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EU Adopts Sixth Package of Sanctions Against Russia and Belarus and Makes Proposals to Strengthen Sanctions Enforcement

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June 13, 2022 – On June 3, 2022, the European Union (“EU”) released a sixth package of restrictive measures (sanctions) against Russia and Belarus “in light of Russia’s continuing war of aggression against Ukraine and Belarus’ support to it, as well as the reported atrocities committed by Russian armed forces in Ukraine.” The new sanctions are “intended to effectively thwart Russian abilities to continue the aggression” by fine-tuning existing restrictions and targeting new areas of the Russian economy, including the oil sector. At the same time, the EU adopted a new round of sanctions against Belarus in response to the continued internal repression going on in that country. The new measures were imposed through five EU Council Regulations and five Council Decisions.

The previous week, on May 25, 2022, the European Commission released proposals to add the violation of EU restrictive measures to the list of EU crimes, and to reinforce rules on asset recovery and confiscation, in order to enhance the enforcement and effectiveness of EU sanctions. These proposals come in the context of the ‘Freeze and Seize’ Task Force set up by the Commission in March.

1. Restrictive measures targeting Russia and Belarus

Individual restrictive measures

On June 3, 2022, the EU added 65 Russian individuals and 18 entities to its restricted parties list through Council Implementing Regulation 2022/878. The new designations target those said to be responsible for the atrocities committed by Russian troops in Bucha and Mariupol, persons supporting the war, leading businesspersons and family members of listed oligarchs and Kremlin officials, as well as companies in the defense sector and a financial organization (National Settlement Depository). In total, as of today, 1158 individuals and 98 entities have been added to the EU restricted parties list under the Russian program.

The EU also designated 12 individuals and 8 entities pursuant to [Council Implementing Regulation 2022/876](#) for their role in the ongoing internal repression and human rights abuses in Belarus. The EU targeted companies such as Belaruskali, Belarus's main potash producer, and its export arm, Belarusian Potash Co., the state television and radio broadcasting company Belteleradio, as well as companies manufacturing tobacco and public transport vehicles. These individual measures aim at reinforcing the restrictions already in place against these sectors. In total, as of today, 195 individuals and 35 entities have been added to the EU restricted parties list under the Belarusian program.

Newly-designated individuals and entities are subject to an asset freeze and a prohibition from making funds and economic resources available to them as well as a travel ban in the EU as of June 3, 2022.

Finally, [Council Regulation 2022/880](#) amended Council Regulation 269/2014 by creating a new exemption authorizing the release of funds and economic resources to listed parties where those funds and economic resources are strictly necessary for the provision of (i) electronic communication services by EU telecommunication operators, (ii) associated facilities and services necessary for the operation, maintenance and security of such electronic communication services, in Russia, in Ukraine, in the EU, between Russia and the EU, and between Ukraine and the EU, and (iii) for data center services in the EU.

Sectoral sanctions

Oil sector

[Council Regulation 2022/879](#) introduces a comprehensive import ban on Russian crude oil and petroleum products. To allow the EU and its partners to secure alternative supplies and minimize the impact on global oil prices, the ban is subject to certain transition periods and temporary exemptions and derogations.

- **New import ban on crude oil and petroleum products** - It is now prohibited to purchase, import or transfer, and to provide technical assistance, brokering services, financing, financial assistance or any other services, related to crude oil or petroleum products (as listed in the new Annex XXV), if they originate in Russia or are exported from Russia.
- **Exemptions** – The new import ban does not apply:
 - until December 5, 2022, to (i) one-off transactions for near-term delivery, concluded and performed before that date, or to (ii) the performance of contracts for the purchase, import or transfer of goods falling under CN 2709 00 (crude oil) concluded before June 4, 2022, or of ancillary contracts;
 - until February 5, 2023, (i) to one-off transactions for near-term delivery, concluded and performed before that date, or to (ii) the performance of contracts for the purchase, import or transfer of goods falling under CN 2710 (petroleum products) concluded before June 4, 2022, or of ancillary contracts;
 - For the two above-mentioned temporary exemptions to be applicable, the relevant Member States must notify to the Commission (i) the one-off transactions for near-term delivery within 10 days of their completion, and (ii) the contracts by June 24, 2022. We expect details about this notification requirement to be quickly provided either by the EU Commission through an FAQ or by the Member States competent authorities themselves.
 - to the purchase, import or transfer of seaborne crude oil and of petroleum products listed in Annex XXV where those goods originate in a third country and are only being loaded in, departing from or transiting through Russia, provided that both the origin and the owner of those goods are non-Russian;
 - to crude oil falling under CN 2709 00 which is delivered by pipeline from Russia into Member States, until the EU decides to extend the import ban;
 - Such crude oil must not be transferred, transported or sold to other Member States, third countries or purchasers in other Member States or third countries.
 - After February 5, 2023, it will be prohibited to transfer, transport or sell petroleum products falling under CN 2710 which are obtained from such crude oil to other Member States, third countries, or purchasers in other

