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Information Note to EU business on operating and/or investing in Crimea/Sevastopol

Information Note

To EU business operating and/or investing in Crimea/Sevastopol¹

The objective of this document is to raise the awareness of European citizens and businesses about the risks related to the current economic and financial situation in Crimea/Sevastopol in light of the illegal annexation by Russia and the policy of "non-recognition" upheld by the EU. The document has been prepared by the European Commission services and by the European External Action Service. This note is not intended to constitute legal advice and should not be seen as providing guidance/recommendations. Moreover, it may be subject to revisions in light of the evolving situation on the ground.

1. EU position on the illegal annexation of Crimea/Sevastopol

The EU has adopted a consistent policy of non-recognition towards the illegal annexation of Crimea/Sevastopol to the Russian Federation. On 20 March 2014, the European Council declared that it did not recognise the illegal referendum in Crimea, and considered it to be in clear violation of the Ukrainian Constitution. The European Council also condemned the illegal annexation of Crimea/Sevastopol to the Russian Federation and committed not to recognise it. This position was reiterated by the EU Heads of State or Government on 27 May 2014 and subsequently on multiple other occasions, notably in Declarations by the High Representative on behalf of the EU issued in respect to the anniversaries of the illegal annexation. The EU has also welcomed the adoption of the United Nations General Assembly Resolution number 68/262 on the territorial integrity of Ukraine.

The European Council asked the European Commission to evaluate the legal consequences of the illegal annexation and to propose economic, trade and financial restrictions regarding Crimea for rapid implementation.

A regularly updated fact sheet on the EU non-recognition policy for Crimea and Sevastopol can be found [here](#).

2. EU restrictive measures following the illegal annexation of Crimea /Sevastopol

As of 25 June 2014, Council Decision 2014/386/CFSP and Council Regulation (EU) No 692/2014 prohibit the import into the European Union of goods originating in Crimea and Sevastopol, unless they are accompanied by a certificate of preferential origin issued by the Ukrainian authorities. Financial services, such as provision of financing, financial assistance, insurance and re-insurance services, related to the import of goods subject to the prohibition are equally forbidden.

¹According to the Constitution of Ukraine, the Autonomous Republic of Crimea and the city of Sevastopol are two separate administrative units of the Crimean peninsula, having their own governing institutions. Consequently, this document speaks about Crimea and Sevastopol. Following the illegal annexation, under the Russian legislation, which the EU does not recognise, they are referred to as the so-called "Republic of Crimea" and "federal city of Sevastopol".

On 30 July 2014, the Council adopted a Decision (2014/507/CFSP) and a Regulation (825/2014) amending Council Decision 2014/386/CFSP and Council Regulation (EU) No 692/2014 (cf. reference document) to prohibit investment in Crimea and Sevastopol in specific sectors and to prohibit trade in certain goods with Crimea and Sevastopol in specific sectors.

From 20 December 2014, there is a full ban on investment in Crimea or Sevastopol (Council Decision 2014/933/CFSP and Council Regulation 1351/2014). Europeans and EU-based companies may no longer buy or participate in real estate or entities in Crimea and Sevastopol, finance companies from the Crimean peninsula, create joint ventures or provide investment services. The execution of contracts concluded before 20 December 2014 is allowed to continue.

In addition, EU operators are no longer permitted to offer tourism services in Crimea or Sevastopol. In particular, European cruise ships may no longer call at ports in the Crimean peninsula, except in case of emergency. This applies to all ships owned or controlled by an EU person or flying the flag of an EU Member State. Existing cruise contracts could have been honoured until 21 March 2015.

It is also prohibited to export certain goods and technology to companies from Crimea and Sevastopol or for use in the Crimean peninsula. The ban concerns goods and technology as defined in Annex II of Council Regulation (EU) No 692/2014 in the transport, telecommunications and energy sectors or the prospection, exploration and production of oil, gas and mineral resources. Technical assistance, brokering, financing or financial assistance, construction or engineering services linked to infrastructure in the same sectors and related to goods and technology defined in Annex II of Council Regulation (EU) No 692/2014 are also prohibited.

