

B 1966

L.N. 218 of 2015

NATIONAL INTEREST (ENABLING POWERS) ACT
(CAP. 365)
Enforcement of European Union Sanctions (Ukraine)
Regulations, 2015

IN exercise of the powers conferred by article 3(2) of the National Interest (Enabling Powers) Act, the Prime Minister has made the following regulations:-

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| Citation. | 1. The title of these regulations is the Enforcement of European Union Sanctions (Ukraine) Regulations, 2015. |
| Interpretation. | 2. In these regulations, unless the context otherwise requires: |
| Cap. 365. | "the Act" means the National Interest (Enabling Powers) Act; |
| | "the Council Regulation" means the Council Regulation referred to in regulation 3, any amendment thereto and any repealing Regulation; |
| S.L. 365.08 | "Monitoring Board" means the Board established under regulation 2 of the Sanctions (Monitoring Board) Regulations; |
| Cap. 460. | "the Treaty" means the Treaty referred to in article 2 of the European Union Act. |
| Text of Council Regulations (EU) No.692/2014. | 3. These regulations apply to Council Regulation (EC) No. 692/2014 of 23 June 2014 concerning restrictions on the import into the Union of goods originating in Crimea or Sevastopol, in response to the illegal annexation of Crimea and Sevastopol, which text is contained in the Schedule to these regulations. |
| Applicability of the European Union Act. Cap. 460. | 4. For the purpose of article 3 of the European Union Act, the Council Regulation is binding in its entirety on Malta and shall be part of the domestic law thereof under the conditions laid down in the Treaty. |
| Corporate liability. | 5. (1) Where any provision of any regulation made under the Act, requires any person or any other entity to carry out the identification of funds or assets belonging to or in the possession of persons or entities as may be identified or identifiable under these regulations, or the freezing or blocking of such funds or assets, such person or entity shall without delay notify in writing any relevant information it may have regarding persons, entities, assets or funds affected by these regulations to the Monitoring Board, or to such other public authority as may be prescribed by any other law. |

(2) The disclosure of any information within the terms and requirements of this regulation shall not constitute a breach of the Professional Secrecy Act, where applicable, or of any other confidentiality obligation arising from a contract or any other law. Cap. 377.

(3) Whosoever fails to abide by the provisions of sub-regulation (1) shall be guilty of an offence as is referred to in article 4 of the Criminal Code Cap. 9.

6. (1) Where an offence against any provision of the Council Regulation to which these regulations apply, or against these regulations is committed by a body of persons, whether corporate or unincorporate, every person who, at the time of the commission of the offence, was a director, manager, secretary or other similar officer of such body or association, or was purporting to act in any such capacity, shall be guilty of that offence unless he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence. Notification about freezing of assets.

(2) Where the person found guilty of an offence under these regulations is an officer of a body corporate as is referred to in article 121D of the Criminal Code or is a person having a power of representation or having such authority as is referred to in that article and the offence of which that person was found guilty was committed for the benefit, in part or in whole, of that body corporate, the said person shall for the purposes of these regulations be deemed to be vested with the legal representation of the same body corporate which shall be liable to the payment of a fine of not less than five thousand euro (€5,000) and not more than one hundred and sixteen thousand four hundred and sixty-eight euro (€116,468). Cap. 9.

7. Any person who commits an offence against any provision of the Council Regulation to which these regulations apply, or against these regulations shall, on conviction, be liable to imprisonment for a term from twelve months to five years or to a fine (*multa*) not exceeding one hundred and sixteen thousand four hundred and sixty-eight euro (€116,468), or to both such imprisonment and fine. Penalty.

SCHEDULE

COUNCIL REGULATION (EU) No 692/2014 of 23 June 2014

concerning restrictions on the import into the Union of goods
originating in Crimea or Sevastopol, in response to the illegal
annexation of Crimea and Sevastopol

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 2014/386/CFSP (1) concerning restrictions on goods originating in Crimea or Sevastopol, in response to the illegal annexation of Crimea and Sevastopol,

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

Whereas:

(1) At its meeting of 20-21 March 2014, the European Council strongly condemned the annexation of the Autonomous Republic of Crimea ('Crimea') and the city of Sevastopol ('Sevastopol') to the Russian Federation and emphasised that it will not recognise the annexation. The European Council asked the Commission to evaluate the legal consequences of that annexation and to propose economic, trade and financial restrictions regarding Crimea for rapid implementation.

(2) In its Resolution of 27 March 2014, the United Nations General Assembly affirmed its commitment to the sovereignty, political independence, unity and territorial integrity of Ukraine within its internationally recognized borders, underscoring the invalidity of the referendum held in Crimea on 16 March, and called upon all States not to recognise any alterations in the status of Crimea and of Sevastopol.

