

Alert | Export Controls & Economic Sanctions



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EU Criminalizes Violations of EU Sanctions, With a Focus on Russia

Go-To Guide:

- Council has adopted a decision to criminalize violations of EU sanctions.
- Adoption should encourage greater implementation of EU restrictive measures and ensure stricter punishment for violations of the measures.

On Nov. 28, 2022, the Council of the European Union (Council) adopted a **decision** (Decision) to add the violation of restrictive measures to the list of so-called “EU crimes” set out in the Treaty on the Functioning of the European Union (TFEU).

As a reminder, the European Union has adopted throughout 2022 many economic and other sanctions to target the Russian Federation (Russia)’s economy and thwart its ability to continue its aggression against Ukraine. Nevertheless, currently EU Member States have different definitions of what constitutes a violation of EU sanctions, and what penalties must be applied in the case of a violation. This could lead to different degrees of enforcement of EU sanctions and risk of sanctions being circumvented. The Council has now decided that implementation of EU sanctions requires a joint effort, and the Decision is expected to be an essential tool to ensuring that any attempts to circumvent EU sanctions will be minimized or stopped.

Background

Under Article 83(1) TFEU, the European Parliament (Parliament) and the Council may “(...) *establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis.*” The areas of crime set out in Article 83(1) TFEU for the moment are: terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime, and organized crime.

As we have **reported previously**, on May 25, 2022, the European Commission **presented** a proposal for a decision to extend the list of these areas of crime to include the violation of EU sanctions.

Next steps

The inclusion of the violation of EU sanctions in the list of “EU crimes” is the first of two steps to ensure a similar degree of sanctions enforcement throughout the EU and to dissuade attempts to circumvent or violate EU sanctions.

Having adopted the Decision, the Commission now will propose an EU Directive containing minimum rules concerning the definition of criminal offences and penalties for the violation of EU sanctions. The Council and the Parliament will then discuss and adopt the draft EU Directive.

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