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COUNCIL REGULATION (EU) 2024/1469

of 21 May 2024

amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine

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 (CFSP) 2024/1470 of 21 May 2024 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine [1],

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

Whereas:

(1) On 31 July 2014, the Council adopted Regulation (EU) No 833/2014 [2], concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.

(2) Regulation (EU) No 833/2014 gives effect to certain measures provided for in Council Decision 2014/512/CFSP [3].

(3) On 21 May 2024, the Council adopted Decision (CFSP) 2024/1470 amending Decision 2014/512/CFSP.

(4) On 24 February 2022, the President of the Russian Federation announced a military operation in Ukraine, and Russia's armed forces began an unprovoked and unjustified military aggression against Ukraine. That illegal war of aggression is a blatant violation of the territorial integrity, sovereignty and independence of Ukraine, as well as a violation of the prohibition on the use of force enshrined in Article 2(4) of the Charter of the United Nations (UN), which is a fundamental rule of international law, and of the other principles of the Charter of the UN (UN Charter).

(5) In its Resolution ES-11/1, adopted on 2 March 2022, the UN General Assembly deplored in the strongest terms the aggression by the Russian Federation against Ukraine in violation of Article 2(4) of the UN Charter. In its Resolution ES-11/4, adopted on 12 October 2022, the UN General Assembly, noting the UN Secretary-General's statement of 29 September 2022 in which he recalled that any annexation of a State's territory by another State resulting from the threat or use of force is a violation of the principles of the UN Charter and international law, condemned the organisation by the Russian Federation of illegal so-called referenda in regions within the internationally recognised borders of Ukraine and the attempted illegal annexation of the Donetsk, Kherson, Luhansk and Zaporizhzhia regions of Ukraine, following the organisation of those so-called referenda.

(6) In its Resolution A/RES/ES-11/5 of 15 November 2022, the UN General Assembly expressed grave concern at the loss of life, civilian displacement, destruction of infrastructure and natural resources, loss of public and private property, and economic calamity caused by the aggression by the Russian Federation against Ukraine, and recognised that the Russian Federation must be held to account for any violations of international law in or against Ukraine, including its aggression in violation of the UN Charter, as well as any violations of international humanitarian law and international human rights law, and that it must bear the legal consequences of all of its internationally wrongful acts, including making reparation for the injury, including any damage, caused by such acts.

[1] OJ L, 2024/1470, 22.5.2024, ELI: http://data.europa.eu/eli/dec/2024/1470/oj.
[2] Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ L 229, 31.7.2014, p. 1).
[3] Council Decision 2014/512/CFSP of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ L 229, 31.7.2014, p. 13).

(7) In its Resolution A/ES-11/L.7 of 23 February 2023, the UN General Assembly also called for full adherence by the parties to the armed conflict to their obligations under international humanitarian law, and for an immediate cessation of the attacks on the critical infrastructure of Ukraine and any deliberate attacks on civilian objects, including those that are residences, schools and hospitals.

(8) On 28 February 2022, the Council adopted Decision (CFSP) 2022/335 ([4]) amending Decision 2014/512/CFSP, which prohibited any transactions related to the management of reserves, as well as of assets of the Central Bank of Russia, including transactions with any legal person, entity or body acting on behalf of, or at the direction of, the Central Bank of Russia. On 9 March 2022, the Council adopted Decision (CFSP) 2022/395 ([5]) to include such prohibition concerning the Russian National Wealth Fund. As a result of those prohibitions, the relevant assets held by financial institutions in the Member States are 'immobilised'.

(9) As underlined in the conclusions of the European Council meeting on 26 and 27 October 2023, decisive progress is needed, in coordination with partners, on how any extraordinary revenues held by private entities stemming directly from Russia's immobilised assets could be directed to support Ukraine and its recovery and reconstruction, consistent with applicable contractual obligations, and in accordance with Union and international law. In its conclusions, the European Council called on the High Representative of the Union for Foreign Affairs and Security Policy and the Commission to accelerate work with a view to submitting proposals.

