

EXPLANATORY MEMORANDUM

General explanation

On December 7, 2020, the Council of the European Union (hereinafter: EU) adopted a sanctions regime in the area of human rights consisting of Decision (CFSP) 2020/1999¹ and Regulation (EU) 2020/1998². This specific EU Global Human Rights Sanctions Regime allows the EU to take global action against persons, entities and organizations responsible for or involved in serious human rights violations around the world, regardless of where such violations have occurred. The EU Global Human Rights Sanctions Regime allows the EU to impose targeted sanctions on individuals or organizations responsible for human rights violations, such as the freezing of bank accounts and the imposition of visa bans.

The EU Global Human Rights Sanctions Regime applies to acts such as genocide and crimes against humanity. This Regime also applies to other serious human rights violations, such as torture, slavery, extrajudicial executions and arbitrary arrests and detentions. In addition, it may cover human trafficking, sexual and gender-based violence or violation of the right to religious freedom, insofar as such violations are widespread, systematic in nature or otherwise give rise to serious concern in light of the objectives of the Common Foreign and Security Policy (CFSP) of the EU.

The natural persons, legal persons and entities subject to the restrictive measures are listed in Annex I to Regulation (EU) 2020/1998 and the Annex to Decision (CFSP) 2020/1999, respectively, and can be designated to counteract serious human rights violations worldwide. It is up to the Council

¹ See Decision (CFSP) 2020/1999 of the Council of December 7, 2020 concerning restrictive measures against serious human rights violations (OJEU 2020, L 420).

² See Regulation (EU) No. 2020/1998 of the Council of December 7, 2020 concerning restrictive measures against serious human rights violations (OJEU 2020, L 410).

of the EU, acting upon a proposal by an EU Member State or the EU High Representative for Foreign Affairs and Security Policy, to prepare, review and amend the sanctions list. This sanctions list includes persons, entities and organizations that have committed the acts that fall within the scope of the EU Global Human Rights Sanctions Regime and against whom or which restrictive measures have been taken.

Within the framework of the Common Foreign and Security Policy of the Kingdom and in order to protect the integrity and reputation of Aruba and its financial sector, the Government has decided, using Articles 2 and 2a of the Sanctions Ordinance 2006 (“AB” [*Official Bulletin*] 2007 No. 24), to implement the EU Global Human Rights Sanctions Regime concerning restrictive measures against serious human rights violations. This State Decree provides for the freezing of funds or other assets of natural persons, legal persons and entities involved in serious human rights violations and abuses.

The introduction of this amending Decree does not entail any financial consequences for the Government. Finally, it should be noted that, since this State Decree is intended to implement a number of international decisions without delay, the Government has decided not to hear the Advisory Council. The possibility to do so is offered by the second paragraph of Article 2 of the Sanctions State Ordinance 2006.

In the following explanatory notes on the individual Articles, the Articles of this State Decree will be discussed in more detail.

Explanatory notes on the individual Articles

Article 1

This Article contains a number of necessary definitions. It cannot be ruled out that natural persons, legal persons, entities or bodies will be added to (*listing*) or removed from (*delisting*) Annex I to aforementioned Regulation (EU) 2020/1998 and the Annex to Decision (CFSP) 2020/1999. In order to avoid having to amend this State Decree each time, a dynamic reference is provided for, in particular, for the Annexes to Regulation (EU) 2020/1998 and Decision (CFSP) 2020/1999.

Article 2

Based on this Article, the funds and other assets of individuals or organizations listed in the various Annexes to the EU Global Human Rights Sanctions Regime must be frozen. The Government is of the opinion that this provides for a sufficient legal basis to implement the freezing measures, in any case.

Article 3

The first paragraph entrusts the Central Bank of Aruba (the Bank) with the timely and digital publication of the Annexes via the website www.cbaruba.org. This will ensure that the freezing measures can be implemented efficiently and effectively. The EU sanctions can also be found in the Official Journal of the European Union and are also easily accessible via the website <http://eur-lex.europa.eu>.

The fact that the Annexes will be subject to constant adjustment must also be taken into account. In addition to financial service providers, the Designated Non-Financial Businesses and Professions (DNFBPs), including lawyers, accountants, tax consultants, real estate brokers, civil-law notaries, car dealers and jewelers, should also be familiar with these adjustments at all times.

Article 4

This Article requires everyone not to provide services and to refrain from acts that result or can reasonably result in a natural person, legal person or other entity listed in Annex I to the EU Regulation and the Annex to the EU Decision, respectively, having access in any way to the funds or other assets frozen pursuant to Article 2. This applies not only to services within the meaning of Article 1 of this State Decree, but also to any act that has the effect of placing a fund or an asset under the control of a designated person. For the record, it should be noted that the violation of this prohibition has been made punishable under Article 17 of the Sanctions State Ordinance 2006.

Article 5

This Article requires service providers to take immediate action, insofar as they have funds or assets of a natural person, legal person or other entity listed in the Annexes to Regulation (EU) 2020/1998 and Decision (CFSP)

2020/1999 in their custody, in order to avoid that these funds and assets are transferred, converted, moved or made available to a natural person, legal person or other entity listed in these Annexes to the EU sanctions in violation of the freezing order.

Article 6

Finally, Article 6 contains the provision on the entry into force. This State Decree enters into force as soon as possible, namely as of the day following the date of issue of the Official Bulletin of Aruba, given that international sanctions are being implemented.

The Minister of General Affairs, Integrity,
Government Care, Innovation and Energy,
[was signed]

The Minister of Finance, Economic Affairs
and Culture,
[was signed]

The Minister of Justice, Security
and Integrity,
[was signed]