Member States or third countries. For sales to or in Czechia, the prohibition will apply after December 3, 2023.

- To purchases in Russia of goods listed in Annex XXV which are required to meet the essential needs of the purchaser in Russia or of humanitarian projects in Russia.
- **Temporary derogations** – The following derogations are available:
 - By way of derogation, if the supply of crude oil by pipeline from Russia to a landlocked Member State is interrupted for reasons outside the control of that Member State, seaborne crude oil from Russia falling under CN 2709 00 may be imported into that Member State, until the supply is resumed or until an EU Council Decision extends the import ban.
 - The regulation also provides for specific derogations applicable to Bulgaria (for seaborne crude oil and petroleum products) and Croatia (for vacuum gas oil) after the phasing out periods that can be granted under specific conditions.
 - Note that the goods imported following such derogations must not be sold on to buyers located in other Member States or third countries.
- **New ban on services related to the transport of crude oil and petroleum products** – It is also prohibited to provide technical assistance, brokering services, financing or financial assistance, related to the transport (including through ship-to-ship transfers) to third countries of crude oil or petroleum products listed in Annex XXV originating in or exported from Russia. However, this prohibition is not applicable to:
 - the performance until December 5, 2022, of contracts concluded before June 4, 2022, or of ancillary contracts; and
 - the transport of products listed in Annex XXV where those goods originate in a third country and are only being loaded in, departing from or transiting through Russia, provided that both the goods and their owners are non-Russian.

Consulting services

- **New ban on consulting services** – In order to further isolate the Russian economy, the EU decided, following the United States and the United Kingdom, to prohibit the provision of accounting, auditing (including statutory audit), bookkeeping or tax consulting services, business and management consulting or public relations services to (i) the Government of Russia and (ii) legal persons, entities or bodies established in Russia.
- **Exemptions** – The new prohibition does not apply to:
 - the provision of services that are strictly necessary for the termination by July 5, 2022, of contracts which are not compliant with such prohibition concluded before June 4, 2022, or of ancillary contracts;
 - the provision of services that are strictly necessary for the exercise of the right of defense in judicial proceedings and the right to an effective legal remedy; and
 - the provision of services intended for the exclusive use of legal persons, entities or bodies established in Russia that are owned by, or solely or jointly controlled by, a legal person, entity or body which is incorporated or constituted under the law of a Member State.
- **Derogation** – Authorizations may be granted by competent authorities after having determined that the prohibited services are necessary for (i) humanitarian purposes, or (ii) civil society activities that directly promote democracy, human rights or the rule of law in Russia.

Finance

- **De-SWIFTing of new Russian and Belarusian banks** –
 - The EU cut off Sberbank, the largest Russian bank, along with Credit Bank of Moscow and JSC Russian Agricultural Bank Rosselkhozbank, from SWIFT as of June 14, 2022, bringing the number of Russian de-SWIFTed banks listed in Annex XIV to ten, including Bank Otkritie, Novikombank, Promsvyazbank, Bank Rossiya, Sovcombank, Vnesheconombank (VEB), and VTB Bank.
 - Simultaneously, the EU also cut off the Belarusian Bank For Development and Reconstruction from SWIFT as of June 14, 2022 through [Council Regulation \(EU\) 2022/877](#).