(10) In its conclusions of 14 and 15 December 2023, the European Council reiterated its resolute condemnation of Russia's war of aggression against Ukraine, which constitutes a manifest violation of the UN Charter, and reaffirmed the Union's unwavering support for Ukraine's independence, sovereignty and territorial integrity within its internationally recognised borders and its inherent right of self-defence against the Russian aggression.

(11) In its conclusions of 1 February 2024, a special meeting of the European Council underlined the need to ensure, together with partners, stable, predictable and sustainable financial support for Ukraine for the period 2024-2027 and concluded that a Ukraine Facility for the period 2024-2027 is to be set up. Regulation (EU) 2024/792 of the European Parliament and of the Council establishing the Ukraine Facility ([6]) was adopted on 29 February 2024. On 5 March 2024, the Commission proposed a Regulation establishing a European Defence Industry Programme ('EDIP') and a framework of measures to ensure the timely availability and supply of defence products ([7]). EDIP should be set up for the period 2025-2027, and includes a cooperation programme (the 'Ukraine Support Instrument') aiming at contributing to the recovery, reconstruction and modernisation of the Ukrainian defence technological and industrial base.

(12) In its conclusions of 22 March 2024, the European Council stated that given the urgency of the situation, the European Union is determined to continue providing Ukraine and its people all the necessary political, financial, economic, humanitarian, military and diplomatic support for as long as it takes and as intensely as needed.

(13) On 12 February 2024, the Council adopted Decision (CFSP) 2024/577 ([8]), amending Decision 2014/512/CFSP to provide certain clarifications regarding the prohibition of any transaction related to the management of reserves and assets of the Central Bank of Russia, as well as to introduce further measures.

([4]) Council Decision (CFSP) 2022/335 of 28 February 2022 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ L 57, 28.2.2022, p. 4).

([5]) Council Decision (CFSP) 2022/395 of 9 March 2022 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ L 81, 9.3.2022, p. 8).

([6]) Regulation (EU) 2024/792 of the European Parliament and of the Council of 29 February 2024 establishing the Ukraine Facility (OJ L, 2024/792, 29.2.2024), ELI: http://data.europa.eu/eli/reg/2024/792/oj.

([7]) COM(2024) 150 final.

([8]) Council Decision (CFSP) 2024/577 of 12 February 2024 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ L, 2024/577, 14.2.2024, ELI: http://data.europa.eu/eli/dec/2024/577/oj).

(14) Decision (CFSP) 2024/577 clarified that balance sheet management transactions linked to assets and reserves of the Central Bank of Russia, or linked to assets and reserves of any legal person, entity or body acting on behalf of, or at the direction of, the Central Bank of Russia, such as the Russian National Wealth Fund, are not within the scope of the prohibition of transactions which applies since 28 February 2022. The balance sheet management transactions that remain authorised relate in particular to the reinvestment of cash balances, accumulating due to immobilised coupon or dividend and redemption payments and maturing deposits, in line with a prudent investment policy, in accordance with applicable regulatory requirements.

(15) Other transactions, in particular any direct or indirect transfer to or for the benefit of the Central Bank of Russia, or to or for the benefit of any legal person, entity or body acting on behalf of, or at the direction of, the Central Bank of Russia, such as the Russian National Wealth Fund, remain prohibited.

(16) The prohibition of such other transactions generates an extraordinary and unexpected accumulation of cash balances on the balance sheets of central securities depositories within the meaning of Regulation (EU) No 909/2014 of the European Parliament and of the Council ([9]) that occupy a key position in the settlement and the central maintenance of financial instruments in the Union. That accumulation is due to the immobilisation of assets and reserves of the Central Bank of Russia, or those of any legal person, entity or body acting on behalf of, or at the direction of, the Central Bank of Russia, such as the Russian National Wealth Fund, because any payments of principal and interest, coupons, dividends or other income on securities to the Central Bank of Russia and those persons, entities and bodies are prohibited.

(17) Central securities depositories are in a specific situation, which is different from that of other financial institutions because cash balances of or with customers of central securities depositories are usually transferred out of the central securities depositories before the end of the day and do not yield any remuneration for the customers. The cash balances held by central securities depositories in relation to the assets of the Central Bank of Russia, or those of any legal person, entity or body acting on behalf of, or at the direction of, the Central Bank of Russia, such as the Russian National Wealth Fund, accumulating due to restrictive measures, subsequently need to be prudently managed by the central securities depositories. This results in the generation of unexpected and extraordinary revenues.

