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THE EU SANCTIONS AGAINST RUSSIA: EVALUATING THE CLARITY, EFFECTIVENESS AND PROPORTIONALITY OF RESTRICTIONS ON DUAL-USE GOODS AND FINANCIAL TRANSACTIONS

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Abstract
The European Union's sanctions regime against Russia has undergone significant expansion following the outbreak of the war in Ukraine, with restrictions on dual-use goods and financial transactions emerging as key instruments of European Union external actions. While these measures pursue legitimate objectives related to international security and the protection of the international order, their growing complexity raises important legal and practical challenges. This article examines several practical aspects concerning the implementation of international sanctions, as well as the risk of failing to achieve the objectives targeted by such sanctions, in the absence of adequate interpretative guidance and a clear allocation of responsibilities among the public authorities designated to enforce them. Given the lack of clear legal provisions in this area, difficulties also arise when it is necessary to identify the competent state authorities responsible for sanctions enforcement, as well as the drafting of the contravention reports. As a consequence, courts may uphold challenges brought by petitioners against the contravention reports, thereby undermining the effectiveness and practical enforcement of the applicable European Union legal framework.
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1. INTRODUCTION

The European Union's response to Russia's attacks on Ukraine was not long in coming. The European Union imposed numerous sanctions on Russia across a wide range of areas to weaken the attacking country's economy. As the war crisis evolved, the European Union has progressively imposed a wide range of sanctions, affecting different sectors of the Russian economy. The UE sanctions framework has necessarily grown more complex, as new restrictions have been added to an already extensive body of rules. The application of these measures therefore represents an increasingly relevant area of legal analysis.

The effectiveness of such restrictive measures largely depends on the extent of economic interdependence between the parties concerned, as well as on the changing political circumstances surrounding their adoption or subsequent removal (Missiroli, 2016).

The measures taken have a restrictive character and pursue legitimate and significant objectives, including contributing to international security, responding to violations of international law and limiting the economic resources available to support Russia's military activities. At the same time, sanctions' effectiveness depends on their practical implementation. Rules adopted at European Union level must be understood by those subject to them and applied by the authorities responsible for monitoring and enforcing compliance. Their effectiveness may therefore depend not only on the substantive content of the restrictions, but also on the clarity of the applicable rules, the consistency of their interpretation and the existence of an adequate enforcement framework.

The topic of the present article is highly relevant, particularly in the current geopolitical context. Legal doctrine and studies are relatively underdeveloped, and the existing framework contains certain legal lacunae.

Furthermore, applying the relevant regulations raises several difficulties, both for the authorities responsible for identifying and sanctioning contraventions and for the courts when examining complaints brought by alleged offenders. These difficulties are mainly caused by certain inconsistencies in the relevant directives and regulations, differences in the way the competent authorities apply and enforce the rules, and varying interpretations among legal practitioners.

The objective of this article is to illustrate, through a case study, how the theoretical framework presented above can be applied to a specific situation. This article examines a series of practical impediments, debates and divergent interpretations, as well as their potential implications for the parties involved in the proceedings.

2. THE APPLICABILITY AND THE EFFECTIVENESS OF EU LEGISLATION REGARDING THE EU SANCTIONS AGAINST RUSSIA

2.1. The Legal Order of the European Union

The European Union's legal order consists of legal rules that govern the functioning of EU institutions, as well as the relationships between the European Union, its Member States, and the persons and entities subject to EU law. In exercising the powers given to it by the Treaties, the European Union adopts different types of legal acts through which it establishes rights and obligations

and pursues specific objectives. These acts form part of the EU legal order and may have different legal effects within Member States' national legal systems.

Article 288 of the Treaty on the Functioning of the European Union (TFEU), consolidated version, provides that the European Union "shall adopt regulations, directives, decisions, recommendations, and opinions". These legal acts differ in their binding nature, their addressees, and how they produce legal effects. Regulations, directives and decisions are binding, while recommendations and opinions are not legally binding. A regulation is of general application. Its provisions therefore apply within the national legal systems without the need for national legislation to transpose the regulation. Once a regulation enters into force, it becomes part of the legal framework applicable in the Member States. National authorities must apply and enforce the Regulation. This characteristic is important in the field of EU restrictive measures, where direct uniform application of EU rules across all Member States is essential.

