

## II

(Non-legislative acts)

## REGULATIONS

## COUNCIL REGULATION (EU) 2023/1433

of 10 July 2023

**amending Regulation (EU) 2016/44 concerning restrictive measures in view of the situation in Libya**

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) 2015/1333 of 31 July 2015 concerning restrictive measures in view of the situation in Libya, and repealing Decision 2011/137/CFSP <sup>(1)</sup>,

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 26 February 2011, the United Nations Security Council ('UNSC') adopted United Nations Security Council Resolution (UNSCR) 1970 (2011), thereby imposing an arms embargo on Libya.
- (2) The UNSC in UNSCR 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 these vessels 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 <sup>(2)</sup> 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, such as UNSCR 1970 (2011) and UNSCR 2473 (2019), and in particular UNSCR 2292 (2016), 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

<sup>(1)</sup> OJ L 206, 1.8.2015, p. 34.

<sup>(2)</sup> 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).

procedures required to allow for the disposal of the seized items, within the framework of applicable law and procedures.

- (6) Council Decision (CFSP) 2023/1439 <sup>(3)</sup> introduces a provision in Decision (CFSP) 2015/1333 to the effect 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) With a view to ensuring the uniform application of that provision in all Member States, regulatory action at the level of the Union is necessary.
- (8) Council Regulation (EU) 2016/44 <sup>(4)</sup> gives effect to Decision (CFSP) 2015/1333. Regulation (EU) 2016/44 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

#### Article 1

The following article is inserted in Regulation (EU) 2016/44:

##### *Article 22a*

1. A Member State assisting EUNAVFOR MED IRINI in accordance with Article 2(5) of Council Decision (CFSP) 2020/472 <sup>(\*)</sup> 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, which are transported on the high seas in breach of the prohibition referred to in Article 5a(1) of Decision (CFSP) 2015/1333, and which were seized by EUNAVFOR MED IRINI on the high seas pursuant to Article 2(3) of Decision (CFSP) 2020/472.
2. The disposal referred to in paragraph 1 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.

<sup>(\*)</sup> 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 Regulation shall enter into force on the day 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, 10 July 2023.

For the Council  
The President  
P. NAVARRO RÍOS

<sup>(3)</sup> Council Decision (CFSP) 2023/1439 of 10 July 2023 amending Decision (CFSP) 2015/1333 concerning restrictive measures in view of the situation in Libya (see page 26 of this Official Journal).

<sup>(4)</sup> Council Regulation (EU) 2016/44 of 18 January 2016 concerning restrictive measures in view of the situation in Libya and repealing Regulation (EU) No 204/2011 (OJ L 12, 19.1.2016, p. 1).