(18) Unexpected and extraordinary revenues do not have to be made available to the Central Bank of Russia under applicable rules, even after the discontinuation of the transaction prohibition. Thus, they do not constitute sovereign assets. Therefore, the rules protecting sovereign assets are not applicable to these revenues.

(19) Moreover, since those unexpected and extraordinary revenues result necessarily from the implementation of the restrictive measures, in particular the prohibition laid down in Article 1a(4) of Decision 2014/512/CFSP and Article 5a(4) of Regulation (EU) No 833/2014, central securities depositories cannot expect to gain an undue and unintended economic benefit from them. Based on the legitimate aim of pursuing the objectives of the Common Foreign and Security Policy, in particular the consolidation of, and support for, democracy, the rule of law, human rights and the principles of international law, including international humanitarian law, the preservation of peace, the prevention of conflicts and strengthening of international security and the protection of civilian populations, as well as assisting populations confronting man-made disasters, Decision (CFSP) 2024/577 introduced measures to ensure that the unexpected and extraordinary profits of central securities depositories, accruing in the time period between the entry into force of that Decision and the moment when the temporary restrictive measures concerning assets and reserves of the Central Bank of Russia will be discontinued, benefit Ukraine. Those measures have been reflected in Council Regulation (EU) 2024/576 ([10]).

([9]) Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p. 1).

([10]) Council Regulation (EU) 2024/576 of 12 February 2024 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, (OJ L, 2024/576, 14.2.2024. ELI: http://data.europa.eu/eli/reg/2024/576/oj).

(20) In particular, since 15 February 2024, central securities depositories holding reserves and assets of the Central Bank of Russia with a total value of more than EUR 1 million must account for and manage such extraordinary cash balances accumulating due to the immobilisation of assets and reserves of the Central Bank of Russia separately from their other activities, and also keep the unexpected and extraordinary revenues generated separate.

(21) Central securities depositories are also prohibited from disposing of their ensuing net profits, as determined in accordance with national law, after deduction of corporate tax under the general regime of the Member State concerned, whether by way of distribution in the form of dividends or in whatever form to the benefit of shareholders or of any third party until the Council decides on the establishment of a financial contribution raised on those net profits to support Ukraine. The ensuing net profits generated before 15 February 2024 remain unrestricted and immediately available to absorb expenses, risks and losses incurred by central securities depositories, as required under Union and national laws applicable to central securities depositories, including under prudential legislation, where relevant.

(22) Marking the second year of Russia's illegal, unjustifiable, and unprovoked full-scale invasion of Ukraine, the G7 Leaders, in their Statement of 24 February 2024, reiterated their countries' continuing support for Ukraine's right to self-defence and their commitment to Ukraine's long-term security, and committed to step-up their security assistance to Ukraine and increase their production and delivery capabilities, to assist the country. That statement welcomed the adoption of the Union legal acts concerning extraordinary revenues of central securities depositories gained from Russia's immobilised sovereign assets and encouraged further steps to enable their use, consistent with applicable contractual obligations and in accordance with applicable laws.

(23) In view of the gravity of the situation and in response to Russia's war of aggression against Ukraine, and as long as the illegal actions by the Russian Federation continue to violate fundamental rules of international law, including, in particular, the prohibition on the use of force enshrined in Article 2(4) of the UN Charter, or of international humanitarian law, it is appropriate to maintain in force all the measures imposed by the Union. It is also appropriate to take additional exceptional measures aiming at supporting Ukraine and its recovery and reconstruction as well as its self-defence against the Russian aggression, in line with the objectives of the Common Foreign and Security Policy, in particular preserving the Union's values, fundamental interests, security, independence and integrity, the consolidation of and support for democracy, the rule of law, human rights and the principles of international law, including international humanitarian law, the right to self-defence and the prohibition of aggression under the UN Charter, the preservation of peace, prevention of conflicts and strengthening of international security and the protection of civilian populations as well as assisting populations confronting man-made disasters, such as those inflicted upon Ukraine and its population by Russia's war of aggression.

