

# Russia Sanctions – Compliance Guide

FAQ FOR NGOS



**EUROPEAN UNION**

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Since the Russian invasion of Ukraine, countries and regional organisations around the world have imposed sanctions on Russia and Belarus, as a means of putting pressure on Russia's government to end the invasion. These sanctions take different forms and have different targets (sectors/individuals/companies etc.).

While the objective of these sanctions is not to affect organisations such as NGOs who operate in or have links with Russia, inevitably these sanctions might have a direct or indirect impact on them.

The following questionnaire has been created to collect legal research, that will in turn help NGOs understand how sanctions regimes might impact them and to understand how some of these risks could be managed.

<b>Jurisdiction</b>	European Union <sup>1</sup>
<b>Date Last Updated</b>	21 April 2022

## Public regulatory/executive body responsible for Sanctions

Council of the European Union

## Consolidated List

There are lists in various Annexes of Regulations. For consolidated versions see (the current version can be selected by clicking on the latest date on the left-hand side):

- Council Regulation (EU) No 269/2014: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02014R0269-20220414>
- Council Regulation (EU) No 833/2014: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02014R0833-20220413>
- Especially for sanctions regarding the financial sector there is a tool to identify listed persons: <https://www.finanz-sanktionsliste.de/fisalis/>

## Relevant Guidance

- Please EU Council's overview on sanctions adopted following Russia's military aggression against Ukraine: [https://ec.europa.eu/info/business-economy-euro/banking-and-finance/international-relations/restrictive-measures-sanctions/sanctions-adopted-following-russias-military-aggression-against-ukraine\\_de](https://ec.europa.eu/info/business-economy-euro/banking-and-finance/international-relations/restrictive-measures-sanctions/sanctions-adopted-following-russias-military-aggression-against-ukraine_de)
- The Council of the EU has published general guidance, including general issues, standard wording and common definitions that may be used in legal instruments implementing restrictive measures: <https://data.consilium.europa.eu/doc/document/ST-5664-2018-INIT/en/pdf>
- General FAQ about sanctions: [Restrictive measures explained \( uropa.eu\)](https://ec.europa.eu/restrictive-measures-explained/)

1 With a focus on its application in Germany

# Key Points to note

## Do the Russia Sanctions apply to you?

### Is there any reason to think that you have any connection to Russia or Russians?

The EU sanctions regime consists of two basic regulations, one for sectoral measures (Regulation (EU) 833/2014; hereinafter referred to as Regulation I) and one for economic measures against certain individuals and companies (Regulation (EU) 269/2014; hereinafter referred to as Regulation II).

Within the framework of the listing of persons (Regulation II), it is prohibited to make funds or economic resources directly or indirectly available to the listed persons and companies or to natural or legal persons, institutions or organisations associated with them or to have them benefited.

The sectoral measures (Regulation I) include numerous import and export prohibitions, financial sanctions including a partial exclusion from the SWIFT system and a comprehensive trade embargo with the Donetsk and Luhansk regions.

Regulation I forbids specific activities with organisations, institutions and legal entities listed in Annexes. These can vary depending on the prohibition and are not the same for all prohibitions. The list in Regulation I is independent of the lists of persons in Regulation II.

Some sanctions even apply in part to organisations, bodies and legal persons acting on behalf of or on the instructions of such listed organisation, body or legal person.

As of 8 April 2022, the economic sanctions regime includes the following measures

- prohibition on trade in arms;
- prohibition on public financing or financial assistance for trade with, or investment in Russia;
- prohibition on investment and contribution to projects co-financed by the Russian Direct Investment Fund;
- prohibition on exports of dual-use goods as well as advanced technology items that can contribute to Russia's defence and security capabilities;
- prohibition on exports of quantum computing, advanced semiconductors, sensitive machinery, transportation and chemicals;
- prohibition on the broadcast in the EU of certain Russian state-owned media outlets;
- prohibition on exports of goods for use in the oil industry;
- prohibition on new investments in the energy sector;
- prohibition on certain operations in the aviation sector;
- prohibition on Russian freight operators;
- prohibition to access EU ports;
- prohibition on exports of maritime navigation goods;
- prohibition on exports of luxury goods;
- prohibition on imports of coal;
- prohibition on imports of iron and steel;
- prohibition on imports of cement, rubber products, wood, spirits, liquor, high-end seafood;

- prohibition on the financing of the Russian government and Central Bank as well as banning all those transactions related to the management of the Central Bank's reserves and assets;
- prohibitions on a range of financial interactions, financial rating services and transactions with Russia, as well as prohibitions on the provision of banknotes and sale of securities;
- decoupling of certain Russian banks from the SWIFT messaging system;
- prohibition on providing high-value crypto services and trust services; and
- full exclusion of Russia from public contracts and European money.

