

# The EU's 11th sanctions package against Russia: Anti-circumvention, further export restrictions and other measures

29 June 2023

After long and apparently tough negotiations, EU Member States have agreed on another, eleventh package of sanctions against Russia. It entered into force on 24 June 2023. The declared aim of the new measures is in particular to prevent the circumvention of the broad range of restrictive measures already in place. But the package also includes further expansions of these measures. We highlight the most important changes below.

## **New “anti-circumvention” tool**

Regulation (EU) 2023/1214 introduces, as a measure of last resort, the possibility to implement sanctions against third States. Specifically, Article 12f of Regulation (EU) No 833/2014 provides for the possibility to **list individual third countries** involved in sanctions evasions under Annex XXXIII. If listed, the sale, supply, transfer or export of certain items, also specified in Annex XXXIII, into these third countries is prohibited.

This mechanism was reportedly subject to heated discussion among Member States, with some – including Germany – fearing that it could endanger diplomatic relations. Especially Russia's neighbouring countries, such as Kazakhstan or Kyrgyzstan, but also the United Arab Emirates and China have become countries through which Russia systematically circumvents the EU's restrictive measures. So far, however, the measure has not been used.

The mechanism is flanked by further provisions that aim at strengthening sanctions enforcement. Apart from enhanced information sharing between EU Member States, Article 6b introduces a generally applicable obligation to share information to the national authorities “which would facilitate the implementation” of the sanctions. This very broad obligation is not entirely new to the EU sanctions regime: The 10th sanctions package of February 2023 had already introduced an obligation to inform authorities about relevant assets held or controlled by sanctioned parties (see Article 8 of Regulation (EU) No 269/2014). So far, violations of these broad obligations are not penalized in Germany.

## **Expansion of trade restrictions**

Regulation (EU) No 833/2014 has been further amended in several respects. The eleventh sanctions package brings about the expansion of existing as well as the introduction of

several additional trade-related measures. They include the following changes in this Regulation:

- The **transit via Russian territory** has been prohibited for “**advanced technology**” items listed in Annex VII and for goods suited for use in **aviation** or the **space industry** listed in Annexes XI and XX (Articles 2a(1a) and 3c(1a)). Importantly, the prohibitions only apply if the goods are **exported from the EU** to third countries through Russia, not in case the goods transit Russia on the way to the EU. Also, transit remains permitted with respect to other categories of goods subject to export restrictions, such as luxury goods listed in Annex XVIII and industry goods listed in Annex XXIII.
- All export restrictions have been amended to include prohibitions on the sale, licensing or transfer of **intellectual property rights and trade secrets** related to sanctioned goods (Articles 2(2)(c), 2a(2)(c), 2aa(2)(c), 3(2)(c), 3b(2)(c), 3c(4)(c), 3f(2)(c), 3h(2)(c) and 3k(2)(c)). This is aimed at preventing Russia from being able to manufacture sanctioned goods itself. While it is not specified whether the prohibition requires the cancellation of existing agreements, the conclusion of new sales or licensing contracts is banned.
- Article 3h has been amended and now follows the example of other export restrictions, as its new paragraph 2 now bans the **provision of technical assistance, brokering services and other services** as well as **financing and financial assistance** in relation to luxury goods listed in Annex XVIII.
- The sale, export, transfer and supply of 15 **additional “advanced technology” items** to anyone in Russia or for use in Russia and the provision of related services are now prohibited under Article 2a. This includes, *inter alia*, certain pulps of fibres, processing and storage units, as well as other electronic devices, modules and assemblies listed in Sections 6 and 7 of Part B of Annex VII.
- Further changes were made to the restrictions of the trade in industry goods under Article 3k and Annex XXIII. The entire Annex has been restructured and expanded. It now includes, *inter alia*, certain **cars and other vehicles** above a certain engine size (> 1,900 cm<sup>3</sup>). These restrictions apply to all listed vehicles, regardless of value, and hence go beyond the previously established ban of luxury cars under Article 3h and Annex XVIII, which now no longer cover these vehicles. Further additions to Annex XXIII include certain oils as well as **machineries and components**.
- 87 entities have been added to Annex IV. These entities, registered in Russia, China, Uzbekistan, the United Arab Emirates, Syria or Armenia, are now subject to heightened export restrictions for listed dual-use and “advanced technology” items pursuant Articles 2(7), 2a(8) and 2b(1).

- A further amendment concerns the prohibitions to import and purchase **iron and steel products** listed in Annex XVII which have been processed in a third country and which, in turn, incorporate listed Russian iron and steel products. Article 3g(1)(d) now clarifies that the importer has to provide **proof of origin** for the products used to process the imported good. The prohibition applies from 30 September 2023 onwards for most of the listed products.

## **Restrictions on the transport sector**

To enforce the import ban of Russian oil and the price cap and to prevent further circumventions through “shadow fleets”, certain prohibitions have been put in place that prohibit to provide **access to ports and locks in the EU** by certain vessels. This applies, under Article 3eb of Regulation (EU) No 833/2014, to vessels if there is reasonable cause to suspect that they have breached these obligations. Article 3ec establishes a similar prohibition in case of illegal interference with or disabling of a vessel’s automatic identification system when transporting Russian crude oil or petroleum products.

Article 3l(1a) of Regulation (EU) No 833/2014 introduces a **ban on the transport of goods** within the EU by trucks with **Russian (semi-)trailers**. This expands the previously established prohibition that targeted Russian road transport undertakings.

## **Additional individual financial sanctions**

The EU has further, through Implementing Regulation (EU) 2023/1216 once more extended Annex I to Regulation (EU) No 269/2014 and included 71 individuals and 33 entities in the list of designated persons, which are suspected of being involved in the unlawful deportation of Ukrainian children to Russia. The newly listed persons and entities, which includes MRB Bank and CMRBank, as well as IT companies providing technology and software to Russian intelligence services are now subject to an asset freeze and the prohibition to make available funds or economic resources.

Regulation (EU) 2023/1215 further brought individual amendments to Regulation (EU) No 269/2014, which adapts the listing criteria and introduces further derogations to allow the **divestment** from Russian companies or the removal of control of EU entities by designated persons (Article 6b (5d) of Regulation (EU) No 269/2014, as amended).

## **Recast of Annexes**

Please note that, once again, Annexes VII, XVII, XVIII, XXI and XXIII of Regulation (EU) No 833/2014 have been recast. For example, the listing of certain goods has been broadened from a six- to a four-digit CN code. We recommend that you check your products carefully against these lists before selling, supplying, transferring, or exporting them to Russia or for use in Russia.

# BLOMSTEIN

We continue to follow developments in EU sanctions law closely. BLOMSTEIN is at your disposal at any time to answer questions on the practical implementation as well as on the scope of application of these measures. Please do not hesitate to contact Pascal Friton, Roland M. Stein, Florian Wolf, Laura Louca or Tobias Ackermann.