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COUNCIL DECISION 2011/173/CFSP

of 21 March 2011

concerning restrictive measures in view of the situation in Bosnia and Herzegovina

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COUNCIL DECISION 2011/173/CFSP

of 21 March 2011

concerning restrictive measures in view of the situation in Bosnia and Herzegovina

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Whereas:

- (1) On 14 December 2010, the Council confirmed its determination to support the Dayton/Paris General Framework Agreement for Peace and its readiness to consider proposals to strengthen the Union's ability to engage effectively with Bosnia and Herzegovina in this regard.
- (2) In this context, restrictive measures should be imposed against certain natural and legal persons whose activities undermine the sovereignty, territorial integrity, constitutional order and international personality of Bosnia and Herzegovina, seriously threaten the security situation in Bosnia and Herzegovina or undermine the Dayton/Paris General Framework Agreement for Peace and the Annexes thereto.
- (3) Further action by the Union is needed in order to implement certain measures,

HAS ADOPTED THIS DECISION:

Article 1

1. Member States shall take the necessary measures to prevent the entry into, or transit through, their territories of those persons whose activities:

- (a) undermine the sovereignty, territorial integrity, constitutional order and international personality of Bosnia and Herzegovina;
- (b) seriously threaten the security situation in Bosnia and Herzegovina;
or
- (c) undermine the Dayton/Paris General Framework Agreement for Peace and the Annexes thereto, including measures established in the implementation of the said Agreement;

and persons associated with them, as listed in the Annex.

2. Paragraph 1 shall not oblige a Member State to refuse its own nationals entry into its territory.

3. Paragraph 1 shall be without prejudice to the cases where a Member State is bound by an obligation of international law, namely:

- (a) as a host country to an international intergovernmental organisation;
- (b) as a host country to an international conference convened by, or under the auspices of, the UN;

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(c) under a multilateral agreement conferring privileges and immunities;
or

(d) under the 1929 Treaty of Conciliation (Lateran Pact) concluded by the Holy See (State of the Vatican City) and Italy.

4. Paragraph 3 shall be considered as applying also in cases where a Member State is host country to the Organisation for Security and Cooperation in Europe (OSCE).

5. The Council shall be duly informed in all cases where a Member State grants an exemption pursuant to paragraph 3 or 4.

6. Member States may grant exemptions from the measures imposed under paragraph 1 where travel is justified on the grounds of urgent humanitarian need, or on grounds of attending intergovernmental meetings, including those promoted by the Union, or hosted by a Member State holding the chairmanship in office of the OSCE, where a political dialogue is conducted that directly promotes democracy, human rights and the rule of law in Bosnia and Herzegovina.

7. A Member State wishing to grant exemptions referred to in paragraph 6 shall notify the Council in writing. The exemption shall be deemed to be granted unless one or more Council members raise an objection in writing within two working days of receiving notification of the proposed exemption. Should one or more Council members raise such an objection, the Council, acting by a qualified majority, may decide to grant the proposed exemption.

8. In cases where pursuant to paragraphs 3, 4, 6 and 7, a Member State authorises the entry into, or transit through, its territory of persons listed in the Annex, the authorisation shall be limited to the purpose for which it is given and to the persons concerned thereby.

Article 2

1. All funds and economic resources belonging to, owned, held or controlled by persons whose activities:

(a) undermine the sovereignty, territorial integrity, constitutional order and international personality of Bosnia and Herzegovina;

(b) seriously threaten the security situation in Bosnia and Herzegovina;
or

(c) undermine the Dayton/Paris General Framework Agreement for Peace and the Annexes thereto, including measures established in the implementation of the said Agreement;

and natural or legal persons associated with them, as listed in the Annex, shall be frozen.

2. No funds or economic resources shall be made available, directly or indirectly, to or for the benefit of, natural or legal persons listed in the Annex.

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3. The competent authority of a Member State may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as it deems appropriate, after having determined that the funds or economic resources concerned are:

- (a) necessary to satisfy the basic needs of the natural persons listed in the Annex and their dependent family members, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;
- (b) intended exclusively for the payment of reasonable professional fees and the reimbursement of incurred expenses associated with the provision of legal services;
- (c) intended exclusively for the payment of fees or service charges for the routine holding or maintenance of frozen funds or economic resources; or
- (d) necessary for extraordinary expenses, provided that the competent authority has notified the competent authorities of the other Member States and the Commission of the grounds on which it considers that a specific authorisation should be granted, at least two weeks prior to the authorisation.

A Member State shall inform the other Member States and the Commission of any authorisation it grants under this paragraph.

4. By way of derogation from paragraph 1, the competent authorities of a Member State may authorise the release of certain frozen funds or economic resources, provided that the following conditions are met:

- (a) the funds or economic resources are the subject of a judicial, administrative or arbitral lien established prior to the date on which the natural or legal person referred to in paragraph 1 was included in the Annex, or of a judicial, administrative or arbitral judgment rendered prior to that date;
- (b) the funds or economic resources will be used exclusively to satisfy claims secured by such a lien or recognised as valid in such a judgment, within the limits set by applicable laws and regulations governing the rights of persons having such claims;
- (c) the lien or judgment is not for the benefit of a natural or legal person listed in the Annex; and
- (d) recognising the lien or judgement is not contrary to public policy in the Member State concerned.

A Member State shall inform the other Member States and the Commission of any authorisation granted under this paragraph.

5. Paragraph 1 shall not prevent a designated person from making a payment due under a contract entered into before the listing of such a person, provided that the relevant Member State has determined that the payment is not directly or indirectly received by a person referred to in paragraph 1.

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6. Paragraph 2 shall not apply to the addition to frozen accounts of:

- (a) interest or other earnings on those accounts; or
- (b) payments due under contracts, agreements or obligations that were concluded or arose prior to the date on which those accounts became subject to this Decision;

provided that any such interest, other earnings and payments remain subject to paragraph 1.

Article 3

1. The Council, acting upon a proposal by a Member State or the High Representative of the Union for Foreign Affairs and Security Policy, shall establish and amend the list in the Annex.

2. The Council shall communicate its decision, including the grounds for listing, to the person concerned, either directly, if the address is known, or through the publication of a notice, providing such person with an opportunity to present observations.

3. Where observations are submitted, or where substantial new evidence is presented, the Council shall review its decision and inform the person concerned accordingly.

Article 4

1. The Annex shall include the grounds for listing the persons concerned.

2. The Annex shall also contain, where available, the information necessary to identify the persons concerned. With regard to natural persons, such information may include names, including aliases, date and place of birth, nationality, passport and ID card numbers, gender, address if known, and function or profession. With regard to legal persons, such information may include names, place and date of registration, registration number and place of business.

Article 5

In order to maximise the impact of the restrictive measures laid down in this Decision, the Union shall encourage third States to adopt similar measures.

Article 6

This Decision shall enter into force on the date of its adoption.

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This Decision shall apply until 22 March 2013.

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This Decision shall be kept under constant review. It shall be renewed, or amended as appropriate, if the Council deems that its objectives have not been met.

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ANNEX

List of natural and legal persons referred to in Articles 1 and 2

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