

# The EU Sanctions Architecture against Russia

Effectiveness, Limits, and Strategic Options for 2026–2030

A comprehensive assessment of the political, economic, social, legal, hybrid, and compliance dimensions of the EU sanctions regime



EUROPEAN INSTITUTE FOR INNOVATION DEVELOPMENT



# The EU Sanctions Architecture against Russia: Effectiveness, Limits, and Strategic Options for 2026–2030

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## PART FIVE

# Sanctions in the Legal Sphere and Their Effectiveness

### 5.1. General Characteristics of Legal Sanctions

#### 5.1.1. Legal Sanctions as a Normative and Institutional Regime

As established in the conceptual framework of the present report, modern sanctions should not be understood as isolated prohibitions, but as multi-level policy regimes combining legal, political, economic, administrative, and enforcement components. That earlier analytical premise is especially important for the legal dimension, because legal sanctions are often mistakenly reduced to a list of bans, whereas in practice they operate as an institutionalised system of rule-production, interpretation, compliance, derogation, review, and enforcement. In the EU context, their significance lies not only in the formal adoption of restrictive measures, but also in the creation of a stable legal environment within which public authorities, courts, market actors, and regulated intermediaries are expected to act. Legal sanctions therefore function as a structured regime of constrained legality: they redefine what transactions, services, recognitions, and forms of cooperation remain lawful, which actors are disqualified from ordinary legal circulation, and which procedures continue to be available under controlled conditions. This makes the legal sphere qualitatively different from the merely political one. Political sanctions may signal, stigmatise, and delegitimise, but legal sanctions convert strategic choices into binding norms and administrable duties. For this reason, the legal sanctions regime must be analysed not as an appendix to economic restrictions, but as one of the constitutive layers of the EU's overall coercive architecture towards the Russian Federation. Such an approach is consistent both with the report's earlier systemic definition of sanctions and with the EU's understanding of restrictive measures as preventive, institutional, and rule-governed instruments<sup>1,2</sup>.

A first analytical clarification is that EU legal sanctions are formally framed as restrictive measures, and not as criminal punishment in the classical sense. This distinction is not semantic; it shapes the legal logic of the whole regime. The official EUR-Lex summary expressly characterises EU sanctions as preventive and non-punitive instruments intended to induce a change in policy or activity by the target party. That wording is crucial because it explains why the Union presents sanctions as instruments of external action, not as retrospective adjudication of guilt. Yet, although non-punitive in legal character, sanctions undoubtedly impose serious coercive effects: they immobilise assets, interrupt contractual expectations, exclude actors from markets and services, and sharply narrow lawful channels of transnational activity. The resulting legal condition is therefore preventive in doctrine but coercive in operation. This duality is one of the central reasons why legal sanctions must be studied as a regime rather than a single measure. A one-off ban could be understood as an isolated intervention, but a continuing system of preventive restrictions, periodic renewals, interpretative guidance, and enforcement mechanisms constitutes a legally distinct mode of governance. In the case of Russia, this regime has evolved from targeted restrictions into a dense, cumulative, and highly operationalised field of Union law<sup>3,4</sup>.

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<sup>1</sup> European Union. (2024). *General framework for EU sanctions*.

<sup>2</sup> Council of the European Union. (2025). *The EU sanctions process explained*.

<sup>3</sup> European Union. (2024). *General framework for EU sanctions*.

<sup>4</sup> European Commission. (2026). *Sanctions adopted following Russia's military aggression against Ukraine*.

The second essential feature of the regime is its dual constitutional basis within EU law. The legal structure of Union sanctions rests on the interaction between Article 29 TEU and Article 215 TFEU, and this duality is foundational for understanding the legal sphere. Under Article 29 TEU, the Council adopts Common Foreign and Security Policy decisions that define the political choice to impose, renew, amend, or lift restrictive measures. Under Article 215 TFEU, the Council adopts regulations giving effect to the economic and financial dimensions of those CFSP decisions, thereby ensuring uniform application across Member States. This architecture means that legal sanctions are never only foreign-policy declarations and never only internal-market rules. They arise at the intersection of CFSP norm-setting and directly applicable regulatory law. That intersection is what gives the EU sanctions regime both its external-policy rationale and its internal legal force. In analytical terms, the importance of this dual structure is that the sanctions regime is legally hybrid but institutionally coherent: its political origin does not deprive it of juridical precision, and its regulatory form does not erase its strategic purpose<sup>1,2</sup>.

This dual basis also explains why sanctions should be treated as a regime of layered legal production rather than a single legislative act. The Council decision under the CFSP expresses the Union’s external-policy position and establishes the core restrictive orientation. The accompanying Council regulation converts that orientation into binding obligations for operators under EU jurisdiction. The process explained by the Council itself shows that this is not an improvised sequence, but a structured institutional pipeline involving proposals by the High Representative, examination by the relevant preparatory bodies, agreement in Coreper II, adoption by the Council, and publication in the Official Journal. Where the regime includes asset freezes, financial restrictions, or other economic measures, a regulation is required in addition to the decision. The result is simultaneous strategic and legal effect: the Union defines the target politically while constraining conduct normatively. This structured production model matters greatly for long-term sanctions because it enables package-by-package expansion without losing legal continuity. What appears publicly as a new “package” is therefore, in legal terms, a further iteration within an already established regulatory regime<sup>3,4</sup>.

For the Russian case, the legal sanctions regime is built around two primary and mutually reinforcing pillars: Council Regulation (EU) No 269/2014 and Council Regulation (EU) No 833/2014, each linked to corresponding CFSP decisions. Regulation 269/2014 established the listing-based architecture, including travel restrictions and the freezing of funds and economic resources of designated persons and entities associated with actions undermining Ukraine’s territorial integrity, sovereignty, and independence. Regulation 833/2014 introduced the broader sectoral architecture, concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine. The two instruments perform distinct but interconnected legal functions. The first individualises restriction through listing and immobilisation; the second systematises sectoral prohibition across finance, trade, services, technology, transport, and related domains. Since 2022, both pillars have been massively expanded, refined, and amended, transforming what began in 2014 as a more limited framework into a mature and highly differentiated legal regime. The Commission’s Russia sanctions page continues to identify these regulations as the core texts creating legal obligations for all persons and bodies under EU jurisdiction<sup>5,6,7</sup>.

Another important point is that the regime is not static even when its legal core remains formally continuous. The original 2014 regulations remain in force, but they now exist in repeatedly amended and consolidated forms, reflecting the cumulative development of the sanctions’ architecture. EUR-Lex identifies Regulation 833/2014 as being in force with a current consolidated version dated 16 January

<sup>1</sup> European Union. (2024). *General framework for EU sanctions*.

<sup>2</sup> European Union. (2024). *Criminal offences and penalties for the violation of EU restrictive measures*.

<sup>3</sup> Council of the European Union. (2025). *The EU sanctions process explained*.

<sup>4</sup> European Union. (2024). *General framework for EU sanctions*.

<sup>5</sup> Council of the European Union. (2014). *Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine*.

<sup>6</sup> Council of the European Union. (2014). *Council Regulation (EU) 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*.

<sup>7</sup> European Commission. (2026). *Sanctions adopted following Russia’s military aggression against Ukraine*.

2026, while Regulation 269/2014 is shown as in force with a current consolidated version dated 15 December 2025. These dates are more than technical metadata. They demonstrate that the legal regime is maintained through iterative recalibration rather than through periodic replacement by wholly new instruments. In practice, this gives the Union a significant governance advantage. It allows new restrictions to be inserted into a stable normative framework, preserves accumulated jurisprudential interpretation, and reduces the administrative costs of rebuilding the legal structure from scratch each time the sanctions perimeter is widened. For analytical purposes, this means that legal sanctions against Russia must be read as a living regulatory framework, not as a finite set of one-time emergency acts<sup>1,2,3</sup>.

The internal composition of this framework confirms its regime-like nature. EU legal sanctions do not consist merely of headline prohibitions. They also include annexes identifying listed persons, definitions clarifying controlled goods or services, derogations and exemptions, notification duties, authorisation procedures, liability shields for compliant operators in certain circumstances, anti-circumvention clauses, and links to national competent authorities. This layered design is critical because a sanctions regime must do more than prohibit; it must also determine who may decide exceptions, under what conditions, on the basis of which evidence, and with what reporting consequences. A measure that bans without structuring derogation and control would be politically expressive but administratively brittle. The EU model instead attempts to create an operable compliance environment. It is precisely through this dense internal architecture that legal sanctions acquire durability. The regime survives not because it is blunt, but because it is administratively differentiated<sup>4,5,6</sup>.

