



2024/1204

23.4.2024

COUNCIL DECISION (CFSP) 2024/1204

of 22 April 2024

amending Decision (CFSP) 2017/1775 concerning restrictive measures in view of the situation in Mali

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 5 September 2017, the United Nations Security Council ("UNSC") adopted Resolution 2374 (2017), which established a framework for the imposition of a travel ban and an assets freeze against individuals and entities responsible for or complicit in, or having engaged in, directly or indirectly, threatening the peace, security, or stability of Mali.
- (2) On 28 September 2017, the Council adopted Decision (CFSP) 2017/1775 ⁽¹⁾, transposing into Union law the measures established by UNSC Resolution 2374 (2017).
- (3) On 13 December 2021, the Council adopted Decision (CFSP) 2021/2208 ⁽²⁾, which amended Decision (CFSP) 2017/1775 and established a new framework, allowing for restrictive measures against individuals and entities responsible for threatening the peace, security or stability of Mali, or for obstructing or undermining the successful completion of Mali's political transition.
- (4) On 31 August 2023, the United Nations ("UN") sanctions regime expired when the Security Council failed to agree on its extension.
- (5) On 4 January 2024, in view of the termination of the UN sanctions regime on Mali, the Council adopted Implementing Decision (CFSP) 2024/215 ⁽³⁾, which deleted all of the entries in Annex I to Decision (CFSP) 2017/1775.
- (6) In this context, it is also appropriate to delete certain provisions relating to UNSC Resolution 2374 (2017) from the operative part of Decision (CFSP) 2017/1775.
- (7) In order to increase consistency and coherence across Union restrictive measures, it is also appropriate to amend the existing humanitarian exemption and the derogation mechanism, as well as to introduce a review clause related to those humanitarian exceptions.
- (8) Decision (CFSP) 2017/1775 should therefore be amended accordingly.
- (9) Further action by the Union is needed in order to implement certain measures,

HAS ADOPTED THIS DECISION:

Article 1

Decision (CFSP) 2017/1775 is amended as follows:

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

'Article 1

1. Member States shall take the necessary measures to prevent the entry into, or transit through, their territories of natural persons:

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- ⁽¹⁾ Council Decision (CFSP) 2017/1775 of 28 September 2017 concerning restrictive measures in view of the situation in Mali (OJ L 251, 29.9.2017, p. 23).
 - ⁽²⁾ Council Decision (CFSP) 2021/2208 of 13 December 2021 amending Decision (CFSP) 2017/1775 concerning restrictive measures in view of the situation in Mali (OJ L 446, 14.12.2021, p. 44).
 - ⁽³⁾ Council Implementing Decision (CFSP) 2024/215 of 4 January 2024 implementing Decision (CFSP) 2017/1775 concerning restrictive measures in view of the situation in Mali (OJ L, 2024/215, 5.1.2024, ELI: <http://data.europa.eu/eli/dec/2024/215/oj>).

- (a) responsible for or complicit in, or having engaged, directly or indirectly, in actions or policies that threaten the peace, security, or stability of Mali, such as:
 - (i) involvement in planning, directing, sponsoring, or conducting attacks against:
 - UN and associated personnel in Mali;
 - international security presences in Mali;
 - (ii) obstructing the delivery of humanitarian assistance to Mali, or access to, or distribution of, humanitarian assistance in Mali;
 - (iii) planning, directing, or committing acts in Mali that violate international human rights law or international humanitarian law, as applicable, or that constitute human rights abuses or violations, including those involving the targeting of civilians, including women and children, through the commission of acts of violence (including killing, maiming, torture, or rape or other sexual violence), abduction, enforced disappearance, forced displacement, or attacks on schools, hospitals, religious sites, or locations where civilians are seeking refuge;
 - (iv) the use or recruitment of children by armed groups or armed forces, which are a violation of applicable international law, in the context of the armed conflict in Mali;
 - (v) knowingly facilitating the travel of a listed person in violation of the travel restrictions;
- (b) obstructing or undermining the successful completion of the political transition of Mali, including by obstructing or undermining the holding of elections or the handover of power to elected authorities; or
- (c) associated with natural persons referred to in points (a) or (b).

The designated persons referred to in this paragraph are 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) pursuant to the 1929 Treaty of Conciliation (Lateran Pact) concluded by the Holy See (Vatican City State) and Italy.

4. Paragraph 3 shall also apply in cases where a Member State is host country of the Organisation 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 restrictive measures.

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 paragraphs 6 or 7 shall notify the Council in writing. The exemption shall be deemed to be granted unless one or more Member States raises 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 a qualified majority, may decide to grant the proposed exemption.