EU economic operators must determine on a case-by-case basis whether engaging or continuing in business will breach these prohibitions. Especially, attention must be given to the end-use location of export and related services in the sectors of transport, telecommunications and energy or the prospection, exploration and production of oil, gas and mineral resources, as defined in Annex II of Council Regulation (EU) No 692/2014. These prohibitions apply when there are reasonable grounds to determine that such goods, technology or services are to be used in Crimea or Sevastopol.

Since their adoption, these measures have been kept under review by the Council and subsequently prolonged. A summary of all amendments and prolongations can be found [here](#).

A list of the competent authorities of the Member States in charge of implementing the sanctions can be found [in Annex I to Council Regulation \(EU\) No 692/2014](#).

3. Other EU measures in relation to the territorial integrity, sovereignty and independence of Ukraine

In addition to the measures specifically implemented in response to the illegal annexation of Crimea and Sevastopol, the EU has imposed travel ban and asset freeze measures against natural persons for being responsible for actions that undermine or threaten the territorial integrity, sovereignty and independence of Ukraine and of persons associated with these measures.

The restrictive measures equally allow for listing legal persons subject to certain conditions for being associated with persons responsible for or threatening the territorial integrity, sovereignty and independence of Ukraine. In addition, legal entities may be designated in case they are actively supporting or if they are benefitting Russian decision makers responsible for the illegal annexation of Crimea and Sevastopol or the destabilisation of Eastern Ukraine. A number of legal persons and entities in Crimea or Sevastopol are designated because their ownership has been transferred contrary to Ukrainian law.

In addition to imposing an asset freeze, the effect of designation is to prohibit making funds or economic resources available directly or indirectly to any person or entity that has been listed. Economic operators must determine based on a case-by-case basis whether engaging or continuing in business will breach this prohibition.

More details and information including the grounds for listing and a list of persons and entities subject to measures can be found in Council Decision 2014/145/CFSP (as amended) and Council Regulation (EU) No 269/2014 (as amended).

A list of the competent authorities in charge of implementing the territorial integrity sanctions can be found in [Annex I to Council Regulation \(EU\) No 269/2014](#).

In addition, economic operators should note that an asset freeze has been imposed against persons identified as being responsible for the misappropriation of Ukrainian state funds. More details and a list of persons subject to measures can be found in Council Decision 2014/119/CFSP (as amended) and Council Regulation (EU) No 208/2014 (as amended).

A list of the competent authorities in charge of implementing the misappropriation sanctions can be found in [Annex II to Council Regulation \(EU\) No 208/2014](#).

On 31 July 2014, the Council adopted Council Decision 2014/512/CFSP and Council Regulation (EU) No 833/2014, which impose restrictions with regard to specific sectors of the Russian economy (restrictions on access to capital markets for major state owned Russian banks², arms embargo (import and export), and restrictions on the export to Russia of dual-use goods to military end users and restrictions on the export of sensitive technologies used for the exploration or exploitation of oil resources in specific projects). Prior contracts are exempted from these measures. On 8 September 2014, the Council adopted Council Decision 2014/659/CFSP and Council Regulation (EU) No 960/2014 which expanded the measures taken, including restrictions on access to capital markets to include loans; and expanding the sectors affected to include major entities in the defence and energy sectors. The prohibition on the export of dual-use goods was extended to a number of designated mixed users (beyond military end-users), and the prohibition in relation to exploration or exploitation of certain oil projects has been broadened to include the supply of certain services necessary for these projects. As Crimea and Sevastopol remain legally part of Ukraine, these measures do not apply directly to Crimea and Sevastopol. However, persons and operators are responsible to ensure that any activity with persons or entities in Crimea or Sevastopol would not circumvent these provisions.

A list of the competent authorities in charge of implementing these sanctions can be found in [Annex I to Council Regulation \(EU\) No 833/2014](#).

² Sberbank, VTB Bank, Gazprombank, Vnesheconombank (VEB), Rosselkhozbank.

4. Review of the measures

The restrictive measures are kept under constant review. The Council may expand or reduce the number of natural or legal persons listed through the amendment of above mentioned Council Decisions and Regulations. The Council may also expand, reduce or amend the measures in the area of trade and finance. Economic operators should therefore ensure that they are aware at all times of the current list of designated persons and entities and of any possible changes regarding the trade and financial measures.

More information is provided in the annex of this document.

