

DECISIONS

COUNCIL DECISION (CFSP) 2023/1439

of 10 July 2023

amending Decision (CFSP) 2015/1333 concerning restrictive measures in view of the situation in Libya

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 of the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 31 July 2015, the Council adopted Decision (CFSP) 2015/1333 ⁽¹⁾ concerning restrictive measures in view of the situation in Libya.
- (2) The United Nations Security Council ('UNSC') in its Resolution 2292 (2016) authorised States acting nationally or through regional organisations to inspect on the high seas off the coast of Libya vessels which they have reasonable grounds to believe are carrying arms or related materiel to or from Libya, directly or indirectly, in violation of the United Nations arms embargo on Libya and decided that States, upon discovery during such inspections of items prohibited by the arms embargo on Libya, are to seize and dispose of such items.
- (3) Council Decision (CFSP) 2020/472 ⁽²⁾ provides that the core task of the Union naval operation EUNAVFOR MED IRINI is to contribute to the implementation of the United Nations arms embargo on Libya.
- (4) For that purpose, Article 2(3) of Decision (CFSP) 2020/472 provides that, in accordance with the relevant United Nations Security Council Resolutions ('UNSCRs'), in particular UNSCR 2292 (2016), and as required, EUNAVFOR MED IRINI is to carry out, within the agreed Area of Operation on the high seas off the coast of Libya, inspections of vessels bound to or from Libya where there are reasonable grounds to believe that such vessels are carrying arms or related materiel to or from Libya, directly or indirectly, in violation of the arms embargo on Libya, and that EUNAVFOR MED IRINI is to take relevant action to seize and dispose of such items.
- (5) Furthermore, Article 2(5) of Decision (CFSP) 2020/472 provides that, in view of the exceptional operational requirements, and upon invitation from a Member State, EUNAVFOR MED IRINI may divert vessels to ports of that Member State and dispose of arms and related materiel which it has seized, including by storage, destruction or transfer to a Member State or to a third party. It also provides that disposal of seized arms and related materiel may be achieved with the assistance of a Member State, which is to undertake to complete as swiftly as possible the procedures required to allow for the disposal of the seized items, within the framework of applicable law and procedures.
- (6) Relevant provisions should therefore be introduced in order to provide that such a Member State is required to take the necessary measures to facilitate the disposal, on behalf of EUNAVFOR MED IRINI, of arms and related material seized by EUNAVFOR MED IRINI on the high seas in accordance with its mandate.
- (7) Decision (CFSP) 2015/1333 should therefore be amended accordingly,

⁽¹⁾ Council Decision (CFSP) 2015/1333 of 31 July 2015 concerning restrictive measures in view of the situation in Libya, and repealing Decision 2011/137/CFSP (OJ L 206, 1.8.2015, p. 34).

⁽²⁾ Council Decision (CFSP) 2020/472 of 31 March 2020 on a European Union military operation in the Mediterranean (EUNAVFOR MED IRINI) (OJ L 101, 1.4.2020, p. 4).

HAS ADOPTED THIS DECISION:

Article 1

The following article is inserted in Decision (CFSP) 2015/1333:

Article 5a

1. In accordance with the relevant United Nations Security Council Resolutions concerning Libya, notably UNSCR 1970(2011) and UNSCR 2292(2016), it shall be prohibited for vessels flying the flag of a third country, bound to or from Libya, to carry arms and related materiel, including goods and technology which are covered by the Union's Common Military List, to or from Libya, directly or indirectly, on the high seas off the coast of Libya, in violation of the arms embargo established by UNSCR 1970 (2011).
2. A Member State assisting EUNAVFOR MED IRINI in accordance with Article 2(5) of Council Decision (CFSP) 2020/472 (*) shall take the necessary measures to dispose on behalf of EUNAVFOR MED IRINI of arms or related materiel, including goods and technology which are covered by the Union's Common Military List, seized by EUNAVFOR MED IRINI on the high seas pursuant to Article 2(3) of that Decision.
3. The disposal referred to in paragraph 2 may take place, notably, through destruction of those items, rendering them inoperable or by allowing their use, including by a third party, whilst preventing their subsequent transfer to Libya or to any other third country to which the transfer of arms or related materiel is prohibited.

(*) Council Decision (CFSP) 2020/472 of 31 March 2020 on a European Union military operation in the Mediterranean (EUNAVFOR MED IRINI) (OJ L 101, 1.4.2020, p. 4).

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, 10 July 2023.

For the Council
The President
P. NAVARRO RÍOS