(24) Decision (CFSP) 2024/1470 therefore provides for additional measures. In line with the principle of legal certainty, the additional measures should apply from 15 February 2024. The objective of the additional measures should ultimately be to support Ukraine, including through the European Peace Facility established by Council Decision (CFSP) 2021/509 ([11]), as well as Union programmes financed from the Union budget, such as the Ukraine Facility and programmes supporting cooperation for common procurement for Ukraine and aiming at the recovery, reconstruction and modernisation of the Ukraine defence technological and industrial base. The specific attributions in the context of assistance measures under the European Peace Facility and the allocation between the latter and the Union programmes financed from the Union budget are provided for in Decision (CFSP) 2024/1470. The allocation among Union programmes financed from the Union budget should be carried out according to a mechanism established in this Regulation.

(25) In particular, Decision (CFSP) 2024/1470 lays down the rules on how the net profits ensuing from the unexpected and extraordinary revenues accruing to central securities depositories as a result of the implementation of the prohibition laid down in Article 1a(4) of Decision 2014/512/CFSP and Article 5a(4) of Regulation (EU) No 833/2014 should be directed to support Ukraine and its recovery and reconstruction as well as its self-defence against Russia's war of aggression, consistent with applicable contractual obligations, and in accordance with Union and international law, in coordination with partners.

([11]) Council Decision (CFSP) 2021/509 of 22 March 2021 establishing a European Peace Facility, and repealing Decision (CFSP) 2015/528 (OJ L 102, 24.3.2021, p. 14).

(26) The central securities depositories holding assets and reserves with a total value of more than EUR 1 million should contribute from their corresponding net profits a financial contribution equivalent to 99,7 % of those net profits accumulating since 15 February 2024. This rate is justified by the fact that net profits in question result necessarily from the implementation of the prohibition laid down in Article 1a(4) of Decision 2014/512/CFSP and Article 5a(4) of Regulation (EU) No 833/2014, and therefore central securities depositories cannot expect to gain an undue and unintended economic benefit from them. Given the responsibilities of the central securities depositories and the role they are playing in handling the immobilised assets, it is however appropriate to provide that they can retain a limited percentage of the net profits to ensure the efficiency of their work. Payments should be made in biannual instalments until the extraordinary profits cease accumulating on the balance sheets of central securities depositories due to the discontinuation of the restrictive measures prohibiting transactions with the assets and reserves of the Central Bank of Russia. The Commission should inform the Council biannually on the amounts transferred by the CSDs.

(27) Central securities depositories should be able to provisionally retain a share not exceeding 10 % of the financial contribution in view of complying with statutory capital and risk management requirements in view of the impact due to the war in Ukraine with regard to the assets held by central securities depositories. If this share becomes insufficient in the future, it should be possible for a central securities depositoryto submit to the national supervisory authority a duly justified request to retain an additional percentage of the financial contribution due. The national supervisory authority should consult the Commission and, where appropriate, the European Central Bank and should take a decision accordingly. The national supervisory authority may approve the retention of an additional percentage only after having determined that it is strictly necessary to comply with risk management requirements in view of the impact due to the war in Ukraine with regard to the assets held by central securities depositories. The decision of the national supervisory authority to retain an additional percentage should become definitive unless the Commission decides, within a specified time limit, that the additional percentage does not comply with the relevant conditions. The Commission should consult the European Central Bank to that effect. The Commission should inform the Council of any decision of the national supervisory authority to retain an additional percentage. Where, at least four months after the adoption of such decision, the Commission considers, in the light of the most recent information, that the retention of an additional percentage is no longer strictly necessary to comply with risk management requirements, it should, after consulting the national supervisory authority and where appropriate, the European Central Bank, decide on a decrease of such additional percentage.

(28) Detailed arrangements should be established for the transfer to the Union of amounts provisionally retained when they are no longer necessary. In particular, if amounts provisionally retained have not been used within five years from their collection or when the relevant restrictive measures have been discontinued, the national supervisory authority should determine whether those amounts or part of those amounts are still needed to meet risk management requirements, unless the Commission decides, within a specified time limit, that the relevant conditions are not met.

