

⁽²⁾ Council Regulation (EU) No 356/2010 of 26 April 2010 imposing certain specific restrictive measures directed against certain natural or legal persons, entities or bodies, in view of the situation in Somalia (OJ L 105, 27.4.2010, p. 1).

⁽³⁾ Council Decision (CFSP) 2023/160 of 23 January 2023 amending Decision 2010/231/CFSP concerning restrictive measures against Somalia (see page 22 of this Official Journal).

- (c) obstructing the delivery of humanitarian assistance to Somalia, or access to, or distribution of, humanitarian assistance in Somalia;
- (d) being political or military leaders recruiting or using children in armed conflicts in Somalia in violation of applicable international law;
- (e) being responsible for violations of applicable international law in Somalia involving the targeting of civilians, including children and women, in situations of armed conflict, including killing and maiming, sexual and gender-based violence, attacks on schools and hospitals and abduction and forced displacement;
- (f) being associated with Al-Shabaab, acts and activities indicating that an individual or entity is associated with Al-Shabaab including:
 - (i) participating in the financing, planning, facilitating, preparing, or perpetrating of acts or activities by, in conjunction with, under the name of, on behalf of, or in support of Al-Shabaab;
 - (ii) supplying, selling or transferring arms and related materiel to Al-Shabaab; and
 - (iii) recruiting for, or otherwise supporting acts or activities of Al-Shabaab or any cell, affiliate, splinter group or derivative thereof.’.

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, 23 January 2023.

For the Council

The President

J. BORRELL FONTELLES

COUNCIL IMPLEMENTING REGULATION (EU) 2023/156
of 23 January 2023
implementing Regulation (EU) No 101/2011 concerning restrictive measures directed against certain
persons, entities and bodies in view of the situation in Tunisia

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EU) No 101/2011 of 4 February 2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Tunisia ⁽¹⁾, and in particular Article 12 thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 4 February 2011, the Council adopted Regulation (EU) No 101/2011.
- (2) On the basis of a review, the information in Annex I to that Regulation regarding the statements of reasons and the identifying information should be amended for five persons, and the identifying information should be updated for four other persons.
- (3) Annex I to Regulation No (EU) 101/2011 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EU) No 101/2011 is amended as set out in the Annex to 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, 23 January 2023.

For the Council
The President
J. BORRELL FONTELLES

⁽¹⁾ OJ L 31, 5.2.2011, p. 1.

In Annex I to Regulation (EU) No 101/2011, the following entries in section 'A. List of persons and entities referred to in Article 2', are replaced by the entries below:

	Name	Identifying information	Grounds
'3.	Moncef Ben Mohamed Ben Rhouma TRABELSI	Nationality: Tunisian POB: Tunis, Tunisia DOB: 4 March 1944 ID no: 05000799 Issuing country: Tunisia Gender: male Other information: deceased, managing director, son of Saida DHERIF, married to Yamina SOUIEI	Person (deceased) whose activities are subject to judicial proceedings, or an asset recovery process following a final court ruling, by the Tunisian authorities for complicity in the misappropriation of public monies by a public office-holder, complicity in the misuse of office by a public office-holder to procure an unjustified advantage for a third party and to cause a loss to the administration, exerting wrongful influence over a public office-holder with a view to obtaining directly or indirectly an advantage for another person.
9.	Mohamed Naceur Ben Mohamed Ben Rhouma TRABELSI	Nationality: Tunisian POB: Tunis, Tunisia DOB: 24 June 1948 Last known address: 20 rue El Achfat – Carthage – Tunis, Tunisia ID no: 00104253 Issuing country: Tunisia Gender: male Other information: deceased, acting manager of an agricultural undertaking, son of Saida DHERIF, married to Nadia MAKNI	Person (deceased) whose activities are subject to judicial proceedings, or an asset recovery process following a final court ruling, by the Tunisian authorities for complicity in the misappropriation of public monies by a public office-holder, complicity in the misuse of office by a public office-holder to procure an unjustified advantage for a third party and to cause a loss to the administration, and exerting wrongful influence over a public office-holder with a view to obtaining directly or indirectly an advantage for another person.
12.	Mohamed Adel Ben Mohamed Ben Rehouma TRABELSI	Nationality: Tunisian POB: Tunis, Tunisia DOB: 26 April 1950 ID no: 00178522 Issuing country: Tunisia Gender: male Other information: deceased, managing director, son of Saida DHERIF, married to Souad BEN JEMIA	Person (deceased) whose activities are subject to judicial proceedings, or an asset recovery process following a final court ruling, by the Tunisian authorities for complicity in the misappropriation of public monies by a public office-holder, complicity in the misuse of office by a public office-holder to procure an unjustified advantage for a third party and to cause a loss to the administration, and exerting wrongful influence over a public office-holder with a view to obtaining directly or indirectly an advantage for another person.

	Name	Identifying information	Grounds
13.	Mohamed Mourad Ben Mohamed Ben Rehouma TRABELSI	Nationality: Tunisian POB: Tunis, Tunisia DOB: 25 September 1955 Last known address: 20 rue Ibn Chabat – Salammbô – Carthage – Tunis, Tunisia ID no: 05150331 Issuing country: Tunisia Gender: male Other information: deceased, CEO, son of Saida DHERIF, married to Hela BELHAJ	Person (deceased) whose activities are subject to judicial proceedings, or an asset recovery process following a final court ruling, by the Tunisian authorities for complicity in the misappropriation of public monies by a public office-holder, complicity in the misuse of office by a public office-holder to procure an unjustified advantage for a third party and to cause a loss to the administration, and exerting wrongful influence over a public office-holder with a view to obtaining directly or indirectly an advantage for another person.
21.	Houssem Ben Mohamed Naceur Ben Mohamed TRABELSI	Nationality: Tunisian DOB: 18 September 1976 ID no: 05412560 Issuing country: Tunisia Gender: male Other information: CEO, son of Najia JERIDI	Person subject to judicial proceedings, or an asset recovery process following a final court ruling, by the Tunisian authorities for complicity in the misappropriation of public monies by a public office-holder, complicity in the misuse of office by a public office-holder to procure an unjustified advantage for a third party and to cause a loss to the administration, and exerting wrongful influence over a public office-holder with a view to obtaining directly or indirectly an advantage for another person.
35.	Slaheddine Ben Haj Hamda Ben Haj Hassen BEN ALI	Nationality: Tunisian DOB: 28 October 1938 ID no: 02810614 Issuing country: Tunisia Gender: male Other information: deceased, son of Selma HASSEN, widower of Selma MANSOUR	Person (deceased) whose activities are subject to judicial proceedings, or an asset recovery process following a final court ruling, by the Tunisian authorities for complicity in the misappropriation of public monies by a public office-holder, complicity in the misuse of office by a public office-holder to procure an unjustified advantage for a third party and to cause a loss to the administration, and exerting wrongful influence over a public office-holder with a view to obtaining directly or indirectly an advantage for another person.