A further reason to conceptualise legal sanctions as a regime is that their addressees are broader than the immediately targeted Russian persons or institutions. In legal effect, sanctions are addressed to all individuals, organisations, and bodies under EU jurisdiction whose conduct may intersect with the prohibited relationship. The Commission explicitly states this on its Russia sanctions page. This is a decisive point. Sanctions law is not addressed only to the target; it is addressed to the environment around the target. Banks must freeze or refuse transfers. Companies must withhold exports, services, and financing. Lawyers, consultants, accountants, logistics providers, insurers, notaries, and data intermediaries may all become bearers of sanctions duties depending on the provision at issue. The legal regime therefore works through the transformation of third-party conduct. The sanctioned actor is constrained not only because the EU has announced opposition, but because thousands of regulated actors must alter their behaviour in order to avoid participating in unlawful dealings. In this sense, legal sanctions are a regime of distributed obligation<sup>7,8</sup>.

This distributed obligation is tied to a broad jurisdictional design. Regulation 833/2014 applies within the territory of the Union, on board aircraft and vessels under Member State jurisdiction, to nationals of Member States wherever located, to legal persons incorporated under the law of a Member State, and to business done in whole or in part within the Union. The services FAQ confirms that, by virtue of Article 13, nationals of Member States remain subject to the prohibition even outside Union territory. This broad jurisdictional reach is a central feature of the sanctions' regime. It ensures that legal sanctions cannot easily be reduced to border measures only. Instead, they function as a transnational compliance framework attached to EU legal personality, territorial nexus, and market access. The legal importance

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<sup>1</sup> Council of the European Union. (2014). *Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.*

<sup>2</sup> Council of the European Union. (2014). *Council Regulation (EU) 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.*

<sup>3</sup> European Commission. (2026). *Sanctions adopted following Russia's military aggression against Ukraine.*

<sup>4</sup> Council of the European Union. (2014). *Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.*

<sup>5</sup> Council of the European Union. (2014). *Council Regulation (EU) 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.*

<sup>6</sup> European Commission. (2026). *Frequently asked questions on provision of services concerning sanctions adopted following Russia's military aggression against Ukraine (Article 5n of Council Regulation 833/2014).*

<sup>7</sup> European Commission. (2026). *Sanctions adopted following Russia's military aggression against Ukraine.*

<sup>8</sup> Council of the European Union. (2025). *The EU sanctions process explained.*

of this structure is substantial. It widens the enforcement surface, increases incentives for private diligence, and prevents operators from escaping the regime merely by relocating parts of a transaction or service chain beyond EU territory. The sanctions regime thus extends through legal connection, not only through physical geography<sup>1,2</sup>.

The substantive logic of the regime is equally revealing. Listing-based legal sanctions operate through immobilisation rather than confiscation. Regulation 269/2014 provides that all funds and economic resources belonging to, owned, held, or controlled by listed persons or entities shall be frozen, and that no funds or economic resources shall be made available, directly or indirectly, to or for their benefit. This is not simply a financial inconvenience. It is a juridical technique for suspending ordinary access to property-like resources and excluding listed actors from normal legal circulation without formally extinguishing title in the same way as confiscation. That distinction matters for both doctrinal and practical reasons. Doctrinally, it sustains the EU's presentation of sanctions as preventive restrictions rather than criminal penalties. Practically, it creates a system in which the ability to use, transfer, monetise, leverage, or reorganise assets is interrupted pending legal and political review. Legal sanctions thereby function as instruments of controlled incapacitation<sup>3,4</sup>.

Sectoral legal sanctions operate through a complementary logic of denial and disconnection. Regulation 833/2014 was introduced to impose additional restrictive measures with a view to increasing the costs of Russia's actions and promoting a peaceful settlement of the crisis. Over time, this has developed into a dense web of prohibitions covering finance, export of dual-use items, advanced technology, specialised services, transport, energy-related activities, and more. In legal terms, the important point is not merely that the Union forbids certain transactions. The deeper point is that it creates a structured perimeter around the target economy, identifying which relations are unlawful, which are licensable, and which remain conditionally lawful. This turns sanctions into a system of selective legal disconnection. Such disconnection is not absolute; it is managed and differentiated. However, it is precisely because the regime is selective that it can be sustained longer and defended more plausibly as proportionate. Legal sanctions therefore function as a calibrated architecture of exclusion rather than a total legal rupture<sup>5,6</sup>.

At the operational level, this legal architecture relies on private actors as decentralised enforcers. Union sanctions law does not execute itself. It is translated into practical effect by banks refusing payments, compliance teams blocking transactions, logistics firms declining carriage, software vendors disabling access, professional-service providers withdrawing from representations, and registrars or notarial actors re-evaluating lawful availability of legal acts and services. The law thereby creates a sanctions environment in which regulatory risk is internalised by private operators. This is one of the most important reasons why sanctions should be conceptualised as a regime. A criminal prohibition can exist without changing the behaviour of an entire market structure. A sanctions regime, by contrast, depends on exactly such a behavioural cascade. It transforms compliance departments, legal advisers, and regulated intermediaries into nodes of real-world enforcement. The result is a fusion of public norm-setting and private implementation which gives legal sanctions their practical density. Without this distributed compliance function, the formal legal texts would remain strategically weak<sup>7,8,9</sup>.

<sup>1</sup> Council of the European Union. (2014). *Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine*.

<sup>2</sup> European Commission. (2026). *Frequently asked questions on provision of services concerning sanctions adopted following Russia's military aggression against Ukraine (Article 5n of Council Regulation 833/2014)*.

<sup>3</sup> Council of the European Union. (2014). *Council Regulation (EU) 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*.

<sup>4</sup> European Union. (2024). *General framework for EU sanctions*.

<sup>5</sup> Council of the European Union. (2014). *Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine*.

<sup>6</sup> European Commission. (2026). *Sanctions adopted following Russia's military aggression against Ukraine*.

<sup>7</sup> Ibid.

<sup>8</sup> European Commission. (2026). *Frequently asked questions on provision of services concerning sanctions adopted following Russia's military aggression against Ukraine (Article 5n of Council Regulation 833/2014)*.

<sup>9</sup> European Union. (2024). *General framework for EU sanctions*.

Yet the presence of private implementation does not diminish the importance of public institutions; on the contrary, it heightens it. Member States remain responsible for implementation, authorisation practice, and penalties, while the Commission monitors whether regulations are implemented properly and in a timely manner. The Council’s explanatory materials emphasise that sanctions are implemented by Member States and reviewed regularly. This creates a classic regime problem: the legal framework is Union-wide, but many operational decisions remain nationally administered. The result is an inevitable tension between uniformity of law and diversity of administrative practice. Different competent authorities may interpret evidentiary sufficiency, derogation criteria, or service-scope questions with varying degrees of strictness. That tension is not an accidental flaw. It is built into the constitutional architecture of the Union. For analytical purposes, the key implication is that a legal sanctions regime must be assessed not only at the level of texts, but also at the level of implementation ecology<sup>1,2</sup>.

The Commission’s interpretative role is therefore a major component of the regime. EUR-Lex notes that the Commission supports individuals, businesses, humanitarian operators, and Member States by publishing guidance notes and answering interpretative questions raised by national competent authorities. The Russia sanctions page records continuing FAQ updates into January 2026, including updates concerning services and other operational issues. This demonstrates that legal sanctions are sustained through an adaptive interpretative layer in addition to hard-law provisions. That interpretative layer does not formally replace the binding regulation, and the Court of Justice remains the ultimate source of authoritative legal interpretation. Nevertheless, from an operational standpoint, guidance documents, FAQs, compliance notes, and Commission communications are indispensable. They reduce uncertainty, compress implementation divergence, and make the legal regime more legible to operators who must apply it in real time. In this sense, legal sanctions are governed not only through legislation but also through structured interpretative maintenance<sup>3,4,5</sup>.

A particularly revealing sign of regime maturity is the centrality of anti-circumvention logic. Regulation 833/2014 prohibits participation, knowingly and intentionally, in activities the object or effect of which is to circumvent prohibitions in the Regulation. The services FAQ further shows how the Union operationalises this principle, for example by stressing that indirect provision of restricted services to non-Russian subsidiaries may still be prohibited where those services would in fact benefit a Russian parent. This is a decisive shift in legal method. The regime is no longer confined to enumerated direct transactions; it increasingly evaluates functional benefit, indirect structure, and circumvention purpose. Such an approach marks the transition from a simple prohibitory model to a more network-aware governance model. In long-duration sanctions, this transition is unavoidable, because the target adapts faster than static rulebooks. Anti-circumvention provisions therefore perform a regime-preserving function: they keep the legal perimeter from becoming obsolete the moment intermediaries redesign the transaction chain<sup>6,7</sup>.

