

Sanctions violations and penalties: Enforcing EU sanctions against Russia

TYPE OF DOCUMENT: MEMO

CLASSIFICATION: EXTERNAL

27 November 2023

This note focuses on the discrepancies in sanctions enforcement between EU Member States. Ultimately, the sanctions enforcement gap significantly impacts the effectiveness of the EU's sanctions against Russia. As a conclusion, the note provides some recommendations for the EU on how to improve sanctions enforcement. This note is based on consultations and open-source information undertaken by Rasmussen Global as part of its work on sanctions against Russia.

Key takeaways

Since Russia's illegal annexation of Crimea in 2014, the EU has progressively imposed sanctions against Russia. Following the full-scale invasion of Ukraine in February 2022 these have been vastly scaled up.

The European Commission is about to announce its **12th sanctions package**. This will involve an import ban on Russian diamonds and the targeting of Russian ICT companies, among other elements.

The EU and its Member States face challenges regarding the enforcement of sanctions and penalization of sanctions circumvention. With each new round of sanctions enforcement becomes more complex.

One key difficulty is the significant variation in enforcement mechanisms, penalties, and competent authorities among states, and their competent authorities bearing the burden of proof.

Recommendations:

To ensure increased attention on sanctions implementation and enforcement, the EU should consider the following tools / courses of action:

- Continue the work on the two tools already proposed by the Commission: **a Sanctions Information Exchange Repository** and **a single contact point for Member States on sanctions enforcement**.
- Adoption of the **proposed law introducing criminal offences and penalties for violating EU sanctions**.
- A dedicated **EU headquarter tasked with coordinating sanctions**, similar to the US Office of Foreign Assets Controls (OFAC).
- An **information sharing and analysis centre**, or other relevant mechanism, to raise awareness about sanctions in the private sector.
- **Reinforced staffing within the competent national authorities**.
- Improved **intelligence and information sharing** between EU Member States on sanctions evasion.

Background: EU sanctions against Russia

The EU has progressively imposed sanctions against Russia following the illegal annexation of Crimea in 2014. In response to the full-scale invasion of Ukraine in February 2022, **the EU adopted new, sweeping sanctions against Moscow. The EU approved its 11th sanctions package in June 2023, and the 12th package is expected in before the end of the year.** The European Commission is continuously working to identify new areas to target in the next sanctions packages.

There are two recurring questions facing the EU's sanctions policy. Firstly, the **slow roll-out**. There is a feeling among some stakeholders in Europe that the sanctions packages have taken too long to be approved and enforced, allowing Russia enough time to work around them. Secondly, the **effectiveness** of sanctions given recent sanctions packages have been increasingly general in scope. They have moved beyond targeted measures and raise questions about the effect of sanctions on the general Russian population rather than directly on the perpetrators of the war.

The development of new sanctions packages is a complex process involving a range of different actors. Member States play a key role in proposing new sanctions to the European Commission. They can send proposals for new sanctions directly to the Commission. These inputs generally go to the **Directorate-General for Financial Stability, Financial Services and Capital Markets Union (DG FISMA)** and/or the **Directorate-General for Trade (DG TRADE)** through the respective Member States' foreign ministries. In the legislative process, DG FISMA gathers input from the different stakeholders, including Member States, other DGs and the European External Action Service (EEAS), and prepares and presents proposals on new sanctions to the Council for final review and adoption.

The EU is currently negotiating its 12th sanctions package, which is expected to include, among other elements, an import ban on Russian diamonds and the targeting of Russian ICT companies. New sanctions areas will require additional implementation and enforcement mechanisms and additional coordination between EU institutions and MS.

CURRENT ENFORCEMENT MECHANISMS

At the EU-level, several forums focused on sanctions coordination and implementation are in place to enforce sanctions. These include:

1. **The High-Level Expert Group on Sanctions** – chaired by Commissioner Mairead McGuinness. It is comprised of the 27 EU Member States and aims to improve sanctions implementation.
2. **The International Special Envoy for the Implementation of EU Sanctions** – David O'Sullivan has been appointed to this newly created role. He is tasked with ensuring continuous, high-level discussions with third countries to avoid the evasion/circumvention of EU sanctions.
3. **The Sanctions Coordinators Forum** – David O'Sullivan is responsible. It brings together international partners from the United States, the United Kingdom, Canada, Japan, the Republic of Korea, Liechtenstein, New Zealand, Norway, Switzerland, and representatives from Ukraine to take stock of the implementation of international sanctions.

