

**EXPLANATORY MEMORANDUM ON THE EUROPEAN UNION'S
COMMON FOREIGN AND SECURITY POLICY**

**Council Decision amending Council Decision 2012/642/CFSP concerning
restrictive measures against Belarus**

**Council Regulation amending Regulation (EC) No.765/2006 concerning
restrictive measures in respect of Belarus**

Submitted by the Foreign and Commonwealth Office on 16 February 2017.

SUBJECT MATTER

1. The attached draft Council Decision and Council Regulation prolongs the restrictive measures against Belarus for a further 12 months (until 28 February 2018) as the current measures expire on 28 February 2017.
2. The restrictive measures consist of:
 - The application of the travel ban and asset freeze in respect of the four persons listed in Annex I to Decision 2012/642/CFSP;
 - The arms embargo (and prohibition to export equipment that might be used for internal repression);
 - An exemption to the restrictive measures to allow Member States to issue export licences for biathlon equipment.
3. It is important to note that in spite of the biathlon equipment related exemption to the restrictive measures, the export of biathlon rifles, their ammunition and sights is controlled by Regulation (EU) No.258/2012 and is therefore always subject to national level export licensing on a case by case basis.

SCRUTINY HISTORY

4. An Explanatory Memorandum on this subject was submitted for Parliamentary Scrutiny to the House of Lords Select Committee on the European Union on 18 February 2016. The documents were cleared on 23 February 2016 at the Chairman's sift. A post-adoption Explanatory Memorandum was submitted to the House of Commons European Scrutiny Committee on 9 March 2016. The documents were cleared as "politically important" on 16 March 2016 (ESC 37572-37574, 26th Report, Session 2015/16).

MINISTERIAL RESPONSIBILITY

5. The Secretary of State for Foreign and Commonwealth Affairs is the Minister with overall responsibility for UK policy on the EU's Common Foreign and Security Policy.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

6. The UK's Foreign Affairs policy is a reserved matter under the UK's devolution settlements and no devolved administration interests arise. The devolved administrations have therefore not been consulted in the preparation of this EM.

LEGAL AND PROCEDURAL ISSUES

7. Voting Procedures: Council acting by Unanimity.
8. Impact on UK Law: The principal Council Regulation will be directly applicable in UK law.
9. Application to Gibraltar: Yes.
10. Fundamental rights analysis: The procedures for designating individuals are compliant with fundamental rights.
11. Provision is made for competent authorities of Member States to authorise the release of frozen funds where necessary in certain circumstances, for example, to satisfy the basic needs of listed persons or their dependents and where necessary for extraordinary expenses. Decisions by competent authorities of Member States in this regard would be subject to challenge in Member States' courts.
12. The Council keeps the measures under regular review to ensure there are grounds for keeping those designated on the list.

APPLICATION TO THE EUROPEAN ECONOMIC AREA

13. None.

SUBSIDIARITY

14. Action by the EU is appropriate to ensure the uniform application across the EU of the sanctions measures.

POLICY IMPLICATIONS

15. The UK and other EU Member States are pursuing a policy of critical engagement with Belarus, which translates into incremental engagement with the country while paying great attention to the human rights situation. Despite recent increased engagement between the EU and Belarus and some positive developments on the human rights and democracy front, the human rights situation remains marred by systematic violations and the continued application of capital punishment, with three executions having taken place in November 2016. The UK therefore advocates for restrictive measures against Belarus to remain in place unchanged.
16. On 23 June, the EU referendum took place and the people of the United Kingdom voted to leave the European Union.

Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation.

REGULATORY IMPACT ASSESSMENT

17. Not applicable.

FINANCIAL IMPLICATIONS

18. None.

TIMETABLE

19. The issue is currently under discussion in the EU Foreign Relations Counsellors Working Group (RELEX). Pending negotiations, these legal acts are due to be adopted before the current Restrictive Measures expire on 28 February.

OTHER OBSERVATIONS

20. None.



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