To synthesise the above architecture in operational terms, the legal sanctions regime can be represented as a layered institutional structure rather than a flat list of bans. Table 5.1.1-1 summarises the principal layers and their analytical significance for the present report. (*Prepared by the report drafting team on the basis of official EU legal and institutional sources*).

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<sup>1</sup> Council of the European Union. (2025). *The EU sanctions process explained*.

<sup>2</sup> European Union. (2024). *General framework for EU sanctions*.

<sup>3</sup> Ibid.

<sup>4</sup> European Commission. (2026). *Sanctions adopted following Russia’s military aggression against Ukraine*.

<sup>5</sup> European Commission. (2026). *Frequently asked questions on provision of services concerning sanctions adopted following Russia’s military aggression against Ukraine (Article 5n of Council Regulation 833/2014)*.

<sup>6</sup> Council of the European Union. (2014). *Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine*.

<sup>7</sup> European Commission. (2026). *Sanctions adopted following Russia’s military aggression against Ukraine*.

Table 5.1.1-1. Core layers of the EU legal sanctions regime against Russia as a normative and institutional structure

Layer of the regime	Main legal / institutional anchor	Practical function	Analytical significance
Constitutional-political layer	Article 29 TEU; CFSP Council decisions	Defines the Union’s restrictive position, target profile, and renewal / amendment logic	Shows that sanctions begin as foreign-policy norm-setting, not as isolated market regulation
Regulatory layer	Article 215 TFEU; Council Regulations 269/2014 and 833/2014	Creates directly applicable obligations concerning freezing, denial, prohibition, and conditional derogation	Converts strategic intent into binding legal duties across the Union
Administrative-implementation layer	Member States; national competent authorities; authorisation procedures	Processes licences, derogations, notifications, and case-by-case decisions	Reveals that effectiveness depends on implementation quality, not only on formal legal text
Interpretative-operational layer	Commission FAQs, guidance, compliance notes, updates	Clarifies scope, reduces uncertainty, supports more uniform application	Demonstrates that the regime is maintained through continuous interpretative governance
Enforcement layer	National penalties; Directive (EU) 2024/1226; cooperation among authorities	Criminalises and prosecutes serious violations and circumvention	Marks the shift from compliance support to coercive enforcement harmonisation
Judicial-control layer	CJEU and General Court review; national courts via references	Reviews legality, proportionality, statement of reasons, and evidentiary basis	Preserves rule-of-law legitimacy and protects the defensibility of the regime

*Authorship: analytical framework (this report) was prepared by the report drafting team on the basis of official EU legal and institutional sources.*

*Sources:*

- Official EUR-Lex summaries on the EU sanctions framework and criminalisation of violations.
- Consilium explanation of the sanctions process.
- Council Regulations 269/2014 and 833/2014.
- Commission Russia sanctions page and services FAQ.

The next layer to emphasise is the enforcement turn now visible in Union law. Directive (EU) 2024/1226 is especially important because it establishes minimum EU-wide rules for defining criminal offences and penalties for the violation and circumvention of Union restrictive measures. The directive expressly links effective application of restrictive measures to the integrity of the internal market and to security within the area of freedom, security and justice. It also identifies a wide range of sanctionable conduct, including failure to freeze assets, provision of prohibited services, concealment of funds that should be frozen, and circumvention-related behaviour. This matters analytically because it shows that legal sanctions are no longer maintained primarily through administrative expectation and reputational pressure. They are increasingly anchored in a hardening enforcement framework with harmonised offence definitions and more structured cooperation among national and EU authorities. In other words, the sanctions regime is evolving from a predominantly compliance-mediated system into a compliance-plus-criminal-enforcement system. That development is central to any serious assessment of legal sanctions in the 2022–2026 period<sup>1,2</sup>.

This enforcement turn also changes the analytical meaning of legal sanctions. Once violations and circumvention are criminalised on a more harmonised basis, sanctions law ceases to be only a regime of prohibited relationships and becomes a regime of legally structured investigative priority. The directive’s emphasis on effective, proportionate, and dissuasive penalties, legal-person liability,

<sup>1</sup> European Parliament and Council of the European Union. (2024). *Directive (EU) 2024/1226 on the definition of criminal offences and penalties for the violation of Union restrictive measures*.

<sup>2</sup> European Union. (2024). *Criminal offences and penalties for the violation of EU restrictive measures*.

freezing and confiscation linkages, and institutional cooperation illustrates that the sanctions field is being integrated into the Union's broader enforcement and security architecture. That has at least three long-term implications. First, it increases the seriousness with which operators must treat sanctions compliance. Secondly, it reduces the space for Member States to maintain radically divergent approaches to violation and circumvention. Thirdly, it strengthens the argument that sanctions law is no longer peripheral foreign-policy regulation, but a more centralised branch of EU governance intersecting with criminal law, internal-market integrity, financial supervision, and security policy. This is precisely what one would expect from a mature regime. The legal sphere is no longer simply where sanctions are written down; it is where they are operationally institutionalised<sup>1,2</sup>.

At the same time, the very fact that sanctions operate as a regime makes rule-of-law constraints indispensable rather than optional. The deeper and more durable the legal structure becomes, the greater the need for judicial review, reason-giving, evidentiary discipline, and effective legal protection. EU case-law has repeatedly insisted that review of restrictive measures cannot be reduced to a merely abstract examination of the cogency of the Council's reasons. The General Court has reiterated that judicial review must concern whether the factual allegations underpinning the listing are substantiated, at least insofar as one sufficient reason can independently support the decision. This is a critical feature of legal sanctions as a regime. It prevents the transformation of restrictive measures into an unchecked administrative black box. It also compels the Council and implementing institutions to maintain documentary discipline over time. In long-term sanctions against Russia, that discipline is especially important because repeated renewals and expansions increase litigation exposure. Rule-of-law constraints therefore do not weaken the regime; they stabilise it by making it more defensible<sup>3,4</sup>.

The same logic applies to the principles of legal certainty and effective judicial protection. In *Rosneft*, the Court confirmed both the justiciability of relevant restrictive-measures questions and the need to interpret the exclusion of jurisdiction in the CFSP field strictly where legality of restrictive measures against natural or legal persons is concerned. The Court also held that the use of general legal categories does not in itself breach the principle of *nulla poena sine lege certa*, provided that the relevant provisions are sufficiently clear in the large majority of cases and can be interpreted with judicial assistance where necessary. This is highly instructive for the present report. It means that long-term legal sanctions need not eliminate every grey area to remain valid, but they must remain intelligible enough to guide conduct and support enforcement. Equally, because sanctions implementation often occurs through national courts and administrative authorities, access to judicial review is indispensable for preserving coherence across the regime. The legal sanctions system thus rests on a balance: it must be flexible enough to address adaptive circumvention, yet precise enough to survive judicial scrutiny. That balance is one of the defining characteristics of sanctions as an institutional regime<sup>5</sup>.

Taken together, the evidence supports a clear analytical conclusion. Legal sanctions against Russia should be understood not as a loose collection of restrictive acts, but as a normative and institutional regime composed of interlocking constitutional, regulatory, administrative, interpretative, enforcement, and judicial layers. Their strategic value lies not only in what they prohibit, but in how they organise legal space, reassign permissible conduct, discipline intermediaries, and convert geopolitical intent into durable, reviewable, operational norms. This regime has become progressively denser since 2014 and especially since 2022, while remaining anchored in stable legal foundations under Article 29 TEU and Article 215 TFEU. Its future effectiveness will therefore depend less on the mere addition of further prohibitions and more on the quality of drafting, implementation convergence, anti-circumvention

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<sup>1</sup> European Parliament and Council of the European Union. (2024). *Directive (EU) 2024/1226 on the definition of criminal offences and penalties for the violation of Union restrictive measures*.

<sup>2</sup> European Union. (2024). *Criminal offences and penalties for the violation of EU restrictive measures*.

<sup>3</sup> General Court of the European Union. (2024). *Restrictive measures adopted in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (Case T-363/22)*.

<sup>4</sup> Court of Justice of the European Union. (2013). *Commission and Others v Kadi (Joined Cases C-584/10 P, C-593/10 P and C-595/10 P)*.

