

OBLASTS

RELATED PROVISION: REGULATION 2022/263, REGULATION 833/2014
FREQUENTLY ASKED QUESTIONS – AS OF 7 FEBRUARY 2023

1. How should operators assess which areas in the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts are subject to restrictions?

Last update: 20 December 2022

As amended on 6 October 2022, Council Regulation (EU) No 2022/263 covers all areas of the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts of Ukraine that are not under the control of the authorities of Ukraine (see Article 1(d)). Considering the fluid situation, a dynamic assessment of this control could be necessary. In case of doubt, EU operators can reach out to their national competent authority.

2. Which goods can be imported into the Union from Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts and under which conditions?

Last update: 20 December 2022

Goods originating in the non-government controlled areas of the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts are covered by the ban in Article 2(1) of the Regulation at the time of import. Moreover, when it comes to the application of the preferences under the Association Agreement (AA) between the EU and Ukraine, the exception laid out in Article 2(2)(b) of the Regulation is in practice not applicable, given that Ukraine does not issue certificates of origin for such goods. Ukraine has in fact withdrawn offices in those non-government controlled areas from the list of authorised offices to issue certificates of origin. On 1 December 2022, the Commission published an updated [notice to importers](#) informing that goods produced in and exported from the non-government controlled areas would not meet the criteria established in Protocol 1 to the AA (on rules of origin) and therefore advising operators not to claim the preferences.

Goods produced in or exported from the government-controlled areas of the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts may be imported, either under the preferences granted by the AA or on a non-preferential basis, under the same conditions as for any other product of the rest of the territory of Ukraine.

To benefit from preferences under the AA, these products must be accompanied by a movement certificate issued by competent customs offices in Ukraine or by origin declarations made out by approved exporters, both as equally valid proof of the preferential origin of the goods.

Goods exported from the government-controlled areas of the Donetsk, Luhansk, Kherson and Zaporizhzhia oblasts, which do not qualify as originating in Ukraine under the AA, may be imported into the EU subject to the corresponding customs duties under the same conditions as any other product produced in or exported from the territory of Ukraine. The import of these goods, which do not satisfy the rules of origin requirements provided for in the AA, cannot be subject to any requirement to be accompanied by a movement certificate EUR.1 or origin declaration, as such documents can only be issued for products that meet the preferential origin requirements.

Since trade between the government and non-government controlled areas of these four oblasts is, in practice, not possible, it is highly unlikely that goods may come from the non-government controlled parts of these oblasts via the government-controlled areas, and therefore the import of such goods should not be subject to any requirements or documentation different from that applied to imports from any other part of Ukraine.

In case of reasonable doubts as to whether goods to be imported from Ukraine may come from the non-government controlled areas of the four oblasts, importers in the EU may be asked to submit additional documentation, e.g. a copy of the export declaration of the product in question accepted by one of the official Ukrainian customs offices, to demonstrate that the product is not subject to the import prohibition of Council Regulation (EU) No 2022/263.

3. Which goods can be exported from the Union to Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts and under which conditions?

Last update: 20 December 2022

The prohibition to sell, supply, transfer or export to persons and entities in the parts of those oblasts that are not under the control of the government of Ukraine or for use in those territories applies only to the goods and technology which have been included in Annex II to Council Regulation (EU) 2022/263¹. Goods and technology not included in the list in Annex II are not subject to the ban.

The second subparagraph of Article 4(1) of this Regulation indicates the key sectors where the goods and technology subject to the ban may be used. However, the prohibition in the first subparagraph of Article 4(1) applies to all the goods and technologies listed in Annex II to the Regulation, regardless of whether they are actually used, in practice, in one of the key sectors.

¹ Mutatis mutandis, see for reference the Commission opinion of 4 July 2019 on the export ban established by Council Regulation (EU) No 692/2014, C(2019) 5019 final, https://finance.ec.europa.eu/system/files/2020-01/190704-opinion-export-ban_en.pdf

In order to ensure compliance, EU exporters should perform adequate due diligence on their business partners and the final destination of the goods. On 1 April 2022, the Commission published [notice to economic operators, importers and exporters](#) in view of risks of circumvention.