- **New derogations to the prohibition related to Russian trusts** – In April, the EU introduced two new prohibitions to (i) register, provide a registered office, business or administrative address as well as management services, to a trust or any similar legal arrangement having a trustor or a beneficiary directly or indirectly connected to Russia, and to (ii) as of May 10, 2022 (now as of July 5, 2022), act as, or arrange for another person to act as, a trustee, nominee shareholder, director, secretary or a similar position, for a trust or similar legal arrangement as referred to previously.
 - Regarding both prohibitions, authorizations can now be granted by the competent authority after having determined that those services are necessary for the operation of trusts whose purpose is the administration of occupational pension schemes, insurance policies or employee share schemes, charities, amateur sports clubs, and funds for minors or vulnerable adults.
 - Concerning the prohibition to act as trustee, nominee shareholder, director, or secretary of a Russian-connected trust, a competent authority can now authorize those activities beyond July 5, 2022, for (i) the completion by September 5, 2022 of operations strictly necessary for the termination of such contracts, provided that such operations were initiated before May 11, 2022, or (ii) other reasons, provided that the service providers do not accept from, or make available to, the aforementioned parties, any funds or economic resources or otherwise provide such persons with any benefit from assets placed in a trust.
- **New derogations to the prohibition to accept deposits from Russian parties** – Back in February, the EU introduced a prohibition for credit institutions to accept any deposits from Russian nationals, residents, and legal persons established in Russia, if the total value of deposits per credit institution exceeds 100,000 euros.
 - With Council Regulation 2022/879, an authorization can now be granted by the competent authority after having determined that the acceptance of such a deposit or the provision of wallet, account or custody service is intended exclusively for the payment of fees or service charges for the routine holding or maintenance of frozen funds or economic resources.

Export and import restrictions

On May 4, 2022, prior to the sixth package, the EU removed Russia from the list of countries benefiting from the Union general export authorizations, pursuant to Regulation 2022/699. These authorizations enabled the export of certain dual-use items to Russia, which now requires an export license when not strictly prohibited.

- **Extension of exports restrictions for dual-use and defense related items** – Council Regulation 2022/879 significantly expanded (i) the list of restricted parties on Annex IV by adding 92 new Russian entities involved in various sectors, such as electronics, communications, weapons, shipyards, engineering and scientific research, and (ii) the list of items in Annex VII, notably by adding 80 chemicals which can be used to produce chemical weapons.
 - As a reminder, authorizations cannot be granted for exports of these controlled items to these Russian entities except under certain conditions set forth in article 2b of Council Regulation 833/2014.
 - Note that the United Kingdom and South Korea were added to the list of partner countries on Annex VIII that have adopted substantially equivalent export restrictions, alongside the United States and Japan.
 - Similarly, Council Regulation (EU) 2022/877 significantly expanded the list of restricted entities on Annex V of Council Regulation 765/2006, which now targets 24 Belarusian entities in addition to the Belarus Ministry of Defense.
- **Extension of the list of items generating significant revenues for Russia** – In April 2022, the EU introduced a prohibition to purchase, import, or transfer, and provide certain services related to items listed in Annex XXI into the EU if they originate in or are exported from Russia. Council Regulation 2022/879 amended Annex XXI to include new items such as spirits.

State-owned entities

- **New exemptions to the general prohibition to engage with certain Russian state-owned entities** – In March, the EU introduced a general prohibition to engage in any transactions with (i) specific Russian state-owned entities listed in Annex XIX, (ii) any entity established outside the EU more than 50% owned by one of the listed entities, and

(iii) entities acting on behalf of the aforementioned entities. [Council Regulation 2022/879](#) introduced new exemptions applicable to:

- the reception of payments due by the above-mentioned parties pursuant to contracts performed before May 15, 2022;
- transactions (including sales) which are strictly necessary for the wind-down, by September 5, 2022, of a joint venture or similar legal arrangement concluded before March 16, 2022, involving the above-mentioned parties; and
- transactions related to the provision of electronic communication services, data center services, and the provision of services and equipment necessary for their operation, maintenance, security, including the provision of firewalls, and call center services, to the parties listed in Annex XIX.

