

UNOFFICIAL ENGLISH TRANSLATION

EXPLANATORY NOTE

General explanatory notes

The purpose of this amending State Decree is, first of all, to insert a humanitarian exemption for several sanctions regimes. On February 14, 2023, the Council of the European Union (hereinafter: the Council) adopted Regulation (EU) 2023/331¹, and, on March 31, 2023, Regulation (EU) 2023/720², and, on November 27, 2023, Regulation (EU) 2023/2694³ with the aim of inserting provisions on a humanitarian exemption. These three aforementioned Regulations add a humanitarian exemption to various sanctions regimes in accordance with Resolution 2664 (2022) of the United Nations Security Council. As a result of this humanitarian exemption, the funds and assets of listed persons are exempt from freezing measures when these funds and assets are intended to be used for humanitarian assistance and other activities that support basic human needs. The European Union made these adjustments to incorporate the humanitarian exemption into the European legislation implementing UN sanctions regimes. The Council considers that this humanitarian exemption should be introduced to enhance the consistency and coherence between EU sanctions regimes and those of the UN Security Council or its Sanctions Committees, and to ensure the timely provision of humanitarian assistance or support for other activities that meet basic human needs.

As a result of these aforementioned Regulations, the Interim State Decree on Priority Sanctions Regimes (“AB” [*Official Bulletin*] 2019 No. 47)⁴ needs to be amended for several sanctions regimes.

¹ See Council Regulation (EU) 2023/331 of February 14, 2023, amending certain Council Regulations concerning restrictive measures in order to insert provisions on a humanitarian exemption (OJEU 2023, L 47).

² See Council Regulation (EU) 2023/720 of March 31, 2023, amending certain Council Regulations concerning restrictive measures in order to insert provisions on a humanitarian exemption (OJEU 2023, L 94).

³ See Council Regulation (EU) 2023/2694 of November 27, 2023, amending certain Council Regulations of the European Union concerning restrictive measures in order to insert provisions on humanitarian exemptions (OJEU November 28, 2023, number 02694).

⁴ Reference is made to the State Decree containing General Administrative Orders of September 3, 2019 (AB 2019 No. 47) implementing Articles 2 and 2a of the Sanction Ordinance 2006 (AB 2007 No. 24) (Interim State Decree on Priority Sanctions Regimes).

Furthermore, restrictive measures are added to Annex I from the already existing sanctions regime against Sudan. On October 9, 2023, the Council of the European Union adopted Decision (CFSP) 2023/2135⁵ and Regulation (EU) 2023/2147⁶ establishing a framework for restrictive measures against Sudan in response to the conflict between the Sudanese Armed Forces and the Rapid Support Forces (RSF). Additionally, on October 23, 2023, the Council of the European Union adopted Decision (CFSP) 2023/2287⁷ and Regulation (EU) 2023/2406⁸, establishing a framework for targeted restrictive measures in connection with the situation in Niger. This new framework allows the European Union to impose sanctions on individuals and entities responsible for actions that threaten the peace, stability, and security of Niger, undermine its constitutional order, democracy, and the rule of law, constitute serious human rights violations, or contravene international humanitarian law in Niger.

Explanatory notes on the individual articles

Article I, paragraph A, concerns the addition of a new definition “Annex II”. This Annex II refers to the various sanctions regimes of countries listed and to which the new article 2a (humanitarian exemption) applies. The Annex II referred to in the definition is to distinguish it from Annex I, which includes the various regimes of restrictive measures (i.e.,: freezing of funds or other assets) that have been implemented at the European Union level through EU Regulations, EU Decisions, and Common Positions are implemented in Aruba. The new Annex II has been added to this amending State Decree (see article I, paragraph D).

Article I, paragraph B, concerns the insertion of a new article 2a providing for the humanitarian exemption. As a result of the humanitarian exemption, the funds and assets of listed persons are exempt from freezing measures when these funds and assets are intended to be used for humanitarian assistance or other activities that meet basic human needs. Article 2a is largely consistent with the manner in which this has been

⁵ See Decision (CFSP) 2023/2135 of the Council of the European Union of October 9, 2023, concerning restrictive measures in view of activities undermining the stability and political transition of Sudan (OJEU October 11, 2023, number 02135).

⁶ See Regulation (EU) 2023/2147 of the Council of the European Union of October 9, 2023, concerning restrictive measures in view of activities undermining the stability and political transition of Sudan (OJEU October 11, 2023, number 02147).

⁷ See Decision (CFSP) 2023/2287 of the Council of the European Union of October 23, 2023, concerning restrictive measures in view of the situation in Niger (OJEU October 24, 2023, number 02287).

⁸ See Regulation (EU) 2023/2406 of the Council of the European Union of October 23, 2023, concerning restrictive measures in view of the situation in Niger (OJEU October 24, 2023, number 02406).

inserted into European regulations. In derogation from the European legislation, a period of ten working days after receipt of a request for authorization has been inserted in the third paragraph. The European provisions specify a period of five working days. Additionally, a fourth paragraph has been included, referring to Annex II that lists the countries to which the humanitarian exemption applies. The countries listed as a result of Regulation (EU) 2023/331 are: Iraq, Somalia, Central African Republic, Yemen and Haiti. Regulation (EU) 2023/720 lists, *inter alia*, the Democratic People's Republic of Korea, Congo, Iran, Libya, Mali, South Sudan, and Sudan. Regulation (EU) 2023/2694 lists the countries Zimbabwe, Guinea, Tunisia, Myanmar/Burma, Burundi, Venezuela, Nicaragua and Lebanon. For practical reasons, the new Annex II lists the countries in alphabetical order. The fifth paragraph provides for a notice that is largely consistent with the manner in which this has been inserted into European regulations.

Article I, paragraph C, sub-paragraph 1, implements restrictive measures against Sudan using articles 2 and 2a of the Sanctions State Ordinance 2006 within the framework of the Common Foreign and Security Policy of the Kingdom as well as in order to protect the integrity and reputation of Aruba. The Council of the European Union considers that measures consisting of the freezing of funds or other assets should be imposed against persons responsible for, or having engaged directly or indirectly in, providing support to, or benefiting from actions or policies that threaten the peace, stability, or security of Sudan.

Article I, paragraph C, sub-paragraph 2 also implements restrictive measures (freezing of funds or other assets) against Niger. The Council of the European Union considers that travel restrictions and measures consisting of the freezing of funds or other assets should be imposed against natural or legal persons, entities or bodies responsible for actions that threaten the peace, stability, and security of Niger, undermine the constitutional order, democracy and the rule of law, in particular those responsible for the arbitrary detention of democratically elected authorities, or that constitute serious human rights violations or abuses or violations of applicable international humanitarian law in Niger, and against natural or legal persons, entities, or bodies associated with them. To give effect to this framework, the Council of the European Union adopted Decision (CFSP) 2023/2287 and Regulation (EU) 2023/2406.

Article I, paragraph D, adds a new Annex (see Annex II) to the Interim State Decree on Priority Sanctions Regimes. This aforementioned article is related to article I, paragraph A, and is self-explanatory.

Article II deviates from the fixed dates for changes in determining the date of entry into force of this amending State Decree. The reason for this deviation is that international sanctions are being implemented, which allows for an exception to the fixed dates for changes in accordance with the Guidelines for Drafting Legislation concerning fixed dates for changes.

The Minister of General Affairs, Innovation, Government Organization,
Infrastructure and Spatial Planning,
[signed]

The Minister of Finance and Culture,
[signed]