<sup>5</sup> Court of Justice of the European Union. (2017). *PJSC Rosneft Oil Company v Her Majesty's Treasury and Others (Case C-72/15)*.

design, and judicial defensibility. In that sense, legal sanctions are best seen as a form of long-horizon governance under conditions of conflict. They are not merely instruments of immediate pressure, but an evolving legal infrastructure for coercion, exclusion, conditionality, and controlled reversibility. For Part Five of the present report, this understanding is foundational, because it clarifies why later subsections must analyse not only particular measures, but also the legal resilience of the regime as a whole<sup>1,2,3</sup>.

### 5.1.2. Sources of Legal Authority and Regulatory Architecture

If 5.1.1 established that EU legal sanctions should be treated as a regime rather than a loose aggregation of prohibitions, 5.1.2 must identify the formal sources of that regime and the institutional architecture through which it is produced, updated, interpreted, and enforced. This question is not merely technical. In the Russian case, the effectiveness, durability, and justiciability of sanctions depend to a very large extent on whether the legal chain from political decision to binding obligation is internally coherent. In other words, the legal force of sanctions derives not only from substantive prohibitions, but from the authority structure that makes those prohibitions lawful, administrable, and reviewable. The present report has already argued in earlier parts that EU sanctions function as a cumulative and governance-like system, rather than as a static catalogue of isolated restrictions. That same analytical logic applies here with particular clarity: the legal architecture must be read as a system of source layers, each with a different institutional function and evidentiary significance. For that reason, a rigorous examination of the legal sphere requires attention to treaty bases, secondary legislation, implementing acts, interpretative instruments, national enforcement rules, and judicial safeguards. Only by distinguishing those layers can one properly assess where the legal regime is strong, where it is vulnerable, and where later subsections should look for effectiveness or failure<sup>4,5</sup>.

At the highest level, the source structure of EU sanctions rests on the interaction between Article 29 TEU and Article 215 TFEU, and this dual foundation is the starting point of the entire regulatory architecture. Article 29 TEU provides that the Council shall adopt decisions defining the Union's approach to a particular geographical or thematic matter and that Member States must ensure that their national policies conform to those Union positions. Article 215 TFEU then provides the bridge into binding economic and financial measures: where a CFSP decision so provides, the Council, acting on a joint proposal from the High Representative and the Commission, adopts the necessary restrictive measures, including against natural or legal persons and non-state entities. Article 215 also expressly requires that such acts include the necessary provisions on legal safeguards. This last element is especially important because it shows that legal protection is not external to the sanctions' architecture; it is embedded in the treaty basis itself. The dual structure therefore does two things simultaneously. It preserves the political-strategic nature of sanctions as instruments of external action, while also converting them into legally operable measures within the Union legal order<sup>6,7,8</sup>.

This dual treaty base has major analytical consequences for how sanctions should be interpreted. It means that EU sanctions are never purely diplomatic declarations and never merely ordinary market regulation. Rather, they are hybrid acts situated at the intersection of the Common Foreign and Security Policy and the Union's internal legal mechanisms for giving effect to external-action decisions. That is why the Russia regime can combine geopolitical purpose with uniform obligations for banks, exporters, service providers, transport actors, and other regulated intermediaries. It also explains why legal analysis must distinguish between the political act that defines the Union position and the regulatory act

<sup>1</sup> European Union. (2024). *General framework for EU sanctions*.

<sup>2</sup> European Parliament and Council of the European Union. (2024). *Directive (EU) 2024/1226 on the definition of criminal offences and penalties for the violation of Union restrictive measures*.

<sup>3</sup> European Commission. (2026a). *Sanctions adopted following Russia's military aggression against Ukraine*.

<sup>4</sup> European Union. (2024). *General framework for EU sanctions*.

<sup>5</sup> Council of the European Union. (2025). *How the EU adopts and reviews sanctions*.

<sup>6</sup> European Union. (2012). *Consolidated version of the Treaty on European Union, Article 29*.

<sup>7</sup> European Union. (2016). *Consolidated version of the Treaty on the Functioning of the European Union, Article 215*.

<sup>8</sup> European Union. (2024). *General framework for EU sanctions*.

that structures operative compliance. Without Article 29 TEU, the sanctions regime would lack a clear CFSP anchor. Without Article 215 TFEU, it would lack the legal machinery needed to ensure uniform application across Member States. The architecture is therefore not a procedural formality but the central mechanism by which policy intent is transformed into enforceable law<sup>1,2</sup>.

The institutional path from treaty authority to operative sanction is itself highly structured. The Council's official explanation of the adoption procedure shows that sanctions proposals are examined in specialised preparatory bodies, including the geographical working party responsible for the relevant region, the Working Party of Foreign Relations Counsellors (RELEX), and, where necessary, the Political and Security Committee, before moving to Coreper II and then to the Council. Where a regulation is required, the High Representative and the Commission submit a joint proposal, which is examined by RELEX and then forwarded for adoption. This demonstrates that the regulatory architecture is both political and technocratic. Political, because the final decision remains tied to the external-action priorities of the Union; technocratic, because drafting, legal calibration, and implementability are filtered through multiple institutional stages before adoption. The process also shows that sanctions are not normally generated through a single institutional centre. They emerge from a chain of coordinated bodies, each contributing to legal precision, political alignment, or operational feasibility. In long-term sanctions practice, this chain is one of the main sources of regime durability<sup>3,4</sup>.

A further nuance deserves emphasis here. The Council's sanctions procedure page states that decisions and regulations on sanctions are adopted by the Council by unanimity, reflecting the political reality that sanctions packages are treated as consensus-sensitive acts among Member States. However, the treaty text of Article 215 TFEU states that the Council acts by qualified majority on a joint proposal from the High Representative and the Commission when adopting the necessary implementing measures. This is not a contradiction so much as a constitutional and political duality. In formal treaty design, the implementing regulation belongs to a legal procedure under the TFEU. However, in practical sanctions politics, the regulation is embedded in a package logic that is negotiated and advanced only once political unanimity has effectively been secured. For analytical purposes, the result is clear: the architecture is legally differentiated but politically consensus-driven. This is one reason why sanctions packages often appear as unified political products even though they rest on different formal legal bases<sup>5,6</sup>.

Within this framework, CFSP Council decisions under Article 29 TEU perform the strategic and normative function of defining the Union's stance. They identify the relevant situation, establish the general restrictive approach, and bind Member States to align their national policies with the Union position. In the Russian case, that function is indispensable because sanctions are not treated as generic trade-management instruments, but as legally formalised responses to a defined external-policy situation. A CFSP decision therefore does more than announce intent. It establishes the political-legal perimeter within which later sectoral, financial, personal, and service-related restrictions are to be understood. It also supplies the formal reference point for subsequent renewal, amendment, or escalation. In this sense, the decision is the regime's strategic charter. It does not by itself do all the operational work, but it supplies the authoritative Union position without which the implementing regulatory layer would lack its governing rationale<sup>7,8</sup>.

By contrast, Council regulations adopted under Article 215 TFEU perform the operationalising function. They are the instruments that turn the Union's restrictive approach into legally binding obligations capable of uniform application in all Member States. The official EUR-Lex summary states this directly,

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<sup>1</sup> European Union. (2024). *General framework for EU sanctions*.

<sup>2</sup> Council of the European Union. (2025). *How the EU adopts and reviews sanctions*.

<sup>3</sup> Ibid.

<sup>4</sup> European Union. (2024). *Restrictive measures (sanctions) — EUR-Lex glossary*.

<sup>5</sup> European Union. (2016). *Consolidated version of the Treaty on the Functioning of the European Union, Article 215*.

<sup>6</sup> Council of the European Union, 2025a

<sup>7</sup> European Union. (2012). *Consolidated version of the Treaty on European Union, Article 29*.

<sup>8</sup> European Union. (2024). *Restrictive measures (sanctions) — EUR-Lex glossary*.

and the treaty text makes clear that the regulation is the mechanism through which economic and financial relations may be interrupted or reduced and restrictive measures imposed on natural or legal persons and other entities. The Russian case confirms the practical importance of this layer. Once the regulation enters into force, operators under EU jurisdiction must adjust their conduct accordingly: freezing funds, refusing transactions, withholding exports, declining prohibited services, and applying authorisation procedures where allowed. Article 215 TFEU also requires that acts adopted under it include the necessary provisions on legal safeguards, which means that the regulatory layer is not simply coercive but normatively bounded. This is a defining feature of EU sanctions architecture. The regulation is not only a prohibition mechanism; it is also the core legal instrument through which the regime is rendered reviewable, uniform, and administrable<sup>1,2</sup>.