As a matter of principle: Before an interaction with a potential Russian connection, a sanity check should be conducted monitoring whether (1) goods are to be exported or services provided that are prohibited and/or (2) funds or economic resources could be made available to sanctioned persons. For the latter, it is even more important to identify the beneficial owners behind the business partners.

### **With which sanctions regimes may you and/or your employees need to comply as a matter of law?**

The two basic Regulations with all amending and implementing Regulations are:

- Council Regulation (EU) No 269/2014: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02014R0269-20220414>
- Council Regulation (EU) No 833/2014: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02014R0833-20220413>

EU sanctions apply directly and automatically in all Member States and do not require transposition into national law. Each person and organisation is independently responsible for checking whether the sanctions apply and whether there is a relationship with a listed person.

Some regulations provide for transitional periods e.g. during which current contracts can still be processed. For some sanctions there are exceptions in favor of humanitarian purposes etc., and for some sanctions licences can be obtained (more on this below in question 12).

### **Have you agreed to comply with sanctions with which you would not be required to comply as a matter of law by contractual agreements (e.g. with lenders, in donor agreements)?**

Any contractual agreement that is contrary to EU sanctions and to which there is no exception or transitional provision automatically becomes invalid.

In the case of conflicting sanction regimes and the resulting threat of secondary sanctions, the situation in German law has not been clarified. First of all, it should be checked whether a contractual right of withdrawal has been agreed for such a case. If this is not the case, the contracting party could be entitled to a statutory right of withdrawal.

## **Connections with Russian Individuals and Businesses**

### **Are you engaging with any person specifically targeted by any of these sanctions?**

For an overview of sanctioned individuals and entities, follow the link to the consolidated texts provided on the Consolidated List section.

If you do interact with a sanctioned person, you should note that further cooperation with this person must be restricted or even terminated. For some sanctions, exemptions can be obtained and in some cases transition periods apply. In principle, the sanction regime applies immediately upon its issuance and must

be interpreted widely (which argues for preferring to end relationships in cases of doubt).

### **Are you engaging with any entity owned or controlled by any of these sanctions?**

See previous section. The same applies here.

### **Are you importing or exporting any goods that may be subject to import/export restrictions?**

Currently, there is an export prohibition for:

- “advanced technology” goods from the fields of electronics, computers, telecommunications, information security, sensors and lasers, navigation and avionics, marine, aerospace and propulsion.
  - dual-use goods according to the EU Dual-Use Regulation, certain luxury goods and goods of the oil refinery
  - equipment, technologies and services for the energy industry
  - jet fuels and other goods such as quantum computers and advanced semiconductors, high-quality electronic products, software, sensitive machinery and vehicles
- Import prohibition for iron and steel products, coal, wood, cement, fertilizers, seafood and alcoholic beverages.

Unless a complete sector is covered, the individual goods can be found in the lists of regulations (e.g. for the luxury goods). Further information on export and import regulations can be found for Germany at the Federal Office of Economics and Export: [https://www.bafa.de/DE/Aussenwirtschaft/Ausfuhrkontrolle/Embargos/Rusland/rusland\\_node.html](https://www.bafa.de/DE/Aussenwirtschaft/Ausfuhrkontrolle/Embargos/Rusland/rusland_node.html)

Special permits must also be obtained there, as far as possible.

### **Do you have any involvement with activities in the Donetsk, Luhansk and Crimea regions, which are subject to specific regimes?**

There is a comprehensive trade embargo for these regions.

The direct or indirect provision of finance or financial assistance, as well as insurance and reinsurance, related to the import into the European Union of goods originating in the Donetsk and Luhansk regions is generally prohibited.

The acquisition of real estate, the establishment of joint ventures, participation in and provision of financing to institutions based there and related investment services are also prohibited.

