

## AVIATION RELATED EXTRACTS:

### 1<sup>st</sup> package – 25.02.2022

**Council Regulation (EU) 2022/328 of 25 February 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine<sup>1</sup>**

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 Decision (CFSP) 2022/3271 of 25 February 2022 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine,

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

[...]

(4) In view of the gravity of the situation, on 25 February 2022 the Council adopted Decision (CFSP) 2022/327, amending Decision 2014/512/CFSP and imposing further restrictive measures in various sectors, particularly defence, energy, aviation and finance.

(7) Furthermore, Decision (CFSP) 2022/327 introduces an export ban covering goods and technology suited for use in aviation and the space industry and prohibits the provision of insurance and reinsurance and maintenance services in relation to those goods and technology. It also prohibits the provision of technical assistance and other related services as well as financing and financial assistance in relation to the goods and technology subject to this prohibition.

[...]

HAS ADOPTED THIS REGULATION:

[...]

(2) Article 2 is replaced by the following:

‘Article 2

1. It shall be prohibited to sell, supply, transfer or export, directly or indirectly, dual-use goods and technology, whether or not originating in the Union, to any natural or legal person, entity or body in Russia or for use in Russia.

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<sup>1</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022R0328&from=EN>

2. It shall be prohibited to:

(a) provide technical assistance, brokering services or other services related to the goods and technology referred to in paragraph 1 and to the provision, manufacture, maintenance and use of those goods and technology, directly or indirectly to any natural or legal person, entity or body in Russia or for use in Russia;

(b) provide financing or financial assistance related to the goods and technology referred to in paragraph 1 for any sale, supply, transfer or export of those goods and technology, 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 Russia, or for use in Russia.

3. Without prejudice to the authorisation requirements pursuant to Regulation (EU) 2021/821, the prohibitions in paragraphs 1 and 2 of this Article shall not apply to the sale, supply, transfer or export of dual-use goods and technology or to the related provision of technical and financial assistance, for non-military use and for a non-military end user, intended for:

(a) humanitarian purposes, health emergencies, the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health and safety or the environment or as a response to natural disasters;

(b) medical or pharmaceutical purposes;

(c) temporary export of items for use by news media;

(d) software updates;

(e) use as consumer communication devices;

(f) ensuring cyber-security and information security for natural and legal persons, entities and bodies in Russia except for its government and undertakings directly or indirectly controlled by that government; or

(g) personal use of natural persons travelling to Russia or members of their immediate families travelling with them, and limited to personal effects, household effects, vehicles or tools of trade owned by those individuals and not intended for sale.

With the exception of points (f) and (g) of this paragraph, the exporter shall declare in the customs declaration that the items are being exported under the relevant exception set out in this paragraph and shall notify the competent authority of the Member State where the exporter is resident or established of the first use of the relevant exception within 30 days from the date when the first export took place.

4. By way of derogation from paragraphs 1 and 2 of this Article, and without prejudice to the authorisation requirements pursuant to Regulation (EU) 2021/821, the competent authorities may authorise the sale, supply, transfer or export of dual-use

goods and technology or the provision of related technical or financial assistance, for non-military use and for a non-military end user, after having determined that such goods or technology or the related technical or financial assistance are:

- (a) intended for cooperation between the Union, the governments of Member States and the government of Russia in purely civilian matters;
- (b) intended for intergovernmental cooperation in space programmes;
- (c) intended for the operation, maintenance, fuel retreatment and safety of civil nuclear capabilities, as well as civil nuclear cooperation, in particular in the field of research and development;
- (d) intended for maritime safety;
- (e) intended for civilian telecommunications networks, including the provision of internet services;
- (f) intended for the exclusive use of entities owned, or solely or jointly controlled by a legal person, entity or body which is incorporated or constituted under the law of a Member State or of a partner country;
- (g) intended for the diplomatic representations of the Union, Member States and partner countries, including delegations, embassies and missions.

