



EU's 14th package of sanctions against Russia



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On 24 June 2024, the EU Council adopted the 14th package of EU sanctions against Russia since its invasion of Ukraine. The sanctions package introduces more and stricter sanctions against Russia and its military and authorities and certain Russian individuals and entities. The sanctions package also strengthens enforcement and anti-circumvention measures.

The adoption of this package was delayed due to some disagreements between EU Member States on the contents and effects of some restrictive measures, in particular anti-circumvention measures.

The package amends two EU regulations on sanctions against Russia.

One is *Regulation 269/2014 on individual sanctions against sanctioned Russian individuals, companies and other entities, including the freezing of their assets, prohibition on making funds and assets available to them, and consequently also prohibition on transactions against them*. The regulation contains rules on certain exceptions to these prohibitions.

The other is *Regulation 833/2014 on sectorial sanctions in the form of prohibitions of a wide range of transactions with Russian individuals, companies, other entities and assets, including ships and aircraft, and prohibitions of a wide range of activities concerning Russia and Russian individuals, companies and other entities*. The regulation prohibits many specific transactions and activities, including sale, export and delivery of specific goods, technology and

services to Russia and Russian parties and purchase, import and receipt of specific goods from Russia and Russian parties.

The 14th sanctions package extends existing trade bans to include more products and technologies and to apply to more individuals, entities and bodies in Russia and third countries.

The sanctions package adds further individuals, entities and bodies to the list of sanctioned parties (the asset freezing list).

Furthermore, the sanctions package strengthens enforcement and anti-circumvention measures.

We provide information on the main new sanctions rules below.

Prohibition for EU individuals and entities on their provision of professional services and software to the Russian government and Russian companies (Regulation 833/2014)

Under article 5n of Regulation 833/2014, it is prohibited for EU individuals and entities to provide, directly or indirectly, certain professional services and software to the Russian government and legal persons, entities and bodies established in Russia.

Under the 14th sanctions package, the prohibition does not apply to an EU parent company's provision of the covered services to its Russian subsidiary company until 30 September 2024.

After 30 September 2024, it is generally prohibited for an EU parent company to provide the covered professional services and software to its Russian subsidiary company.

However, an EU parent company may apply for and be granted an authorisation from its competent national authority to continue to provide the covered professional services and software to its Russian subsidiary company after 30 September 2024.

The 14th sanctions package provides an exemption to the prohibition under which EU nationals, who currently are residents in Russia and also were so before 24 February 2022, are permitted to provide otherwise prohibited professional services, excluding software, to their employers which are Russian subsidiary companies of parent companies established in EU member states or some specific other EU-friendly states.

Possibility of selling assets in Russian companies or selling Russian companies (Regulation 833/2014)

Under article 12b of Regulation 833/2014, national competent authorities may authorise the sale, supply or transfer of products and technologies listed in the Annexes to Regulation 833/2014 and Annex I to Regulation 2021/821 (Dual Use Regulation) until a specific date stated in article 12b.

That specific date was 30 June 2024 until the 14th sanctions package and now has been postponed to 31 December 2024 under the 14th sanctions package.

Until 31 December 2024, the competent national authorities may also authorise the sale, licensing or transfer by any other means of intellectual property rights or trade secrets etc. relating to those products and

technologies.

In practice, the rules mean that after 31 December 2024, Danish and European companies generally will no longer be able to sell their Russian assets if the assets are subject to sanctions, or their Russian subsidiaries if they own sanctioned assets. In addition, Danish and European companies wanting to perform a sale must both have been granted an authorisation for the sale and have completed the actual sale and transfer by 31 December 2024.

Best efforts obligation concerning foreign subsidiaries' compliance with sanctions rules (Regulation 833/2014)

EU individuals and companies must use their "best efforts" to ensure that their subsidiaries in third countries do not participate in any activities which undermine EU sanctions.

This is provided in a new article 8a of Regulation 833/2014 which states:

"Natural and legal persons, entities and bodies shall undertake their best efforts to ensure that any legal person, entity or body established outside the Union that they own or control does not participate in activities that undermine the restrictive measures provided for in this Regulation."