5. Situation on the ground

While non-recognition by the EU and its Member States of the illegal annexation of Crimea and Sevastopol by Russia also means that the EU and its Member States do not recognise new Russian legislation on issues related to Crimea or Sevastopol as valid, the fact remains that any businesses that desire to establish or continue business relations with Crimea/Sevastopol will have to do so bearing in mind that Russian legislation is *de facto* applied. The following paragraphs, therefore, seek to give some, necessarily incomplete, indication of what the *de facto* application of Russian legislation in Crimea/Sevastopol – which may be in contradiction with the applicable Ukrainian laws – might entail for foreign businesses. Ukraine has adopted a number of laws that under certain circumstances make economic activities in Crimea and Sevastopol, as well as travel to the peninsula, illegal.³

Traditional trade flows between Crimea/Sevastopol and the rest of Ukraine have been affected. The regulatory framework is rapidly changing and remains unclear, adding risks for business operators.⁴ The Ukrainian law “On legal guarantees of people’s rights and freedoms on the temporarily occupied territories of Ukraine”, which was adopted in the direct aftermath of the illegal annexation, did not address economic activity. The related law “On creation of a free economic zone “Crimea” and on peculiarities of economic activity on the temporarily occupied territory of Ukraine” – which was adopted by the Verkhovna Rada on 12 August 2014 – entered into force on 27 September 2014. Furthermore, in December 2015, the cabinet of Ministers of Ukraine adopted the resolution 1035⁵ limiting the movement of most goods exceeding certain amounts to/from Crimea and Sevastopol. However, in June 2017, Kyiv Appellation Court declared the Resolution Nr 1035 void.

³ **The European Commission services/EEAS do not purport to interpret the laws of third countries and the explanations in this paper are given as a first overview only. They should in no way be relied on as legal advice. This pertains to all descriptions of Ukrainian and Russian law in this note.**

⁴ Given the volatile situation on the ground, the present information is susceptible to change at any moment, is necessarily of a summarised nature and cannot be seen as either portraying a final Commission position or constituting any form of legal advice.

⁵ Resolution 1035 "On restrictions for supplying certain goods (works, services) from the temporarily occupied territory of Ukraine to another territory of Ukraine and/or from other territory of Ukraine to temporarily occupied territory".

It appears that according to the above mentioned law, a free economic zone "Crimea" (FEZ "Crimea") is created on the territory of the Autonomous Republic of Crimea and the city of Sevastopol for a period of ten years governed by a so-called Management Company, which will be state property⁶. It is reported that the FEZ "Crimea" is a free customs zone of commercial, service and industrial nature, which includes the whole territory of Crimea/Sevastopol except for the territorial sea, continental shelf and air space. According to information received, the law sets out the peculiarities of the legal status of the FEZ "Crimea" and introduces a special procedure for applying the norms of regulatory, tax, customs and currency legislation of Ukraine on the territory of Crimea/Sevastopol.

The impact of this law is still unclear and should also be seen against the background of the law of the Russian Federation "On admission of the Republic of Crimea and establishment of the new federal subjects of the Russian Federation", which was adopted on 20 March 2014. It is understood that according to this law all transitional issues related to the integration of Crimea or Sevastopol in the economic, financial and legal system of the Russian Federation should have been settled by 1 January 2015.⁷

This appears to be in contradiction with the abovementioned stipulations of Ukraine's law "On creation of a free economic zone "Crimea" and on peculiarities of economic activity on the temporarily occupied territory of Ukraine" and Ukraine's law "On legal guarantees of people's rights and freedoms on the temporarily occupied territories of Ukraine". The latter equally appears to provide that any decisions and documents issued either by the authorities of Crimea and Sevastopol or their officials are null and void and do not have legal effect in the territory of Ukraine.

In parallel, Russia has established a Special Economic Zone in Crimea and Sevastopol⁸ to encourage investment in priority fields such as tourism and recreation, spa and curative hospitality, agriculture, shipbuilding, etc. The related legal and tax package entered into force on 1 January 2015. Investors who will invest in Crimean peninsula more than 100 million roubles over three years will be granted a tax relief.