The Russia sanctions regime illustrates this architecture in especially clear form through the pairing of foundational CFSP decisions and regulations. On the listing side, Council Decision 2014/145/CFSP was paired with Council Regulation (EU) No 269/2014, creating the legal architecture for travel restrictions and asset freezes against persons and entities connected with actions undermining or threatening the territorial integrity, sovereignty, and independence of Ukraine. On the sectoral side, Council Decision 2014/512/CFSP was paired with Council Regulation (EU) No 833/2014, establishing the framework for broad restrictive measures concerning Russia's actions destabilising the situation in Ukraine. The entry-into-force clauses of these acts are also revealing. Decision 2014/145/CFSP and Regulation 269/2014 entered into force on the date of publication in the Official Journal, while Decision 2014/512/CFSP and Regulation 833/2014 entered into force on the day following publication. These details matter because they show how the architecture is designed for legal immediacy once political agreement is secured. They also confirm that the regulatory architecture was built from the outset as a paired-source model rather than as a single-instrument response<sup>3,4,5,6</sup>.

The architecture has since developed not by replacing those instruments, but by repeatedly amending, expanding, and consolidating them. The current EUR-Lex entries indicate that the consolidated version of Regulation 833/2014 is dated 16 January 2026, while the consolidated version of Regulation 269/2014 is dated 15 December 2025. This confirms that the core legal acts remain in force while being continuously recalibrated. At the same time, EUR-Lex also stresses that consolidated texts are documentation tools with no legal effect and that the authentic versions are those published in the Official Journal. That distinction is methodologically important for the present report. It means that consolidated texts are indispensable for analytical reconstruction of the current regime, but the formal source of law remains the original act as amended through authentic OJ publications. In practical terms, the regulatory architecture is therefore cumulative and layered. In evidentiary terms, it requires careful distinction between the convenience of consolidation and the formal authority of the authentic published instruments<sup>7,8,9,10</sup>.

The Russia sanctions architecture must also be understood as broader than those two principal tracks alone. The Council's Russia sanctions page states that the EU has progressively imposed restrictive measures in response not only to the illegal annexation of Crimea in 2014 and the full-scale invasion in

<sup>1</sup> European Union. (2016). *Consolidated version of the Treaty on the Functioning of the European Union, Article 215*.

<sup>2</sup> European Union. (2024). *General framework for EU sanctions*.

<sup>3</sup> Council of the European Union. (2014). *Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine*.

<sup>4</sup> Council of the European Union. (2014). *Council Regulation (EU) 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*.

<sup>5</sup> Council of the European Union. (2014). *Council Decision 2014/145/CFSP of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine*.

<sup>6</sup> Council of the European Union. (2014). *Council Decision 2014/512/CFSP of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine*.

<sup>7</sup> Council of the European Union. (2014). *Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine*.

<sup>8</sup> Council of the European Union. (2014). *Council Regulation (EU) 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*.

<sup>9</sup> European Union. (2025). *Consolidated text: Council Regulation (EU) No 269/2014*.

<sup>10</sup> European Union. (2026). *Consolidated text: Council Regulation (EU) No 833/2014*.

2022, but also to the illegal annexation of the Donetsk, Luhansk, Zaporizhzhia, and Kherson regions. The same page notes that the EU has also adopted sanctions against Russia in response to human-rights abuses and to Russia's hybrid threats and campaigns against the EU and its Member States. The Council's timeline further shows that even after the nineteenth package of sanctions of 23 October 2025, the Union continued in 2025–2026 to renew sectoral economic measures, renew Crimea-related restrictions, and adopt additional sanctions under hybrid-threats and human-rights tracks. This is a critical architectural point. The Russian sanctions field is not one single regime in the narrow doctrinal sense, but a family of interrelated regimes with different legal hooks, temporal rhythms, and target logics. Yet they are publicly and politically integrated into a single Russia sanctions ecosystem<sup>1,2</sup>.

A central part of this architecture is the role of annexes, because sanctions law is operational only to the extent that it can specify targets, controlled goods, restricted services, and competent authorities. Regulation 269/2014 and Decision 2014/145/CFSP illustrate this clearly. Their annexes include the names of listed persons and entities, identifying information, reasons for listing, and dates of listing. Regulation 833/2014 likewise contains annex-based structures for institutions, goods and technologies, and other legally relevant categories. This annex technique is not secondary drafting detail. It is one of the main ways in which EU sanctions law balances stability and flexibility: the framework articles remain relatively durable while operational content can be altered through amendments to annexes. In practice, this makes the regime far more adaptable than a single rigid text would be. In analytical terms, annexes are where much of the sanctions' regime becomes concrete, auditable, and enforceable<sup>3,4,5</sup>.

This logic closely matches the methodological discipline already developed in the earlier parts of the present report. As noted in Part Two, the correct reconstruction of sanctions measures requires distinguishing at least three levels of normative fixation: the basic regime, the package political-legal level, and the operational implementation level represented by implementing acts that directly update annexes and lists. That observation, made there in relation to listings, has broader value for the legal sphere as a whole. In the Russian case, legal authority is not exhausted by the title of a package or the date of a political announcement. One must distinguish the foundational act, the amending act, and the specific implementing act that alters annexes or applies the legal criteria to particular persons, entities, or categories. Without that distinction, analysis risks conflating political signalling with legal entry into force. The regulatory architecture is therefore not only multi-layered in substance. It is also multi-layered in documentary form. This is one reason why sanctions law can appear opaque to non-specialists while remaining internally systematic<sup>6</sup>.

Another key component of the architecture is the system of competent authorities, authorisations, derogations, notifications, and liability rules. Regulation 833/2014 requires Member States to designate competent authorities, notify the Commission of those authorities, and identify them on the websites listed in Annex I. It also obliges Member States and the Commission to share relevant information, including in respect of authorisations, enforcement problems, and judgments handed down by national courts. Regulation 269/2014 contains a comparable system, requiring Member States to designate competent authorities and notify the Commission of the relevant contact details. These provisions are important because they show that sanctions are not designed as self-executing black-letter prohibitions. They are designed as administrable regimes, in which case-by-case authorisation, communication, and supervision are integral to legal operability. The presence of liability shields for

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<sup>1</sup> Council of the European Union. (2026). *Russia's war against Ukraine: EU sanctions*.

<sup>2</sup> Council of the European Union. (2026). *Timeline – EU sanctions against Russia*.

<sup>3</sup> Council of the European Union. (2014). *Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine*.

<sup>4</sup> Council of the European Union. (2014). *Council Regulation (EU) 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*.

<sup>5</sup> Council of the European Union. (2014). *Council Decision 2014/145/CFSP of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine*.

<sup>6</sup> Council of the European Union. (2025). *How the EU adopts and reviews sanctions*.

operators acting without knowledge or reasonable cause to suspect infringement further confirms that the architecture tries to organise lawful compliance, not simply threaten punishment<sup>1,2</sup>.

To clarify the institutional logic of these source layers, Table 5.1.2-1 summarises the principal components of the legal authority structure relevant to the Russian sanctions’ regime.

Table 5.1.2-1. Principal source layers of the EU sanctions regime against Russia

Source layer	Main legal basis / instrument type	Main institutional actor(s)	Core function within the regime
Treaty foundation	Article 29 TEU; Article 215 TFEU	Council; High Representative; Commission	Establishes constitutional authority for CFSP decisions and implementing restrictive measures
Strategic CFSP layer	Council Decisions under Article 29 TEU	Council acting within CFSP framework	Defines the Union position, target situation, and general restrictive approach
Binding regulatory layer	Council Regulations under Article 215 TFEU	Council on joint proposal from High Representative and Commission	Converts political decisions into binding economic, financial, and person-based obligations
Operational implementation layer	Amending and implementing acts; annex updates	Council; Member States; competent authorities	Updates lists, categories, prohibitions, derogations, and operative legal content
Administrative governance layer	Authorisations, derogations, notifications, competent authority systems	National competent authorities; Commission	Makes sanctions administrable through licences, exceptions, information-sharing, and oversight
Interpretative layer	Commission FAQs, guidance notes, compliance publications	European Commission	Clarifies scope, reduces uncertainty, and supports more convergent application
Enforcement layer	National penalty rules; Directive (EU) 2024/1226	Member States; EU legislator; Commission	Hardens the regime through harmonised offence definitions and more structured criminal enforcement
Judicial safeguard layer	Article 215(3) TFEU; EU and national judicial review	CJEU, General Court, national courts	Preserves legality, proportionality, effective remedy, and defensibility of the regime

Authorship: analytical framework (this report) was prepared by the author.

Sources:

- Treaty texts on Article 29 TEU and Article 215 TFEU.
- Consilium explanation of the sanctions’ adoption procedure.
- Regulations 269/2014 and 833/2014.
- Directive (EU) 2024/1226.
- Commission guidance materials.