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

(2) Article 1a is deleted;

(3) Article 2 is replaced by the following:

Article 2

1. All funds and economic resources owned or controlled by natural or legal persons, entities or bodies:

(a) responsible for or complicit in, or having engaged, directly or indirectly, in actions or policies that threaten the peace, security, or stability of Mali, such as:

(i) involvement in planning, directing, sponsoring, or conducting attacks against:

- UN and associated personnel in Mali;
- international security presences in Mali;

(ii) obstructing the delivery of humanitarian assistance to Mali, or access to, or distribution of, humanitarian assistance in Mali;

(iii) planning, directing, or committing acts in Mali that violate international human rights law or international humanitarian law, as applicable, or that constitute human rights abuses or violations, including those involving the targeting of civilians, including women and children, through the commission of acts of violence (including killing, maiming, torture, or rape or other sexual violence), abduction, enforced disappearance, forced displacement, or attacks on schools, hospitals, religious sites, or locations where civilians are seeking refuge;

(iv) the use or recruitment of children by armed groups or armed forces, which are a violation of applicable international law, in the context of the armed conflict in Mali;

(v) knowingly facilitating the travel of a listed person in violation of the travel restrictions.

(b) obstructing or undermining the successful completion of the political transition of Mali, including by obstructing or undermining the holding of elections or the handover of power to elected authorities; or

(c) associated with natural or legal persons, entities or bodies referred to in points (a) or (b),

shall be frozen.

The designated natural or legal persons, entities or bodies referred to in this paragraph are listed in the Annex.

2. No funds or economic resources shall be made available directly or indirectly, to or for the benefit of the 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 natural or legal persons, entities or bodies listed in the Annex, and dependent family members of such natural persons, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;

- (b) intended exclusively for 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 or consular mission or an international organisation enjoying immunities in accordance with international law, insofar as such payments are intended to be used for official purposes of the diplomatic or consular mission or international organisation.

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

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 natural or legal 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 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) recognising 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 authorisation granted under this paragraph within two weeks of the authorisation.

5. Paragraph 1 shall not prevent a natural or legal person, entity or body listed in the Annex from making a payment due under a contract or agreement entered into, or an obligation that arose, prior to the date on which such natural or legal person, entity or body was listed therein, 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. Paragraphs 1 and 2 shall not apply to the making available of funds or economic resources necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs where such assistance and other activities are carried out by:

- (a) the United Nations (UN), including its programmes, funds and other entities and bodies, as well as its specialised agencies and related organisations;
- (b) international organisations;

- (c) humanitarian organisations having observer status with the UN General Assembly and members of those humanitarian organisations;
- (d) bilaterally or multilaterally funded non-governmental organisations participating in the UN Humanitarian Response Plans, UN Refugee Response Plans, other UN appeals or humanitarian clusters coordinated by the UN Office for the Coordination of Humanitarian Affairs;
- (e) organisations and agencies to which the Union has granted the Humanitarian Partnership Certificate or which are certified or recognised by a Member State in accordance with national procedures;
- (f) Member States' specialised agencies; or
- (g) the employees, grantees, subsidiaries or implementing partners of the entities referred to in points (a) to (f) while and to the extent that they are acting in those capacities.

8. Without prejudice to paragraph 7, and by way of derogation from paragraphs 1 and 2, the competent authorities of a Member State may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as they deem appropriate, after having determined that the provision of such funds or economic resources is necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs.

9. In the absence of a negative decision, a request for information or a notification for additional time from the relevant competent authority within five working days of the date of receipt of a request for authorisation under paragraph 8, that authorisation shall be considered granted.

10. The Member State concerned shall inform the other Member States and the Commission of any authorisations granted under paragraphs 8 and 9 within four weeks of such authorisation.;

(4) Article 2a is deleted;

(5) Article 3 is replaced by the following:

'Article 3

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

(6) Article 4 is replaced by the following:

'Article 4

1. The Council shall communicate the decision referred to in Article 3, 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 that natural or legal person, entity or body with an opportunity to present observations.

2. Where observations are submitted, or where substantial new evidence is presented, the Council shall review its decision and inform the person or entity concerned accordingly.;

(7) Article 5 is replaced by the following:

'Article 5

1. The Annex shall include the grounds for listing the natural and legal persons, entities and bodies referred to therein.

2. The Annex shall also include, 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.;

(8) Article 5a is replaced by the following:

'Article 6

1. The Council and the High Representative shall 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, and to criminal convictions or 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 “controller” within the meaning of Article 3, point (8) of Regulation (EU) 2018/1725 of the European Parliament and of the Council (*), in order to ensure that the natural persons concerned can exercise their rights under that Regulation.

(*) 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).;

(9) Article 5b is replaced by the following:

‘Article 7

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 natural or legal persons, entities or bodies referred to in point (a).;

(10) Article 6 is replaced by the following:

‘Article 8

1. The measures referred to in Article 1, paragraph 1, and Article 2, paragraphs 1 and 2 shall apply until 14 December 2024 and shall be kept under constant review. They shall be renewed, or amended, as appropriate, if the Council deems that their objectives have not been met.

2. The exceptions referred to in Article 2(7) and (8) as regards Article 2(1) and (2) shall be reviewed at regular intervals, and at least every 12 months, or at the urgent request of any Member State, the High Representative or the Commission following a fundamental change in circumstances.;

(11) Article 7 is replaced by the following:

‘Article 9

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

(12) The Annexes are amended as follows:

(a) Annex I is deleted;

(b) Annex II is renamed ‘Annex’.

Article 2

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

Done at Luxembourg, 22 April 2024.

For the Council

The President

J. BORRELL FONTELLES
