

Statutory Document No. 2018/0234



European Communities (Isle of Man) Act 1973

EUROPEAN UNION (SOUTH SUDAN SANCTIONS) (AMENDMENT) ORDER 2018

Approved by Tynwald:

Coming into Operation: in accordance with article 2

The Council of Ministers makes the following Order under section 2A of the European Communities (Isle of Man) Act 1973.

1 Title

This Order is the European Union (South Sudan Sanctions) (Amendment) Order 2018.

2 Commencement

This Order comes into operation immediately after it is made¹.

3 Application of EU instrument

- (1) Council Regulation (EU) 2018/1116² of 10 August 2018 amending Regulation (EU) No 2015/735³ concerning restrictive measures in respect of the situation in South Sudan (“Regulation (EU) 2018/1116”) applies as part of the law of the Island, subject to the modifications set out in the Schedule to this Order.
- (2) This Order does not apply in respect of provisions that apply as part of the law of the Island under section 2(1) of the European Communities (Isle of Man) Act 1973.

¹ An order made under section 2A of the European Communities (Isle of Man) Act 1973 must be laid before Tynwald as soon as practicable after it is made, and if Tynwald at the sitting at which the order is laid or at the next following sitting fails to approve it, the order shall cease to have effect.

² OJ L204, 13.8.2018, p.6.

³ OJ L117, 8.5.2015, p.13. Regulation (EU) No 2015/735 was applied to the Island with certain modifications by SD 2015/0199. As it has effect in the Island, any reference in Regulation (EU) No 2015/735 to an Annex to that Regulation is to be construed as a reference to the Annex as amended from time to time.

MADE 13:00 11TH SEPTEMBER 2018

W GREENHOW
Chief Secretary

SCHEDULE

[Article 3]

MODIFICATIONS TO THE APPLIED EU INSTRUMENT

1 General

- (1) In this Schedule a reference to a numbered Article or Annex (without more) is a reference to that Article or Annex so numbered of Regulation (EU) 2018/1116.
- (2) Except where otherwise provided below, references in Regulation (EU) 2018/1116 to “Member State”, “Member States” and “the Union” shall be read as if the Island were itself a Member State, its territory were included within the Union territory and for the purposes of European Union law were a separate country from the United Kingdom.
- (3) The reference to the Union does not include the Island in the term “High Representative of the Union for Foreign Affairs and Security Policy”.

2 Specific modifications

- (1) In Article 1(3), in the inserted Article 4(2), for “shall notify the other Member States and the Commission”, substitute “may notify such other Member States or the Commission, as it considers appropriate”.
- (2) Omit Article 2.
- (3) After Article 2, omit the statement of application and effect.

*EXPLANATORY NOTE**(This note is not part of the Order)*

This Order applies the provisions of Council Regulation (EU) 2018/1116, as amended by the Schedule to the Order, as part of the law of the Island (the “EU Regulation”). This EU Regulation amends Council Regulation (EU) 2015/735 concerning restrictive measures in respect of the situation in South Sudan which was applied to the Island with certain modifications by SD 2015/0199.

On 13 July 2018 the United Nations Security Council (UNSC) adopted Resolution 2428 (2018), in which it —

- a) expressed deep concern at the failures of South Sudan’s leaders to bring an end to the country’s hostilities;
- b) condemned the continued and flagrant violations of the Agreement on the Resolution of the Conflict in the Republic of South Sudan of 17 August 2015, the Agreement on Cessation of Hostilities, Protection of Civilians and Humanitarian Access of 21 December 2017, and the Khartoum Declaration of 27 June 2018; and
- c) reinforced the restrictive measures towards South Sudan imposed by UNSC Resolution 2206 (2015).

Amongst others, the EU Regulations amends the exemptions to the arms embargo and related technical and financial assistance, and amends the designation criteria for the persons and entities subject to the asset freeze, in order to give effect to the measures imposed by UNSC Resolution 2428 (2018).

This Order gives effect to the amendments.

A copy of Council Regulation (EU) 2018/1116 as amended is attached as an Annex but the Annex does not form part of the Order.

Annex
COUNCIL REGULATION (EU) 2018/1116
of 10 August 2018

amending Regulation (EU) 2015/735 concerning restrictive measures in respect of the situation in South Sudan

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 (CFSP) 2015/740 of 7 May 2015 concerning restrictive measures in view of the situation in South Sudan and repealing Decision 2014/449/CFSP⁴,

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) Council Regulation (EU) 2015/735⁵ gives effect to measures provided for in Decision (CFSP) 2015/740.
- (2) On 13 July 2018, the United Nations Security Council (UNSC) adopted Resolution 2428 (2018), in which it expressed deep concern at the failures of South Sudan's leaders to bring an end to the country's hostilities, condemned the continued and flagrant violations of the Agreement on the Resolution of the Conflict in the Republic of South Sudan of 17 August 2015, the Agreement on Cessation of Hostilities, Protection of Civilians and Humanitarian Access of 21 December 2017, and the Khartoum Declaration of 27 June 2018, and reinforced the restrictive measures towards South Sudan imposed by UNSC Resolution 2206 (2015).
- (3) Amongst others, the UNSC amends the exemptions to the arms embargo and related technical and financial assistance and amends the designation criteria for the persons and entities subject to the asset freeze.
- (4) Council Decision (CFSP) 2018/1125⁶ amended Decision (CFSP) 2015/740 in order to give effect to the measures imposed by UNSC Resolution 2428 (2018).
- (5) These measures fall within the scope of the Treaty 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.
- (6) Regulation (EU) 2015/735 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

⁴ OJ L117, 8.5.2015, p.52.