A distinct but indispensable layer of the architecture is Commission interpretation and guidance. The EUR-Lex glossary page states that the Commission is responsible for monitoring whether regulations imposing restrictive measures under Article 215 TFEU are implemented and enforced by Member States, and that it supports individuals, businesses, humanitarian operators, and Member States by publishing guidance notes and answering interpretative questions raised by national competent authorities. The Commission’s Russia sanctions portal and topic-specific publications show that this guidance layer

<sup>1</sup> Council of the European Union. (2014). *Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*

<sup>2</sup> Council of the European Union. (2014). *Council Regulation (EU) 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.*

remains active and regularly updated, including the Article 5n services guidance updated on 22 January 2026. This interpretative activity is not a substitute for law, but it is a major source of operational legibility. It reduces uncertainty in areas where sanctions drafting must remain general enough to cover varied fact patterns while still being specific enough to guide conduct. In a regime as dense as the Russian one, that function is indispensable. Without the guidance layer, formal law would remain valid but practical compliance would become more fragmented, slower, and more litigation-prone<sup>1,2</sup>.

The scope provisions of the core regulations show that the architecture also rests on a broad theory of jurisdictional attachment. Regulation 833/2014 applies within the territory of the Union, on board aircraft and vessels under Member State jurisdiction, to nationals of Member States wherever located, to legal persons incorporated under Member State law, and to business done in whole or in part within the Union. Regulation 269/2014 contains a parallel territorial and personal scope. The Council's sanctions procedure page confirms this broader proposition in general terms, stating that EU sanctions apply within the jurisdiction of the EU and bind EU nationals in any location, companies incorporated under Member State law, persons on board aircraft or vessels under Member State jurisdiction, and any person or entity within the EU. This architecture matters because it ensures that sanctions are not merely border measures. They are legal obligations attached to territorial nexus, nationality, corporate status, and Union-linked business activity. In effect, the sanctions' regime is projected through legal connection rather than through physical frontier alone<sup>3,4,5</sup>.

The enforcement architecture has also become more elaborate and centralised over time. Regulation 833/2014 already required Member States to lay down rules on penalties for infringements and to ensure that those penalties are effective, proportionate, and dissuasive. However, the architecture moved to a new level when the EU first identified the violation of Union restrictive measures as an area of crime meeting the Article 83(1) TFEU criteria and then adopted Directive (EU) 2024/1226. That directive establishes minimum rules concerning criminal offences and penalties for the violation of Union restrictive measures, including circumvention conduct, failures to freeze assets, prohibited provision of services, concealment of ownership, and breaches of reporting or authorisation conditions. It also requires the transmission of statistical data by Member States so that the Commission can assess and report on enforcement outcomes. This development is architecturally significant because it adds a more harmonised criminal-law layer to what had previously been a more decentralised enforcement field. The sanctions regime is thereby transformed from a primarily compliance-led system into a system that combines compliance, administrative control, and criminal enforcement<sup>6,7</sup>.

That hardening of enforcement does not eliminate the importance of judicial safeguards; on the contrary, it makes them more central. Article 215(3) TFEU expressly requires that acts adopted under that provision contain the necessary provisions on legal safeguards. The Rosneft judgment is particularly relevant here because it confirms, in the Russia sanctions context itself, that restrictive measures against natural or legal persons remain subject to judicial control and that Article 215 TFEU functions as the bridge allowing the Council to give effect to restrictive measures through legislation ensuring their uniform application in Member States. The case also indicates that the existence of penalties at Member State level does not by itself invalidate the regime for lack of legal certainty, provided the relevant norms are sufficiently clear and can be judicially interpreted. This is a decisive architectural point. EU sanctions law is not designed as a realm of unreviewable emergency discretion. It is designed as a coercive but

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<sup>1</sup> European Union. (2024). *Restrictive measures (sanctions) — EUR-Lex glossary*.

<sup>2</sup> European Commission. (2026). *Provision of services: FAQs on sanctions against Russia and Belarus, with focus on Article 5n of Council Regulation (EU) No 833/2014*.

<sup>3</sup> Council of the European Union. (2014). *Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine*.

<sup>4</sup> Council of the European Union. (2014). *Council Regulation (EU) 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*.

<sup>5</sup> Council of the European Union. (2025). *How the EU adopts and reviews sanctions*.

<sup>6</sup> European Parliament and Council of the European Union. (2024). *Directive (EU) 2024/1226 on the definition of criminal offences and penalties for the violation of Union restrictive measures*.

<sup>7</sup> European Union. (2024). *General framework for EU sanctions*.

reviewable structure in which legal certainty, reasons, proportionality, and effective judicial protection remain constitutive constraints. That is one of the main reasons the regime has been able to expand while retaining legal credibility<sup>1,2</sup>.

When the different layers are viewed together, the architecture reveals both its strength and its structural tensions. Its strength lies in the fact that it is not dependent on a single legal instrument, institution, or enforcement channel. Treaty authority, CFSP decisions, regulations, annexes, implementing acts, Commission guidance, national competent authorities, criminal-law reinforcement, and judicial review all contribute to a system capable of adaptation over time. Its tensions arise from the same complexity. The more layers the regime contains, the greater the risk of interpretative divergence, administrative delay, over-compliance by private actors, and confusion between political announcements and formal legal effect. Yet these are not signs that the architecture is defective as such. They are the normal frictions of a sanctions regime that seeks simultaneously to be strategic, lawful, adaptable, and enforceable across a multi-level polity. For analytical purposes, the main implication is that the effectiveness of legal sanctions cannot be measured by reference to the text of a package alone. It must be assessed across the whole authority chain<sup>3,4,5</sup>.

The overall conclusion of this subsection is therefore straightforward. The sources of legal authority for EU sanctions against Russia are not exhausted by the headline regulations most often cited in public debate. They comprise a layered legal architecture beginning with treaty authority, moving through CFSP decisions and Article 215 regulations, and extending into annex-based implementation, administrative governance, interpretative maintenance, enforcement harmonisation, and judicial control. This structure explains both the durability and the increasing density of the sanctions' regime since 2014 and especially since 2022. It also explains why the Russia sanctions system has remained capable of cumulative expansion without requiring wholesale replacement of its foundational acts. The architecture is thus best understood as a legal infrastructure of managed coercion. In the next subsection, this structural understanding becomes essential, because once the legal authority chain is clear, one can more precisely analyse the core legal mechanisms of restriction through which the regime produces concrete effects<sup>6,7</sup>.

### 5.1.3. Core Legal Mechanisms of Restriction

If 5.1.2 clarified the sources of legal authority and the regulatory architecture of the EU sanctions regime, the present subsection must identify the concrete legal mechanisms through which that regime produces restrictive effects. This distinction is essential. A sanctions regime may be constitutionally well-founded and institutionally coherent, yet still remain analytically under-described unless one explains the operative legal techniques that transform political intent into legally structured constraints. In the Russia case, those techniques are numerous and cumulative. They range from the immobilisation of funds and economic resources to sectoral prohibitions on trade, technology, services, and financing; from transaction bans and access restrictions to anti-circumvention duties, contractual “no-Russia” clauses, reporting obligations, liability shields, and no-claims rules. The practical force of EU sanctions lies not in any single prohibition, but in the interaction of these mechanisms. The legal sphere is therefore not merely a place where measures are announced; it is the domain in which a differentiated toolkit of restrictive techniques is assembled and continuously recalibrated. For analytical purposes, this toolkit

<sup>1</sup> European Union. (2016). *Consolidated version of the Treaty on the Functioning of the European Union, Article 215*.

<sup>2</sup> Court of Justice of the European Union. (2017). *PJSC Rosneft Oil Company v Her Majesty's Treasury and Others (Case C-72/15)*.

<sup>3</sup> Council of the European Union. (2025). *How the EU adopts and reviews sanctions*.

<sup>4</sup> European Commission. (2026). *Provision of services: FAQs on sanctions against Russia and Belarus, with focus on Article 5n of Council Regulation (EU) No 833/2014*.

<sup>5</sup> European Parliament and Council of the European Union. (2024). *Directive (EU) 2024/1226 on the definition of criminal offences and penalties for the violation of Union restrictive measures*.

<sup>6</sup> European Union. (2024). *General framework for EU sanctions*.

<sup>7</sup> Council of the European Union. (2026). *Russia's war against Ukraine: EU sanctions*.

can be understood as a system of immobilisation, denial, controlled exception, and enforceability management<sup>1,2</sup>.

