



## Frequently asked questions: Restrictive measures (sanctions)

Brussels, 26 February 2022

### Restrictive measures explained

#### What are EU sanctions?

Restrictive measures (sanctions) are an essential tool in the EU's common foreign and security policy (CFSP), through which the EU can intervene where necessary to prevent conflict or respond to emerging or current crises. In spite of their colloquial name 'sanctions', EU restrictive measures are not punitive. They are intended to bring about a change in policy or activity by targeting entities and individuals in non-EU countries, responsible for such malignant behaviour.

#### What types of sanctions are there?

EU sanctions may target members of government bodies of non-EU countries, as well as companies, groups, organisations, or individuals through the following measures:

- arms embargoes
- restrictions on admission (travel bans)
- asset freezes
- other economic measures such as restrictions on imports and exports.

EU sanctions are carefully targeted, and designed to be proportionate to the objectives they seek to achieve. As such, they are aimed at those responsible for policies or actions the EU wants to influence, while reducing as much as possible any unintended consequences.

#### How are EU sanctions regimes and listings adopted?

The Council of the EU (The Council) decides by unanimity on adopting, renewing, or lifting EU restrictive measures (sanctions), on the basis of legislative proposals from the EU High Representative. Once political agreement is reached among EU Member States, the necessary legal acts, in the form of a Council Decision and an accompanying Council Regulation, are prepared by the High Representative/Vice President and the Commission, and submitted to the Council for adoption.<sup>[1]</sup>

The Council takes decisions on specific listings based on the listing criteria set out in the Council Decision and Council Regulation. Any decision to extend or expand restrictive measures is for the Council to take, acting by unanimity.

The application of EU sanctions is the primary responsibility of Member States, which must implement them in their respective jurisdictions.

#### What is the role of the Commission in the proposal, adoption and implementation of sanctions?

As guardian of the treaties, the Commission oversees the application of Union law and ensures the uniform application of sanctions throughout the EU. To this end, it may issue opinions to the competent authorities of the Member States on the interpretation of specific provisions of the relevant legal acts, or provide guidance on their implementation. The Commission also monitors the proper enforcement of sanctions, and may launch an infringement procedure against Member States for failure to comply with their obligations under EU law.

The Commission and the national competent authorities (NCAs) work in close contact with EU operators and provide them with guidance and support to ensure that any business conducted in environments subject to EU sanctions remains lawful. Regular exchanges of information take place between the Commission and the NCAs with regard to different aspects of sanctions implementation, from the amounts of assets frozen to derogations granted as well as enforcement issues that they may encounter in their jurisdiction.

The effective implementation and enforcement of EU sanctions are a priority for the Commission. The Commission is increasingly supporting Member States in their application of sanctions, by answering questions of interpretation raised by NCAs and economic and humanitarian operators.

On 19 January 2021, the Commission put forward a number of proposals to further enhance the uniform implementation and proper enforcement of EU sanctions<sup>[2]</sup>.

### **Who is bound by EU sanctions?**

Council Decisions are directly **binding on EU Member States**.

Council Regulations, as a legal act of general application, are binding **on any person or entity under EU jurisdiction**.

**Member States are responsible for the implementation of EU sanctions, as well as identifying breaches and imposing penalties.**

As guardian of the Treaties, the Commission ensures the uniform implementation of EU law and monitors its enforcement by the Member States.

Though EU sanctions are expected to produce effects in third countries through pressure on listed persons, they do not apply extraterritorially. In other words, they do not create obligations for non-EU persons or entities, unless the business is conducted at least partly within the EU.

In parallel, and as a matter of principle, the EU does not recognise the extraterritorial application of laws adopted by third countries and considers such effects to be contrary to international law.

### **What type of exchanges of information with Member States take place?**

As set out in Council Regulations imposing sanctions, the Commission and Member States have an obligation to exchange information in respect of violation and enforcement problems.

In this regard, if possible breaches of EU sanctions laid down in Council Regulations have been brought to the Commission's attention, the content of those communications cannot be disclosed, as they concern either mere allegations where the breach is not established or ongoing investigations conducted by law enforcement or judiciary authorities, in which the Commission cannot interfere.

### **What happens in case of allegations of breaches of sanctions coming from media?**

The Commission closely follows any credible allegation of breaches reported in the media and assesses the reports/information provided before deciding whether to bring the issue to the attention of national authorities. The Commission remains in contact with the national authorities concerning the investigations and their outcome.