Media

- **Extension of broadcasting ban** – As explained in a [previous alert](#), it is prohibited for operators to broadcast or to enable, facilitate or otherwise contribute to broadcast, any content by the legal persons, entities or bodies listed in Annex XV.
 - [Council Regulation 2022/879](#) added three more Russian state-owned outlets (i.e.: Rossiya RTR/RTR Planeta, Rossiya 24 / Russia 24 and TV Centre International) to Annex XV.
 - The EU also introduced a new prohibition to advertise products or services in any content produced or broadcast by the parties listed in Annex XV.

EU FAQs

As of the date of this alert, the European Commission issued the following 34 FAQs:

- [On execution of prior contracts](#) – As of 13 June 2022
- [Prohibition to Engage with Certain State-Owned Enterprises - Article 5aa Frequently Asked Questions](#) – As of 8 June 2022
- [Measures Adopted Concerning Aviation Frequently Asked Questions](#) – As of 2 June 2022
- [Public Procurement Frequently Asked Questions](#) – As of 2 June 2022
- [Customs-Related Matters Frequently Asked Questions](#) – As of 1 June 2022
- [Deposits Frequently Asked Questions](#) – As of 1 June 2022
- [Credit Rating Frequently Asked Questions](#) – As of 1 June 2022
- [Insurance and Reinsurance Frequently Asked Questions](#) – As of 1 June 2022
- [Circumvention and Due Diligence - Frequently Asked Questions](#) – As of 31 May 2022
- [Export-Related Restrictions Frequently Asked Questions](#) – As of 25 May 2022
- [General Questions Frequently Asked Questions](#) – As of 24 May 2022
- [Prohibition to Access EU Ports Frequently Asked Questions](#) – As of 23 May 2022
- [Sale of Securities Denominated in an Official Currency of a Member State \(Article 5f\) Frequently Asked Questions](#) – As of 23 May 2022
- [Asset freeze and prohibition to make funds and economic resources available - Frequently Asked Questions](#) – As of 19 May 2022
- [Central Securities Depositories Frequently Asked Questions](#) – As of 17 May 2022
- [Trading Frequently Asked Questions](#) – As of 13 May 2022
- [Humanitarian aid Frequently Asked Questions](#) – As of 2 May 2022
- [Luxury goods Frequently Asked Questions](#) – As of 2 May 2022
- [Intellectual Property Rights Frequently Asked Questions](#) – As of 26 April 2022
- [Export restrictions on maritime navigation goods and technology Frequently Asked Questions](#) – As of 26 April 2022
- [Russian Energy Sector Frequently Asked Questions](#) – As of 22 April 2022
- [Gas Imports Frequently Asked Questions](#) – As of 21 April 2022
- [Central Bank of Russia Frequently Asked Questions](#) – As of 20 April 2022

- [Financing And Refinancing Restrictions \(Article 5\) Frequently Asked Questions](#) – As of 20 April 2022
- [Banknotes \(Article 5i\) Frequently Asked Questions](#) – As of 20 April 2022
- [Swift Frequently Asked Questions](#) – As of 19 April 2022
- [Road Transport Frequently Asked Questions](#) – As of 14 April 2022
- [Investment Funds Frequently Asked Questions](#) – As of 14 April 2022
- [Technical assistance Frequently Asked Questions](#) – As of 13 April 2022
- [Crypto-assets Frequently Asked Question](#) – As of 11 April 2022
- [Financial assistance Frequently Asked Questions](#) – As of 31 March 2022
- [Oblasts \(Regulation 2022/263\) Frequently Asked Questions](#) – As of 30 March 2022
- [Restrictions on Russian State-Owned Media \(Article 2f of Regulation 833/2014\) Frequently Asked Questions](#) – As of 23 March 2022
- [On export-related restrictions pursuant to Articles 2, 2a and 2b of Council Regulation No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine](#) – As of 16 March 2022

Possible next steps

The European Commission and the High Representative have made it clear that the EU stands ready to put forward additional sanctions in response to the evolution of Russia's war against Ukraine. The EU is said to have begun work on a seventh package of sanctions against Russia. Future restrictions could affect gas supplies from Russia.