	Name	Identifying information	Grounds
42.	Ghazoua Bent Hamed Ben Taher BOUAOUINA	Nationality: Tunisian POB: Monastir DOB: 30 August 1982 ID no: 08434380 Issuing country: Tunisia Gender: female Other information: daughter of Hayet BEN ALI, married to Badreddine BENNOUR	Person subject to judicial proceedings, or an asset recovery process following a final court ruling, by the Tunisian authorities for complicity in the misappropriation of public monies by a public office-holder, complicity in the misuse of office by a public office-holder to procure an unjustified advantage for a third party and to cause a loss to the administration, and exerting wrongful influence over a public office-holder with a view to obtaining directly or indirectly an advantage for another person, and associated with Hayet Ben Ali (No 33).
46.	Mehdi Ben Tijani Ben Haj Hamda Ben Haj Hassen BEN ALI	Nationality: Tunisian, French POB: Paris, France DOB: 27 October 1966 ID no: 05515496 Issuing country: Tunisia Gender: male Other information: deceased, company director, son of Paulette HAZAT	Person (deceased) whose activities are subject to judicial proceedings, or an asset recovery process following a final court ruling, by the Tunisian authorities for complicity in the misappropriation of public monies by a public office-holder, complicity in the misuse of office by a public office-holder (ex-President Ben Ali) to procure an unjustified advantage for a third party and to cause a loss to the administration, and exerting wrongful influence over a public office-holder with a view to obtaining directly or indirectly an advantage for another person.
48.	Sofiene Ben Habib Ben Haj Hamda BEN ALI	Nationality: Tunisian POB: Tunis, Tunisia DOB: 28 August 1974 Last known address: 23 rue Ali Zlitni, El Manar 2 – Tunis, Tunisia ID no: 04622472 Issuing country: Tunisia Gender: male Other information: deceased, sales director, son of Leila DEROUICHE	Person (deceased) whose activities are subject to judicial proceedings, or an asset recovery process following a final court ruling, by the Tunisian authorities for complicity in the misappropriation of public monies by a public office-holder, complicity in the misuse of office by a public office-holder to procure an unjustified advantage for a third party and to cause a loss to the administration, and exerting wrongful influence over a public office-holder with a view to obtaining directly or indirectly an advantage for another person.'

COMMISSION IMPLEMENTING REGULATION (EU) 2023/157**of 23 January 2023****amending Implementing Regulation (EU) 2021/2266 as regards the reference to the certificate and the self-certification of independent small producers of alcoholic beverages in the electronic simplified administrative document**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 92/83/EEC of 19 October 1992 on the harmonization of the structures of excise duties on alcohol and alcoholic beverages ⁽¹⁾, and in particular Article 23a(4) thereof,

Whereas:

- (1) In accordance with Article 23a(1) and (2) of Directive 92/83/EEC Member States are, upon request, required to provide an annual certificate to independent small producers established in their respective territory, and to allow independent small producers to self-certify, confirming the producers' total annual production as well as their compliance with the criteria set out in that Directive. Commission Implementing Regulation (EU) 2021/2266 ⁽²⁾ specifies the information to be included in the administrative document and in the simplified accompanying document which are to refer to that certificate or self-certification for the movement of goods under Chapter IV or V of Council Directive 2008/118/EC ⁽³⁾.
- (2) Directive 2008/118/EC was replaced by Directive (EU) 2020/262 ⁽⁴⁾ with effect from 13 February 2023. The computerised system referred to in Article 1 of Decision (EU) 2020/263 of the European Parliament and of the Council ⁽⁵⁾ ('the computerised system') is used to supervise movements of excise goods under a duty suspension arrangement as referred to in Article 3, point (6), of Directive (EU) 2020/262. Directive (EU) 2020/262 extends the use of the computerised system to the supervision of excise goods released for consumption in the territory of one Member State and then moved to the territory of another Member State in order to be delivered there for commercial purposes as laid down in Chapter V, Section 2, of Directive (EU) 2020/262. Until 13 February 2023, Commission Regulation (EEC) No 3649/92 ⁽⁶⁾ applies whereby such movements take place under cover of the simplified accompanying document, a document in paper form. With effect from that date, Regulation (EEC) No 3649/92 has been repealed by Commission Delegated Regulation (EU) 2022/1636 ⁽⁷⁾ and such movements are to take place under cover of an electronic simplified administrative document submitted by the consignor by using the computerised system. For reasons of clarity, references in Implementing Regulation (EU) 2021/2266 to Directive 2008/118/EC should therefore be replaced by references to Directive (EU) 2020/262, and references to the simplified accompanying document in Implementing Regulation (EU) 2021/2266 should be deleted from that date.

⁽¹⁾ OJ L 316, 31.10.1992, p. 21.

⁽²⁾ Commission Implementing Regulation (EU) 2021/2266 of 17 December 2021 laying down rules for the application of Council Directive 92/83/EEC as regards the certification and self-certification of independent small producers of alcoholic beverages for excise duty purposes (OJ L 455, 20.12.2021, p. 26).

⁽³⁾ Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC (OJ L 9, 14.1.2009, p. 12).

⁽⁴⁾ Council Directive (EU) 2020/262 of 19 December 2019 laying down the general arrangements for excise duty (OJ L 58, 27.2.2020, p. 4).

⁽⁵⁾ Decision (EU) 2020/263 of the European Parliament and of the Council of 15 January 2020 on computerising the movement and surveillance of excise goods (OJ L 58, 27.2.2020, p. 43).

⁽⁶⁾ Commission Regulation (EEC) No 3649/92 of 17 December 1992 on a simplified accompanying document for the intra-Community movement of products subject to excise duty which have been released for consumption in the Member State of dispatch (OJ L 369, 18.12.1992, p. 17).

⁽⁷⁾ Commission Delegated Regulation (EU) 2022/1636 of 5 July 2022 supplementing Council Directive (EU) 2020/262 by establishing the structure and content of the documents exchanged in the context of movement of excise goods, and establishing a threshold for the losses due to the nature of the goods (OJ L 247, 23.9.2022, p. 2).

- (3) The structure and content of the electronic administrative documents exchanged through the computerised system are laid down in Commission Regulation (EC) No 684/2009 ^(*), which has been replaced by Delegated Regulation (EU) 2022/1636 with effect from 13 February 2023. Therefore, for reasons of clarity, references in Implementing Regulation (EU) 2021/2266 to Regulation (EC) No 684/2009 should be replaced by references to Delegated Regulation (EU) 2022/1636.
- (4) Implementing Regulation (EU) 2021/2266 should therefore be amended accordingly.
- (5) As the extension of the use of the computerised system laid down in Directive (EU) 2020/262 is to apply from 13 February 2023, the application of this Regulation should be deferred to that date.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Excise Duty,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) 2021/2266 is amended as follows:

- (1) Article 2 is amended as follows:

- (a) the heading is replaced by the following:

‘Article 2

Reference to the certificate in the administrative documents for the movement of excise goods’;

- (b) the introductory part is replaced by the following:

‘For the purposes of referring to the certificate in the administrative documents mentioned in Articles 20, 26, 36 and 38 of Council Directive (EU) 2020/262 ^(*), the information to be included in them, as set out in Table 1 of Annex I to Commission Delegated Regulation (EU) 2022/1636 ^(**), shall be the following:

^(*) Council Directive (EU) 2020/262 of 19 December 2019 laying down the general arrangements for excise duty (recast) (OJ L 58, 27.2.2020, p. 4).