5. By way of derogation from paragraphs 1 and 2 of this Article, and without prejudice to the authorisation requirements pursuant to Regulation (EU) 2021/821, the competent authorities may authorise the sale, supply, transfer or export of dual-use goods and technology or the provision of related technical or financial assistance, for non-military use and for a non-military end-user, after having determined that such goods or technology or the related technical or financial assistance are due under contracts concluded before 26 February 2022, or ancillary contracts necessary for the execution of such a contract, provided that the authorisation is requested before 1 May 2022.

6. All authorisations required under this Article shall be granted by the competent authorities in accordance with the rules and procedures laid down in Regulation (EU) 2021/821, which shall apply *mutatis mutandis*. The authorisation shall be valid throughout the Union.

7. When deciding on requests for authorisations referred to in paragraphs 4 and 5, the competent authorities shall not grant an authorisation if they have reasonable grounds to believe that:

- (i) the end-user might be a military end-user, a natural or legal person, entity or body in Annex IV or that the goods might have a military end-use; or

(ii) the sale, supply, transfer or export of goods and technology referred to in paragraph 1 or the provision of related technical or financial assistance is intended for aviation or the space industry.

(3) Article 2a is replaced by the following:

7. When deciding on requests for authorisations referred to in paragraphs 4 and 5, the competent authorities shall not grant an authorisation if they have reasonable grounds to believe that:

(i) the end-user might be a military end-user, a natural or legal person, entity or body listed in Annex IV or that the goods might have a military end-use; or

(ii) the sale, supply, transfer or export of goods and technology referred to in paragraph 1 or the provision of related technical or financial assistance is intended for aviation or the space industry.

(6) the following Articles are inserted:

#### Article 3c

1. It shall be prohibited to sell, supply, transfer or export, directly or indirectly, goods and technology suited for use in aviation or the space industry, as listed in Annex XI, whether or not originating in the Union, to any natural or legal person, entity or body in Russia or for use in Russia.

2. It shall be prohibited to provide insurance and reinsurance, directly or indirectly, in relation to goods and technology listed in Annex XI to any person, entity or body in Russia or for use in Russia.

3. It shall be prohibited to provide any one or any combination of the following activities: overhaul, repair, inspection, replacement, modification or defect rectification of an aircraft or component, with the exception of pre-flight inspection, in relation to the goods and technology listed in Annex XI, directly or indirectly, to any natural or legal person, entity or body in Russia or for use in Russia.

4. It shall be prohibited to:

(a) provide technical assistance, brokering services or other services related to the goods and technology referred to in paragraph 1 and to the provision, manufacture, maintenance and use of those goods and technology, directly or indirectly to any natural or legal person, entity or body in Russia or for use in Russia.

(b) provide financing or financial assistance related to the goods and technology referred to in paragraph 1 for any sale, supply, transfer or export of those goods and technology, or for the provision of related technical assistance<sup>2</sup>, brokering services or

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<sup>2</sup> Defined in Reg 833/2014 as meaning any technical support related to repairs, development, manufacture, assembly, testing, maintenance, or any other technical service, and may take forms such as instruction, advice,

other services, directly or indirectly to any natural or legal person, entity or body in Russia or for use in Russia.

5. With regard to the goods listed in Annex XI, the prohibitions in paragraphs 1 and 4 shall not apply to the execution until 28 March 2022 of contracts concluded before 26 February 2022, or ancillary contracts necessary for the execution of such contracts.’;

[...]

**Council Decision (CFSP) 2022/327 of 25 February 2022 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine<sup>3</sup>**

THE COUNCIL OF THE EUROPEAN UNION,

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

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

[...]

(10) In view of the gravity of the situation, and in response to Russia’s actions destabilising the situation in Ukraine, it is appropriate to introduce further restrictive measures related to the finance, defence, energy, aviation, and space sectors.

