

Definition of criminal offences and penalties for the violation of Union restrictive measures

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The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Sophia IN'T VELD (Renew, NL) on the proposal for a directive of the European Parliament and of the Council on the definition of criminal offences and penalties for the violation of Union restrictive measures.

The committee responsible recommended that the European Parliament's position adopted at first reading in the ordinary legislative procedure should amend the proposal as follows:

Violations of Union restrictive measures

Member States should take the necessary measures to ensure that the violation of a Union restrictive measure by any natural or legal person, entity or body constitutes a criminal offence when committed intentionally.

The list of criminal offences violating EU sanctions should include:

- making funds or economic resources available directly or indirectly to, or for the benefit of, a designated person, entity or body;
- enabling the entry of designated natural persons into the territory of a Member State, including its territorial seas and airspace;
- enabling the stay in the territory of a Member State of a designated natural person, including by granting citizenship by investments or residence by investments schemes, in violation of a Union restrictive measure;
- entering into financial or corporate transactions or public procurement with a third State, bodies of a third State, entities and bodies directly or indirectly owned or controlled by a third State or bodies of a third State, which are prohibited or restricted by Union restrictive measures;
- trading in goods, services or technology whose import, export, sale, purchase, transfer, transit or transport is prohibited or restricted by Union restrictive measures, as well as acting as an intermediary or providing brokering services or other services relating to those goods and services;
- moving, transferring, altering, using, accessing, dealing with, selling, hiring or mortgaging funds or economic resources directly or indirectly owned, held, or controlled by a designated person, entity or body, which should be frozen in accordance with a Union restrictive measure, to a third party to conceal those funds or economic resources enabling the designated persons to continue to use them.

Criminal penalties for natural persons

Criminal offences should be punishable by a maximum penalty of at least one year of imprisonment when they involve funds or economic resources of a value of **at least EUR 50 000** (instead of EUR 100 000 according to the proposal). A monetary threshold of EUR 100 000 is set to distinguish more serious offences which should be punishable by a maximum penalty of imprisonment of at least 5 years.

Such fines should be proportionate to the amount of funds or economic resources involved in the offence and the maximum limit of such fines shall be not less than **EUR 10 million** where those offences involve funds or economic resources of a value of at least EUR 100 000.

Those additional penalties should also include:

- withdrawal of permits and authorisations to pursue activities which have resulted in committing the offence;
- disqualification from exercising a leading position within a legal person of the type used for committing the offence;
- temporary bans on running for elected or public office;
- national or Union-wide publication of the judicial decision relating to the conviction or any sanctions or measures applied.

Sanctions against legal persons

In addition to criminal or non-criminal fines, exclusion from entitlement to public benefits or aid, exclusion from access to public funding, including tender procedures, grants and concessions and may include other sanctions, such as:

- temporary or permanent disqualification from the practice of business activities;
- national or Union-wide publication of the judicial decision relating to the conviction or any sanctions or measures applied, including by referring such judicial decision, sanctions or measures to relevant Union institutions.

Companies could be liable to penalties amounting to **at least 5% or at least 15%** of the consolidated worldwide turnover of the legal person in the business year preceding the fining decision.

Aggravating circumstances

The following circumstances may be regarded as aggravating circumstances:

- the offence was committed in violation of a Union restrictive measure imposed in relation to crimes within the jurisdiction of the International Criminal Court including the crime of genocide, crimes against humanity, war crimes and the crime of aggression or of a Union restrictive measure imposed in relation to serious human rights violations and abuses;
- the offence involves the export of military technology or equipment as defined in Council Common Position 2008/944/CFSP;
- the offence involved serious acts of corruption or the use of false or forged documents;
- the offence was committed by a public official, whether a member of the civil service or the government including at the highest level, when performing his or her duties;
- the offence generated or was expected to generate substantial financial benefits, or avoided substantial expenses, directly or indirectly;

- the offender actively obstructs the inspection, custom controls or investigation activities, destroys evidence, or intimidates or interferes with witnesses or complainants.

Member States should take the necessary measures to ensure that, in the assessment of mitigating circumstances, competent authorities take into account the nature, timing, and extent of the information provided by the offender and the level of cooperation provided by the person in question.

Confiscation

Proceeds resulting from the violation of Union restrictive measures or instruments used to pursue the violation of restrictive measures should become the object of confiscation. Where the assets are confiscated in connection with the Russian war of aggression on Ukraine or associated crimes, the confiscated assets or the net proceeds resulting from the liquidation of such assets should be assigned to contributions towards the reconstruction efforts of Ukraine.

Coordination and cooperation

Each Member State should establish or designate a dedicated body for the purpose of coordination and cooperation at strategic and operational levels between all its competent administrative, law enforcement and judicial authorities within its territory.

Member State's competent authorities, Europol, Eurojust, the EPPO and the Commission should, within their respective competences and in the limits of their respective remit, cooperate with competent authorities of third countries in the fight against the criminal offences, in full respect of fundamental rights and international law.