^(**) Commission Delegated Regulation (EU) 2022/1636 of 5 July 2022 supplementing Council Directive (EU) 2020/262 by establishing the structure and content of the documents exchanged in the context of movement of excise goods, and establishing a threshold for the losses due to the nature of the goods (OJ L 247, 23.9.2022, p. 2).’;

- (2) Article 3 is deleted;

- (3) Article 5 is amended as follows:

- (a) the heading is replaced by the following:

‘Article 5

Requirements for the completion of the administrative documents in the case of self-certification for the movement of excise goods’;

- (b) in paragraph 1, the introductory part is replaced by the following:

‘In the administrative documents mentioned in Articles 20, 26, 36 and 38 of Directive (EU) 2020/262, the status of the independent small producers shall be declared in box 17I, as set out in Table 1 of Annex I to Delegated Regulation (EU) 2022/1636, in the following terms: ‘It is hereby certified that the product described has been produced by’ followed by, as applicable, one of the following terms:’;

^(*) Commission Regulation (EC) No 684/2009 of 24 July 2009 implementing Council Directive 2008/118/EC as regards the computerised procedures for the movement of excise goods under suspension of excise duty (OJ L 197, 29.7.2009, p. 24).

(c) paragraph 3 is replaced by the following:

‘3. The annual production of alcoholic beverages of the small independent producer shall be declared in box 17n of the administrative document, as set out in Table 1 of Annex I to Delegated Regulation (EU) 2022/1636. The quantity shall be indicated in hectolitres, except in case of ethyl alcohol, which shall be indicated in hectolitres of pure alcohol.’;

(4) Article 6 is deleted.

Article 2

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

It shall apply from 13 February 2023.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 23 January 2023.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION IMPLEMENTING REGULATION (EU) 2023/158**of 23 January 2023****amending Implementing Regulation (EU) 2018/2019 as regards certain plants for planting of *Prunus domestica* and *Prunus cerasifera* originating in Ukraine**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/2031 of the European Parliament and of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC ⁽¹⁾, and in particular Article 42(4), first subparagraph, thereof,

Whereas:

- (1) Commission Implementing Regulation (EU) 2018/2019 ⁽²⁾ establishes, on the basis of a preliminary risk assessment, a list of high risk plants, plant products and other objects.
- (2) Commission Implementing Regulation (EU) 2018/2018 ⁽³⁾ lays down specific rules concerning the procedure to be followed in order to carry out the risk assessment referred to in Article 42(4) of Regulation (EU) 2016/2031 for high risk plants, plant products and other objects.
- (3) Following a preliminary risk assessment, 34 genera and one species of plants for planting originating from all third countries were included in the Annex to Implementing Regulation (EU) 2018/2019 as high risk plants, amongst which is the genus *Prunus* L.
- (4) On 18 October 2019, Ukraine submitted to the Commission a request for export to the Union of plants for planting of *Prunus domestica* grafted on *Prunus cerasifera* rootstocks, that are bare rooted, dormant and free of leaves. The request was supported by the relevant technical dossier.
- (5) On 17 May 2022, the European Food Safety Authority ('the Authority') adopted a scientific opinion regarding the commodity risk assessment of *Prunus domestica* plants for planting from Ukraine ⁽⁴⁾. The Authority identified *Lopholeucaspis japonica*, *Eotetranychus prunicola*, *Erwinia amylovora* and *Xanthomonas arboricola* pv. *pruni* as pests relevant for those plants for planting, evaluated the risk mitigation measures described in the dossier and estimated the likelihood of freedom of the commodity from those pests.
- (6) *Lopholeucaspis japonica* is listed as a Union quarantine pest in Annex II to Commission Implementing Regulation (EU) 2019/2072 ⁽⁵⁾. *Erwinia amylovora* and *Xanthomonas arboricola* pv. *pruni* are listed as protected zone quarantine pests in Annex III and as Union regulated non-quarantine pests in Annex IV to that Regulation respectively.

⁽¹⁾ OJ L 317, 23.11.2016, p. 4.

⁽²⁾ Commission Implementing Regulation (EU) 2018/2019 of 18 December 2018 establishing a provisional list of high risk plants, plant products or other objects, within the meaning of Article 42 of Regulation (EU) 2016/2031 and a list of plants for which phytosanitary certificates are not required for introduction into the Union, within the meaning of Article 73 of that Regulation (OJ L 323, 19.12.2018, p. 10).

⁽³⁾ Commission Implementing Regulation (EU) 2018/2018 of 18 December 2018 laying down specific rules concerning the procedure to be followed in order to carry out the risk assessment of high risk plants, plant products and other objects within the meaning of Article 42(1) of Regulation (EU) 2016/2031 of the European Parliament and of the Council (OJ L 323, 19.12.2018, p. 7).

⁽⁴⁾ EFSA PLH Panel (EFSA Panel on Plant Health), 2022. Scientific Opinion on the commodity risk assessment of *Prunus domestica* plants from Ukraine. EFSA Journal 2022;20(6):7391, 76 pp. <https://doi.org/10.2903/j.efsa.2022.7391>.

⁽⁵⁾ Commission Implementing Regulation (EU) 2019/2072 of 28 November 2019 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and the Council, as regards protective measures against pests of plants, and repealing Commission Regulation (EC) No 690/2008 and amending Commission Implementing Regulation (EU) 2018/2019 (OJ L 319, 10.12.2019, p. 1).

- (7) *Eotetranychus prunicola* is not yet included in the list of Union quarantine pests. Nevertheless, on the basis of evidence provided by the Member States, the impact of that pest on its host plants in the Union is not significant. Consequently, no import requirements are necessary with respect to that pest.
- (8) On the basis of the opinion of the Authority, the phytosanitary risk from the introduction into the Union of bare-rooted, dormant, free of leaves plants for planting of *Prunus domestica* grafted on *Prunus cerasifera* rootstocks originating in Ukraine is considered to be acceptable, provided that the respective import requirements set out in Annex VII to Implementing Regulation (EU) 2019/2072 are complied with.
- (9) Therefore, it is appropriate that bare-rooted, dormant, free of leaves plants for planting of *Prunus domestica* grafted on *Prunus cerasifera* rootstocks originating in Ukraine are no longer considered high-risk plants.
- (10) Implementing Regulation (EU) 2018/2019 should therefore be amended accordingly.
- (11) In order to comply with the Union obligations deriving from the World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures ⁽⁹⁾, the import of those commodities should resume within the shortest possible time. Therefore, this Regulation should enter into force on the third day following that of its publication in the *Official Journal of the European Union*.
- (12) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee for Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) 2018/2019 is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the third 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, 23 January 2023.

