

EU sanctions against Russia and updates to compliance programmes:

Newest EU sanctions take direct aim at oil shipments. Enforcement in certain areas remains problematic

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The eighth EU sanctions package implements price cap on crude oil & seeks to make oil shipping almost impossible

After Russia recently illegally annexed several regions of Ukraine (Donetsk, Luhansk, Zaporizhzhia and Kherson) in late September, the response of the European Union came quickly and as anticipated. By adopting its eighth package of sanctions, the EU joins the Group of Seven in implementing a price cap on crude oil from Russia. This idea was long discussed and debated, and in light of the recent actions of Russia, the eighth sanctions package was finally issued at the beginning of October 2022.

This summary follows our team's practical recommendations regarding sanctions and previous sanction packages against Russia. For background information, please see [our commentary on regional and local law](#).

At the beginning of October 2022, the EU adopted its eighth package of restrictive measures against Russia, namely the Council Regulation 2022/1904, Council Regulation 2022/1905 and Council Regulation 2022/1906. Among the new sanctions imposed, one of the most important and discussed is the price cap related to the maritime transport of Russian oil for third countries and further restrictions on the maritime transport of crude oil and petroleum products to third countries. Thus, in order to limit the flow of revenues to Russia, the European Union intends to ensure that Russia can only export oil via tanker at discounted prices. All oil exports, including to China and India, would be affected by this measure, which follows a similar decision by the Group of Seven (G7) in the summer of 2022.

Starting from 5 December 2022, **the EU and G7 countries will ban banks from financing the purchase and sale of Russian oil, insurance companies from insuring shipments and ports from unloading oil transported by tanker** if it is traded at a higher price than that fixed by the European Union. The embargo on all services related to oil exports is intended to make such shipping almost impossible.

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According to the European Commission, the exact value of the restrictions has not yet been determined. However, the EU executive body estimates that the price would have to be considerably below the current market rate and

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closer to what Russia was getting before invading Ukraine. EU member states are still negotiating and have yet to agree to vote for or against the embargo.

In regard to trade, the EU is extending the import ban on steel products that either originate in Russia or are exported from Russia. **Further import restrictions are also imposed** on wood pulp and paper, cigarettes, plastics and cosmetics as well as elements used in the jewellery industry such as stones and precious metals, which in total generate significant revenues for Russia. The sale, supply transfer or export of additional goods used in the aviation sector will also be restricted.

This latest package of sanctions comes after the EU adopted, in July 2022, the seventh package, which introduced a new ban on buying, importing or transferring, directly or indirectly, gold originating in Russia and then exported from Russia to the EU or any third country (this ban also applies to jewellery, according to provisions of art. 30 from the Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine). The package also expanded the list of controlled goods that can contribute to Russia's military and technological build-up or to the development of its defence and security sector, thereby strengthening export controls on dual-use and advanced technologies.

1 New derogations regarding the frozen funds and economic resources

All funds and economic resources belonging to, owned, held or controlled by any natural persons or natural or legal persons, entities or bodies associated with them as listed in Annex I of Council Regulation (EU) No 269/2014 shall be frozen. Also, no funds or economic resources shall be made available, directly or indirectly, to or for the benefit of natural persons or natural or legal persons, entities or bodies associated with them listed in Annex I.

Through the new package sanctions, there are some new derogations, stating that the competent authorities of a **Member State may authorise payments to the Crimean Sea Ports** for services provided at the ports of Kerch Fishery Port, Yalta Commercial Port and Evpatoria Commercial Port, and for services provided by Gosgidrografiya and by Port-Terminal branches of the Crimean Sea Ports. For example, the Member State concerned shall inform the other Member States and the Commission of any authorisation granted under the conditions above within two weeks of the authorisation. Also, pursuant to Council Regulation 2022/1905, competent authorities may now authorise the release of certain frozen funds or economic resources of, or the making available of certain funds or economic resources to: the Russian developer and manufacturer of vehicles and military equipment "**PJSC KAMAZ**", for the wind-down, by 31 December 2022, of a joint venture or similar legal arrangement concluded before 16 March 2022, involving one of the Russian state-owned entities listed in Annex XIX to Council Regulation 833/2014 and Russia's central securities depository "National Settlement Depository (NSD)", for **the termination by 7 January 2023**, of operations, contracts or other agreements concluded with, or otherwise involving that entity before 3 June 2022.

Furthermore, the designation criteria based on which individual sanctions can be imposed have also been broadened. Sanctions can now be imposed on natural or legal persons who facilitate the circumvention of EU sanctions.

