



2024/628

20.2.2024

COUNCIL DECISION (CFSP) 2024/628

of 19 February 2024

amending Common Position 2001/931/CFSP on the application of specific measures to combat terrorism

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 27 December 2001, the Council adopted Common Position 2001/931/CFSP ⁽¹⁾.
- (2) On 20 May 2021, in its 'Council Conclusions on the Communication from the Commission to the European Parliament and the Council on the EU's humanitarian action: new challenges, same principles', the Council reaffirmed its commitment to avoid and, where unavoidable, mitigate to the maximum extent any potential unintended negative impacts of Union restrictive measures on principled humanitarian action. The Council reiterated that Union restrictive measures comply with all obligations under international law, in particular international human rights law, international humanitarian law and international refugee law. It underlined the importance of adhering fully to humanitarian principles and international humanitarian law in the Union's sanctions policy, including through the consistent inclusion of humanitarian exceptions in Union restrictive measures regimes, where relevant, and by ensuring that an effective framework is in place for the use of such exceptions by humanitarian organisations.
- (3) On 9 December 2022, the United Nations Security Council (UNSC) adopted Resolution 2664 (2022), recalling its previous resolutions imposing sanctions measures in response to threats to international peace and security and emphasising that measures taken by United Nations Member States to implement sanctions comply with their obligations under international law and are not intended to have adverse humanitarian consequences for civilian populations or adverse consequences for humanitarian activities or those carrying them out. The UNSC decided in paragraph 1 of Resolution 2664 (2022) that the provision, processing or payment of funds, other financial assets or economic resources or the provision of goods and services necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs by certain actors are permitted and are not a violation of the asset freezes imposed by the UNSC or its Sanctions Committees.
- (4) On 14 February 2023, the Council adopted Decision (CFSP) 2023/338 ⁽²⁾, which introduced the humanitarian exemption pursuant to Resolution 2664 (2022) into the Union restrictive measures regimes that give effect to measures decided upon by the UNSC or its Sanctions Committees. On 31 March 2023, the Council adopted Decision (CFSP) 2023/726 ⁽³⁾, which introduced the humanitarian exemption pursuant to Resolution 2664 (2022) into the Union restrictive measures regimes that give effect to measures decided upon by the UNSC or its Sanctions Committees and into the complementary measures decided upon by the Council. On 27 November 2023, the Council adopted Decision (CFSP) 2023/2686 ⁽⁴⁾, which introduced into certain Union restrictive measures regimes the humanitarian exemption for the benefit of actors referred to in Resolution 2664 (2022), of organisations and agencies to which the Union has granted the Humanitarian Partnership Certificate, and of organisations and agencies which are certified or recognised by a Member State, or by a specialised agency of a Member State.

⁽¹⁾ Council Common Position 2001/931/CFSP of 27 December 2001 on the application of specific measures to combat terrorism (OJ L 344, 28.12.2001, p. 93).

⁽²⁾ Council Decision (CFSP) 2023/338 of 14 February 2023 amending certain Council decisions and common positions concerning restrictive measures in order to insert provisions on a humanitarian exemption (OJ L 47, 15.2.2023, p. 50).

⁽³⁾ Council Decision (CFSP) 2023/726 of 31 March 2023 amending certain Council Decisions concerning restrictive measures in order to insert provisions on a humanitarian exemption (OJ L 94, 3.4.2023, p. 48).

⁽⁴⁾ Council Decision (CFSP) 2023/2686 of 27 November 2023 amending certain Council Decisions concerning restrictive measures in order to insert provisions on humanitarian exceptions (OJ L, 2023/2686, 28.11.2023, ELI: <http://data.europa.eu/eli/dec/2023/2686/oj>).

- (5) In order to increase consistency across Union restrictive measures regimes and with those adopted by the UNSC or its Sanctions Committees and to ensure the timely delivery of humanitarian assistance or support other activities that support basic human needs, the Council considers that a humanitarian exemption to asset freeze measures applicable to, and to the restrictions on making funds and economic resources available to, designated persons, groups and entities, for the benefit of actors referred to in Resolution 2664 (2022), of organisations and agencies to which the Union has granted the Humanitarian Partnership Certificate, and of organisations and agencies which are certified or recognised by a Member State, or by a specialised agency of a Member State, should be included in Common Position 2001/931/CFSP for an initial period of 12 months. In addition, the Council considers that a further derogation mechanism should be introduced for those organisations and actors involved in humanitarian activities that cannot benefit from that humanitarian exemption. Furthermore, the Council also considers that a review clause related to those exceptions should be introduced.
- (6) Common Position 2001/931/CFSP should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

The following Article is inserted in Common Position 2001/931/CFSP:

'Article 3a

1. Articles 2 and 3 shall not apply to the provision, processing or payment of funds, other financial assets or economic resources or to the provision of goods and services which are 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 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;
- (g) 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.

2. Without prejudice to paragraph 1 and by way of derogation from Articles 2 and 3, 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.

3. 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 2, that authorisation shall be considered granted.

4. The Member State concerned shall inform the other Member States and the Commission of any authorisations granted under this Article within four weeks of the granting of such authorisation.
5. Paragraphs 1 and 2 shall be reviewed at least every 12 months or at the urgent request of a Member State, the High Representative of the Union for Foreign Affairs and Security Policy, or the Commission following a fundamental change in circumstances.
6. Paragraph 1 shall apply until 22 February 2025.’.

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, 19 February 2024.

For the Council
The President
J. BORRELL FONTELLES