### **What can the Commission do about breaches of a specific sanctions regulation?**

The application of EU restrictive measures (sanctions) is the primary responsibility of Member States. As guardian of the Treaties, the European Commission has a monitoring role in ensuring the uniform application of sanctions, and may issue opinions to the competent authorities in Member States on the application of specific provisions of the relevant legal acts or guidance on their implementation.

The Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU) assign different competences and roles to the respective actors involved in the proposal, adoption and implementation of EU sanctions. **The ultimate responsibility for the correct application and enforcement of EU sanctions rests with the Member States.** Member States are responsible for identifying breaches. Therefore the task of conducting investigations into potential non-compliance cases falls within the competence of the different NCAs. In addition, Member States have a legal obligation to adopt national rules providing for effective, proportionate and dissuasive penalties to be applied in the event of infringements of the provisions of the relevant Regulations.

The Commission has a monitoring role in ensuring the proper enforcement of these measures in certain areas. Pursuant to Article 258 TFEU, the Commission can launch an infringement procedure against Member States for failure to comply with their obligations under EU law.

### **Has the European Commission ever launched an infringement procedure against a Member State for the non-implementation of sanctions?**

To date, the Commission has not launched an infringement procedure against a Member State for the misapplication of EU sanctions.

### **How many people work in 'sanctions' and how many cases have they handled on non-implementation of sanctions since they started work - can you give examples?**

Responsibility for EU sanctions is shared between the EU and Member States. It is therefore not straightforward to give a specific figure on how many persons work 'in sanctions'.

As regards cases of non-implementation of sanctions, **Member States are primarily responsible for the implementation of EU sanctions and for identifying breaches, as well as applying penalties in such cases.**

The Commission monitors enforcement by the Member States and follows up on any credible allegation of breaches brought to its attention (for instance, by or in the media). After assessing the information, the Commission decides whether to bring the issue to the attention of national authorities. The Commission remains in contact with the national authorities concerning the investigations and their outcome.

### **Does the Commission monitor the implementation of arms embargoes / travel bans?**

With regard to the sanctions adopted in a given situation, arms embargos and the travel ban are only laid down in a Council Decision (CFSP), which is binding on Member States. **Member States have an obligation to take the necessary measures to prevent the entry into, or transit through, their territories of the persons who are subject to sanctions** as listed in an Annex to a Council Decision (CFSP).

Arms embargos and travel bans are not part of a Council Regulation (EU). As a result, the Commission cannot monitor implementation or open an infringement procedure. However, certain provisions related to the arms embargo, such as prohibitions on the provision of technical and financial assistance, are laid down in Council Regulations and directly applicable.

### **Can Member States impose penalties on those not respecting a sanctions regime?**

Council Regulations imposing sanctions require Member States to lay down the rules on penalties applicable to infringements of the provisions of these Regulations and take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

### **How is it ensured that sanctions are targeted and that the unintended negative effects of sanctions are minimised?**

EU sanctions are targeted at those responsible for policies the EU wants to influence. As such, the measures target only the persons and/or entities in the Annex to a Regulation. **The EU's principled position is that sanctions should always be targeted in such a way as to minimise any adverse humanitarian effects or unintended consequences for non-targeted persons.**

Proportionality is also ensured through regular reviews of sanctions regimes and a system of exceptions (whereby the sanctions do not apply e.g. to meet the basic needs of, or provide medical treatment to the designated persons and to deliver humanitarian aid and related goods).

### **Where can I find more information?**

On 19 January 2021, the Commission adopted a Communication aimed at helping the EU to continue enjoying the benefits of openness towards global partners while protecting itself against unfair and abusive practices. The text is available [here](#)

When conducting business, you should make sure to comply with prohibitions. To check if a specific individual or entity is listed, you can use the search function of the EU Sanctions Map maintained by the Commission: [www.sanctionsmap.eu/](http://www.sanctionsmap.eu/).

You will find additional information on EU sanctions and their general objectives on the [relevant Council website](#) and on the Commission's [sanctions website](#).

[1] Communication on "The European economic and financial system: fostering openness, strength and resilience", [COM/2021/32](#), point 5.

[2] [2] Communication on "The European economic and financial system: fostering openness, strength and resilience", [COM/2021/32](#).

*\*Updated on 28/02/22 at 13:50*

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