⁵ Council Regulation (EU) 2015/735 of 7 May 2015 concerning restrictive measures in respect of the situation in South Sudan, and repealing Regulation (EU) No 748/2014 (OJ L117, 8.5.2015, p.13).

⁶ Council Decision (CFSP) 2018/1125 of 10 August 2018 amending Decision (CFSP) 2015/740 concerning restrictive measures in view of the situation in South Sudan (OJ L204, 13.8.2018, p.48)

Regulation (EU) 2015/735 is amended as follows:

(1) Article 2 is replaced by the following:

Article 2

It shall be prohibited to provide:

- (1) technical assistance, brokering services or other services related to military activities or to the provision, manufacture, maintenance and use of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts therefor, directly or indirectly to any natural or legal person, entity or body in, or for use in South Sudan;
- (2) financing or financial assistance related to military activities, including in particular grants, loans and export credit insurance, as well as insurance and reinsurance, for any sale, supply, transfer or export of arms and related materiel, or for the provision of related technical assistance, brokering services or other services directly or indirectly to any natural or legal person, entity or body in, or for use in South Sudan;
- (3) technical assistance, financing or financial assistance or brokering services related to the provision of armed mercenary personnel in South Sudan or for use in South Sudan.';

(2) Article 3 is replaced by the following:

Article 3

The prohibitions referred to in Article 2 shall not apply to the provision of financing and financial assistance, technical assistance and brokering services related to:

- (a) arms and related materiel, intended solely for the support of or use by UN personnel, including the United Nations Mission in the Republic of South Sudan (UNMISS) and the United Nations Interim Security Force for Abyei (UNISFA);
- (b) protective clothing, including flak jackets and military helmets, temporarily exported to South Sudan by UN personnel, representatives of the media and humanitarian and development workers and associated personnel, for their personal use only.';

(3) Article 4 is replaced by the following:

Article 4

1. By way of derogation from Article 2, the competent authorities may authorise the provision of financing and financial assistance, technical assistance and brokering services related to:

- (a) non-lethal military equipment intended solely for humanitarian or protective use, provided that the Member State has notified the Sanctions Committee in advance in accordance with the requirements laid down in paragraph 6 of UNSCR 2428 (2018);
- (b) arms and related materiel temporarily exported to South Sudan by the forces of a State which is taking action, in accordance with

international law, solely and directly to facilitate the protection or evacuation of its nationals and those for whom it has consular responsibility in South Sudan, provided that the Member State notifies the Sanctions Committee in accordance with the requirements laid down in paragraph 6 of UNSCR 2428 (2018);

- (c) arms and related materiel, to or in support of the African Union Regional Task Force intended solely for regional operations to counter the Lord's Resistance Army, provided that the Member State had notified the Sanctions Committee in advance in accordance with the requirements laid down in paragraph 6 of UNSCR 2428 (2018);
- (d) arms and related materiel solely in support of the implementation of the terms of the peace agreement, provided that the Member State has obtained the advance approval of the Sanctions Committee in accordance with the requirements laid down in paragraph 6 of UNSCR 2428 (2018);
- (e) other sales or supply of arms and related materiel, or provision of assistance or personnel, provided that the Member State has obtained the advance approval of the Sanctions Committee in accordance with the requirements laid down in paragraph 6 of UNSCR 2428 (2018).

2. The Member State concerned ~~shall notify the other Member States and the Commission~~ **may notify such other Member States or the Commission, as it considers appropriate**, of any authorisation granted pursuant to paragraph 1.;

(4) in Article 5, paragraph 1 is replaced by the following:

1. All funds and economic resources belonging to, owned, held or controlled by any natural or legal person, entity or body as listed in Annex I shall be frozen. Annex I shall include natural or legal persons, entities and bodies identified by the Committee of the UN Security Council established pursuant to paragraph 16 of UNSCR 2206 (2015) ('Sanctions Committee') as responsible for or complicit in, or having engaged in, directly or indirectly, actions or policies that threaten the peace, security or stability of South Sudan, in accordance with paragraphs 6, 7, 8 and 12 of UNSCR 2206 (2015) and paragraph 14 of UNSCR 2428 (2018).'

Article 2

~~This Regulation shall enter into force on the day 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, 10 August 2018.

For the Council

The President

G. BLÜMEL