2. New Proposals from the EU Commission to enhance the implementation of EU sanctions

Making the violation of EU restrictive measures an EU crime

The sixth package of EU sanctions against Russia and Belarus added in the relevant regulations that the penalties Member States must adopt in case of infringement of EU sanctions should include "criminal penalties" if they have not yet done so.

Aside from these provisions in the sixth package, the Commission proposed on May 25 measures to ensure the effective implementation of the EU sanctions by way of supplementary criminal law measures. Adding the violation of restrictive measures to the list of EU crimes would allow the EU to set common basic standards on criminal offences and penalties across the EU, where currently enforcement is left to the competence of Member States without harmonization at the EU level. As such, the violation of EU sanctions is not considered a criminal offense in all Member States and penalties can significantly differ among those states.

As set out in the Commission's Communication and its Annex, the potential criminal offences to be considered as EU crimes could include notably:

- making funds or economic resources available directly or indirectly, to, or for the benefit of, a designated person/entity;
- failing to freeze funds or economic resources belonging to or owned, 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;
- breaching applicable conditions under authorizations granted by competent authorities;
- failure to comply with any obligation to provide information to the authorities, such as the obligation to declare any assets belonging to, owned, held or controlled by a designated person/entity;
- engaging in actions or activities that seek to directly or indirectly circumvent the restrictive measures, with knowledge and intent, including by being involved in schemes designed to conceal the assets or involvement of

designated persons/entities, by assisting the targets of restrictive measures to evade their impact, or by providing misleading information to authorities;

- failing to report a violation of restrictive measures, or activities that seek to circumvent them, in violation of a specific obligation to report.

These offences would require “intent, or at least gross negligence based on knowledge that the conduct concerns persons, entities, activities or property subject to restrictive measures, or ignoring restrictive measures or related legal prohibitions (wilful blindness).”

In addition to the liability of natural persons, the proposed Directive would include a specific provision on the liability of legal persons broadly understood:

- for any of the criminal offences committed for their benefit by persons having a leading position within the legal person; or
- for the lack of supervision or control by persons in a leading position which has made possible the commission, by a person under their authority, of any of the above-mentioned criminal offences for the benefit of that legal person.

The penalties would range from criminal or non-criminal fines to temporary exclusion from access to public funding, including tender procedures, grants and concessions, temporary or permanent disqualification from the practice of business activities, withdrawal of permits and authorizations to pursue activities which have resulted in committing the offence, placing under judicial supervision, judicial winding-up, and temporary or permanent closure of establishments used for committing the offence.

Once the Council and the European Parliament agree on the Commission's initiative to extend the list of EU crimes, the Commission will present a directive based on principles set out in the Communication and Annex, to be adopted by the European Parliament and the Council in line with the ordinary legislative procedure.

Reinforced EU rules on asset recovery and confiscation arising from EU restrictive measures

The European Commission is also putting forward a proposal for a Directive on asset recovery and confiscation, including a draft Directive, that would also apply to the violation of EU restrictive measures. The aim is to ensure “the effective tracing, freezing, management and confiscation of proceeds derived from the violation of restrictive measures.”

The proposal would, among other things:

- Extend the mandate of Asset Recovery Offices to swiftly trace, identify and freeze assets of individuals and entities subject to EU restrictive measures;
- Expand the possibilities to confiscate assets without a conviction, from a wider set of crimes, including the violation of EU restrictive measures, once the Commission proposal on extending the list of EU crimes is adopted;
- Establish Asset Management Offices in all EU Member States to preserve the value of assets and minimize management costs, and enable the sale of frozen assets that could easily depreciate or are costly to maintain before they are confiscated;
- Require Member States to develop national strategies on asset recovery and set up registries with information on frozen and confiscated assets, and strengthen cooperation with the European Public Prosecutor, Europol, Eurojust and third partners.

Interestingly, the sixth package of EU sanctions against Russia and Belarus added in the relevant regulations that Member States shall “provide for appropriate measures of confiscation of the proceeds” of EU sanctions infringements.

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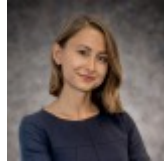
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