For the Commission
The President
Ursula VON DER LEYEN

⁽⁹⁾ OJ L 336, 23.12.1994, p. 40.

ANNEX

Amendment of Implementing Regulation (EU) 2018/2019

In point 1 of the Annex to Implementing Regulation (EU) 2018/2019, in the second column of the table 'Description', the entry *Prunus* L. is replaced by the following:

'*Prunus* L., other than bare-rooted, dormant, free of leaves plants for planting of *Prunus domestica* grafted on *Prunus cerasifera* rootstocks originating in Ukraine'.

DECISIONS

COUNCIL DECISION (CFSP) 2023/159

of 23 January 2023

amending Decision 2011/72/CFSP concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia

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 31 January 2011, the Council adopted Decision 2011/72/CFSP ⁽¹⁾ concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia.
- (2) On the basis of a review of Decision 2011/72/CFSP, the restrictive measures should be extended until 31 January 2024. In addition, in the Annex to that Decision, the statements of reasons and the identifying information should be amended for five persons and the identifying information should be updated for four other persons.
- (3) Decision 2011/72/CFSP should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2011/72/CFSP is amended as follows:

- (1) Article 5 is replaced by the following:

'Article 5

1. This Decision shall apply until 31 January 2024.
 2. This Decision shall be kept under constant review. It may be renewed or amended, as appropriate, if the Council deems that its objectives have not been met.;
- (2) the Annex is amended as set out in the Annex to this Decision.

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, 23 January 2023.

For the Council
The President
J. BORRELL FONTELLES

⁽¹⁾ Council Decision 2011/72/CFSP of 31 January 2011 concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia (OJ L 28, 2.2.2011, p. 62).

In the Annex to Decision 2011/72/CFSP, the following entries in section 'A. List of persons and entities referred to in Article 1', are replaced by the entries below:

	Name	Identifying information	Grounds
'3.	Moncef Ben Mohamed Ben Rhouma TRABELSI	Nationality: Tunisian POB: Tunis, Tunisia DOB: 4 March 1944 ID no: 05000799 Issuing country: Tunisia Gender: male Other information: deceased, managing director, son of Saida DHERIF, married to Yamina SOUIEI	Person (deceased) whose activities are subject to judicial proceedings, or an asset recovery process following a final court ruling, by the Tunisian authorities for complicity in the misappropriation of public monies by a public office-holder, complicity in the misuse of office by a public office-holder to procure an unjustified advantage for a third party and to cause a loss to the administration, exerting wrongful influence over a public office-holder with a view to obtaining directly or indirectly an advantage for another person.
9.	Mohamed Naceur Ben Mohamed Ben Rhouma TRABELSI	Nationality: Tunisian POB: Tunis, Tunisia DOB: 24 June 1948 Last known address: 20 rue El Achfat – Carthage – Tunis, Tunisia ID no: 00104253 Issuing country: Tunisia Gender: male Other information: deceased, acting manager of an agricultural undertaking, son of Saida DHERIF, married to Nadia MAKNI	Person (deceased) whose activities are subject to judicial proceedings, or an asset recovery process following a final court ruling, by the Tunisian authorities for complicity in the misappropriation of public monies by a public office-holder, complicity in the misuse of office by a public office-holder to procure an unjustified advantage for a third party and to cause a loss to the administration, and exerting wrongful influence over a public office-holder with a view to obtaining directly or indirectly an advantage for another person.
12.	Mohamed Adel Ben Mohamed Ben Rehouma TRABELSI	Nationality: Tunisian POB: Tunis, Tunisia DOB: 26 April 1950 ID no: 00178522 Issuing country: Tunisia Gender: male Other information: deceased, managing director, son of Saida DHERIF, married to Souad BEN JEMIA	Person (deceased) whose activities are subject to judicial proceedings, or an asset recovery process following a final court ruling, by the Tunisian authorities for complicity in the misappropriation of public monies by a public office-holder, complicity in the misuse of office by a public office-holder to procure an unjustified advantage for a third party and to cause a loss to the administration, and exerting wrongful influence over a public office-holder with a view to obtaining directly or indirectly an advantage for another person.

	Name	Identifying information	Grounds
13.	Mohamed Mourad Ben Mohamed Ben Rehouma TRABELSI	Nationality: Tunisian POB: Tunis, Tunisia DOB: 25 September 1955 Last known address: 20 rue Ibn Chabat – Salammbô – Carthage – Tunis, Tunisia ID no: 05150331 Issuing country: Tunisia Gender: male Other information: deceased, CEO, son of Saida DHERIF, married to Hela BELHAJ	Person (deceased) whose activities are subject to judicial proceedings, or an asset recovery process following a final court ruling, by the Tunisian authorities for complicity in the misappropriation of public monies by a public office-holder, complicity in the misuse of office by a public office-holder to procure an unjustified advantage for a third party and to cause a loss to the administration, and exerting wrongful influence over a public office-holder with a view to obtaining directly or indirectly an advantage for another person.
21.	Houssem Ben Mohamed Naceur Ben Mohamed TRABELSI	Nationality: Tunisian DOB: 18 September 1976 ID no: 05412560 Issuing country: Tunisia Gender: male Other information: CEO, son of Najia JERIDI	Person subject to judicial proceedings, or an asset recovery process following a final court ruling, by the Tunisian authorities for complicity in the misappropriation of public monies by a public office-holder, complicity in the misuse of office by a public office-holder to procure an unjustified advantage for a third party and to cause a loss to the administration, and exerting wrongful influence over a public office-holder with a view to obtaining directly or indirectly an advantage for another person.
35.	Slaheddine Ben Haj Hamda Ben Haj Hassen BEN ALI	Nationality: Tunisian DOB: 28 October 1938 ID no: 02810614 Issuing country: Tunisia Gender: male Other information: deceased, son of Selma HASSEN, widower of Selma MANSOUR	Person (deceased) whose activities are subject to judicial proceedings, or an asset recovery process following a final court ruling, by the Tunisian authorities for complicity in the misappropriation of public monies by a public office-holder, complicity in the misuse of office by a public office-holder to procure an unjustified advantage for a third party and to cause a loss to the administration, and exerting wrongful influence over a public office-holder with a view to obtaining directly or indirectly an advantage for another person.

