

## II

(Non-legislative acts)

## REGULATIONS

## COUNCIL REGULATION (EU) No 867/2012

of 24 September 2012

## amending Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria

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 2011/782/CFSP of 1 December 2011 concerning restrictive measures against Syria <sup>(1)</sup>,

Having regard to the joint proposal from the High Representative of the Union for Foreign Affairs and Security Policy and the European Commission,

Whereas:

- (1) On 18 January 2012 the Council adopted Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria <sup>(2)</sup> with a view to giving effect to most of the measures provided for in Decision 2011/782/CFSP.
- (2) Council Decision 2012/420/CFSP of 23 July 2012 amending Decision 2011/782/CFSP concerning restrictive measures against Syria <sup>(3)</sup> provides for an additional measure, namely that Member States should inspect all vessels and aircraft bound for Syria if they have information that provides reasonable grounds to believe that the cargo contains items whose supply, sale, transfer or export is prohibited or subject to authorisation.
- (3) In relation to that measure, Decision 2012/420/CFSP also provides that aircraft and vessels transporting cargo to Syria be subject to the requirement of additional pre-arrival or pre-departure information for all goods brought into or out of a Member State.
- (4) Furthermore, Decision 2012/420/CFSP provides for a derogation from the freezing of funds and economic resources in relation to a transfer of funds due in

connection with the provision of financial support to Syrian nationals pursuing an education, professional training or engaged in academic research in the Union.

- (5) Provisions providing for derogations from the freezing of funds and economic resources of the Central Bank of Syria should be amended.
- (6) Some of those measures fall within the scope of the Treaty on the Functioning of the European Union and regulatory action at the level of the Union is therefore necessary in order to implement them, in particular with a view to ensuring their uniform application by economic operators in all Member States.
- (7) For the same reason, an amendment is necessary in order to clarify the scope of Regulation (EU) No 36/2012.
- (8) Regulation (EU) No 36/2012 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EU) No 36/2012 is hereby amended as follows:

- (1) in Article 1 the following point is inserted:

(r) “customs territory of the Union” means the territory as defined in Article 3 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (\*).

(\*) OJ L 302, 19.10.1992, p. 1.;

- (2) the following Article is inserted:

*Article 2c*

1. The rules governing the obligation to provide advance information as determined in the relevant provisions concerning summary declarations as well as customs declarations in Regulation (EEC) No 2913/92 and in Commission

<sup>(1)</sup> OJ L 319, 2.12.2011, p. 56.

<sup>(2)</sup> OJ L 16, 19.1.2012, p. 1.

<sup>(3)</sup> OJ L 196, 24.7.2012, p. 59.

Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 (\*) apply to all goods leaving the customs territory of the Union to Syria.

The person or entity who provides that information shall also present any authorisations if required by this Regulation.

2. The seizure and disposal of equipment, goods or technology, the supply, sale, transfer or export of which is prohibited by Articles 2 and 2a of this Regulation may, in accordance with national legislation or the decision of a competent authority, be carried out at the expense of the person or entity referred to in paragraph 1 or, if it is not possible to recover these expenses from that person or entity, the expenses may, in accordance with national legislation, be recovered from any person or entity who assumes responsibility for the carriage of the goods or equipment in the attempted illicit supply, sale, transfer or export.

(\*) OJ L 253, 11.10.1993, p. 1.;

(3) Article 12, paragraph 1 is replaced by the following:

1. It shall be prohibited:

- (a) to sell, supply, transfer or export equipment or technology as listed in Annex VII to be used in the construction or installation in Syria of new power plants for electricity production;
- (b) to provide, directly or indirectly, technical assistance, financing or financial assistance, including financial derivatives, as well as insurance or reinsurance in relation to any project referred to in point (a).;

(4) the following Article is inserted:

*Article 20a*

By way of derogation from Article 14, the competent authorities of the Member States, as identified on the websites listed in Annex III, may authorise, under such conditions as they deem appropriate, the transfer by or through a

financial entity listed in Annex II or IIa of funds or economic resources, where the transfer is related to a payment by a person or entity not listed in Annex II or IIa in connection with the provision of financial support to Syrian nationals pursuing an education, professional training or engaged in academic research in the Union, provided that the competent authority of the relevant Member State has determined, on a case-by-case basis, that the payment will not directly or indirectly be received by a person or entity listed in Annex II or IIa.;

(5) Article 21a is replaced by the following:

*Article 21a*

1. By way of derogation from Article 14, the competent authorities of the Member States, as identified on the websites listed in Annex III, may authorise, under such conditions as they deem appropriate:

- (a) a transfer by or through the Central Bank of Syria of funds or economic resources received and frozen after the date of its designation where the transfer is related to a payment due in connection with a specific trade contract; or
- (b) a transfer of funds or economic resources to or through the Central Bank of Syria where the transfer is related to a payment due in connection with a specific trade contract;

provided that the competent authority of the relevant Member State has determined, on a case-by-case basis, that the payment will not directly or indirectly be received by any person or entity listed in Annex II or IIa and provided that the transfer is not otherwise prohibited by this Regulation.

2. By way of derogation from Article 14, the competent authorities of the Member States, as identified on the websites listed in Annex III, may authorise, under such conditions as they deem appropriate, a transfer made by or through the Central Bank of Syria of frozen funds or economic resources in order to provide financial institutions within the jurisdiction of the Member States with liquidity for the financing of trade.;

*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, 24 September 2012.

For the Council  
The President  
A. D. MAVROYIANNIS