(3) On 23 June 2014, the Council adopted Decision 2014/386/CFSP concerning restrictions on goods originating in Crimea or Sevastopol and on the provision, directly or indirectly, of financing or financial assistance, as well as insurance and reinsurance, related to the import of such goods, in response to the illegal annexation of Crimea and Sevastopol. In order to minimise the effect of such restrictive measures on economic operators, exceptions and transitional periods should be provided for in respect of trade in goods and related services for which transactions are required by a trade contract or ancillary contract, subject to a notification procedure.

(4) These measures fall within the scope of the Treaty on the Functioning of the European Union and, therefore, notably with a view to ensuring their uniform application in all Member States, regulatory action at the level of the Union is necessary in order to implement them.

(5) In order to ensure that the measures provided for in this Regulation are effective, it should enter into force on the day following that of its publication,

HAS ADOPTED THIS REGULATION:

Article 1

For the purposes of this Regulation, the following definitions apply:

(a) ‘claim’ means any claim, whether asserted by legal proceedings or not, made before or after 25 June 2014, under or in connection with a contract or transaction, and includes in particular:

(i) a claim for performance of any obligation arising under or in connection with a contract or transaction;

(ii) a claim for extension or payment of a bond, financial guarantee or indemnity of whatever form;

(iii) a claim for compensation in respect of a contract or transaction;

(iv) a counterclaim;

(v) a claim for the recognition or enforcement, including by the procedure of exequatur, of a judgment, an arbitration award or an equivalent decision, wherever made or given;

(b) ‘contract or transaction’ means any transaction of whatever form, whatever the applicable law, and whether comprising one or more contracts or similar obligations made between the same or different parties; for this purpose ‘contract’ includes a bond, guarantee or indemnity, particularly a financial guarantee or financial indemnity, and credit, whether legally independent or not, as well as any related provision arising under, or in connection with, the transaction;

(c) ‘goods originating in Crimea or Sevastopol’ means goods which are wholly obtained in Crimea or in Sevastopol or which have undergone their last substantial transformation there, in accordance, *mutatis mutandis*, with Articles 23 and 24 of Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (2);

(d) ‘territory of the Union’ means the territories of the

Member States to which the Treaty is applicable, under the conditions laid down in the Treaty, including their airspace.

(e) ‘competent authorities’ means the competent authorities of the Member States as identified on the websites listed in the Annex.

Article 2

It shall be prohibited:

(a) to import into the European Union goods originating in Crimea or Sevastopol;

(b) to provide, directly or indirectly, financing or financial assistance as well as insurance and reinsurance related to the import of the goods referred to in point (a).

Article 3

The prohibitions in Article 2 shall not apply in respect of:

(a) the execution until 26 September 2014, of trade contracts concluded before 25 June 2014, or of ancillary contracts necessary for the execution of such contracts, provided that the natural or legal persons, entity or body seeking to perform the contract have notified, at least 10 working days in advance, the activity or transaction to the competent authority of the Member State in which they are established.

(b) goods originating in Crimea or Sevastopol which have been made available to the Ukrainian authorities for examination, for which compliance with the conditions conferring entitlement to preferential origin has been verified in accordance with Regulation (EU) No 978/2012 and Regulation (EU) No 374/2014 (3) or in accordance with the EU-Ukraine Association Agreement.

Article 4

It shall be prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the prohibitions laid down in Article 2.

Article 5

Actions by natural or legal persons, entities or bodies shall not give rise to any liability of any kind on their part if they did not know, and had no reasonable cause to suspect, that their actions would infringe the measures set out in this Regulation.

Article 6

1. No claims in connection with any contract or transaction the performance of which has been affected, directly or indirectly, in whole or in part, by the measures imposed under this Regulation, including claims for indemnity or any other claim of this type, such as a claim for compensation or a claim under a guarantee, particularly a claim for extension or payment of a bond, guarantee or indemnity, particularly a financial guarantee or financial indemnity, of whatever form, shall be satisfied, if they are made by:

(a) designated natural or legal persons, entities or bodies listed in Annex I to Council Regulation (EU) No 269/2014;

(b) any natural or legal person, entity or body acting through or on behalf of one of the persons, entities or bodies referred to in point (a);

(c) any natural or legal person, entity or body which has been found by an arbitral, judicial or administrative decision to have infringed the prohibitions set out in this Regulation;

(d) any natural or legal person, entity or body, if the claim relates to goods the import of which is prohibited under Article 2.

2. In any proceedings for the enforcement of a claim, the onus of proving that satisfying the claim is not prohibited by paragraph 1 shall be on the natural or legal person, entity or body seeking the enforcement of that claim.

3. This Article is without prejudice to the right of natural or legal persons, entities or bodies referred to in paragraph 1 to judicial review of the legality of the non-performance of contractual obligations in accordance with this Regulation.

Article 7

1. The Commission and the Member States shall inform each other of the measures taken under this Regulation and share any other relevant information at their disposal in connection with this Regulation, in particular information in respect of violation and enforcement problems and judgments handed down by national courts.