	Name	Identifying information	Grounds
42.	Ghazoua Bent Hamed Ben Taher BOUAOUINA	Nationality: Tunisian POB: Monastir DOB: 30 August 1982 ID no: 08434380 Issuing country: Tunisia Gender: female Other information: daughter of Hayet BEN ALI, married to Badreddine BENNOUR	Person subject to judicial proceedings, or an asset recovery process following a final court ruling, by the Tunisian authorities for complicity in the misappropriation of public monies by a public office-holder, complicity in the misuse of office by a public office-holder to procure an unjustified advantage for a third party and to cause a loss to the administration, and exerting wrongful influence over a public office-holder with a view to obtaining directly or indirectly an advantage for another person, and associated with Hayet Ben Ali (No 33).
46.	Mehdi Ben Tijani Ben Haj Hamda Ben Haj Hassen BEN ALI	Nationality: Tunisian, French POB: Paris, France DOB: 27 October 1966 ID no: 05515496 Issuing country: Tunisia Gender: male Other information: deceased, company director, son of Paulette HAZAT	Person (deceased) whose activities are subject to judicial proceedings, or an asset recovery process following a final court ruling, by the Tunisian authorities for complicity in the misappropriation of public monies by a public office-holder, complicity in the misuse of office by a public office-holder (ex-President Ben Ali) to procure an unjustified advantage for a third party and to cause a loss to the administration, and exerting wrongful influence over a public office-holder with a view to obtaining directly or indirectly an advantage for another person.
48.	Sofiene Ben Habib Ben Haj Hamda BEN ALI	Nationality: Tunisian POB: Tunis, Tunisia DOB: 28 August 1974 Last known address: 23 rue Ali Zlitni, El Manar 2 – Tunis, Tunisia ID no: 04622472 Issuing country: Tunisia Gender: male Other information: deceased, sales director, son of Leila DEROUICHE	Person (deceased) whose activities are subject to judicial proceedings, or an asset recovery process following a final court ruling, by the Tunisian authorities for complicity in the misappropriation of public monies by a public office-holder, complicity in the misuse of office by a public office-holder to procure an unjustified advantage for a third party and to cause a loss to the administration, and exerting wrongful influence over a public office-holder with a view to obtaining directly or indirectly an advantage for another person.'

COUNCIL DECISION (CFSP) 2023/160
of 23 January 2023
amending Decision 2010/231/CFSP concerning restrictive measures against Somalia

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 26 April 2010, the Council adopted Decision 2010/231/CFSP ⁽¹⁾.
- (2) On 17 November 2022, the United Nations Security Council adopted Resolution (UNSCR) 2662 (2022). That Resolution reaffirms the arms embargo on Somalia and amends the application of derogations and exemptions concerning the delivery of arms and related materials to Somalia's security and police institutions at the national and local level. That Resolution reaffirms the prohibition on the import of charcoal from Somalia, and also confirms the restrictions on the sale, supply and transfer of improvised explosive device (IED) components to Somalia.
- (3) Decision 2010/231/CFSP should therefore be amended accordingly.
- (4) Further action by the Union is necessary to implement certain measures in this Decision,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2010/231/CFSP is amended as follows:

(1) Article 1 is amended as follows:

(a) paragraph 3 is replaced by the following:

‘3. Paragraphs 1 and 2 shall not apply to:

- (a) the supply, sale or transfer of arms and related material of all types, and the direct or indirect supply of technical advice, financial and other assistance and training related to military activities, intended solely for the support of or use by United Nations personnel, including the United Nations Assistance Mission in Somalia (UNSOM);
- (b) the supply, sale or transfer of arms and related material of all types, and the direct or indirect supply of technical advice, financial and other assistance and training related to military activities, intended solely for the support of or use by the African Union Transition Mission in Somalia (ATMIS) and its strategic partners, operating solely under the latest African Union (AU) Strategic Concept of Operations, and in cooperation and coordination with ATMIS;

⁽¹⁾ Council Decision 2010/231/CFSP of 26 April 2010 concerning restrictive measures against Somalia and repealing Common Position 2009/138/CFSP (OJ L 105, 27.4.2010, p. 17).

- (c) the supply, sale or transfer of arms and related material of all types, and the direct or indirect supply of technical advice, financial and other assistance and training related to military activities, intended solely for the support of or use by: the European Union training and support activities, Türkiye, the United Kingdom of Great Britain and Northern Ireland and the United States of America, as well as any other State forces that are either operating within the Somalia Transition Plan (STP), or have a status of forces agreement or a memorandum of understanding with the Federal Government of Somalia (FGS) to serve the purposes of UN Resolution 2662 (2022) provided they inform the Sanctions Committee about concluding such agreements;
 - (d) the supply, sale or transfer of arms and related material of all types and the supply of technical advice, financial and other assistance and training related to military activities, intended solely for the development of Somalia's security and police institutions at the national and local level, to provide security for the Somali people. The delivery of the items set out in Annexes II and III, and the provision of technical advice, financial and other assistance, and training related to military activities shall be subject to the relevant approval or notification requirements as follows:
 - (i) the supply, sale or transfer of arms and related material of all types set out in Annex II intended solely for the development of Somalia's security and police institutions, to provide security for the Somali people, shall be subject to approval in advance by the Sanctions Committee, as set out in paragraph 4 of this Article, and may be provided in the absence of a negative decision by the Sanctions Committee within five working days of receiving such notification from Somalia, the Member States or international, regional and subregional organisations delivering assistance;
 - (ii) the supply, sale or transfer of arms and related material of all types set out in Annex III intended solely for the development of Somalia's security and police institutions, to provide security for the Somali people, shall be subject to prior notification to the Sanctions Committee for information purposes, as set out in paragraph 4 of this Article, submitted five working days in advance by Somalia, the Member States or international, regional and subregional organisations delivering assistance;
 - (e) the supply, sale or transfer of protective clothing, including flak jackets and military helmets, temporarily exported to Somalia by United Nations personnel, representatives of the media and humanitarian and development workers and associated personnel for their personal use only;
 - (f) the supply, sale or transfer of non-lethal military equipment by the Member States, international regional or subregional organisations intended solely for humanitarian or protective use.;
- (b) paragraph 4 is replaced by the following:
- '4. The Somali authorities have the primary responsibility to notify the Sanctions Committee of any delivery of arms and related material of all types set out in Annexes II and III to Somalia's security and police institutions, as set out under paragraph 3, point (d) of this Article. Notifications shall include details of the manufacturer and supplier of arms and related material of all types, a description of the arms and ammunition including the type, serial numbers, calibre and quantity, the proposed date and place of delivery, and all relevant information concerning the intended destination unit, or the intended place of storage.;
- (c) paragraph 4a is replaced by the following:
- '4a. Somalia or the supplying Member State or an international, regional or sub-regional organisation delivering the assistance shall, no later than 30 days after the delivery of arms and related material of all types, submit to the Sanctions Committee a post-delivery notification in the form of written confirmation of the completion of any delivery, including the serial numbers for the arms and related material of all types delivered, shipping information, bill of lading, cargo manifests or packing lists, and the specific place of storage.;
- (d) paragraph 4b is deleted;

(e) paragraph 5 is replaced by the following:

‘5. It shall be prohibited to supply, resell, transfer, or make available for use any weapons or military equipment, sold or supplied in accordance with Article 1(3)(d) solely for the development of Somalia’s security and police institutions, to any individual or entity not in the service of Somalia’s security and police institutions to which it was originally sold or supplied, or to the selling or supplying Member State or international, regional or subregional organisation.’.