There are no export restrictions to trade with the government-controlled areas of the four oblasts and export of goods to the government controlled areas is under the same conditions as for any exportation to the rest of the territory of Ukraine. Since trade between the government and non-government controlled areas of these four oblasts is, in practice, not possible, it is highly unlikely that goods exported to Ukraine may be redirected to the non-government controlled parts of these oblasts.

In case of reasonable doubts as to the real destination of the exported goods, exporters in the EU may be asked to submit additional documentation, e.g. a letter from the local administration in Ukraine evidencing that the consignee is operating in a government controlled area of Ukraine, information on the buyer/consignee, invoices etc., to demonstrate that the product is not subject to the export prohibition of Council Regulation (EU) No 2022/263. As for any goods subject to export restrictions, the customs authorities may also perform the customs controls they consider necessary to ensure that goods to be exported are not subject to the ban. Exceptions for export for humanitarian purposes can apply (see Article 4a)².

4. Can banks process financial transactions in connection with trade done in the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts and, if so, under which conditions?

Last update: 7 February 2023

EU credit institutions are prohibited from providing, inter alia, brokering or investment services as well as financing or financial assistance in the non-government controlled areas of those oblasts in relation to certain goods and activities. The processing of payments into bank accounts in the non-government-controlled areas (e.g. for salaries of workers abroad) is not restricted as such, to the extent these payments are not related to persons, services or goods falling under the scope of EU sanctions.

There are no restrictions to financial transactions processed by EU credit institutions in support of trade in the government-controlled areas of Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts. EU credit institutions can process transactions in those areas in the same fashion as transactions intended for credit institutions in any other oblast of Ukraine.

Regarding whether the area in the oblast of Donetsk, Kherson, Luhansk or Zaporizhzhia where the financial transaction is to be processed is under the control of the government, see Question 1.

² See the Commission guidance note on the provision of humanitarian aid in compliance with EU restrictive measures of 30 June 2022 at https://finance.ec.europa.eu/publications/sanctions-commission-guidance-note-provision-humanitarian-aid-compliance-eu-restrictive-measures_en

In order to conduct the assessment, EU credit institutions can take into account the relevant indicators, including by relying on Ukrainian banks active in the area whose reliability is proven by past experience or by liaising with the Ukrainian authorities to obtain updated information. Documents and certificates collected for trade purposes as per Questions 2 and 3 can also be submitted to the EU credit institution by the economic operator requesting the transaction, to substantiate the legitimacy of the latter.

5. Can EU operators provide services to persons in the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts, or related to activities there?

Last update: 20 December 2022

Council Regulation (EU) No 2022/263 sets out restrictions on specific types of services concerning the non-government controlled areas of Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts.

Firstly, in the area of trade in goods, Article 4(2)(a) of the Regulation prohibits brokering services related to goods that are restricted from export, to any persons in the non-government controlled areas of Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts, or for use therein. In addition, Article 5(1) prohibits brokering, construction or engineering services directly relating to infrastructure in four key sectors as defined on the basis of Annex II. For further details please also see Questions 1 to 4.

Secondly, when it comes to services not related to trade in goods, Article 3(1) prohibits investment services related to certain activities in the non-government controlled areas of Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts; and Article 6 prohibits services directly related to tourism activities in those areas.

However, there are no restrictions on the provision of services by EU operators to persons in the government-controlled areas in Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts. EU operators can provide all services in those areas in the same fashion as for any other oblast of Ukraine.

EU operators intending to provide the types of services covered by Regulation (EU) No 2022/263 to the Donetsk, Kherson, Luhansk or Zaporizhzhia oblasts should perform due diligence to determine the location of the receiver of services and/or the location sector where these services would be used – depending on the applicable provision. In case of doubt, EU operators can reach out to their national competent authority.