The juxtaposition of jurisdictions leads to major legal uncertainty, which has a direct impact on business. This concerns, inter alia, the validity of contracts, available legal remedies as well as business registries and databases and the recognition of information contained therein (e.g. rights to immovable property). In practice, many companies are switching legal jurisdictions and their affiliates in Crimea or Sevastopol start operating as part of the Russian market, with employees re-hired under the Russian affiliate.

The illegal annexation of Crimea/Sevastopol to Russia has *de facto* led also to the loss of administrative capacity of the authorities in Kyiv over this area. The Ukrainian authorities have thus notified on 17 April 2014 the discontinuation of powers of the chambers of commerce based in Crimea/Sevastopol and have requested the invalidation

⁶ Alternatively, the law states that the Cabinet of Minister of Ukraine could decide to delegate the function and powers of the Management Company to a central executive agency or a public enterprise of Ukraine.

⁷ Additionally, the Resolution "On the Independence of Crimea" states that "From the day on which this resolution comes in force, no laws of Ukraine will be applicable or valid on the territory of the Republic of Crimea, and no orders or instructions of the Supreme Council of Ukraine or other bodies of authority of Ukraine issued later than February 21, 2014 will be acted upon".

⁸ Federal law N377-FZ of 29 November 2014.

of any certificate of origin issued by the aforementioned chambers as of 23 April 2014. Accordingly only goods accompanied by certificates of preferential origin issued by authorities recognised by the Ukrainian central authorities will be accepted by the EU. Without this essential administrative element, the goods will be denied preferential treatment.

Another major issue for business active in Crimea or Sevastopol is taxation. It is unclear for many companies which taxes have to be paid and under which law. The same goes for VAT refunds. It appears that Ukraine's law "On creation of a free economic zone "Crimea" and on peculiarities of economic activity on the temporarily occupied territory of Ukraine" attempts to (at least partly) solve this through a waiver on tax collection. As regards licences, the law is said to set out that licenses and other authorisation documents issued by the competent authorities of Ukraine before this law entered into force remain effective on the territory of Crimea and Sevastopol until they expire.

Within the same vein, the juxtaposition of two legal systems leads to the possible non-recognition and non-implementation of decisions of courts from Crimea/Sevastopol in third countries. This situation could lead, for instance, to difficulties with the enforcement of the payments of debts or return of property.

As stated and despite the issuance of the law "On creation of a free economic zone "Crimea" and on peculiarities of economic activity on the temporarily occupied territory of Ukraine", business operators may be confronted with a *de facto* application of Russian law. This also implies that businesses exporting to Crimea/Sevastopol may be subject to the import tariffs and non-tariff barriers applied by Russia.⁹

Economic operators have also been faced with increased cost of haulage given increased waiting times at the border, increased transportation costs in the Crimean peninsula as well as changes in transport routes. Furthermore, business is hampered by additional checks introduced at the "administrative line" between the Crimean peninsula and the rest of Ukraine. Provision of supplies is generally becoming more difficult. Companies are often forced to switch from Ukrainian to Russian suppliers, but there is a lack of transportation capacities for deliveries out of Russia.

Ukrainian authorities have advised EU citizens not to visit Crimea or Sevastopol. Travelling to the Crimean peninsula from mainland Ukraine requires a special permission issued by the Ukrainian authorities. Entering Crimea or Sevastopol through other routes may be seen by the Ukrainian authorities as illegal entry to Ukrainian territory.

As for natural persons present in Crimea or Sevastopol, it should be noted that honorary consuls in the Crimean peninsula have suspended their activities. In cases of extreme urgency, some Member States might provide help through their consular services in neighbouring areas but this cannot be taken for granted. Residents of Crimea and Sevastopol who wish to travel to the Schengen area should in principle obtain their visas at Schengen consulates located in Ukraine, in accordance with the guidelines to Member States' consulates in Ukraine and in the Russian Federation on lodging Schengen visa applications by the residents of Crimea and Sevastopol (adopted in May 2014).

⁹ For example, possible barriers faced by the automotive industry when entering Russia could include the application of Russia's WTO bound tariffs, the imposition of price references (through increasing the value of goods being exported), change of tariff codes to increase import duty rates, extortionate recycling fees and problems with customs procedures (e.g. several changes to the Russian certification logo to be placed on all products and packaging, effective retroactively).