(2) Article 2 is replaced by the following:

‘Article 2

1. Restrictive measures as provided for in Articles 3, 5(1) and 6(1) and (2) shall be imposed against persons and entities designated by the Sanctions Committee as:

- (a) engaging in, or providing support for, acts that threaten the peace, security or stability of Somalia, where such acts include, but are not limited to:
 - (i) planning, directing or committing acts involving sexual and gender-based violence;
 - (ii) acts that threaten the peace and reconciliation process in Somalia;
 - (iii) acts that threaten the Federal Government of Somalia or ATMIS by force;
- (b) having acted in violation of the arms embargo or the arms resale and transfer restrictions or the prohibition against providing related assistance as referred to in Article 1;
- (c) obstructing the delivery of humanitarian assistance to Somalia, or access to, or distribution of, humanitarian assistance in Somalia;
- (d) being political or military leaders recruiting or using children in armed conflicts in Somalia in violation of applicable international law;
- (e) being responsible for violations of applicable international law in Somalia involving the targeting of civilians including children and women in situations of armed conflict, including killing and maiming, sexual and gender-based violence, attacks on schools and hospitals and abduction and forced displacement;
- (f) being associated with Al-Shabaab, acts and activities indicating that an individual or entity is associated with Al-Shabaab including:
 - (i) participating in the financing, planning, facilitating, preparing, or perpetrating of acts or activities by, in conjunction with, under the name of, on behalf of, or in support of Al-Shabaab;
 - (ii) supplying, selling or transferring arms and related materiel to Al-Shabaab; and
 - (iii) recruiting for, or otherwise supporting acts or activities of Al-Shabaab or any cell, affiliate, splinter group or derivative thereof.

2. The relevant persons and entities are listed in Annex I’.

(3) Article 4a is replaced by the following:

‘Article 4a

Member States may, in accordance with paragraphs 11 to 21 of UNSCR 2182 (2014), inspect, in Somali territorial waters and on the high seas off the coast of Somalia extending to and including the Arabian Sea and Persian Gulf, acting nationally or through voluntary multinational naval partnerships, such as “Combined Maritime Forces”, in cooperation with the Federal Government of Somalia, vessels bound to or from Somalia which they have reasonable grounds to believe are:

- (a) carrying charcoal from Somalia in violation of the charcoal ban;
- (b) carrying weapons or military equipment to Somalia, directly or indirectly, in violation of the arms embargo on Somalia;

- (c) carrying weapons or military equipment to individuals or entities designated by the Sanctions Committee;
- (d) carrying improvised explosive device (IED) components identified in Part I of Annex C to UN Resolution 2662 (2022) in violation of the IED components ban.’.
- (4) Annex II is replaced by Annex I to this Decision.
- (5) Annex III is replaced by Annex II to this Decision.

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, 23 January 2023.

For the Council
The President
J. BORRELL FONTELLES

ANNEX I

ANNEX II

LIST OF ITEMS REFERRED TO IN ARTICLE 1(3), POINT (d)(i)

1. Surface to air missiles, including Man-Portable Air-Defence Systems (MANPADS).
 2. Weapons with a calibre greater than 14,7 mm, and components specially designed for these, and associated ammunition. (This does not include shoulder fired anti-tank rocket launchers such as RPGs or LAWs, rifle grenades, or grenade launchers.)
 3. Mortars with a calibre greater than 82 mm and associated ammunition.
 4. Anti-tank guided weapons, including Anti-tank Guided Missiles (ATGMs) and ammunition and components specially designed for these items.
 5. Charges and devices specifically designed or modified for military use; mines and related materiel.
 6. Weapon sights with a night vision capability greater than generation 2.
 7. Fixed wing, swivel wing, tilt rotor or tilt wing aircraft, specifically designed or modified for military use.
 8. "Vessels" and amphibious vehicles specifically designed or modified for military use. ("Vessel" includes any ship, surface effect vehicle, vessel of small water plane area or hydrofoil and the hull or part of the hull of a vessel.)
 9. Unmanned combat aerial vehicles (listed as Category IV in the UN Register of Conventional Arms).'
-

*ANNEX II**'ANNEX III*

LIST OF ITEMS REFERRED TO IN ARTICLE 1(3), POINT (d)(ii)

1. All types of weapons with a calibre up to 14,7 mm, and associated ammunition.
 2. RPG-7 and recoilless rifles, and associated ammunition.
 3. Weapon sights with a night vision capability generation 2 or lower.
 4. Rotor wing or helicopters specifically designed or modified for military use.
 5. Hard body armour plates providing ballistic protection equal to or greater than level III (NIJ 0101.06 July 2008) or national equivalents.
 6. Ground vehicles specifically designed or modified for military use.
 7. Communication equipment specifically designed or modified for military use.'
-

COUNCIL DECISION (CFSP) 2023/161**of 23 January 2023****amending Decision (CFSP) 2021/649 on Union support for activities of the ATT Secretariat in support of the implementation of the Arms Trade Treaty**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 28(1) and 31(1) thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 16 April 2021, the Council adopted Decision (CFSP) 2021/649 ⁽¹⁾.
- (2) Article 5 of Decision (CFSP) 2021/649 stipulates that the Decision is to expire 24 months after the conclusion of the agreement referred to in Article 3(3), namely on 20 May 2023.
- (3) On 23 September 2022, the Arms Trade Treaty (ATT) Secretariat, which is responsible for the technical implementation of the project activities referred to in Article 1 of Decision (CFSP) 2021/649, requested by letter a five-month no-cost extension of the implementation period of that Decision. This extension would allow the ATT Secretariat to complete the project activities referred to in Article 1 of Decision (CFSP) 2021/649, the implementation of which was impacted negatively by recruitment delays, as well as by the COVID-19 pandemic.
- (4) The extension of the implementation period of the project activities referred to in Article 1 of Decision (CFSP) 2021/649 until 20 October 2023 does not have any implications as regards financial resources.
- (5) Decision (CFSP) 2021/649 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

In Article 5 of Decision (CFSP) 2021/649, the second sentence is replaced by the following:

‘This Decision shall expire on 20 October 2023.’.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 23 January 2023.

For the Council

The President

J. BORRELL FONTELLES

⁽¹⁾ Council Decision (CFSP) 2021/649 of 16 April 2021 on Union support for activities of the ATT Secretariat in support of the implementation of the Arms Trade Treaty (OJ L 133, 20.4.2021, p. 59).

