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

2022/0398(COD) - 12/03/2024 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 543 votes to 45, with 27 abstentions, a legislative resolution 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 European Parliament's position adopted at first reading under the ordinary legislative procedure amends the proposal as follows:

The proposed Directive aims to establish common minimum rules concerning the definitions of offences related to the violation of Union restrictive measures and the availability of effective, dissuasive and proportionate criminal penalties for criminal offences related to the violation of Union restrictive measures.

Violation of Union restrictive measures

Member States should ensure that, where it is intentional and in violation of a prohibition or an obligation that constitutes a Union restrictive measure, the following conduct constitutes a criminal offence:

- making funds or economic resources available directly or indirectly to, or for the benefit of, a designated person, entity or body in violation of a prohibition that constitutes a Union restrictive measure;

- failing to freeze funds or economic resources belonging to or owned, held or controlled by a designated person, entity or body in violation of an obligation that constitutes a Union restrictive measure;

- enabling designated natural persons to enter into, or transit through, the territory of a Member State, in violation of a prohibition that constitutes a Union restrictive measure;

- entering into or continuing transactions with a third State, bodies of a third State or entities or bodies directly or indirectly owned or controlled by a third State or by bodies of a third State, including the award or continued execution of public or concession contracts;

- trading, importing, exporting, selling, purchasing, transferring, transiting or transporting goods, as well as providing brokering services, technical assistance or other services relating to those goods;

- **circumventing a Union restrictive measure** by using, transferring to a third party, or otherwise disposing of, funds or economic resources directly or indirectly owned, held, or controlled by a designated person, entity or body, which are to be frozen pursuant to a Union restrictive measure, in order to conceal those funds or economic resources.

The text stipulated that humanitarian assistance for persons in need or activities in support of basic human needs should not be considered as violations.

Criminal penalties for natural and legal persons

Criminal offences will be punishable by **effective, proportionate and dissuasive** criminal penalties. They will be punishable by a maximum of at least one year's imprisonment where they involve funds or

economic resources of a value of at least EUR 100 000. The most serious offences will carry a maximum prison sentence of at least 5 years.

Accessory criminal or non-criminal penalties may include the following:

- fines that are proportionate to the gravity of the conduct and to the individual, financial and other circumstances of the natural person concerned;

- withdrawal of permits and authorisations to pursue activities that resulted in the relevant criminal offence;

- disqualification from holding, within a legal person, a leading position of the same type used for committing the criminal offence;

- temporary bans on running for public office;

- where there is a public interest, following a case-by-case assessment, publication of all or part of the judicial decision that relates to the criminal offence committed and the penalties or measures imposed, which may include the personal data of convicted persons only in duly justified exceptional cases.

In the event that **companies** violate or circumvent the sanctions, judges must be able to impose dissuasive fines. However, Member States should choose to impose a maximum penalty either on the basis of the company's worldwide annual turnover or on the basis of fixed maximum amounts.

According to the offence, companies could be liable to penalties ranging from **1% to 5%** of the consolidated worldwide turnover of the legal person in the business year preceding the fining decision.

Freezing and confiscation

Member States should take the necessary measures to enable the freezing and confiscation of instrumentalities and proceeds from the criminal offences referred to in the Directive. They should take the necessary measures to enable the freezing and confiscation of funds or economic resources subject to Union restrictive measures in respect of which the designated natural person, or the representative of a designated entity or body, commits, or participates in.