Directives operate differently. A directive is one of the European Union's principal legislative instruments, alongside regulations. It seeks to balance the need to ensure a certain degree of uniformity in applying EU law with the need to respect the diversity of national legal traditions and institutional structures (Borchardt, 2016).

Therefore, directives generally require Member States to adopt national measures to implement their provisions in domestic law. The Member States must take the necessary legislative or administrative measures within the period set by the directive. Unlike regulations, directives generally do not become directly applicable in their entirety simply because they have entered into force.

Decisions are another type of binding EU legal act. Under Article 288 TFEU, consolidated version, 'a decision is binding in its entirety'. Where a decision identifies its addressees, it binds only those addressees. Decisions may therefore be addressed to Member States, natural or legal persons, or other specific entities, depending on their subject matter. Their legal effects therefore depend, among other things, on the persons or entities to which they are addressed.

The Treaties also recognize recommendations and opinions as legal instruments available to EU institutions. They allow these institutions to communicate their views to the Member States and, in certain cases, to individuals. However, such instruments are not legally binding and therefore do not create any legal obligation for those to whom they are addressed (Borchardt, 2016).

The distinction between these different types of EU legal acts is particularly important when examining the relationship between EU law and national law. The legal effects of an EU act and the obligations arising from it depend, to a significant extent, on the type of act adopted by the Union. Regulations have a

particularly important position because they are directly applicable in all Member States. This is especially relevant in the context of the restrictive measures adopted by the European Union in response to Russia's actions against Ukraine, many of which are established through EU regulations that apply directly within the Member States.

In this context, EU Regulation no. 833/2014 concerning restrictive measures in view of Russia's actions destabilizing the situation in Ukraine, consolidated version, provides a relevant example of the practical application of EU law within Member States' national legal systems. Although the Regulation is directly applicable, its effective application and enforcement may require action by national authorities. It may also operate alongside national legislation establishing the competent authorities, procedures, and sanctions for infringements of EU restrictive measures. The relationship between the Regulation's direct applicability and the role of national authorities is therefore an important aspect of implementing and enforcing EU sanctions against Russia.

The Regulation's direct applicability does not mean Member States have no role in implementing it. On the contrary, enforcement of EU rules may, in certain respects, depend on appropriate national mechanisms that allow national authorities to meet the obligations established at EU level. It is important to spot the differences between the Regulation's direct applicability and the national measures needed to ensure its enforcement.

2.2. The EU Sanctions

Sanctions, more accurately referred to within the EU framework as ‘restrictive measures’, have increasingly become instruments of foreign policy. While their use predates the Maastricht Treaty — for instance, sanctions were imposed on South Africa as early as the late 1980s — the last two decades have witnessed a considerable expansion in both their frequency and scope. This development has been accompanied by a gradual shift away from comprehensive sanctions, such as broad trade restrictions or oil embargoes, toward more targeted measures, commonly described as “smart sanctions”, including asset freezes and travel restrictions.

The subjects of EU restrictive measures have likewise become increasingly diverse. Rather than being directed solely at states, as illustrated by the measures adopted in relation to Syria, sanctions may also target individuals and non-state actors. These have included terrorist organizations, political figures such as Robert Mugabe and persons associated with him, as well as companies linked to the military junta in Burma/Myanmar.

The EU has adopted restrictive measures across a broad spectrum of foreign policy situations and objectives. Their use has extended from addressing human rights concerns, as illustrated by the measures adopted in respect of Belarus and Uzbekistan, to responding to international crises

involving, among others, Afghanistan and Russia. The range of contexts in which these measures have been adopted reflects their growing importance as an instrument through which the EU pursues and implements its external policy objectives (Missiroli, 2016).

The developments, particularly regarding the use of sanctions as an important foreign policy tool and, in particular, towards Russia, demonstrate that the EU has managed to combine its economic weight with its efforts to play a greater role internationally (Craig et al., 2020).

Russia's full-scale war of aggression against Ukraine has brought about profound changes within the European Union, affecting various dimensions of the Union's legal and institutional framework, while also prompting the adoption of restrictive measures widely regarded as unprecedented in both scope and intensity (Finelli et al., 2023).