COUNCIL DECISION (CFSP) 2023/162
of 23 January 2023
on a European Union mission in Armenia (EUMA)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 42(4) and 43(2) thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 6 October 2022, on the occasion of the meeting of the European Political Community held in Prague, the Republic of Armenia and the Republic of Azerbaijan confirmed their commitment to the Charter of the United Nations and to the Declaration agreed in Alma Ata on 21 December 1991, in which both States recognised each other's territorial integrity and sovereignty.
- (2) In a letter received by the High Representative of the Union for Foreign Affairs and Security Policy (the 'High Representative'), the Foreign Minister of the Republic of Armenia invited the Union to deploy a civilian Mission in Armenia under the Common Security and Defence Policy (CSDP).
- (3) On 19 January 2023 the Council approved a Crisis Management Concept for a possible civilian CSDP Mission in Armenia. This Mission should therefore be established.
- (4) The Political and Security Committee (PSC) should exercise, under the responsibility of the Council and of the High Representative, political control over the CSDP mission in Armenia, provide it with strategic direction and take the relevant decisions in accordance with the third paragraph of Article 38 of the Treaty on European Union (TEU).
- (5) It is necessary to negotiate and conclude international agreements relating to the status of Union-led units and personnel and to the participation of third States in the Mission.
- (6) The Mission will be conducted in the context of a situation which may deteriorate and could impede the achievement of the objectives of the Union's external action as set out in Article 21 of the Treaty,

HAS ADOPTED THIS DECISION:

Article 1

Mission

1. The Union hereby establishes a civilian European Union Mission in Armenia (EUMA) under the CSDP.
2. EUMA shall be part of the contribution by the Union, as an impartial and credible actor, in creating a safe and stable environment in conflict-affected areas in Armenia, within which improved human security and the normalisation of relations between Armenia and Azerbaijan on the ground will allow for further progress towards a potential peace agreement.

Article 2

Mandate

1. The strategic objective of EUMA shall be to contribute to decreasing the number of incidents in conflict-affected and border areas in Armenia, to reduce the level of risks for the population living in such areas and thereby to contribute to the normalisation of relations between Armenia and Azerbaijan on the ground.

2. For that purpose, the Mission shall contribute to confidence-building between Armenia and Azerbaijan, in ways that uphold its credibility as an impartial actor, by:
 - (a) observing through the conduct of routine patrolling and reporting on the situation on the ground and any conflict-related incidents in order to ensure detailed awareness of the security situation;
 - (b) contributing to human security in conflict-affected areas, inter alia by gathering information through ad hoc patrolling and reporting on situations where, due to direct or indirect consequences of the conflict, life and basic human rights are endangered;
 - (c) based on its activities under subparagraphs (a) and (b) and through its permanent and visible presence on the ground, contributing to building confidence between the populations of Armenia and Azerbaijan and, where possible, between the authorities of those countries, in support of peace and stability in the region.
3. International humanitarian law, human rights and the principle of gender equality, the protection of civilians and the agendas under United Nations Security Council Resolution (UNSCR) 1325 (2000) on Women, Peace and Security, UNSCR 2250 (2015) on Youth, Peace and Security and UNSCR 1612 (2005) on Children and Armed Conflict agendas shall be fully integrated and proactively mainstreamed in the Mission's strategic and operational planning, activities and reporting.

Article 3

Chain of command and structure

1. The Mission shall have a unified chain of command as a crisis management operation.
2. The Mission shall have its headquarters in Armenia.
3. The Mission shall be structured in accordance with its planning documents.

Article 4

Civilian Operation Commander

1. The Civilian Planning and Conduct Capability (CPCC) Managing Director shall be the Civilian Operation Commander for the Mission. The CPCC shall be at the disposal of the Civilian Operation Commander for the planning and conduct of the Mission.
2. The Civilian Operation Commander, under the political control and strategic direction of the PSC and overall authority of the High Representative, shall exercise command and control of the Mission at the strategic level.
3. The Civilian Operation Commander shall ensure the proper and effective implementation of the decisions of the Council and the PSC with regard to the conduct of operations, including by issuing instructions at the strategic level to the Head of Mission as required and by providing him or her with advice and technical support.
4. The Civilian Operation Commander shall report to the Council through the High Representative.
5. All seconded staff shall remain under the full command of the national authorities of the seconding State in accordance with national rules, of the Union institution concerned or of the European External Action Service (EEAS), respectively. Those authorities shall transfer Operational Control of their staff to the Civilian Operation Commander.
6. The Civilian Operation Commander shall have overall responsibility for ensuring that the Union's duty of care is properly discharged.
7. The Civilian Operation Commander, the Heads of the EU Delegations to Armenia and Azerbaijan, and the European Union Special Representative for the South Caucasus and the Crisis in Georgia (the 'EUSR') shall consult each other as required.

*Article 5***Head of Mission**

1. The Head of Mission shall assume responsibility for the Mission and shall exercise command and control thereof, at theatre level. The Head of Mission shall be directly responsible to the Civilian Operation Commander and shall act in accordance with his or her instructions.
2. The Head of Mission shall be the representative of the Mission in its area of responsibility.
3. The Head of Mission shall exercise administrative and logistic responsibility for the Mission, including responsibility for the assets, resources and information which have been placed at the disposal of the Mission. The Head of Mission may delegate management tasks in staff and financial matters to staff members of the Mission, under his or her overall responsibility.
4. The Head of Mission shall be responsible for disciplinary control over the staff of the Mission. For seconded staff, disciplinary action shall be exercised by the national authorities of the seconding State in accordance with national rules, by the Union institution concerned or by the EEAS respectively.
5. The Head of Mission shall ensure appropriate visibility of the Mission.

*Article 6***Staff**

1. The Mission shall consist primarily of staff seconded by Member States, Union institutions or the EEAS. Each Member State, each Union institution, and the EEAS shall bear the costs related to any of the staff seconded by it, including travel expenses to and from the place of deployment, salaries, medical coverage and allowances other than applicable daily allowances.
2. The Member State, the Union institution, or the EEAS respectively shall be responsible for answering any claims linked to the secondment from or concerning the members of staff whom they have seconded, and for bringing any action against such persons.
3. International and local staff may be recruited on a contractual basis by the Mission if the functions required cannot be provided by personnel seconded by Member States. Exceptionally, in duly justified cases, where no qualified applicants from the Member States are available, nationals from participating third States may be recruited on a contractual basis, as appropriate.
4. The conditions of employment and the rights and obligations of international and local staff shall be laid down in the contracts between the Mission and the staff member concerned.

*Article 7***Status of the Mission and of its staff**

The status of the Mission and its staff, including where appropriate the privileges, immunities and further guarantees necessary for the completion and smooth functioning of the Mission shall be the subject of an agreement concluded pursuant to Article 37 TEU and in accordance with the procedure laid down in Article 218 of the Treaty on the Functioning of the European Union.

*Article 8***Political control and strategic direction**

1. The PSC shall exercise political control and strategic direction of the Mission under the responsibility of the Council and of the High Representative. The Council hereby authorises the PSC to take the relevant decisions for this purpose in accordance with the third paragraph of Article 38 TEU. This authorisation shall include the power to appoint a Head of Mission, upon a proposal by the High Representative, and to amend the Operation Plan (OPLAN). The powers of decision with respect to the objectives and termination of the Mission shall remain vested in the Council. The decisions of the PSC regarding the appointment of the Head of Mission shall be published in the *Official Journal of the European Union*.

2. The PSC shall report to the Council at regular intervals.
3. The PSC shall receive reports by the Civilian Operation Commander and the Head of Mission on issues within their areas of responsibility on a regular basis and as required.