2. The Member States shall immediately inform each other and the Commission of any other relevant information at their disposal which might affect the effective implementation of this Regulation.

Article 8

1. Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

2. Member States shall notify the rules referred to in paragraph 1 to the Commission without delay after the entry into force of this Regulation and shall notify it of any subsequent amendment.

Article 9

1. Member States shall designate the competent authorities referred to in this Regulation and identify them on the websites listed in the Annex. Member States shall notify the Commission of any changes in the addresses of their websites listed in the Annex.

2. Member States shall notify the Commission of their competent authorities, including the contact details of those competent authorities, without delay after the entry into force of this Regulation, and shall notify it of any subsequent amendment.

3. Where this Regulation sets out a requirement to notify, inform or otherwise communicate with the Commission, the address and other contact details to be used for such communication shall be those indicated in the Annex.

Article 10

This Regulation shall apply:

- (a) within the territory of the Union, including its airspace;
- (b) on board any aircraft or any vessel under the jurisdiction of a Member State;
- (c) to any person inside or outside the territory of the Union who is a national of a Member State;
- (d) to any legal person, entity or body, inside or outside the territory of the Union, which is incorporated or constituted under the law of a Member State;
- (e) to any legal person, entity or body in respect of any business done in whole or in part within the Union.

Article 11

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.

- (1) Council Decision 2014/386/CFSP of 23 June 2014 concerning restrictions on goods originating in Crimea or Sevastopol, in response to the illegal annexation of Crimea and Sevastopol (see page 70 of this Official Journal).
- (2) OJ L 302, 19.10.1992, p. 1.
- (3) OJ L 118, 22.4.2014, p. 1.

ANNEX

Websites

BELGIUM

<http://www.diplomatie.be/eusanctions>

BULGARIA

<http://www.mfa.bg/en/pages/135/index.html>

CZECH REPUBLIC

<http://www.mfcr.cz/mezinarodnisankce>

DENMARK

<http://um.dk/da/politik-og-diplomati/retsorden/sanktioner/>

GERMANY

<http://www.bmwi.de/DE/Themen/Aussenwirtschaft/aussenwirtschaftsrecht,did=404888.html>

ESTONIA

http://www.vm.ee/est/kat_622/

IRELAND

<http://www.dfa.ie/home/index.aspx?id=28519>

GREECE

<http://www.mfa.gr/en/foreign-policy/global-issues/international-sanctions.html>

SPAIN

<http://www.exteriores.gob.es/Portal/es/PoliticaExteriorCooperacion/GlobalizacionOportunidadesRiesgos/Documents/>

ORGANISMOS%20COMPETENTES%20SANCIONES%20INTERNACIONALES.pdf

FRANCE

<http://www.diplomatie.gouv.fr/autorites-sanctions/>

CROATIA

<http://www.mvep.hr/sankcije>

ITALY

http://www.esteri.it/MAE/IT/Politica_Europea/Deroghe.htm

CYPRUS

<http://www.mfa.gov.cy/sanctions>

LATVIA

<http://www.mfa.gov.lv/en/security/4539>

LITHUANIA

<http://www.urm.lt/sanctions>

LUXEMBOURG

<http://www.mae.lu/sanctions>

HUNGARY

<http://2010-2014.kormany.hu/download/b/3b/70000/ENSZBT-ET-szankcios-tajekoztato.pdf>

MALTA

<https://www.gov.mt/en/Government/Government%20of%20Malta/Ministries%20and%20Entities/Officially%20Appointed%20Bodies/Pages/Boards/Sanctions-Monitoring-Board-.aspx>

NETHERLANDS

<http://www.rijksoverheid.nl/onderwerpen/internationale-sancties>

AUSTRIA

http://www.bmeia.gv.at/view.php3?f_id=12750&LNG=en&version=

POLAND

<http://www.msz.gov.pl>

PORTUGAL

<http://www.portugal.gov.pt/pt/os-ministerios/ministerio-dos-negocios-estrangeiros/quero-saber-mais/sobre-o-ministerio/medidas-restritivas/medidas-restritivas.aspx>

ROMANIA

<http://www.mae.ro/node/1548>

SLOVENIA

http://www.mzz.gov.si/si/omejevalni_ukrepi

SLOVAKIA

http://www.mzv.sk/sk/europske_zalezitosti/europske_politiky-sankcie_euFINLAND

<http://formin.finland.fi/kvyhteistyo/pakotteet>

SWEDEN

<http://www.ud.se/sanktioner>

UNITED KINGDOM

<https://www.gov.uk/sanctions-embargoes-and-restrictions>

ADDRESS FOR NOTIFICATIONS TO THE EUROPEAN COMMISSION:

European Commission

Service for Foreign Policy Instruments (FPI)

EEAS 02/309

B-1049 Brussels

Belgium

E-mail: relex-sanctions@ec.europa.eu