(29) Each central securities depository should report to the Commission and to its national competent authority on an annual basis the amount of cash balances and net profits accumulating due to the immobilisation of assets and reserves of the Central Bank of Russia, or those of any legal person, entity or body acting on behalf of, or at the direction of, the Central Bank of Russia, such as the Russian National Wealth Fund, and the total amount of revenues generated on that basis. They should also report on amounts provisionally retained.

(30) The horizontal rules on revenue operations set out in Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ([12]) should apply to the collection of the financial contribution, including the transmission of debit notes to central securities depositories to request payments.

(31) The Commission should be empowered to adopt Regulations, by means of implementing acts, setting out specific arrangements for reporting and for the financial implementation of revenue operations, such as payments by central securities depositories and the establishment of definitive amounts of the financial contribution. Those rules may, as appropriate, complement horizontal rules on revenue operations to cater for the specific characteristics of the financial contribution. The Commission should consult the relevant national supervisory authorities to that effect.

([12]) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30/07/2018, p. 1).

(32) The additional measures provided for in this Regulation create new obligations for central securities depositories, namely to contribute to the Union for the purpose of supporting Ukraine and its recovery and reconstruction as well as in its self-defence against the Russian aggression. Given the context in which these measures are taken, the specific situation of central securities depositories and the legitimate aim of the measures for the pursuit of the Union's foreign and security policy objectives, in particular preserving the Union's values, fundamental interests, security, independence and integrity, the consolidation of and support for democracy, the rule of law, human rights and the principles of international law, including international humanitarian law, the right to self-defence and the prohibition of aggression under the UN Charter, the preservation of peace, prevention of conflicts and strengthening of international security and the protection of civilian populations as well as assisting populations confronting man-made disasters, such as those inflicted upon Ukraine and its population by Russia's war of aggression, these measures fully respect the fundamental rights and freedoms recognised in the Charter of Fundamental Rights of the European Union, in particular Articles 17 and 52 thereof, as they are justified and proportionate to the objectives pursued.

(33) Since the unexpected and extraordinary revenues result necessarily from the implementation of restrictive measures, in particular the prohibition laid down in Article 1a(4) of Decision 2014/512/CFSP and Article 5a(4) of Regulation (EU) No 833/2014, and in view of the common foreign and security policy implications as regards their use, the implementing powers to review Annex XLI to Regulation (EU) No 833/2014 should be conferred on the Council.

(34) The measures provided for by this Regulation fall within the scope of the Treaty on the Functioning of the European Union. Therefore, in particular with a view to ensuring their uniform application in all Member States, regulatory action at the level of the Union is necessary.

(35) The restrictive measures linked to the prohibition of transactions related to the management of the assets and reserves of the Central Bank of Russia should remain in place until Russia ceases its war of aggression against Ukraine and compensates Ukraine for the damage caused by this war.

(36) Regulation (EU) No 833/2014 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 833/2014 is amended as follows:

(1) In Article 5a, paragraphs 8 to 10 are replaced by the following:

'8. As of 15 February 2024, and for as long as the restrictive measures set out in paragraph 4 are maintained, central securities depositories within the meaning of Regulation (EU) No 909/2014 holding assets and reserves referred to in paragraph 4 of this Article with a total value exceeding EUR 1 million shall apply the following rules regarding cash balances accumulating exclusively due to the restrictive measures:

(a) those cash balances shall be accounted for separately;

(b) revenues accruing from or generated by the cash balances referred to in point (a) from 15 February 2024 shall be registered separately in the financial accounts of central securities depositories;

(c) without prejudice to paragraphs 9 and 10, net profits determined in respect of revenues referred to in point (b) of this paragraph in accordance with national law, including by deducting all relevant expenses linked to or resulting from the management of the immobilised assets and the risk management associated with the immobilised assets and after deduction of corporate tax under the general regime of the Member State concerned, shall not be disposed of by way of distribution in the form of dividends or in whatever form to the benefit of shareholders or any third party. This prohibition shall not apply to the net profits not constituting the financial contribution referred to in paragraph 9.