Article 9

Participation of third States

1. Without prejudice to the decision-making autonomy of the Union and its single institutional framework, third States may be invited to contribute to the Mission, provided that they bear the cost of the staff seconded by them, including salaries, all risk insurance cover, daily subsistence allowances and travel expenses to and from Armenia, and that they contribute to the running costs of the Mission, as appropriate.
2. Third States contributing to the Mission shall have the same rights and obligations as Member States in terms of the day-to-day management of the Mission.
3. The Council hereby authorises the PSC to take the relevant decisions on acceptance of the proposed contributions and to establish a Committee of Contributors.
4. Detailed arrangements regarding the participation of third States shall be covered by agreements concluded in accordance with Article 37 TEU and additional technical arrangements as necessary. Where the Union and a third State conclude or have concluded an agreement establishing a framework for the participation of that third State in Union crisis-management operations, the provisions of that agreement shall apply in the context of the Mission.

Article 10

Security

1. The Civilian Operation Commander shall direct the Head of Mission's planning of security measures and ensure their proper and effective implementation by the Mission in accordance with Article 4.
2. The Head of Mission shall be responsible for the security of the Mission and for ensuring compliance with minimum security requirements applicable to the Mission, in line with the policy of the Union on the security of personnel deployed outside the Union in an operational capacity under Title V TEU, and its supporting instruments.
3. The Head of Mission shall be assisted by a Mission Security Officer, who shall report to the Head of Mission and also maintain a close functional relationship with the EEAS.
4. The Mission staff shall undergo mandatory security training before taking up their duties, in accordance with the OPLAN. They shall also receive regular in-theatre refresher training organised by the Mission Security Officer.

5. The Head of Mission shall ensure the protection of EU classified information in accordance with Council Decision 2013/488/EU ⁽¹⁾.

Article 11

Watch-Keeping Capability

The Watch-Keeping Capability shall be activated for the Mission.

Article 12

Legal arrangements

The Mission shall have the capacity to procure services and supplies, to enter into contracts and administrative arrangements, to employ staff, to hold bank accounts, to acquire and dispose of assets and to discharge its liabilities, and to be a party to legal proceedings, as required in order to implement this Decision.

Article 13

Financial arrangements

1. The financial reference amount intended to cover the expenditure related to the Mission for the four months following the entry into force of this Decision shall be EUR 8 103 590,82. The financial reference amount for any subsequent period shall be decided by the Council.
2. All expenditure shall be managed in accordance with the rules and procedures applicable to the general budget of the Union. Participation of natural and legal persons in the award of procurement contracts by the Mission shall be open without limitations. Moreover, no rule of origin for the goods purchased by the Mission shall apply. Subject to the Commission's approval, the Mission may conclude technical arrangements with Member States, the host State, participating third States and other international actors regarding the provision of equipment, services and premises to the Mission.
3. The Mission shall be responsible for the implementation of its budget. For this purpose, the Mission shall sign an agreement with the Commission. The financial arrangements shall respect the chain of command provided for in Articles 3, 4 and 5 and the operational requirements of the Mission.
4. The Mission shall report fully to, and be supervised by, the Commission on the financial activities undertaken in the framework of their agreement.
5. The expenditure related to the Mission shall be eligible as of the date of adoption of this Decision.

Article 14

Confidence Building Facility

1. The Mission shall have a Confidence Building Facility for identifying and implementing projects in support of its task under Article 2, paragraph 2 (c).
2. This project cell shall, as appropriate, facilitate and provide advice on projects implemented by Member States and third States under their responsibility in areas related to the Mission and in support of its objectives.

⁽¹⁾ Council Decision 2013/488/EU of 23 September 2013 on the security rules for protecting EU classified information (OJ L 274, 15.10.2013, p. 1).

3. The Mission shall be authorised to seek recourse to financial contributions from the Member States or from third States to implement projects identified as supplementing the Mission's other actions in a consistent manner, if the project is:

- (a) provided for in the financial statement relating to this Decision; or
- (b) integrated during the mandate by means of an amendment to the financial statement requested by the Head of Mission.

4. The Mission shall conclude an arrangement with those States, covering in particular the specific procedures for dealing with any complaint from third parties concerning damage caused as a result of acts or omissions by the Mission in the use of the funds provided by those States. Under no circumstances may the contributing States hold the Union or the High Representative liable for acts or omissions by the Mission in the use of the funds provided by those States.

5. The PSC shall agree on the acceptance of a financial contribution from third States to the Project Cell.

Article 15

Consistency of the Union's response and coordination

1. The High Representative shall ensure the consistency of the implementation of this Decision with the Union's external action as a whole, including the Union's assistance programmes.

2. Without prejudice to the chain of command, the Head of Mission shall act in close coordination with the Union's delegation to Armenia and with the EUSR to ensure the consistency of Union action in Armenia; in particular, the Head of Mission shall receive political guidance from the Head of the Union's Delegation to Armenia regarding relations with the authorities of Armenia and from the EUSR with respect to relations between Armenia and Azerbaijan.

3. In addition, without prejudice to the chain of command, the Head of Mission shall keep the Head of Delegation in Azerbaijan informed on the activities of the Mission and shall consult him or her on matters of relevance to Azerbaijan.

4. The Head of Mission shall coordinate with other international actors as appropriate.

Article 16

Release of information

1. The High Representative shall be authorised to release to the third States associated with this Decision, as appropriate and in accordance with the needs of the Mission, EU classified information up to 'CONFIDENTIEL UE/EU CONFIDENTIAL' level generated for the purposes of the Mission, in accordance with Decision 2013/488/EU.

2. In the event of a specific and immediate operational need, the High Representative shall also be authorised to release to the host State any EU classified information up to 'RESTREINT UE/EU RESTRICTED' level which are generated for the purposes of the Mission, in accordance with Decision 2013/488/EU. Arrangements between the High Representative and the competent authorities of the host State shall be drawn up for this purpose.

3. The High Representative shall be authorised to release to the third States associated with this Decision any EU non-classified documents connected with the deliberations of the Council relating to the Mission and covered by the obligation of professional secrecy pursuant to Article 6(1) of the Council's Rules of Procedure ⁽²⁾.

⁽²⁾ Council Decision 2009/937/EU of 1 December 2009 adopting the Council's Rules of Procedure (OJ L 325, 11.12.2009, p. 35).

4. The High Representative may delegate the powers referred to in paragraphs 1 to 3, as well as the ability to conclude the arrangements referred to in paragraph 2 to persons placed under his or her authority, to the Civilian Operation Commander and to the Head of Mission, in accordance with Section VII of Annex VI to Decision 2013/488/EU.

Article 17

Launch of the Mission

1. The Mission shall be launched by a Council Decision on the date recommended by the Civilian Operation Commander of the Mission once it has reached its initial operating capability.
2. The core team of the Mission shall make the necessary preparations to allow the Mission to reach its initial operating capability.

Article 18

Entry into force and duration

1. This Decision shall enter into force on the date of its adoption.
2. It shall apply for a period of two years from the launch of the Mission.
3. A strategic assessment of the Mission and its mandate shall be conducted by the PSC one year after it is launched. A strategic review of the Mission shall be conducted in good time before this Decision expires.

Done at Brussels, 23 January 2023.

For the Council

The President

J. BORRELL FONTELLES

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