4. **The 'Freeze and Seize' Task Force** – aims to strengthen cooperation on sanctions, particularly with G7-partners, to improve implementation and enforcement.
5. **The EU Sanctions Whistleblower Tool** – facilitates anonymous reporting of breaches of EU sanctions and enables the Commission to monitor possible violations of sanctions law by states.

At the Member State level, each country is responsible for the implementation of sanctions in their domestic jurisdictions. The coordination within and between Member States is limited, however, leading to fragmented sanctions enforcement, posing a challenge for effective sanctions enforcement.

Challenges for EU sanctions enforcement

Developing sanctions against Russia is relatively straightforward for the EU, however **ensuring their effective implementation presents a significant challenge**. A key difficulty is the significant variation in enforcement mechanisms, penalties, and competent authorities among Member States¹. The sanctions enforcement gap is defined by six challenges.

1. DISCREPANCY IN PENALTIES

Currently, Member States are not required to criminalize violations and may apply administrative sanctions instead. A chosen subset of Member States² reveals that the max. fee for administrative penalties ranges from EUR 6,000 in Lithuania to a EUR 5,000,000 in Latvia. Fines for criminal offenses, vary similarly. As do maximum criminal penalties ranging from 2 years of imprisonment in Finland, for example to 15 years of imprisonment in Poland.

2. LIMITED RESOURCES AND BURDEN OF PROOF

Member States have been, and continue to be, overwhelmed with the sheer number of sanctions adopted since Russia's full-scale invasion of Ukraine. Country authorities are also still in the process of gearing up in terms of having the relevant enforcement mechanisms in place and employing enough staff who can support sanctions enforcement.

The number of **investigated sanctions breach cases** has increased since the Russian invasion of Ukraine. In September 2022, **Germany** reported at least 150 cases under investigation for alleged violations of EU sanctions against Russia and Belarus³. In March 2023, **Estonia** identified more than 1.500 cases of Russia-related sanctions violations⁴. **Danish** authorities are investigating several possible violations, but no breaches of the sanctions have yet been found⁵.

The burden of proof lies with national authorities who struggle to prove wrongdoing and thus struggle to penalize companies for sanctions violations. It remains challenging to prove that a certain product has

¹ DGAP Policy Brief: "[Strict and Uniform: Improving EU Sanctions Enforcement](#)" (September 2022)

² The chosen subset of MS includes Finland, Denmark, Germany, Belgium, France, Poland, Estonia, Latvia, and Lithuania.

³ Blog by Baker McKenzie on German sanctions: <https://sanctionsnews.bakermckenzie.com/g7-enforcement-coordination-mechanism-germany/>

⁴ European Sanctions: <https://www.europeansanctions.com/news/jurisdictions/estonia/>

⁵ MarketWire: <https://watchmedier.dk/nyheder/politik/article16404272.ece>

ended up in Russia. Therefore, even though many cases are investigated, **it is difficult for Member States to put forward the cases for verdict**. Even if proven that products ended in Russia, companies may plead their innocence saying they were deceived. This was exemplified recently by the Lithuanian airplane parts manufacturer Right Direction Aero, whose products were found in Russia. The company's CEO maintains that their products were sold to Kyrgyzstan with a guarantee that these could not be re-exported to Russia⁶. However, customs documents show that they were exported to Russia. And further, the Kyrgyz company Kargoline was registered only a month after the outbreak of war in Ukraine, when Airbus, Boeing and other spare parts manufacturers banned Russian Airlines.

3. INCONSISTENT RESPONSIBLE BODIES

The number of competent authorities handling sanctions enforcement and violation varies across Member States. In many states, responsibility lies with **the Ministry of Foreign Affairs and the Customs Authorities**. However, while several countries involve additional subject-relevant authorities, depending on what the sanctions violations pertain to, other states only have a single authority responsible for handling sanctions. I.e., the resources available for implementing sanctions differ, thereby impacting the **level of effectiveness** of domestic sanctions enforcement across Member States as well as **sanctions coordination** between Member States.

