Ukraine: Commission proposes to criminalise the violation of EU sanctions

Brussels, 2 December 2022

The European Commission is today putting forward a proposal to harmonise criminal offences and penalties for the violation of EU restrictive measures. While the Russian aggression on Ukraine is ongoing, it is paramount that EU restrictive measures are fully implemented and the violation of those measures does not pay off. The Commission proposal sets out common EU rules, which will make it easier to investigate, prosecute and punish violations of restrictive measures in all Member States alike.

Violating EU sanctions is a serious criminal offence

The implementation of EU restrictive measures following the Russian attack on Ukraine shows the complexity of identifying assets owned by oligarchs, who hide them across different jurisdictions through elaborate legal and financial structures. The proposed Directive will establish the same level of penalties in all Member States. Thereby it will close existing legal loopholes and increase the deterrent effect of violating EU sanctions in the first place. The main elements of the proposal include:

- A list of **criminal offences**, which violate EU sanctions, such as:
  - making funds or economic resources available to, or for the benefit of, a designated person, entity or body;
  - failing to freeze these funds;
  - enabling the entry of designated people 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; or
  - providing other services which are prohibited or restricted, such as legal advisory services, trust services and tax consulting services.
- **Offences will cover circumventing an EU restrictive measure**: this means bypassing or attempting to bypass restrictive measures by concealing funds or concealing the fact that a person is the ultimate owner of funds.
- **Common basic standards for penalties**: depending on the offence, the individual person could be liable to a maximum penalty of at least five years in prison; companies could be liable to penalties of no less than 5% of the total worldwide turnover of the legal person (company) in the business year preceding the fining decision.

Next steps

The proposal will now be discussed by the European Parliament and the Council as part of the ordinary co-legislative procedure.

Background

Since the start of the war in Ukraine, the EU has adopted a series of sanctions against Russian and Belarusian individuals and companies. The implementation of EU restrictive measures shows the complexity of identifying assets owned by oligarchs, who hide them across different jurisdictions through complex legal and financial structures. For example, by transferring ownership of sanctioned property to a non-sanctioned third party. They are helped by existing legal loopholes, as the criminal law provisions on breaches of EU sanctions vary across Member States. An inconsistent enforcement of restrictive measures undermines the Union's ability to speak with one voice.
In May 2022, the Commission proposed to add the violation of EU restrictive measures to the list of EU crimes. At the same time, the Commission proposed new reinforced rules on asset recovery and confiscation, which will also contribute to the implementation of EU restrictive measures. The proposals come in the context of the ‘Freeze and Seize’ Task Force, set up by the Commission in March.

Following the adoption on 28 November of the Council Decision identifying the violation of Union restrictive measures as an area of serious crime that meets the criteria set out in Article 83(1) of the TFEU, the Commission is now putting forward this proposal for a Directive on the violation of Union restrictive measures, as a second step.

For More Information
Questions & Answers
Proposal for a Directive on the definition of criminal offences and penalties for the violation of Union restrictive measures
Press release – The EU proposes rules on freezing and confiscating assets (March 2022)
Proposal for a Directive on asset recovery and confiscation

Quotes:
EU sanctions must be respected and those trying to get around them must be punished. The EU will carry on cracking down on those helping Russia to finance its war against Ukraine. The EU is showing once again that it is united in this effort – harmonising penalties for violating EU sanctions means no more loopholes, no more safe havens and no more playing the system – we’re getting tougher, we’ve changed the system.
Věra Jourová, Vice-President for Values and Transparency - 02/12/2022

The European Union must have teeth to guarantee the full enforcement of EU sanctions. It is not enough to table far-reaching sanction packages if all the Member States are not equipped with the necessary tools to ensure the full effects of the restrictive measures. It is a matter of coherence and efficiency. Too many gaps still remain between Member States when it comes to the punishment of the violation of EU sanctions. Today’s proposal allows us to turn this discussion into clear solutions: a common approach with similar definitions and punishments across the EU. These rules bring clarity. Given the urgency of the situation, I now call on the Council and the European Parliament to reach agreement on it swiftly.
Didier Reynders, Commissioner for Justice - 02/12/2022

Today’s proposal is a strong warning to anyone who is involved in sanctions evasion or circumvention - these activities are criminal acts under EU law. This further reinforces our toolbox to ensure that our sanctions are properly implemented across the EU. Harmonised penalties will put an end to forum shopping. We must crack down on all types of sanctions evasion. That is why in the 8th package of sanctions, we also proposed a new listing criterion, which will allow us to sanction persons who facilitate the circumvention of sanctions.
Mairead McGuinness, Commissioner for Financial Services, Financial Stability and Capital Markets Union - 02/12/2022

Press contacts:
Christian WIGAND (+32 2 296 22 53)
Katarzyna KOLANKO (+ 32 2 296 34 44)
Cristina TORRES CASTILLO (+32 2 29 90679)

General public inquiries: Europe Direct by phone 00 800 67 89 10 11 or by email