



The Ukrainian crisis and the new sanction packages

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📖 EU AND COMPETITION LAW, CONSTITUTIONAL AND INTERNATIONAL LAW, PERSPECTIVES

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In the wake of the ongoing Ukrainian crisis, and following the sanctions previously adopted¹, in the past months the Council decided to impose a fourth and a fifth sanction packages on Russia, thereby further contributing to ramping up economic pressure and crippling its ability to finance the invasion of Ukraine.

The fourth package was adopted on 15 March 2022, and includes both economic and individual sanctions.

In the first place, the Council introduced a full prohibition of any transactions with key Russian State-owned enterprises across different sectors. More particularly, the Council forbade transactions with legal persons, entities

or bodies i) established in Russia, which are publicly controlled or with over 50% public ownership or in which Russia, its Government or its Central Bank have the right to participate in profits or have other substantial economic relationships, ii) established outside the Union whose ownership rights are directly or indirectly held by more than 50% by an entity listed in Annex XIX of Regulation 833/2014², and iii) acting on behalf or under the direction of the above-mentioned entities. The ban, however, is not absolute, inasmuch as some exceptions are allowed for i) contracts concluded before 16 March 2022 or ancillary contracts necessary for their execution, ii) transactions strictly necessary for the purchase, import or transport of fossil fuels, and iii) transactions related to energy projects outside Russia in which a legal person, entity or body listed in

¹ For further information see our previous article, available at the following [LINK](#).

² Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, OJ L 229 of 31.07.2014.



Annex XIX of Regulation 833/2014 is a minority shareholder³.

In the second place, the Council introduced a ban on the importation, purchase, and transportation of the iron and steel products listed in Annex XVII of Regulation 833/2014 if they originate in or have been exported from Russia, with increased import quotas to be distributed to other third countries to compensate for the shortfall⁴.

Similarly, the Council prohibited the sale, supply, transfer or export of the luxury goods listed in Annex XVIII of Regulation 833/2014 to any natural or legal person, entity or body in Russia or for use in Russia, insofar as their value exceeds EUR 300 per item. Since the package is focused on depriving Russia from European luxury goods, however, the ban does not cover imports from Russia.

In the third place, the Council introduced a far-reaching ban on new investments across the Russian energy sector. More particularly, the Council prohibited the acquisition of new or the extension of existing participations in any legal person, entity or body incorporated or constituted under Russian law or any other third country and operating in the Russian energy sector, ii) the grant of new loans or credit or otherwise the provision of financings to those subjects, and iii) the creation of any new joint venture with them. Such activities, however, are still allowed if they are necessary to ensure critical energy supply within the Union and for transporting fossil fuels from or through

Russia into the Union, or if they concern a legal person, entity or body operating in the Russian energy sector and owned by a legal person, entity or body incorporated/constituted under the laws of a Member State.

In the fourth place, as from 15 April 2022 the Council prohibited the supply of credit rating services to any Russian national or natural person residing in Russia or any legal person, entity or body established in Russia, as well as the provision of access to any subscription services in relation to credit rating activities.

Finally, together with other World Trade Organization (WTO) members, the European Union agreed to deny Russian products and services most favoured nation (MFN) status⁵ in EU markets. By depriving Russia of its MFN status, the EU suspended the benefits arising from being a WTO Member, especially that of non-discrimination, as a result whereof Russian goods could be subject to higher tariffs and/or import bans.

The fifth package was adopted on 8 April 2022 instead and, by including both economic and individual sanctions as well, finds its rationale in the need to reinforce the pressure on the Russian government and economy and curtail resources for that could be destined to the Ukrainian war.

In the first place, the Council introduced a full ban on Russian and Belarusian undertakings from transporting goods by road within the territory of the EU as well as an entry ban on Russian-flagged

³ Council Decision (CFSP) 2022/430 of 15 March 2022 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, OJ L 871 of 15.03.2022.

⁴ Council Regulation (EU) 2022/428 of 15 March 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, OJ L 871 of 15.03.2022.

⁵ Article I of the General Agreement on Tariffs and Trade, named "General Most-Favoured-Nation Treatment", at paragraph 1 states: "... With respect to customs duties and charges of any kind imposed on or in connection with importation or exportation or imposed on the international transfer of payments for imports or exports, and with respect to the method of levying such duties and charges, and with respect to all rules and formalities in connection with importation and exportation, and with respect to all matters referred to in paragraphs 2 and 4 of Article III, any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties..."

vessels to EU ports as of 16 April 2022. In both cases, however, the competent authorities of a Member State may authorise the transport of essential goods such as, amongst others, i) natural gas and oil, ii) pharmaceutical, medical, agricultural, and food products, iii) humanitarian aid and iv) energy⁶.

In the second place, the Council prohibited the purchase, import or transfer of coal and other fossil fuels if they originate in or are exported from Russia. The EU is Russia's biggest coal trading partner, representing one fourth of total Russian exports. Furthermore, the Council prohibited the purchase, import or transfer into the Union of goods which generate significant revenues if they originate in or are exported from Russia and to sell, supply, transfer or export goods contributing to the enhancement of Russian industrial capabilities to any natural or legal person in Russia or for use in Russia⁷.

In the third place, the Council agreed on excluding Russia from public contracts and European money transactions by i) forbidding Russian natural and legal persons from continuing the execution of or participating in new public procurement contracts (with limited exceptions where there is no viable alternative), ii) prohibiting the provision of direct or indirect support, including financing and financial assistance, to any legal person, entity or body established in Russia with over 50% public

ownership or public control, and iii) extending such prohibitions to the export of banknotes and the sale of transferrable securities to all official EU currencies.

In the fourth place, the Council introduced new import and export bans. More particularly, Member States are prohibited from exporting certain goods in areas where Russia is vulnerable due to its high dependency on EU supplies such as, amongst others, those relative to quantum computing, advanced semiconductors, sensitive machinery and chemicals. Furthermore, Member States will not be allowed to import from Russia goods such as, amongst the others, cement, rubber products, wood and spirits.

Finally, the Council adopted several financial restrictions such as i) a full transaction ban and asset freeze on four Russian banks⁸ representing altogether a 23% market share in the Russian banking sector, ii) a prohibition from providing crypto-asset wallet, account or custody services to natural and legal persons in Russia if their total value exceeds EUR 10 000, and iii) a prohibition from registering, providing a registered office, business or administrative address as well as management services to a trust or any similar legal arrangement having as a trustor or a beneficiary Russian natural and legal persons, or legal persons under their control.

⁶ Council Regulation (EU) 2022/576 of 8 April 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine and Council Regulation (EU) 2022/577 of 8 April 2022 amending Regulation (EC) No 765/2006 concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine, OJ L 111 of 08.04.2022.

⁷ Council Decision (CFSP) 2022/578 of 8 April 2022 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, OJ L 111 of 08.04.2022.


⁸ That is *VTB*, *Novikombank*, *Sovcombank* and *Otkritie Bank*.



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