4. INEFFECTIVE COMMUNICATION ON RULES AND PENALTIES

In June 2022, the EU developed guidelines on "Best Practices for the effective implementation of restrictive measures"⁷. The document is intended as guidance for both authorities and EU operators subject to EU sanctions. **However, Member States are often not able to effectively communicate rules and penalties to companies subject to sanctions, which hinders the efforts to reduce sanctions circumvention**⁸. While Member States are obliged to share cases of violation that have led to verdicts and export denials and authorizations given to companies in connection with sanctions, there is no formalized setup for coordinating and sharing best practices on enforcement among states.

5. ONUS ON COMPANIES TO ENSURE COMPLIANCE

While Member States generally advise on how to navigate both existing and new sanctions, **it is ultimately the responsibility of the companies to ensure compliance**. This includes screening customers to ensure that they do not conduct business with anyone on the sanctions lists and to continually ensure their products have not been sanctioned.

This presents a challenge for companies, especially SMEs, in recognizing complex and often opaque foreign ownership relations and structures. In response, companies wishing to export products on the EU-sanctions list to non-sanctioned countries may ask involved parties to sign an 'end-user certificate'

⁶ Article from Pravda: "[Russia buys sanctioned parts for aircraft through friendly countries: the UAE, China and Türkiye at the top](#)" (12 September 2023)

⁷ <https://data.consilium.europa.eu/doc/document/ST-10572-2022-INIT/en/pdf>

⁸ Chapter in *Coercive Diplomacy, Sanctions and International Law*: "[Confronting the Implementation and Enforcement Challenges Involved in Imposing Economic Sanctions](#)" (January 2016)

in which the customers and final user of the products are named. The European supplier can then prove that it made every effort to prevent a violation should their product end up in a sanctioned country.

An example of this is the Danish company Grundfos. In 2021, seven Danish water pumps, valued at DKK 600,000 (EUR 80,400), were found on the annexed Crimean Peninsula, despite sanctions. The company explained that they had done everything possible to avoid a sanctions breach by screening customers and asking about distribution intent. Ultimately there was no way to prove the company had circumvented sanctions – as the products had likely been resold several times⁹. Grundfos and similar examples, exposed to their products being resold, highlight a significant limitation for EU sanctions.

6. DIVERSION COUNTRIES

All Member States have had difficulties handling sanctions circumvention due to the challenges outlined above. Additionally, authorities noted a decrease in exports to Russia but an increase in exports to “diversion countries”, such as Kazakhstan, Kyrgyzstan, Mongolia, Uzbekistan, Turkey and the UAE. The EU and its Member States suspect that, through these countries, sanctioned products were eventually diverted to Russia. This has prompted a call for improved enforcement methods in the EU¹⁰.

In coming months, the focus in Europe will primarily be on enforcing the previous 11 packages, as well as the upcoming 12th package, and preventing sanctions circumvention. The EU Sanctions Envoy is already making rounds in Central Asia to gauge the scale of sanctions circumvention and secure the cooperation of suspected diversion countries in preventing this circumvention.

Points of action

The continued imposition of sanctions on Russia is important for the EU to demonstrate its unwavering support for Ukraine. However, this will only have symbolic value unless sanctions are effectively enforced. Member States continue to face significant issues when it comes to sanctions circumvention. To address this, the European Commission has put forward a range of measures.

The Commission has already proposed several tools to improve enforcement:

1. **A Sanctions Information Exchange Repository**, which is a database for prompt reporting and exchange of information between Member States and the Commission on the implementation and enforcement of sanctions.
2. **A single contact point for Member States** for sanctions enforcement.

⁹ Article from February 2022, Danmarks Radio: <https://www.dr.dk/nyheder/penge/danske-pumper-ende-uloeligt-paa-krim-nye-sanktioner>

¹⁰ European Parliament Briefing: “[https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/739366/EPRS_BRI\(2023\)739366_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/739366/EPRS_BRI(2023)739366_EN.pdf)” (March 2023)

3. **A law introducing criminal offences and penalties for violating EU sanctions – yet to be adopted.** On 9 June 2023, the EU Council adopted a general approach for a proposed law that would introduce criminal offences and penalties. The aim is to deter and penalize individuals who breach EU sanctions and make the investigation, prosecution, and punishment of said individuals easier. Member states will be required to criminalize specific conduct, such as assisting individuals to bypass travel bans or engaging in trade with sanctioned goods. The next step involves negotiations with the European Parliament to reach a common position on the draft law. In the European Parliament, the Committee on Civil Liberties, Justice, and Home Affairs adopted its report on the proposal on 6 July 2023, along with a decision to enter triilogue negotiations.