6. Examples of affected sectors

Banking

As a consequence of the illegal annexation, the Law of the Russian Federation “On Certain Aspects of the Functioning of the Financial System of Crimea and Sevastopol” that entered into force on 2 April 2014 required banking activities in Crimea and Sevastopol to be brought under Russian supervision before 1 January 2015. Any operator that would have failed to do so would have been forced to sell its assets to Russian supervised financial entities at that date. The Russian Central Bank has begun monitoring the banking sector in the Crimean peninsula, while on 6 May 2014 the National Bank of Ukraine ordered Ukrainian banks to cease operations in the Crimean peninsula in view of its inability to perform banking regulation and monitoring on the Crimean peninsula. The banks fully wrote off their assets in Crimean peninsula, bearing significant losses. As a consequence only Russian supervised banking entities can perform banking activities in Crimea and Sevastopol. EU banks that were present in Crimea and Sevastopol before the illegal annexation decided to cease their activities. Generally, the payment system is in flux and transfers are impeded (payments in Ukrainian hryvnia from Crimean peninsula to continental Ukraine have been stopped). Companies have, thus, been or are likely to be forced to switch banks (e.g. to pay salaries) and to ‘negotiate’ with locally operating banks to receive cash. The Russian Central Bank has changed the currency from the Ukrainian hryvnia to the Russian rouble. Also, pensions are paid in Russian rouble.

This appears to be in contradiction with the Ukrainian law “On creation of a free economic zone “Crimea” and on peculiarities of economic activity on the temporarily occupied territory of Ukraine”, which allegedly stipulates that a multi-currency regime can be used on the territory of FEZ “Crimea” and that attracting deposits and/or granting loans in Russian rouble are prohibited activities on the territory of Ukraine. According to this law, only the National Bank of Ukraine has the authority to introduce a special procedure for the importation of Russian rouble and their exchange on the territory of Ukraine.

Pharmaceutics

In the pharmaceutical sector there appear to be contradictions between the relevant Ukrainian and Russian legislation and uncertainty persists as to the regulation of certain activities. Most EU pharmaceutical companies have been closing their activities in the Crimean peninsula or are transferring their employees to their affiliates in Russia. The Russian Ministry of Health issued an official communication in order to resolve any regulatory issues in the transition period. According to an information letter from the Russian Federal Service on Surveillance in Healthcare, licences and permits in relation to pharmaceutical and medical activities issued by the respective Ukrainian authorities will remain valid for an unlimited period of time (unless the opposite is directly stipulated in the information letter). This implies that Russia recognises the licences issued by Ukrainian authorities (presumably at least until the “official integration” of Crimea and Sevastopol into Russia by 1 January 2015).

Tourism and transport

The EU tourism industry is also being adversely affected. Cruise ships received official warnings that the Ukrainian Ministry of Transport no longer has access to the maritime information system in Crimea and Sevastopol and thus no information on navigation. The unreliability of food deliveries and power supplies are also having an impact.

Investors should be aware that an illegal nationalisation process is going on in the tourism sector, creating substantial uncertainty and risks for the security of EU investment.

In the framework of EU restrictive measures, Sevastopol seaport and Crimean Sea Ports, including its branches Kerch Commercial Port, Feodosia Commercial Port and Kerch Ferry are designated entities. This means that, since that date, EU persons and entities have been prohibited from making funds, such as port fees, available to these listed entities.

The competent authorities of the Member States may authorise payments to the Crimean Sea Ports for services provided at Kerch Fishery Port, Yalta Commercial Port and Evpatoria Commercial Port, and for services provided by Gosgidrografiya and Port-Terminal.

A list of the competent authorities in charge of implementing the territorial integrity sanctions can be found [Annex I to Council Regulation \(EU\) No 269/2014](#).

As stated above, since 20 December 2014, EU operators are no longer permitted to offer tourism services in Crimea or Sevastopol. In particular, European cruise ships may no longer call at ports in the Crimean peninsula, except in case of emergency. This applies to all ships owned or controlled by an EU person or flying the flag of a Member State.

