

Commission: Violation of Restrictive Measures Should Become EU Crime

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News

On 25 May 2022, the European Commission tabled a [proposal](#) for a Council Decision aiming to add 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 its [explanatory memorandum](#) the Commission pointed out that the Union can impose restrictive measures against third countries, entities or individuals in order to promote the objectives of the Common Foreign and Security Policy (CFSP), and therefore also to safeguard the Union values, maintaining international peace and security as well as consolidating and supporting democracy, the rule of law and human rights. In the light of Russia's ongoing military aggression of Ukraine the overall goal is to effectively contribute to the implementation of EU restrictive measures as they are an essential tool for defending international security and promoting human rights. Such measures include asset freezes, travel bans, import and export restrictions, and restrictions on banking and other services.

Those measures are only effective if they are systematically enforced and violations punished. In order to strengthen the Union's ability to speak with one voice the Union-level coordination in the enforcement of these restrictive measures needs to be enhanced. The implementation and enforcement of Union restrictive measures is primarily the responsibility of Member States. The Commission noted that there has been, however, an increase of schemes to evade restrictive measures and Member States' systems significantly differ as to the criminalisation of the violation of Council Regulations on Union restrictive measures. Another problem is that there are often no direct victims of the violation of restrictive measures, so that the investigations and prosecutions depend on national competent authorities to detect infringements. The existing gap, created by the fact that Member States have very different definitions and penalties for the violation of Union restrictive measures under their administrative and/or criminal law, might benefit those engaged in illegal activities. Therefore, the Commission sees a need to add the violation of Union restrictive measures to the areas of crime laid down in Art. 83(1) TFEU, in order to ensure the effective implementation of the Union's policy on restrictive measures.

The proposal to add the violation of Union restrictive measures to the list of "EU crimes" is accompanied by a draft setting out how a future Directive on criminal sanctions could look like ([Communication with an Annex](#)).

Negotiations on the proposal in the Council started under the French Presidency. On 30 June 2022, the Council [requested](#) the European Parliament's consent on a decision to add the violation of restrictive measures to the list of "EU crimes" as foreseen in the TFEU. Once the EP has given its consent and internal national procedures have been finalised, the decision can be formally adopted unanimously by the Council.

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For a background analysis of the Commission's proposals → article by *Wouter van Ballegooij*: "Ending Impunity for the Violation of Sanctions through Criminal Law".

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