The restrictive measures imposed on Russia by the European Union have been developing continuously since 2014, following the illegal annexation of Crimea and Sevastopol. In recent days, the European Council has reiterated the EU's intention to maintain and intensify pressure on Russia, particularly by further targeting its war economy. These measures are aimed at encouraging Russia to put an end to its war of aggression and to engage in genuine negotiations with a view to achieving peace (Council of the EU, 2026).

Although sanctions against Russia are now closely associated with the war that started with the Russian invasion on 24 February 2022, the foundations of the current legal framework were already established in 2014. The current regulations do not constitute a separate regime of restrictive measures; rather, they represent the development of an existing sanctions regime.

The current sanctions regime adopted in response to the situation in Ukraine traces back to European Regulation no. 269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine. Through this Regulation, the EU has made clear that it intends to keep Russian business elites, commonly referred to as "oligarchs", on the sanctions list, with a view to preventing their assets from being transferred outside the EU (Finelli, 2026).

Subsequently, on 31 July 2014, the European Regulation No. 833/2014 concerning restrictive measures in view of Russia's actions destabilizing the situation in Ukraine was adopted. This Regulation became an important part of the EU sanctions framework against Russia. It introduced restrictions on, among other matters, financial transactions and the transfer of certain dual-use goods, as well as other measures relevant to this article's analysis.

Regulation No. 833/2014 is a starting point for the economic sanctions imposed on Russia. The initial version of Regulation 833/2014 was relatively brief, consisting of only 14 articles and three annexes (I, II and III), and covered just 11 pages (Maly et al., 2023).

Nevertheless, its provisions did not remain unchanged. Shortly after the Regulation entered into force, the situation in Ukraine continued to deteriorate, which led the EU to extend its restrictive measures further. The EU introduced the first additional sanctions packages on 12 September 2014.

Between 2015 and 2021, the EU regularly extended the economic sanctions. This means that, before 24 February 2022, a well-developed European legal framework already governed the restrictive measures the EU adopted against Russia.

Regulation (EU) no. 833/2014, consolidated version, was amended several times, with additional restrictions being introduced in areas such as financial transactions, technology and transport, among others.

In the case study discussed above, the relevant legal framework consists, at the European level, of Regulation (EU) No. 833/2014, consolidated version, and, at the national level, of Romania's Government Emergency Ordinance No. 202/2008, consolidated version, which also covers the implementation of international sanctions. The interaction between these two legal frameworks is particularly relevant, since the application of restrictive measures adopted at EU level is complemented by the mechanisms and obligations established under Romanian law.

2.3. Case Study

A specific practical situation will be examined, as it raised several issues of interpretation and application, ultimately placing the alleged offender in the position of having to lodge a contravention complaint. This was mainly due to a number of irregularities identified in the report drawn up by the authorities with regard to the application of Regulation (EU) No 833/2014, consolidated version.

In this case, a transport company, hereinafter referred to as Company X, was fined 30.000 RON by the Romanian Customs Authority for an alleged contravention. The fine was imposed by means of a contravention report, which also ordered the confiscation of the goods being transported. The goods belonged to Company Y, a company established in the Republic of Moldova.

According to the description of the facts included in the report, the goods covered by the transit declaration were intended to transit Romania, with Russia as their final destination. The goods were detained at the border customs office for the purpose of confiscation, as the customs authorities considered that their transportation was in breach of UE Regulation no. 833/2014, consolidated version.

The authorities ordered the confiscation of a total of eight goods belonging to Company Y and being transported by Company X. Two of these goods were confiscated on the ground that they were considered to be potentially subject to dual-use restrictions. The remaining six goods were confiscated because the

financial transactions relating to them had been carried out through Sberbank, a Russian bank included on the EU sanctions list.

Since 2014, EU law has prohibited the export of dual-use goods for military purposes. This prohibition is not limited to goods intended for military end-users. It may also apply where the goods are exported to civilian end-users or for civilian purposes. Only a limited number of exemptions and derogations are available, and these are subject to specific conditions (EU Comission, 2026).

This may be regarded as a disproportionate measure, given that various economic operators engaged in the import and export of goods classified as dual-use items, even though it was difficult to envisage how such goods could have been used in the context of the war. As a result, these sanctions restricted or even halted the ordinary business activities of many economic operators, as was the case with Company Y in the present case. The EU should ensure its restrictive measures are proportionate and do not impose an unreasonable burden on economic operators, especially those based in third countries, as the circumstances of the present case show. This approach appears in the United Kingdom, where proportionality between the measures adopted and the objectives pursued is recognized as an important principle in economic security (Yih, 2026).