The first and most classical mechanism is listing-linked immobilisation, commonly referred to as the freezing of funds and economic resources. Under Regulation 269/2014, all funds and economic resources belonging to, owned, held, or controlled by listed persons or entities are to be frozen, and no funds or economic resources may be made available, directly or indirectly, to or for their benefit. This mechanism is legally significant because it does not formally confiscate property, but suspends the practical ability to use it within the jurisdictional reach of Union law. The target is therefore not only deprived of immediate access to liquid resources, but also cut off from the wider legal and financial channels through which those resources could normally be mobilised. In doctrinal terms, immobilisation is a preventive technique. In operational terms, however, it functions as a powerful instrument of incapacitation, because it interrupts financial agency without requiring ordinary criminal forfeiture proceedings. The mechanism is further strengthened by its extension to indirect availability, which prevents easy circumvention through nominees, intermediaries, or controlled entities<sup>3,4</sup>.

The importance of this mechanism lies not only in what is frozen, but in how legal categories are framed. The sanctions regime distinguishes between funds and economic resources, thereby widening the restrictive perimeter well beyond bank balances or cash-equivalent assets. This broader formulation is essential because a narrow focus on liquid financial holdings would leave open alternative channels of value extraction, leverage, or monetisation. By using the more expansive category of economic resources, the EU sanctions framework captures assets that can be used to obtain funds, goods, or services even if they are not immediately liquid. The mechanism therefore operates through functional legal drafting: what matters is not merely the formal asset class, but whether the resource can support continued economic action by the listed actor. This technique also explains why asset freezes often extend deep into corporate and contractual structures. Once the concept is framed functionally, sanctions law becomes capable of constraining the economic utility of assets rather than only their nominal ownership status<sup>5,6</sup>.

A second key mechanism is the prohibition on making funds or economic resources available, directly or indirectly, to listed actors. This is analytically distinct from freezing. Freezing immobilises what the listed person already has within reach of the law; the non-availability rule blocks the inflow of new value. The combination of the two mechanisms is what gives listing-based sanctions much of their legal power. If the EU had only frozen existing assets, sanctioned actors might still be able to sustain operations through newly arranged payments, indirect support, structured financing, or third-party provisioning. The non-availability rule closes that route by criminalising or otherwise prohibiting the continuing replenishment of economic capacity. Because it also covers indirect benefit, it compels operators to evaluate the functional beneficiary of a transaction, not merely its nominal recipient. In this sense, sanctions law works through a doctrine of substantive benefit rather than through formalistic transaction labels alone<sup>7,8</sup>.

The third major mechanism is sectoral denial through trade and technology controls under Regulation 833/2014. Unlike listing-based sanctions, which are centred on designated actors, sectoral restrictions are centred on legally defined categories of goods, technologies, activities, or recipients. The Regulation

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<sup>1</sup> European Union. (2026). *EU restrictive measures in view of Russia's invasion of Ukraine*.

<sup>2</sup> European Commission. (2026). *Frequently asked questions on provision of services concerning sanctions adopted following Russia's military aggression against Ukraine (Article 5n of Council Regulation 833/2014)*.

<sup>3</sup> Council of the European Union. (2014). *Council Regulation (EU) 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*.

<sup>4</sup> European Union. (2026). *General framework and glossary materials on restrictive measures (sanctions)*.

<sup>5</sup> Council of the European Union. (2014). *Council Regulation (EU) 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*.

<sup>6</sup> European Union. (2026). *General framework and glossary materials on restrictive measures (sanctions)*.

<sup>7</sup> Council of the European Union. (2014). *Council Regulation (EU) 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*.

<sup>8</sup> European Union. (2026). *General framework and glossary materials on restrictive measures (sanctions)*.

prohibits, across different provisions, the sale, supply, transfer or export of dual-use items, goods capable of contributing to Russia's military and technological enhancement, and goods which could contribute to the enhancement of Russian industrial capacities. It also extends the prohibition to related technical assistance, brokering services, financing, and financial assistance. The legal logic here is especially important. The EU does not merely ban the physical shipment of a product. It constructs a wider legal envelope around the prohibited good or technology by restricting the ancillary services that make export, deployment, maintenance, or integration possible. This transforms sectoral sanctions from customs measures into broader legal disconnection tools<sup>1,2</sup>.

That broader envelope reveals a general characteristic of EU sanctions law: many restrictive mechanisms are built as compound prohibitions. A good or technology may be prohibited, but so too are the related services, financial support, brokering functions, software elements, and sometimes intellectual-property transfers that would make the good commercially or operationally usable. This compound design is especially visible in later amendments to the Russia regime. For instance, the Regulation evolved beyond traditional export-control logic by also prohibiting the sale, licensing, or transfer of certain intellectual-property rights or trade secrets, as well as rights to access or re-use protected information, when these are linked to controlled goods or technology. This is a significant legal development. It shows that the EU increasingly treats knowledge, software, industrial know-how, and protected intangible rights as sanction-relevant vectors of capability transfer. The mechanism of restriction is therefore no longer confined to material goods; it increasingly encompasses intangible enabling assets<sup>3,4</sup>.

A fourth mechanism is service denial, which has become one of the most legally distinctive features of the post-2022 sanctions regime. Article 5n and related provisions prohibit the direct or indirect provision of a widening range of business-relevant services to the Russian government and to legal persons, entities, or bodies established in Russia. According to the Commission's services FAQ as updated on 22 January 2026, these prohibited services include, inter alia, accounting, auditing, bookkeeping, tax consulting, business and management consulting, public relations, IT consultancy, software-related services, engineering, architectural, legal advisory, and advertising services, depending on the provision concerned. This mechanism is striking because it targets the organisational and professional infrastructure of economic life rather than only trade in goods. It attempts to degrade strategic functionality by denying access to expertise, systems maintenance, planning, compliance support, representation structures, and business optimisation services. In legal terms, service sanctions are a high-resolution form of disconnection. They allow the Union to target operational capability without necessarily banning all underlying commercial relationships outright<sup>5,6</sup>.

The design of service restrictions is particularly important because it shows how EU sanctions law handles direct and indirect provision. The Commission guidance makes clear that an EU entity, including an EU subsidiary of a Russian company, may not provide restricted services to a Russian parent or other Russian-established entity, even indirectly, and that the test is not exhausted by formal place of incorporation. At the same time, the FAQ notes that service provision to an EU-established company is not prohibited as such if the company is not established in Russia, provided the service is not actually for the benefit of a Russian-established entity and the arrangement is not used to circumvent sanctions. This demonstrates a recurring legal mechanism within the regime: the law distinguishes between formal

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<sup>1</sup> Council of the European Union. (2014). *Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.*

<sup>2</sup> Council of the European Union. (2022). *Council Regulation (EU) 2022/328 of 25 February 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.*

<sup>3</sup> Council of the European Union. (2014). *Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.*

<sup>4</sup> Council of the European Union. (2023). *Council Regulation (EU) 2023/1214 of 23 June 2023 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.*

<sup>5</sup> European Commission. (2026). *Frequently asked questions on provision of services concerning sanctions adopted following Russia's military aggression against Ukraine (Article 5n of Council Regulation 833/2014).*

<sup>6</sup> Council of the European Union. (2014). *Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.*

legal personhood and substantive economic benefit, and then overlays that distinction with anti-circumvention scrutiny. The practical consequence is that operators must assess corporate structure, place of establishment, control relationships, and benefit flows together. This mechanism is deliberately functional. It is designed to prevent the sanctions perimeter from being neutralised through corporate layering and trans-jurisdictional service routing<sup>1,2</sup>.

A fifth mechanism is the transaction ban, especially where specific Russian state-owned or strategically relevant entities are concerned. Article 5aa of Regulation 833/2014 and related amendments illustrate this technique. Rather than freezing all assets of the targeted bodies in the classical listing sense, the law prohibits direct or indirect engagement in transactions with listed legal persons, entities, or bodies, as well as with those owned, controlled, or directed by them under the provision's logic. This mechanism is analytically important because it operates somewhere between listing-based immobilisation and general sectoral prohibition. It does not simply freeze pre-existing assets, nor does it only target a class of goods or services. Instead, it prohibits commercial dealing as such with a category of designated institutional actors. In practice, transaction bans can be highly disruptive because they reach across financing, procurement, contracting, and operational cooperation. They thus function as a legal technique of institutional disaffiliation<sup>3,4</sup>.