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Article 3 from the Council Regulation (EU) No 269/2014 states that Annex I shall also include: (a) natural persons responsible for, supporting or implementing actions or policies which undermine or threaten the territorial integrity, sovereignty and independence of Ukraine, or stability or security in Ukraine, or which obstruct the work of international organisations in Ukraine; (b) legal persons, entities or bodies supporting, materially or financially, actions which undermine or threaten the territorial integrity, sovereignty and independence of Ukraine; (c) legal persons, entities or bodies in Crimea or Sevastopol whose ownership has been transferred contrary to Ukrainian law, or legal persons, entities or bodies which have benefited from such a transfer; (d) natural or legal persons, entities or bodies supporting, materially or financially, or benefiting from Russian decision-makers responsible for the annexation of Crimea or the destabilisation of Ukraine; (e) natural or legal persons, entities or bodies conducting transactions with the separatist groups in the Donbas region of Ukraine; (f) natural or legal persons, entities or bodies supporting, materially or financially, or benefitting from the Government of the Russian Federation, which is responsible for the annexation of Crimea and the destabilisation of Ukraine; or (g) leading businesspersons or legal persons, entities or bodies involved in economic sectors providing a substantial source of revenue to the Government of the Russian Federation, which is responsible for the annexation of Crimea and the destabilisation of Ukraine, and natural or legal persons, entities or bodies associated with them.

According to the new amendments, **a new criterion is mentioned in the new sanctions package**, adding the (h) *natural or legal persons, entities or bodies facilitating infringements of the prohibition against circumvention of the provisions of this Regulation, of Council Regulations (EU) No 692/2014, (EU) No 833/2014 or (EU) 2022/263 or of Council Decisions 2014/145/CFSP, 2014/386/CFSP, 2014/512/CFSP or (CFSP) 2022/266*. This new criterion could allow the possibility to sanction the persons who are not directly linked to the so-called "special operation" in Ukraine or annexation of Ukrainian territories.

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The **ban on the provision of crypto asset wallet, account, or custody services** to Russian persons and residents regardless of the total value of such crypto assets it is also notable.

2 Status of freezing of certain goods

The Ukrainian government has asserted its willingness to seek full reparation for the impacts of the conflict and has estimated the damages at over half a trillion dollars as of late March 2022. At present, a complete estimate is difficult to fully assess due to the ongoing conflict and destruction, with a recent report suggesting that Ukraine's economy will contract by over 35% in 2022. The interstate dispute initiated by Ukraine in the International Court of Justice had resulted into the issuing of an order on provisional measures that enjoined Russia from continuing its military operation, but it was ignored.

In this respect, the EU came up with the misappropriation sanctions, which froze the assets allegedly misappropriated by former public officials from several countries, such as Egypt, Tunisia, and Ukraine with a view to their ultimate confiscation, based on court judgments in their countries of origin. One of the problems of the sanctions is that some authorities of the countries concerned seemed to be incapable of enforcing those final judgments or even substantiating the continued need to keep those targeted on a sanctions list.

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Just as an example, at the beginning of October 2022, a French court ordered the country's customs agency to release a seized yacht owned by a Russian billionaire affected by European sanctions because of procedural errors made during the seizure of the vessel. Moreover, in many countries the seizing procedure is being challenged by the interested parties, taking into consideration special protection around ownership rights of a person. Also, **competent authorities seem to have difficulties when trying to identify an asset** (which could be seized) and its real owner, as in some cases the asset is owned by a global network of companies in offshore jurisdictions which are secretive and reluctant to give information about the status of the respective asset.

In alignment with the intent to try to recover as much money and goods as possible from the designated persons, in March 2022 the European Commission set up a "Freeze and Seize" Task Force, led by the Commissioner for Justice Didier Reynders. One of the aims of the Task Force is to explore the links between assets belonging to persons listed under EU sanctions and criminal activities. In this context, the Task Force requested all Member States to share information on the assets frozen so far in their respective jurisdictions. Work is ongoing and Member States are still in the process of compiling and sharing the information. So far, more than half of the Member States have reported to the Commission the measures taken to freeze assets. They have reported frozen assets worth EUR 29.5 billion, including assets such as boats, helicopters, real estate and artwork, worth almost EUR 6.7 billion. In addition, approximately EUR 196 billion worth of transactions have been blocked. By July 2022, the EU had frozen Russian assets worth EUR 13.8 billion since Russia invaded Ukraine on 24 February 2022, but this large sum remains largely untouched across the bloc.

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