## **Payments and Investments**

### **Do you have a charitable trust or foundation that might involve dealing with equity/debt instruments issued by, or making loans available to Russian state owned companies, persons connected with Russia, or the Government of Russia?**

The following assets might be caught ([Publications Office \(europa.eu\)](https://publications.office.europa.eu)):

- Transferable securities, i.e.:
  - shares in companies and other securities equivalent to shares in companies, partnerships or other entities, and depositary receipts in respect of shares,
  - bonds or other forms of securitised debt, including depositary receipts in respect of such securities,

- any other securities giving the right to acquire or sell any such transferable securities or giving rise to a cash settlement determined by reference to transferable securities.
- Money market instruments: Those classes of instruments which are normally dealt in on the money market, such as treasury bills, certificates of deposit and commercial papers and excluding instruments of payment.

The access of Russia, its government, the Central Bank of Russia and certain banks and companies to the EU capital market has been severely restricted.

To this end, there are prohibitions on the purchase, sale and other ancillary services related to securities and money market instruments, as well as a prohibitions on the granting of new loans and credits.

All transactions with the central bank are prohibited and all central bank assets in the EU have been frozen.

### **Are you affected by restrictions on processing funds (e.g. making payments where Russian banks have been removed from SWIFT)?**

The types of activities that might involve processing funds include:

- Contract fulfilment
- Expenses for administration
- Rental and lease costs
- Expenses for daily business such as food and beverages for staff or office supplies
- Everything around IT such as software, hardware and device maintenance

If you are considering processing funds, then you should be aware that seven Russian banks were removed from SWIFT: Bank Otkritie, Novikombank, Promsvyazbank, Sovcombank, VTB Bank, VNESHECONOMBANK (VEB). The exclusion has been in effect since 12 March 2022.

The exclusion severely restricts payment transactions with these banks. Theoretically, it is possible to use alternative communication channels or to transmit transactional messages manually. However, this is costly, complex and requires mutual trust between financial institutions.

The exclusion also applies to the direct and indirect (>50%) subsidiaries of listed banks that are also based in Russia.

The provision of financial resources or financial assistance for the above-mentioned goods is prohibited, as is the provision of the goods themselves.

The sale, delivery and export of banknotes and securities denominated in Euro is prohibited.

There is also a complete prohibition on transactions with the following banks:

- VTB
- Novikombank
- Sovcombank
- Otkritie Bank

### **Are you affected by restrictions on access by Russian individuals to local bank accounts?**

Not Applicable

## **Are there any sanctions that apply to using or trading cryptoassets?**

In order to clearly include crypto assets, the EU clarified that crypto assets belong to the class of transferable securities and are therefore also subject to the prohibition.

In addition, there is a prohibition on deposits in cryptoasset wallets.

## **Exemptions and Other Points to Note**

### **To the extent there are restrictions which apply, can you apply to relevant authorities for licences, e.g. “in connection with the performance of any humanitarian assistance activity”**

There are some direct exceptions to the sanctions for humanitarian purposes, health emergencies, etc. In these cases, it does not require a license (Article 2 para. 3, 2a para. 3, 2e para. 2 of the Regulation EU 2022/328 of 25 February 2022). But the com-petent authority must be informed.

In contrast, certain prohibitions allow licenses to be obtained if this serves humanitarian purposes (e.g. Art. 2 para. 4 and 5, Art. 2a para. 4 and 5, Art. 5c para. 1, Art. 5d para. 1 of the Regulation EU 2022/328 of 25 February 2022).

The Regulation (EU) 2022/328 of 25.02.2022 ([Publications Office \(europa.eu\)](https://publications-office.europa.eu)) contains in Annex VIII models for licenses at the Federal Office of Economics and Export. The licenses concerning the financial sanctions have to be applied for at the Bundesbank

### **Other points to consider**

It is important also to take into account the sanctions against Belarus:

- Individual and economic sanctions against 22 persons
- Trade restrictions
- Exclusion of three Belarusian banks from the SWIFT system
- Prohibition of transactions with the Central Bank of Belarus
- Restriction of financial inflows from Belarus to the EU
- Prohibition of the provision of euro-denominated banknotes to Belarus

it should be emphasized once again that the sanctions can change at any time and that each company is independently responsible for compliance. The sanction lists and amendments or additions should be reviewed on an ongoing basis.