In the EU Commission's questions and answers (Q&A) document with guidance comments on the amendment regulation, the Commission provides the following comments to this requirement:

"EU sanctions are not extraterritorial. At the same time, it is important that the foreign subsidiaries of EU companies do not engage in activities that go against the purpose of our sanctions, weakening their impact. It falls on the parent companies to work in this direction, through the leverage they have over their foreign subsidiaries. The legislation adopted as part of the new package requires them to undertake their "best efforts" in doing so. Moreover, it requires them to ensure that their subsidiaries are particularly careful when it comes to trade in specific types of sensitive goods, by using the "no Russia" clause in their contracts, and by conducting appropriate due diligence."

Amended stricter version of article 12 of Regulation 833/2014 which prohibits circumvention of sanctions rules

Article 12 of Regulation 833/2014, which prohibits circumvention of the sanctions rules of the Regulation, has been made stricter by an amendment.

The former version of article 12 provided:

"It shall be prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent prohibitions in this Regulation."

The current new version of article 12 provides:

"It shall be prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent prohibitions in this Regulation, including by participating in such activities without deliberately seeking that object or effect but being aware that the participation may have that object or effect and accepting that possibility."

Article 12 thus has been amended and made stricter by inclusion of some additional words.

"No Russia" clause for intellectual property rights (IPR) transfers (Regulation 833/2014)

Sanctions measures adopted by the 11th sanctions package prohibit the transfer to third parties of industrial know-how, such as intellectual property rights (IPR) and trade secrets, if that is to be used, for instance, to manufacture goods intended to Russia which are subject to export restrictions. These measures address the practice of certain EU companies of delocalising production of restricted goods to third countries, so that manufacturing could take place locally and export to Russia could be done avoiding any control.

The new measure adopted in the 14th package requires EU companies to include in their contractual arrangements with third-country parties an obligation that their transferred intellectual property right (IPR) and trade secrets will not be used, by the third-country parties or their sublicensees, for manufacturing Common High Priority (CHP) items destined to Russia. EU companies thus must use a so-called "no Russia export or re-export" clause for intellectual property rights (IPR) and trade secrets transfers to ensure that industrial know-how transferred outside the Union is not used to manufacture Common High Priority (CHP) items, as listed in Annex XL to the Regulation, intended for Russia.

Due diligence requirements for Common High Priority (CHP) goods (Regulation 833/2014)

EU companies must perform due diligence and risk mitigation control to prevent Common High Priority (CHP) goods from reaching Russia, and to ensure that their foreign subsidiaries trading in CHP goods do the same. These obligations will apply after a transitional period of six months.

Energy-related measures (Regulation 833/2014)

The package contains important new energy-related measures targeting liquified natural gas (LNG).

The package contains a prohibition on providing goods, technology or services to LNG projects under construction in Russia, such as new terminals like Arctic LNG 2 or Murmansk LNG. This limits the future expansion of Russian LNG capacities.

The package contains a prohibition on the transshipment of Russian LNG through EU ports: This important restriction prohibits Russian LNG from being transhipped through EU ports, as well as the provision of related technical services. A derogation can be requested for transshipment of LNG when the destination of the cargo is another EU member state. This will increase costs for Russia, which will no longer be able to use EU infrastructures to optimise the transport of its LNG across the world. The measure includes a 9-month wind-down period.

The package contains a prohibition on the import of Russian LNG into specific terminals which are not connected to the EU gas pipeline network. This will complement the measures under the Decarbonised Gases and Hydrogen package which allow EU member states to limit the import of Russian gas into their national network, in line with the REPowerEU objectives.

Export related measures (Regulation 833/2014)

The package provides for an extension of the export restrictions on dual use and advanced technology items (for example "quadbikes", microwave and aerial amplifiers and digital flight data recorders), aiming to further weaken Russia's military capabilities.

The package provides for a reinforcement of the current export bans on industrial goods focusing on four sectors which are key to Russia's war economy: chemicals, plastics, vehicles parts and machinery. They had a total value of EUR 5 billion in annual exports prior to the invasion (2021).