On 29 April 2015, the Cabinet of Ministers of Ukraine adopted Ordinance Nr. 415 "On amendments to the annex to the Ordinance of Ministers of Ukraine of 26 June Nr. 466". This Ordinance excluded the Crimean seaports in Sevastopol, Yevpatoria, Yalta, Feodosia and Kerch from the list of seaports of Ukraine open to the entry of foreign vessels. On 7 July 2014 the Ukrainian State Aviation Service made a decision to suspend the certificates for the Crimean airfields Simferopol, Sevastopol (Belbek) and Zavodske.

ANNEX

Further information on restrictive measures

In general terms restrictive measures in force affect businesses operations in Crimea/Sevastopol in the following way:

- a) It is prohibited to acquire any new or extend any existing participation in ownership of real estate located in Crimea or Sevastopol.
- b) It is prohibited to acquire any new or extend any existing participation in ownership or control of an entity in Crimea or Sevastopol.
- c) It is prohibited to provide investment services related to investment activities to any entity in Crimea and Sevastopol.
- d) It is prohibited to grant any loan, credit or provide financing to any entity in Crimea or Sevastopol.
- e) It is prohibited to create any joint venture in Crimea or Sevastopol.
- f) It is prohibited to sell, supply, transfer or export equipment and technology related to the sectors of transport, telecommunications, energy, the prospecting, exploration and production of oil, gas and mineral resources.

The prohibited equipment and technology is listed in Annex II to Council Regulation (EU) No 692/2014.

- g) It is prohibited to provide directly or indirectly technical assistance, brokering services, financing or financial assistance related to the goods and technology as defined in Annex II to Council Regulation (EU) No 692/2014. It is also prohibited to provide technical assistance, or brokering, construction or engineering services directly relating to infrastructure in Crimea or Sevastopol in the above sectors.
- h) It is prohibited to provide services directly related to tourism activities in Crimea or Sevastopol, in particular cruise ship services.
- i) Due to the asset freezing measures (see point 3), all funds and economic resources belonging to listed persons and entities should be frozen.

The terms ‘funds’, ‘economic resources’, ‘freezing of funds’, ‘freezing of economic resources’ are defined in Article 1 of Regulation (EU) No 269/2014. It should be noted that the freezing measures do not involve a change in ownership of the frozen funds and economic resources.

- j) Due to the prohibition on making funds or economic resources available directly or indirectly to listed persons and entities, economic operators must not establish or maintain economic relations with listed persons or entities. In addition, economic operators are prohibited from making funds or economic resources available indirectly to listed persons or entities.

Specific guidelines on the implementation of the prohibition on making indirectly available of funds and economic resources to listed persons and entities can be found [here](#).

- k) In certain cases derogations from the above restrictions (for example, in order to satisfy the basic needs of the listed persons) are allowed by the respective legal basis. Such derogations require prior authorisation by the competent authorities of the relevant Member State. The list of competent authorities of Member States can be found in Annex II to Council Regulation (EU) No 269/2014. The list of exemptions can be found in Council Regulation (EU) No 269/2014 (derogations from the asset freezing measures and the prohibition on making funds and economic resources available to listed persons and entities) and Council Decision 2014/145/CFSP (derogations from restrictions on admission to the EU).
- l) Due to restrictions on admission (travel ban), in principle no meetings with listed persons and entities can be held in the EU.
- m) On 23 June 2014 the Council has adopted Council Decision 2014/386/CFSP and Council Regulation (EU) No 692/2014 prohibiting the import into the European Union of goods originating in Crimea or Sevastopol. As of 25 June 2014, goods originating – in accordance with the non-preferential EU rules of origin – in Crimea and Sevastopol may no longer be imported into the European Union. In addition, it will be prohibited to provide financial and insurance services related to the import of such goods. Goods originating in Crimea or Sevastopol accompanied by a certificate of preferential origin issued by the Ukrainian authorities may, however, still be imported into the EU. Goods from countries other than Ukraine are not affected by the import prohibition, even where they enter the European Union via Crimea or Sevastopol.

Further information on the implementation of restrictive measures can be found in the following documents:

- Guidelines on implementation and evaluation of restrictive measures, see [here](#)
- Best Practices for effective implementation of restrictive measures, see [here](#)
- Guidelines on the implementation of the prohibition on making indirectly available of funds and economic resources and the notions of ownership and control, see [here](#)
- Frequently Asked Questions (FAQ), click [here](#)
- EU sanctions map, see [here](#)