DECISIONS

COUNCIL DECISION 2012/723/CFSP

of 26 November 2012

amending Decision 2011/172/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Egypt

THE COUNCIL OF THE EUROPEAN UNION,

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

Whereas:

(1) On 21 March 2011, the Council adopted Decision 2011/172/CFSP [1].

(2) To facilitate the return of misappropriated funds to the Egyptian State, the derogations under Decision 2011/172/CFSP should be amended to permit the release of certain frozen funds or economic resources where they are required to satisfy a judicial or administrative decision rendered in the Union, or a judicial decision enforceable in a Member State, prior to or after the date of designation of the natural or legal persons, entities and bodies concerned.

(3) Decision 2011/172/CFSP should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2011/172/CFSP is hereby amended as follows:

(1) Article 1(4) is replaced by the following:

'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 the following conditions are met:

(a) the funds or economic resources are the subject of an arbitral decision rendered prior to the date on which the natural or legal person, entity or body referred to in paragraph 1 was listed in the Annex or of a judicial or administrative decision rendered in the Union, or a judicial decision enforceable in the Member State concerned, prior to or after that date;

(b) the funds or economic resources will be used exclusively to satisfy claims secured by such a decision or recognised as valid in such a decision, within the limits set by applicable laws and regulations governing the rights of persons having such claims;

(c) the decision is not for the benefit of a natural or legal person, entity or body listed in the Annex; and

(d) recognising the decision is not contrary to public policy in the Member State concerned.

The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under this paragraph.';

(2) Article 1(6) is replaced by the following:

'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 the measures provided for in paragraphs 1 and 2; or

(c) payments due under judicial, administrative or arbitral decisions rendered in the Union or enforceable in the Member State concerned,

provided that any such interest, other earnings and payments remain subject to the measures provided for in paragraph 1.'.

Article 2

This Decision shall enter into force on the date of its publication in the *Official Journal of the European Union*.

Done at Brussels, 26 November 2012.

For the Council
The President
G. DEMOSTHENOUS

[1] OJ L 76, 22.3.2011, p. 63.