(14) Furthermore, it is appropriate to introduce an export ban covering goods and technology suited for use in aviation and the space industry, as well as to prohibit the provision of insurance and reinsurance and maintenance services in relation to those goods and technology. It should also be prohibited to provide technical assistance and other related services as well as financing and financial assistance in relation to the goods and technology subject to this prohibition.

HAS ADOPTED THIS DECISION:

(3) Article 3 is replaced by the following:

‘Article 3

1. The direct or indirect sale, supply, transfer or export of all dual-use goods and technology listed in Annex I to Regulation (EU) 2021/821 of the European Parliament and of the Council\* to any natural or legal person, entity or body in Russia or for use in Russia by nationals of Member States or from the territories of Member States or

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training, transmission of working knowledge or skills or consulting services; including verbal forms of assistance;

<sup>3</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022D0327&from=EN>

using their flag vessels or aircraft, shall be prohibited whether originating or not in their territories.

2. It shall be prohibited:

(a) to provide technical assistance, brokering services or other services related to the goods and technology referred to in paragraph 1 and to the provision, manufacture, maintenance and use of those goods and technology, directly or indirectly to any natural or legal person, entity or body in Russia or for use in Russia;

(b) to provide financing or financial assistance related to the goods and technology referred to in paragraph 1 for any sale, supply, transfer or export of those goods and technology, 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 Russia, or for use in Russia.

[...]

7. When deciding on requests for authorisations in accordance with paragraphs 4 and 5 of this Article, the competent authorities shall not grant an authorisation if they have reasonable grounds to believe that:

(i) the end-user might be a military end-user, a natural or legal person, entity or body listed in Annex IV or that the goods might have a military end-use: or

(ii) the sale, supply, transfer or export of goods and technology referred to in paragraph 1 or the provision of related technical or financial assistance is intended for aviation or space industry.

(4) Article 3a is replaced by the following:

‘Article 3a

1. It shall be prohibited to sell, supply, transfer or export, directly or indirectly, goods and technology which might contribute to Russia’s military and technological enhancement, or the development of the defence and security sector, whether or not originating in the Union, to any natural or legal person, entity or body in Russia or for use in Russia.

2. It shall be prohibited:

(a) to provide technical assistance, brokering services or other services related to goods and technology referred to in paragraph 1 and to the provision, manufacture, maintenance and use of those goods and technology, directly or indirectly to any natural or legal person, entity or body in Russia, or for use in Russia;

(b) to provide financing or financial assistance related to the goods and technology referred to in paragraph 1 for any sale, supply, transfer or export of those goods and technology, 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 Russia, or for use in Russia.

[...]

7. When deciding on requests for authorisations referred to in paragraphs 4 and 5 of this Article, the competent authorities shall not grant an authorisation if they have reasonable grounds to believe that:

(i) the end-user might be a military end-user, a natural or legal person, entity or body listed in Annex IV or that the goods might have a military end-use: or

(ii) the sale, supply, transfer or export of goods and technology referred to in paragraph 1 or the provision of related technical or financial assistance is intended for aviation or space industry.

[...]

(6) the following Articles are inserted:

#### Article 4d

1. It shall be prohibited to sell, supply, transfer or export, directly or indirectly, goods and technology suited for use in aviation or the space industry, whether or not originating in the Union, to any natural or legal person, entity or body in Russia or for use in Russia.

2. It shall be prohibited to provide insurance and reinsurance, directly or indirectly, in relation to goods and technology referred to in paragraph 1 to any person, entity or body in Russia or for use in Russia.

3. It shall be prohibited to provide any one or any combination of the following activities: overhaul, repair, inspection, replacement, modification or defect rectification of an aircraft or component, with the exception of pre-flight inspection, in relation to the goods and technology referred to in paragraph 1, directly or indirectly, to any natural or legal person, entity or body in Russia or for use in Russia.

4. It shall be prohibited to:

(a) provide technical assistance, brokering services or other services related to the goods and technology referred to in paragraph 1 and to the provision, manufacture, maintenance and use of those goods and technology, directly or indirectly to any natural or legal person, entity or body in Russia or for use in Russia;

(b) provide financing or financial assistance related to goods and technology referred to in paragraph 1 for any sale, supply, transfer or export of those goods and technology, 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 Russia or for use in Russia.

