

COUNCIL DECISION (CFSP) 2022/628**of 13 April 2022****amending Decision (CFSP) 2022/266 concerning restrictive measures in response to the recognition of the non-government controlled areas of the Donetsk and Luhansk oblasts of Ukraine and the ordering of Russian armed forces into those areas**

THE COUNCIL OF THE EUROPEAN UNION,

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

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

Whereas:

- (1) On 23 February 2022, the Council adopted Decision (CFSP) 2022/266 ⁽¹⁾.
- (2) On 24 February 2022, the President of the Russian Federation announced a military operation in Ukraine and Russian armed forces began an attack on Ukraine.
- (3) By its illegal military actions, Russia is grossly violating the territorial integrity, sovereignty and independence of Ukraine, as well as international law and the principles of the United Nations Charter.
- (4) In view of the humanitarian crisis resulting from the unprovoked invasion of Ukraine by armed forces of the Russian Federation, the Council considers that, in line with international humanitarian law, principled humanitarian action by impartial humanitarian actors addressing the humanitarian needs of the Ukrainian civilian population should continue in Ukraine, including in the non-government-controlled areas of the Donetsk and Luhansk oblasts of Ukraine.
- (5) The Council therefore considers that certain clearly defined categories of bodies, persons, entities, organisations and agencies should be exempted from the restrictions on trade in goods and technology for use in certain sectors, on the provision of certain services and assistance related to those goods and technology, and on the provision of services related to infrastructure in certain sectors, where necessary for exclusively humanitarian purposes in the non-government-controlled areas of the Donetsk and Luhansk oblasts of Ukraine.
- (6) In addition, and for the same purpose, the Council also considers that a derogation mechanism should be introduced for humanitarian activities not covered by the above-mentioned exemption.
- (7) Decision (CFSP) 2022/266 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

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

- (1) in Article 6, the following paragraphs are inserted:

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

- (a) public bodies or legal persons, entities or bodies which receive public funding from the Union or Member States, provided that the goods, technology, services and assistance referred to in paragraphs 1 and 2 are necessary for exclusively humanitarian purposes in the non-government-controlled areas of the Donetsk and Luhansk oblasts of Ukraine;

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

- (b) organisations and agencies which are pillar-assessed by the Union and with which the Union has signed a financial framework partnership agreement on the basis of which the organisations and agencies act as humanitarian partners of the Union, provided that the goods, technology, services and assistance referred to in paragraphs 1 and 2 are necessary for exclusively humanitarian purposes in the non-government-controlled areas of the Donetsk and Luhansk oblasts of Ukraine;
- (c) organisations and agencies to which the Union has granted the Humanitarian Partnership Certificate or which are certified or recognised by a Member State in accordance with national procedures, provided that the goods, technology, services and assistance referred to in paragraphs 1 and 2 are necessary for exclusively humanitarian purposes in the non-government-controlled areas of the Donetsk and Luhansk oblasts of Ukraine; or
- (d) Member States' specialised agencies, provided that the goods, technology, services and assistance referred to in paragraphs 1 and 2 are necessary for exclusively humanitarian purposes in the non-government-controlled areas of the Donetsk and Luhansk oblasts of Ukraine.

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

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

(2) in Article 7, the following paragraphs are inserted:

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

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

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

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

Article 2

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

Done at Brussels, 13 April 2022.

For the Council
The President
J.-Y. LE DRIAN