The package provides for addition of 61 Russian and third-country entities to the list of entities associated with Russia's military-industrial complex (including 33 entities registered in third countries: 19 in China/Hong Kong, 9 in Türkiye, 2 in Kyrgyzstan, 1 in India, 1 in Kazakhstan, and 1 in UAE).

Import related measures (Regulation 833/2014)

The package contains an import ban on helium: Russia is investing substantially in its (energy-intensive) production of this component, helium, which is key for the semiconductor and health industries. The aim of the ban is to avoid new dependencies and to avoid creating revenue potential for Russia.

The package finetunes the import ban on Russian diamonds: It clarifies that the ban does not apply to diamonds that were located in the EU or in a third country (other than Russia), or were polished or manufactured in such third country, before the ban on Russian diamonds entered into force (so-called "grandfathering"). This allows temporarily imports or exports of jewellery, for example for trade fairs or repairs. The package prolongs the sunrise period by six months until 1 March 2025 after which the full-traceability scheme for imports of rough and polished natural diamonds will become mandatory. The package postpones the ban on jewellery incorporating Russian diamonds processed in third countries other than Russia until the Council decides to activate the ban in the light of action taken within the Group of Seven (G7) states to pursue that measure.

The package extends the Common High Priority (CHP) list: The CHP list, compiled by the EU and its international partners, was updated to include five Harmonised System (HS) codes concerning computer numerical control (CNC) machine tools used for weapons production. This update is now reflected in EU legislation.

Transport measures (Regulation 833/2014)

Aviation: The package provides a prohibition on non-scheduled flights if a Russian person decides the origin or destination (regardless of ownership and control over the aircraft). The package introduces a uniform obligation to provide information about non-scheduled flights upon request of national authorities regarding aircraft ownership, passengers etc., also to avoid circumvention of the flight ban.

Road: The package tightens the existing prohibition of transport of goods by road in the EU, including transit, to EU companies owned 25% or more by Russian parties. Current EU road transport undertakings owned 25% or more by Russian parties would no longer be allowed to transport goods. In addition, companies owned 25% or more by Russian parties would no longer be allowed to become EU road transport undertakings.

Maritime: The package contains a prohibition on port access and services for listed vessels. Under the 14th sanctions package, 27 vessels are placed on this list, for their contribution to the Russian warfare in various sectors. Their activities include activities such as the transport of military equipment for Russia and the transport of stolen

Ukrainian grain, participation in the dark fleet transporting Russian oil while conducting deceptive shipping practices, and support in the development of Russia's energy sector, for instance through the transport of LNG infrastructure components or LNG transshipments.

Financial sector measures (Regulation 833/2014)

The package contains a prohibition for EU banks outside Russia to connect and carry out transactions using the Financial Messaging System of the Central Bank of Russia (SPFS). SPFS is an initiative of the Central Bank of Russia aimed at avoiding international sanctions. Currently around 160 banks in the world are connected to SPFS. The measure is expected to contain the development of this system, curb Russia's capacity to wage war and prevent EU sanctions from being undermined.

The package contains a prohibition on transactions with third-country banks using SPFS to increase Russia's financial resilience and to support the circumvention of EU sanctions. It will be prohibited for EU operators to engage with any of the listed third-country banks.

The package contains a prohibition on transactions with banks and crypto assets providers, in Russia and third countries, that facilitate transactions supporting Russia's defence-industrial base. It will be prohibited for EU operators to engage with any of the listed banks and crypto assets providers.

Measures protecting intellectual property rights (IPR)

The package contains a prohibition on the acceptance, by EU and Member States' intellectual property offices and authorities, of applications for registration of, among others, new trademarks and patents requested by Russian persons and persons resident in Russia.

Measures combatting Russian interference

The package contains a prohibition on accepting financing from the Russian state and its proxies by political parties, NGOs and media service providers in the EU.

This measure will help safeguard the integrity and independence of EU political processes, protect EU citizens from manipulation and defend the EU's internal affairs from malign interference. This measure is made against the background of increasing evidence of coordinated disinformation and interference campaigns in the EU linked to Russia.

Additional measures

The package contains a prohibition on EU and EU member states funding to all Russian entities, and not only state-owned ones as was previously the case. This aligns with already existing restrictions on public procurement.