5. The prohibitions in paragraphs 1 and 4 shall not apply to the execution until 28 March 2022 of contracts concluded before 26 February 2022, or ancillary contracts necessary for the execution of such contracts.

6. The Union shall take the necessary measures in order to determine the relevant items to be covered by this Article’;

[...]

#### ANNEX IV

List of legal persons, entities and bodies referred to in Articles 3(7), 3a(7), and 3b(1)

*[Please note that aviation related entities are listed here]*



**COUNCIL REGULATION (EU) 2022/334 of 28 February 2022 amending Council Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine<sup>4</sup>**

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 Decision (CFSP) 2022/335 (1) of 28 February 2022 amending Decision 2014/512/CFSP (2) concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine,

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

[...]

(2) Regulation (EU) No 833/2014 gives effect to certain measures provided for in Council Decision 2014/512/CFSP.

(3) On 28 February 2022 the Council adopted Decision (CFSP) 2022/335 amending Decision 2014/512/CFSP. That Decision imposed further restrictive measures prohibiting Russian air carriers, any Russian-registered aircraft, and any non-Russian-registered aircraft which is owned or chartered, or otherwise controlled by any Russian natural or legal person, entity or body from landing in, taking off from, or overflying, the territory of the Union. It also prohibits any transactions with the Central Bank of Russia.

[...]

HAS ADOPTED THIS REGULATION:

(1) in Article 1, point (r) is added:

‘(r) “Russian air carriers” means an air transport undertaking holding a valid operating licence or equivalent issued by the competent authorities of the Russian Federation.’;

(2) the following Articles are added:

‘Article 3d

1. It shall be prohibited for any aircraft operated by Russian air carriers, including as a marketing carrier in code-sharing or blocked-space arrangements, or for any Russian registered aircraft, or for any non-Russian-registered aircraft which is owned or chartered, or otherwise controlled by any Russian natural or legal person, entity or body, to land in, take off from or overfly the territory of the Union.

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<sup>4</sup> [https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=uriserv:OJ.L\\_.2022.057.01.0001.01.ENG](https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=uriserv:OJ.L_.2022.057.01.0001.01.ENG)

2. Paragraph 1 shall not apply in the case of an emergency landing or an emergency overflight.

3. By way of derogation from paragraph 1, the competent authorities may authorise an aircraft to land in, take off from, or overfly, the territory of the Union if the competent authorities have determined that such landing, take-off or overflight is required for humanitarian purposes or for any other purpose consistent with the objectives of this Regulation.

4. The Member State or Member States concerned shall inform the other Member States and the Commission of any authorisation granted under paragraph 3 within two weeks of the authorisation

### Article 3e

1. The Network Manager appointed by the Commission pursuant to its Implementing Decision (EU) 2019/709 shall support the Commission and its Member States in ensuring the implementation of, and compliance with, Article 3d. The Network Manager shall, in particular, reject all flight plans filed by aircraft operators indicating an intent to carry out activities over the territory of the Union that constitute a violation of this Regulation or of other safety and security measures in place, such that the pilot is not permitted to fly.

2. The Network Manager shall regularly supply to the Commission and the Member States, based on the analysis of flight plans, reports on the implementation of Article 3d.'

'4. Transactions related to the management of reserves as well as of assets of the Central Bank of Russia, including transactions with any legal person, entity or body acting on behalf of, or at the direction of, the Central Bank of Russia, are prohibited.

5. By way of derogation from paragraph 4, the competent authorities may authorise a transaction provided that it is strictly necessary to ensure the financial stability of the Union as a whole or of the Member State concerned.

6. The Member State concerned shall immediately inform the other Member States and the Commission of its intention to grant an authorisation under paragraph 5.'