Therefore, Company X lodged a contravention complaint before the competent court, challenging the legality and factual basis of the sanctioning report and raising several grounds in support of its complaint.

First of all, the alleged offender argued that the absolute nullity of the challenged report should be established, on the ground that the customs officer who imposed the sanction was not authorised to sanction alleged contraventions relating to financial transactions.

To support its arguments, the applicant referred to the legal provisions on the authorities competent to ascertain and sanction contraventions of this nature. These provisions appear in both EU Regulation No. 833/2014, consolidated version, and Romanian Government Emergency Ordinance No. 202/2008, consolidated version, namely in the same legal provisions on which the authorities based the challenged contravention report.

According to Article 1 (b) of EU Regulation No. 833/2014, consolidated version, “competent authorities” means the competent authorities of the Member States, as identified on the websites listed in Annex I. By examining Annex I referred to in the above-mentioned provision, it can be observed that the competent authorities in Romania are identified on the website http://www.mae.ro/node/1548. The information provided on this website indicates that the Romanian Customs Authority has competence only with regard to goods entering or leaving the European Union, not regarding to financial transactions.

Moreover, there are other authorities operating at the level of Romania which have competence to verify the legality of transactions. According to Article 1 (b) of EU Regulation No. 833/2014, consolidated version, which refers to the website http://www.mae.ro/node/1548, "the National Bank of Romania is competent and responsible for supervising and controlling the implementation of international sanctions concerning the freezing of funds, restrictions on certain transfers of funds and financial services adopted for the purpose of preventing nuclear proliferation, as well as sectoral international sanctions specifically applicable to the financial and banking sector, with regard to the following categories of entities: credit institutions established as Romanian legal persons and branches of credit institutions established as foreign legal persons; payment institutions established as Romanian legal persons and branches of payment institutions from other Member States; electronic money institutions established as Romanian legal persons and branches of electronic money institutions from other Member States; non-bank financial institutions registered in the Special Register; and non-bank financial institutions registered only in the General Register which also have the status of a payment institution or electronic money institution*"*.

At the same time, the National Agency for Fiscal Administration is competent to examine "requests for derogations from the application of international sanctions concerning the freezing of funds and from the prohibition on making funds available, subject to the conditions established by the legal acts imposing the relevant international sanctions. The same authority is also competent to authorize requests submitted by financial institutions and credit institutions concerning sectoral international sanctions specifically applicable to the financial sector".

In view of these legal provisions, the applicant argues that the Romanian Customs Authority does not have competence to examine the banking transaction carried out between the two companies through Sberbank. As can be seen from the above, there are other competent authorities at national level which have powers to ascertain and sanction irregularities relating to financial transactions.

Secondly, the applicant referred to the absence of one of the constituent elements of the contravention, namely guilt. One of the essential features, and one of the conditions for a natural or legal person to be subject to a contravention sanction, is that the act must have been committed with the form of guilt required by law.

Given that the law on contraventions is also referred to as "minor criminal law", the provisions governing contraventions are supplemented by the provisions of criminal law. First and foremost, a person challenging a contravention report is entitled to the presumption of innocence, as a defendant

in criminal proceedings. The presumption of innocence is likewise expressly enshrined in EU law.

The presumption of innocence is a fundamental principle of criminal justice, primarily intended to shield individuals from the unjustified exercise of the State's coercive powers. Although the right to a fair trial is one of the fundamental guarantees of human rights law, the presumption of innocence lies at the heart of that right and provides one of its most basic foundations (Peers et al., 2021).

Having regard to the factual situation described above, as well as to the carrier's limited responsibilities, it is clear that one of the conditions forming part of the constituent elements of the contravention is not fulfilled, namely that "the act must be committed with the guilt prescribed by law". In practice, although the carrier had no obligation to verify the documents prepared by Company Y, it was the subject to a contravention fine of 30.000 RON, and the goods transported, which belonged to Company Y, were also confiscated.