The package contains an import and export ban on stolen Ukrainian cultural heritage items.

Additional listings of sanctioned individuals and entities (Regulation 269/2014)

The package provides for a total of 116 additional listings of 69 individuals and 47 entities subject to asset freezes, and – in the case of individuals – also to travel bans.

The listings are related to various sectors of the Russian state, including military companies, companies active in space engineering, in the chemical sector or in the explosives sector and leading Russian energy companies. The listings include actors involved in disinformation and/or propaganda activities, in support of Russia's war of aggression against Ukraine.

The package introduces authorisation-based derogations relating to sanctioned banks, which do not apply in respect of Central Securities Depositories (CSDs). These derogations allow national competent authorities to authorise the transfer of the following:

- Transfer of funds from Russia that have been frozen due to a sanctioned intermediary bank.
- Transfer of payment of funds from Russia initiated through a listed entity, if the payment is between two unlisted persons. The beneficiaries can only be EU, EEA or Swiss nationals or residents.

Article 9(1) of Regulation 269/2014, which prohibits circumvention, has been amended and made stricter in the same manner as Article 12 of Regulation 833/2014 (see the comments above).

Legal claims in Russia (Regulations 269/2014 and 833/2014)

EU sanctions rules prohibit that an EU national or entity satisfies a claim, made by a Russian party who is the target of a sanction, in relation to the EU party's non-performance of an agreement or a transaction with the Russian party due to the EU party's compliance with EU sanctions rules.

Russia permits such claims in its courts. Russian courts generally do not allow such non-performance of an agreement or a transaction due to the EU party's compliance with EU sanctions, for example under general contractual rules or principles or agreement terms on legal impossibility or force majeure due to applicable laws or regulations or decisions or measures of public authorities. Russian courts generally award damages to the Russian party for its loss caused by the EU party's non-performance due to its compliance with EU sanctions.

A transaction ban has been established for any Russian entity, which is listed in the annex with a list of entities which are subject to the transaction ban, which makes a claim in a Russian court against an EU national or entity on the basis of Russian countersanctions in relation to any agreement or transaction with the Russian entity due to the EU party's compliance with EU sanctions rules. Currently, no Russian entities are listed in the annex with a list of entities which are subject to the transaction ban.

The 14th sanctions package gives EU nationals and entities the right to also recover any damages, including legal costs, incurred by them as a consequence of such claims made by Russian parties in courts in third states other than Russia.

EU nationals and entities also have a right to recover any damages, including legal costs, caused by any person targeted by EU sanctions which have benefitted from a decision under Russian law placing assets owned by investors associated with "unfriendly" states under Russian "temporary administration", provided the decision on "temporary administration" was illegal under international customary law or a bilateral investment treaty between an EU member state and Russia.

Effects of sanctions rules in relation to Danish companies

Danish companies must comply with sanctions rules which apply to them and their activities and matters.

A Danish company which fails to comply with a provision or a prohibition regarding a sanction under Danish law, including EU law, UN law or other international law applicable under Danish law, may be penalised under the relevant rules, including the rules in section 110 c of the Danish Criminal Code.

Danish companies therefore should continuously examine and assess whether they comply with sanctions rules and take relevant measures and perform relevant activities to ensure compliance.

As a result of the ever more comprehensive sanctions against Russia, Danish companies should, among other matters, also ensure that their activities and transactions cannot be considered a circumvention of the sanctions rules.

We advise companies on sanctions rules and their compliance with them in relation to their performance of activities and transactions and related matters.

Services	Forsikringsretlige tvister, Life Sciences, Compliance i internationale ansættelsesforhold, Shipping og transport, Akkvisitionsfinansiering, Finansiering af aktiver (fly, skibe, vindmøller mv.), Eksportkredit, Regulatoriske forhold i den finansielle sektor, International handel, investeringer, reguleringer og compliance, Virksomhedsoverdragelser (M&A), Selskabsret og corporate governance, Kommercielle kontrakter, Varemærker, designs og ophavsret
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Sectors	Energi, Financial Services, Life Sciences, Technology, Shipping, transport and logistic, Industrials, Energy and Natural Resources
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