### 'Article 12

It shall be prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent prohibitions in this Regulation, including by acting as a substitute for natural or legal persons, entities or bodies referred to in Articles 5, 5a, 5b, 5e and 5f, or by acting to their benefit by using the exceptions in Articles 5(6), 5a(2), 5a(5), 5b(2), 5e(2) or 5f(2).[...]

**COUNCIL DECISION (CFSP) 2022/335 of 28 February 2022 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine<sup>5</sup>**

THE COUNCIL OF THE EUROPEAN UNION,

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

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

[...]

(5) In view of the gravity of the situation, and in response to Russia's actions destabilising the situation in Ukraine, it is appropriate to introduce further restrictive measures related to finance and aviation.

(7) Furthermore, Member States should be required to deny permission to land in, take off from, or overfly, their territories to any aircraft operated by Russian air carriers, including as a marketing carrier, to any Russian-registered aircraft, and to non-Russian-registered aircraft which are owned or chartered, or otherwise controlled by a Russian legal or natural person.

[...]

HAS ADOPTED THIS DECISION:

Article 1

Decision 2014/512/CFSP is amended as follows:

(1) in Article 1a, the following paragraphs are inserted:

4. Transactions related to the management of reserves as well as of assets of the Central Bank of Russia, including transactions with any legal person, entity or body acting on behalf of, or at the direction of, the Central Bank of Russia, are prohibited.

5. By way of derogation from paragraph 4, the competent authorities may authorise a transaction provided that it is strictly necessary to ensure the financial stability of the Union as a whole or of the Member State concerned.

The Member State concerned shall immediately inform the other Member States and the Commission of its intention to grant an authorisation under paragraph 5.

(2) The following Articles are inserted after Article 4d:

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<sup>5</sup> [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L\\_.2022.057.01.0004.01.ENG&toc=OJ%3AL%3A2022%3A057%3ATOC](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2022.057.01.0004.01.ENG&toc=OJ%3AL%3A2022%3A057%3ATOC)

#### ‘Article 4e

1. Member States shall, in accordance with their national rules and laws and consistent with international law, in particular relevant international civil aviation agreements, deny to any aircraft operated by Russian air carriers, including as a marketing carrier in code-sharing or blocked-space arrangements, to any Russian-registered aircraft, and to any non-Russian-registered aircraft which is owned or chartered, or otherwise controlled by any Russian natural or legal person, entity or body, permission to land in, take off from, or overfly the territory of the Union.
2. Paragraph 1 shall not apply in the case of an emergency landing or an emergency overflight.
3. By way of derogation from paragraph 1, the competent authorities may authorise an aircraft to land in, take off from, or overfly, the territory of the Union if the competent authorities have determined that such landing, take-off or overflight is required for humanitarian purposes or for any other purpose consistent with the objectives of this Decision.
4. The Member State or Member States concerned shall inform the other Member States and the Commission of any authorisation granted under paragraph 3 within two weeks of the authorisation.

#### Article 4f

1. The Network Manager appointed by the Commission pursuant to its Implementing Decision (EU) 2019/709 shall support the Commission and its Member States in ensuring the implementation of, and compliance with, Article 4e. The Network Manager shall, in particular, reject all flight plans filed by aircraft operators indicating an intent to carry out activities over the territory of the Union that constitute a violation of the provisions of this Decision, or of other safety and security measures in place, such that the pilot is not permitted to fly.
2. The Network Manager shall regularly supply to the Commission and Member States, based on the analysis of flight plans, reports on the implementation of Article 4e.’;

[...]

### **Explanations of legal basis:**

**Article 29** of the Treaty on European Union (TEU) allows the Council of the European Union to adopt sanctions against governments of third countries (non-EU countries), non-state entities and individuals (such as terrorists) to bring about a change in their policy or activity.  
= **DECISION**

Under **Article 215** of the Treaty on the Functioning of the EU (TFEU), the Council may adopt the necessary measures to implement decisions adopted under Article 29 TEU to ensure they are applied uniformly in all Member States. = **REGULATION**