FURTHER RECOMMENDATIONS TO BETTER IMPLEMENT AND ENFORCE SANCTIONS

Alongside the measures already put forward by the European Commission, this note proposes four additional elements that could improve coordination and enforcement of sanctions.

1. **A dedicated EU headquarters tasked with coordinating sanctions** (similar to the US Office of Foreign Assets Controls, OFAC, in the US). The Commission has not itself proposed the establishment of an EU-wide sanctions enforcement body. However, Commissioner McGuinness has made it clear that she would support it, as this would help Member States implement sanctions and ensure more consistent oversight and enforcement¹¹ even if some Member States might regard this as de facto granting the EU a new competency.
2. **An information sharing and analysis center or other relevant information sharing mechanisms** to raise awareness about sanctions within the private sector. Other mechanisms could involve proactively sending information letters to companies to mitigate sanctions circumvention, a measure that is already implemented in Denmark. This is a **“first warning”-approach**, where letters are sent to companies if there is a suspicion that they might be at risk of violating sanctions or contributing inadvertently to the circumvention of sanctions. This is promoted in EU circles by the Sanctions Envoy David O’Sullivan¹².
3. **Reinforced staffing in the competent national authorities** both on intelligence gathering and monitoring compliance. One major issue is that many authorities in EU Member States do not have the staff needed to respond to the increased number of potential sanctions infringements.
4. **Improved intelligence and information sharing among EU Member States on sanctions evasion.** For an EU sanctions effort to be effective, EU countries must actively share critical information on sanctions evasion with each other, even though it pertains to their domestic jurisdictions. This would be similar to the EU foreign investment screening mechanism.

¹¹ European Parliament briefing: [“Preventing EU funds from ending up with individuals or companies tied to the EU-Russia sanctions list”](#) (March 2023)

¹² These insights were gained during conversations Rasmussen Global had with the Danish Business Authority in connection with this report.

About the authors



Arthur de Liedekerke
European Affairs Director – Brussels

Arthur has significant experience in the geopolitics of cybersecurity and international relations. Before joining Rasmussen Global, he served as a Strategy Officer in the French Ministry for the Armed Forces, advising the leadership of its Cyber Command, and for CERT-EU, the cybersecurity unit of the EU institutions.



Helene Bille Albrechtsen
Project Manager – Brussels

Helene is an expert on the European regulatory landscape and the EU's strategic agenda, working most recently in the Cabinet of EU Commission Executive Vice President Margrethe Vestager. She also worked four years on trade policy in the Danish Ministry of Business.



Mille Kjær Adamsen
Policy Advisor – Copenhagen

Mille brings insights on international politics and business strategy from her previous work with the Danish Ministry of Foreign Affairs, where she focused on security policy in Eastern Europe, the Middle East, and North Africa.



Louise Haislund Rath
Junior Advisor – Copenhagen

Louise has experience in security, trade, and foreign policy. She worked in the international department of the Danish Business Authority, focusing on export controls, sanctions, and EU trade policy.

About Rasmussen Global

Founded by Anders Fogh Rasmussen after his term as NATO Secretary General in 2014, and with a presence in Berlin, Brussels, Copenhagen, and Kyiv, Rasmussen Global is a firm with a purpose: we advise and support democratic governments and multinational companies in navigating geopolitical trends and major public policy developments.

We have worked closely with, in, and on Ukraine for the past seven years and have been working pro-bono with the Ukrainian President's Office since July 2022 on Ukraine's long-term security. This work resulted in the Kyiv Security Compact, co-authored by Anders Fogh Rasmussen and Andriy Yermak.

We take on projects we believe in and where we can make a difference. Our senior advisors, present in multiple decision centres, bring decades of experience in top level positions in governments and international institutions:

1. We provide intelligence and analysis on key developments in the world's key capitals.
2. Reach governments, institutions, and key opinion-makers, shaping policies on behalf of our clients.
3. Employ a commanding media outreach, to shape ideas and mobilize public opinion.