9. The net profits referred to in point (c) of paragraph 8 shall be subject to a financial contribution due by the central securities depositories to the Union.

The rate of the financial contribution shall be 99,7 % of those net profits.

The Commission shall call for financial contributions, in accordance with Regulation (EU, Euratom) 2018/1046 (*), from the central securities depositories concerned biannually on the basis of the interim financial report referred to in paragraph 11 of this Article. The Commission shall establish the definitive amounts of the financial contribution due annually on the basis of the statutory audited financial statements for year N after they are available in year N+1. If the definitive annual amount of the financial contribution due for year N is lower than the sum of amounts of the biannual payments made in respect of year N, the difference shall be deducted from the next payment due by the central securities depositories to the Union in the year N+1, including biannual payments and transfer of amounts provisionally retained in accordance with paragraph 10, points (e) and (f). The amount due by the central securities depositories resulting from the netting pursuant to the previous sentence shall not be lower than zero.

The Commission shall inform the Council biannually on the amounts transferred by the CSDs.

10. (a) Central securities depositories may provisionally retain a share not exceeding 10 % of the financial contribution ("amounts provisionally retained"), which shall remain due to the Union.

(b) If the share referred to in point (a) is not sufficient in the light of risk management requirements, a central securities depository may submit a request to the national supervisory authority, as designated in accordance with Article 11 of Regulation (EU) No 909/2014, to retain an additional percentage of the financial contribution due. The national supervisory authority shall consult the Commission and, where appropriate, the European Central Bank and shall take a decision accordingly. The national supervisory authority may approve the retention of an additional percentage only after having determined that it is strictly necessary to comply with risk management requirements in view of the impact due to the war in Ukraine with regard to the assets held by central securities depositories. If the national supervisory authority has approved an additional percentage, that percentage shall become definitive in respect of that financial year, unless the Commission decides, within five days after notification, that the additional percentage does not comply with the conditions set out in this point. The Commission may determine a lower additional percentage which constitutes the maximum additional percentage the national supervisory authority may approve. Where, in its notification to the Commission, the national supervisory authority invokes an emergency, the Commmission shall decide within 24 hours after such notification. For the purpose of its decision under this point, the Commission shall consult the European Central Bank. The Commission shall inform the Council without delay of any decision of the national supervisory authority to retain an additional percentage under this point.

(c) Where the Commission considers that the additional percentage referred to in point (b) is no longer strictly necessary to comply with risk management requirements in view of the impact due to the war in Ukraine with regard to the assets held by central securities depositories, the Commission shall, after consulting the national supervisory authority and where appropriate, the European Central Bank, decide on a decrease of such additional percentage. The Commission may adopt a decision under this point not earlier than four months after the decision of the national supervisory authority to retain an additional percentage has became definitive. It shall base its decision on the most recent information available.

(d) Amounts provisionally retained by a central securities depository in accordance with this paragraph shall be used exclusively to cover the expenses, risks and losses incurred by it due to the war in Ukraine with regard to the assets held by that central securities depository, and only to the extent that such expenses, risks and losses cannot be covered by the internal resources of the central securities depository at the time of their occurrence. Amounts provisionally retained which have been used in accordance with this point shall cease to be due to the Union. Any information provided or received in accordance with this paragraph shall be used exclusively for the purposes for which it has been provided or received.

(e) If amounts provisionally retained have not been used within five years for the purpose referred to in point (d), the national supervisory authority shall, after consulting the Commission and, where appropriate, the European Central Bank, determine whether those amounts or part of those amounts are still needed to meet risk management requirements in view of the impact due to the war in Ukraine with regard to the assets held by central securities depositories. The national supervisory authority shall notify the Commission without delay

about its decision on determination of those amounts and the time for which those amounts may continue to be retained. The decision of the national supervisory authority shall become definitive unless the Commission decides, within five days after notification, that the conditions set out in this point are not complied with. The Commission shall consult the European Central Bank to that effect. Amounts no longer retained shall be transferred to the Union.

