



EU Council adopts decision to criminalise violations of EU sanctions

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This week, the European Council unanimously adopted a Decision to add the violation of EU sanctions to the list of “EU crimes”. This decision is a step towards harmonising, to some extent, sanctions enforcement within the European Union (see Council Decision [here](#)).

Article 83(1) of the Treaty of the Functioning of the European Union enables the European Parliament and the Council to adopt directives establishing minimum rules concerning the definition of criminal offences in 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 Council’s decision paves the way to the adoption of those minimum rules in the area of EU sanctions.

The violation of EU sanctions constitutes a criminal offence in certain, but not all, EU Member States. Moreover, Member States currently rely on different definitions of that criminal offence and do not apply the same penalties. These discrepancies can lead to different levels of enforcement of EU sanctions in Member States, and to an increased risk of “forum shopping” and circumvention. The Council’s decision – by criminalising violations of EU sanctions at EU level – aims to dissuade circumvention and sanctions violations, as well as to ensure a similar degree of enforcement throughout the European Union, making it easier to investigate, prosecute and punish violations of sanctions in all Member States.

As a next step, the Commission will propose a Directive defining the relevant criminal offences and setting out the applicable penalties. The proposal will then need to be approved by the European Parliament and the Council before entering into force.

The Commission has already published a Communication and an Annex, signaling what this Directive could look like (see Communication and Annex [here](#)). In particular, it is envisaged that potential criminal offences will include:

- engaging in actions or activities that seek to directly or indirectly circumvent EU sanctions, including by concealing assets;
- failing to freeze funds belonging to, held or controlled by a designated person/entity;
- engaging in prohibited financial activities, such as providing prohibited loans or credit;
- engaging in prohibited trade, commercial or other activities, such as importing or exporting goods and technology covered by trade bans, or providing prohibited services;
- failure to comply with any obligation to provide information to the authorities;
- engaging in actions or activities that seek to directly or indirectly circumvent EU sanctions, with knowledge and intent; and
- the failure to report a violation of EU sanctions, or activities that seeks to circumvent them, in violation of a specific obligation to report.

The Commission has also proposed to establish common basic standards for penalties across the Member States, including, among others, criminal or non-criminal fines; exclusion from access to public funding; disqualification from the practice of business activities; withdrawal of permits and authorisations to pursue activities which have resulted in committing the offence; placing under judicial supervision; judicial winding-up; and closure of establishments used for committing the offence.

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