

Commission Proposes Penalisation of Violation of Restrictive Measures

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News

Against the background of Russia's war in Ukraine, the [Commission proposed](#) adding the violation of Union restrictive measures to the areas of crime laid down in Art. 83(1) of the Treaty on the Functioning of the European Union (TFEU) in May 2022 (→ [euCRIM 2/2022, 75-76](#) and the [article by Wouter van Ballegoij](#) in the same issue). Following the [Council's adoption on 28 November 2022](#), the Commission put forward on 2 December 2022 a [proposal](#) to harmonise criminal offences and penalties for the violation of EU restrictive measures.

Under Art. 83(1) TFEU, the European Parliament and the Council may establish minimum rules concerning the definition of criminal offences and sanctions in areas of particularly serious crime with a cross-border dimension. The crimes currently covered in this article include terrorism, trafficking in human beings, the sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime, and organised crime.

The introduction of restrictive measures by the EU in response to Russia's attack on Ukraine demonstrated how challenging it is to locate the assets controlled by oligarchs, who hide them in various jurisdictions by using intricate legal and financial structures. By launching the new directive, the EU pursues the following aims:

- To ensure that the restrictive measures adopted in this context are fully implemented;
- To close existing legal loopholes;
- To increase the deterrent effect of violating EU sanctions in the first place.

The proposal for a Directive on the definition of criminal offences and penalties for the violation of Union restrictive measures ([COM\(2022\) 684 final](#)) includes a list of criminal offences that violate EU sanctions:

- Making funds or economic resources available to or available for the benefit of a designated person, entity, or body;
- Failing to freeze these funds;
- Enabling the entry of designated persons into the territory of a Member State or their transit through the territory of a Member State;
- Entering into transactions with third countries, which are prohibited or restricted by EU restrictive measures;
- Trading in goods or services whose import, export, sale, purchase, transfer, transit or transport is prohibited or restricted;
- Providing financial activities which are prohibited or restricted;

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- Providing other services which are prohibited or restricted, such as legal advisory services, trust services and tax consulting services;
- Breaching or failing to fulfil conditions under authorizations granted by competent authorities to conduct activities.

The proposal also clarified under which circumstances the circumvention of an EU restrictive measure is to be penalised. In addition, it will set common basic standards for penalties both for natural and legal persons. In the next step, the proposal will be discussed by the European Parliament and the Council.

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