(f) The central securities depositories shall transfer to the Union all remaining unused amounts provisionally retained at the latest when the restrictive measures under this Article are discontinued. The national supervisory authority may, after consulting the Commission and, where appropriate, the European Central Bank, decide to retain the amounts thereafter if those amounts or part of those amounts are still needed to meet relevant risk management requirements in view of the impact due to the war in Ukraine with regard to the assets held by central securities depositories. The decision of the national supervisory authority shall become definitive unless the Commission decides, within five days after notification, that the conditions set out in this point are not complied with. The Commission shall consult the European Central Bank to that effect. Amounts no longer retained shall be transferred to the Union.

(*) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).';

(2) In Article 5a, the following paragraphs are added:

'11. Central securities depositories referred to in paragraph 8 shall submit to the Commission and to their national competent authorities, in accordance with the rules set out in the act referred to in paragraph 13 the interim financial reports and the audited annual financial statements.

They shall also report by 30 June of each year, on the total amounts remaining provisionally retained on 31 December of the preceding year, according to paragraph 10, amounts provisionally retained that were used in accordance with paragraph 10, point (d), during the preceding year, and the amounts provisionally retained which have to be transferred to the Union in accordance with paragraph 10, points (e) and (f).

12. Central securities depositories concerned shall fully cooperate in the protection of the financial interests of the Union and shall grant the necessary rights and access required for the authorising officer responsible, for the European Public Prosecutor's Office (EPPO) in respect of those Member States participating in the enhanced cooperation on the establishment of the EPPO pursuant to Council Regulation (EU) 2017/1939 (*), for the European Anti-Fraud Office (OLAF), for the Court of Auditors, and, where appropriate, for the relevant national authorities, to comprehensively exercise their respective competences. In the case of OLAF, such rights shall include the right to carry out investigations, including on-the-spot checks and inspections, in accordance with Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council (**).

13. The Commission shall be empowered to adopt regulations, by means of implementing acts, setting out specific detailed arrangements for reporting to the Commission and the national competent authority as provided for under paragraph 11, and for the implementation of revenue operations such as payments by central securities depositories and the establishment of definitive amounts of financial contributions. Those rules may, as appropriate, complement the horizontal rules on revenue operations set out in Regulation (EU, Euratom) No 2018/1046 to cater for the specific characteristics of the financial contribution. The Commission shall consult the relevant national supervisory authorities to that effect.

14. The amounts of the financial contribution paid to the Union budget shall be used to support Ukraine through the Union spending instruments listed in Annex XLI. Annex XLI shall be reviewed yearly, and for the first time before 1 January 2025, and may be amended through a Council Implementing Regulation, adopted upon a joint proposal of the High Representative of the Union for Foreign Affairs and Security Policy and of the Commission.

Amounts used for spending instruments financed from the Union budget shall constitute external assigned revenues in accordance with Article 21(5) of Regulation (EU, Euratom) No 2018/1046.

(*) Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ("the EPPO") (OJ L 283, 31/10/2017, p. 1).
(**) Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).';

(3) Annex XLI is added in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the date 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, 21 May 2024.

For the Council

The President

H. LAHBIB

ANNEX

'ANNEX XLI

Allocation of financial contribution to spending instruments

1. Amounts transferred to the Union budget in accordance with Article 1a(11) of Decision 2014/512/CFSP as amended by Decision (CFSP) 2024/1470 shall be allocated to Union spending instruments supporting Ukraine according to the following key:

   (a) Ukraine Facility, established by Regulation (EU) 2024/792 of the European Parliament and of the Council (*): 100 %;

   (b) Union programmes supporting cooperation for common procurement of additional quantities for Ukraine and aiming at the recovery, reconstruction and modernisation of the Ukraine Defence Technological and Industrial Base: 0 %.

2. In order to respond to unforeseen situations or to new developments and needs, annual deviations from the percentages referred to in paragraph 1 of up to a maximum of 10 % shall be possible.

(*) Regulation (EU) 2024/792 of the European Parliament and of the Council of 29 February 2024 establishing the Ukraine Facility (OJ L, 2024/792, 29.2.2024, ELI: http://data.europa.eu/eli/reg/2024/792/oj.)'.