Even EU Regulation no. 833/2014, consolidated version, which constituted the legal basis for sanctioning the applicant, expressly addresses liability for infringements of its provisions, with Article 10 providing a ground for excluding the liability of the person allegedly responsible. According to Article 10 of EU Regulation no. 833/2014, consolidated version, "actions carried out by natural or legal persons, entities or bodies do not give rise to liability on their part where they did not know, and had no reasonable cause to suspect, that their actions would infringe the measures laid down in the Regulation".

Accordingly, the applicant considered that it should be exempted from contraventional liability, as it could not have known, nor did it have any reason to suspect, that its actions would constitute an infringement of the measures laid down in EU Regulation no. 833/2014, consolidated version.

The applicant further argued that the carrier could not reasonably be held responsible for the financial transaction carried out through "Sberbank". Such an interpretation would imply that a mere carrier, acting as a third party to the contractual relationship, should be expected to know about, or become involved in the financial transactions between the two parties to the contract. In the applicant's view, such an obligation would clearly exceed the reasonable limits of both EU Regulation no. 833/2014, consolidated version, and its interpretation.

The court of first instance dismissed the contravention complaint filed by Company X. As a result, Company X appealed against this decision, arguing that the court had not addressed all the claims submitted and had failed to examine the factual circumstances of the case properly. The appellant also argued that the court had dismissed the complaint without properly analyzing the relevant provisions of the EU Regulation or the rules governing their interpretation.

The appellate court upheld the appeal and sent the case back to the first-instance court for further review. In practice, this created a sort of "ping-pong"

between state authorities, with the case passed from one institution to another, while the relevant authorities avoided taking a clear position on issues that are relatively new and difficult, and for which there is still limited case law and legal scholarship.

Another difficulty is that the rules governing the interpretation of these provisions are not sufficiently clear. As a result, state authorities, legal practitioners, and litigants often struggle to understand the European legal framework and, more importantly, to apply it correctly in practice.

This situation is likely to lead to other cases similar to the one analyzed in this case study. In such cases, the authorities responsible for establishing contraventions may struggle to determine whether the relevant conduct falls within the scope of the European sanctions regime. This may ultimately result in contravention sanctions being imposed unlawfully, simply because the authorities have not fully understood the rationale and context of the European rules or how they are intended to be applied.

3. CONCLUSIONS

This article sought to present the EU sanctions imposed on the Russian Federation in response to Russia's aggression against Ukraine. In recent years, the European Union has imposed restrictive measures across several areas important to Russia's economy. The sanctions packages have included measures related to trade, financial transactions, energy, transport, and dual-use goods. At the same time, the continuous expansion of the sanctions packages, especially after the 2022 invasion, has taken on particular significance, with the legal framework becoming increasingly complex and creating difficulties not only for litigants, but also for the competent authorities in applying the legal provisions.

As shown above, EU Regulation no. 833/2014, consolidated version, is directly applicable in the Member States and imposes significant restrictions on economic activities involving Russia. However, the Regulation's direct applicability does not mean its provisions are easy for Member State bodies to understand or implement. National authorities have an important role in enforcing these rules, and their powers must be clearly established. Where the responsibilities of the different authorities are not sufficiently clear, there is a risk that the same conduct may be assessed differently or that an authority without the necessary competence may impose a sanction.

The consequences of these difficulties in understanding and applying the restrictive measures should not be underestimated. If the employees of the authorities responsible for identifying and sanctioning breaches of the European provisions do not clearly understand the purpose and the conditions under which a natural or legal person may be held liable, there is a risk that the sanctions imposed by the EU will be applied incorrectly within the territory of the Member States.

As a result, unlawful official reports establishing contraventions may be issued and challenged before the courts, leading to complex judicial proceedings and potentially to a situation in which the effectiveness of the sanctions provided for under EU law becomes non-existent. In such circumstances, the effectiveness of the EU sanctions against Russia should not be assessed solely by reference to the number of restrictions imposed or their severity. It is equally important that competent authorities and authorized persons properly understand and apply the legal provisions. A sanctions regime can achieve its purpose only if the legal provisions are sufficiently clear, the responsibilities of the authorities are extremely well defined, and liability is incurred only to the extent that all legal conditions are met.

Given that this issue is plainly topical, specialists in the field should intensify conferences and studies addressing the legal issues relating to these sanctions imposed by the EU on Russia, as well as the problems that arise when Member State authorities must apply the sanctions.

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