A related mechanism is infrastructural exclusion, which seeks to remove Russian or Russia-linked actors from the legal and institutional systems through which modern cross-border economic activity is organised. This logic appears in various parts of the Russia regime, including restrictions involving financial market access, central securities depositories, specific banking relations, transport infrastructure, and other operational platforms. The legal point is that sanctions do not only forbid transactions at the moment of exchange. They also disable the infrastructures that make such transactions routine, scalable, and secure. The effect of this mechanism is often indirect but profound. By degrading access to payment systems, market venues, logistical routes, or depository services, the law makes otherwise lawful or residual activity more difficult, costly, and uncertain. This is a form of structural restriction rather than simple event-level prohibition. In long-term sanctions policy, infrastructural exclusion is especially powerful because it compounds over time and increases the frictional cost of adaptation<sup>5,6</sup>.

Another increasingly important technique is import-side revenue denial. EU sanctions against Russia do not only block exports to the target; they also restrict imports, purchases, or transfers of goods that generate significant revenues for Russia. This mechanism is legally distinct from capability denial. Rather than focusing on what Russia can acquire, it focuses on what Russia can monetise through continued trade. The distinction matters because sanctions aimed at degrading military or industrial capacity are not identical to sanctions aimed at reducing state and quasi-state revenue streams. Import prohibitions on selected categories of Russian-origin goods therefore function as an instrument of fiscal and commercial constriction. They also help explain why the legal sanctions regime has become increasingly integrated across trade, energy, shipping, and customs practice. In legal terms, the mechanism expands the regime from export control into revenue-interdiction governance<sup>7,8</sup>.

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<sup>1</sup> European Commission. (2026). *Frequently asked questions on provision of services concerning sanctions adopted following Russia's military aggression against Ukraine (Article 5n of Council Regulation 833/2014)*.

<sup>2</sup> European Commission. (2026). *Asset freeze and prohibition to provide funds or economic resources: Frequently asked questions concerning sanctions adopted following Russia's military aggression against Ukraine and Belarus' involvement in it*.

<sup>3</sup> Council of the European Union. (2014). *Council Regulation (EU) 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*.

<sup>4</sup> Council of the European Union. (2014). *Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine*.

<sup>5</sup> Ibid.

<sup>6</sup> European Commission. (2026). *Frequently asked questions concerning sanctions adopted following Russia's military aggression against Ukraine and Belarus' involvement in it*.

<sup>7</sup> Council of the European Union. (2014). *Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine*.

<sup>8</sup> Council of the European Union. (2025). *Council Regulation (EU) 2025/2033 of 10 October 2025 amending Regulation (EU) No 833/2014 concerning additional export, import, and transaction restrictions*.

A seventh mechanism is controlled exception through derogations, exemptions, and authorisations. At first sight, exceptions may look like softening devices rather than restrictive techniques, but analytically they are part of the mechanism of restriction itself. A sanctions regime that offered no lawful pathways for basic needs, legal defence, pre-existing contractual claims of a narrow kind, maintenance charges, or humanitarian considerations would quickly become overbroad, legally brittle, and politically harder to sustain. Regulation 269/2014 therefore permits competent authorities, under defined conditions, to authorise releases of frozen funds for basic needs, payment of reasonable professional fees and reimbursement of legal-service expenses, routine holding or maintenance charges, and extraordinary expenses subject to additional notification discipline. This shows that the regime works not by absolute prohibition but by conditional legality under administrative control. The legal restriction lies in the fact that what would ordinarily be private economic choice is converted into a matter requiring authorisation, justification, and institutional oversight<sup>1,2</sup>.

The same controlled-exception logic is visible in the services field. The Commission's Article 5n FAQ explains that certain legal services may remain possible where they are strictly necessary for the exercise of the right of defence in judicial proceedings and the right to an effective legal remedy, and that a specific exemption applies where services are strictly necessary to ensure access to judicial, administrative, or arbitral proceedings in a Member State, or for the recognition or enforcement of a judgment or arbitration award rendered in a Member State. This is highly significant for legal analysis. It means that even as the EU restricts legal advisory services to Russian governmental or Russia-established actors, it does not fully extinguish the legal pathways necessary to preserve access to justice in defined Union-related contexts. The mechanism at work is therefore selective procedural preservation within a wider environment of service denial. In effect, the regime differentiates between ordinary legal-commercial support, which may be restricted, and minimum procedural safeguards, which must remain available. This bounded carve-out structure is one of the reasons the sanctions regime can claim legal robustness<sup>3,4</sup>.

An eighth mechanism consists in anti-circumvention clauses, which preserve the effectiveness of primary prohibitions by targeting behaviour whose object or effect is to bypass them. This mechanism is now central to the Russia regime. The Regulation prohibits participation, knowingly and intentionally, in activities the object or effect of which is to circumvent prohibitions. Commission guidance further emphasises that EU operators are expected to maintain due-diligence measures across all relevant activities and calibrate them to their specific exposure and business model. In other words, the legal regime no longer relies solely on a static list of forbidden acts. It increasingly governs the risk space around those acts by requiring operators to monitor how prohibited outcomes might be achieved indirectly. This transforms sanctions law into a more dynamic system of functional prevention. The legal target becomes not only the prohibited transaction itself, but also the arrangement, routing, or organisational design that would undermine the regulation's purpose<sup>5,6</sup>.

A particularly innovative expression of anti-circumvention logic is the contractual "no-Russia" clause mechanism under Article 12g. As the 2024 amending act explains, Union operators are required to contractually prohibit the re-exportation to Russia, or re-exportation for use in Russia, of certain sensitive goods and technology, certain common high priority items, and specified firearms and ammunition when dealing with non-EU counterparts. This is an important development in sanctions

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<sup>1</sup> Council of the European Union. (2014). *Council Regulation (EU) 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.*

<sup>2</sup> European Commission. (2026). *Frequently asked questions on asset freezes, reporting obligations, and competent authority practice.*

<sup>3</sup> European Commission. (2026). *Frequently asked questions on provision of services concerning sanctions adopted following Russia's military aggression against Ukraine (Article 5n of Council Regulation 833/2014).*

<sup>4</sup> Court of Justice of the European Union. (2017). *PJSC Rosneft Oil Company v Her Majesty's Treasury and Others (Case C-72/15).*

<sup>5</sup> Council of the European Union. (2014). *Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.*

<sup>6</sup> European Commission. (2023). *Guidance for EU operators: Implementing enhanced due diligence to shield against Russia sanctions circumvention.*

technique. The law is no longer content merely to prohibit direct exports from the Union. It now requires operators to embed sanctions objectives into their own contractual chains, thereby projecting the regime outward into private transnational risk management. The mechanism is both public and private at once: the EU imposes a legal duty to create contractual controls that reduce onward diversion. In doing so, it turns contract drafting into an instrument of geopolitical compliance<sup>1,2</sup>.

The anti-circumvention architecture also increasingly relies on enhanced due diligence. The Commission’s guidance for EU operators makes clear that due diligence should be adapted to the operator’s activities and risk exposure and that the guidance, although initially export-focused, is relevant to all sanctions-relevant activities. This is not a trivial compliance recommendation. It is a mechanism by which the sanctions regime pushes investigative responsibility outward from public authorities to private actors. Due diligence becomes part of the law’s operational structure because the distinction between lawful and unlawful conduct increasingly depends on what the operator knew, should have known, or had reason to suspect. That, in turn, shapes standards of care, internal governance, customer screening, end-use verification, and escalation procedures. The legal mechanism is therefore partly epistemic: it governs not only conduct, but the diligence with which that conduct must be assessed<sup>3,4</sup>.

A ninth mechanism is reporting and information-sharing, which is often underappreciated in public discussions of sanctions law. Asset-freeze guidance confirms that operators freezing assets of designated persons must report information on those frozen assets and, in certain circumstances, identify changes made to assets in the two weeks preceding designation. The regulations also require information exchange among Member States and the Commission concerning frozen funds, authorisations, enforcement problems, and judgments handed down by national courts. This mechanism matters because sanctions effectiveness depends not only on prohibition and punishment, but on informational visibility. Without structured reporting, authorities cannot map the real asset perimeter, detect pre-designation asset movements, identify implementation bottlenecks, or compare national practice. Reporting obligations therefore act as a legal mechanism of regime intelligence. They convert private knowledge into administrative visibility and thereby support enforcement, policy adjustment, and anti-circumvention action<sup>5,6</sup>.

To summarise the interaction of these techniques, the core mechanisms of legal restriction in the EU’s Russia sanctions regime can be mapped as follows.

Table 5.1.3-1. Core legal mechanisms of restriction in the EU sanctions regime against Russia

<b>Mechanism</b>	<b>Main legal effect</b>	<b>Operational logic</b>	<b>Strategic function</b>
Asset freeze / immobilisation	Freezes funds and economic resources of listed actors	Blocks use of existing value within EU jurisdiction	Incapacitates targeted persons and entities
Non-availability of funds / resources	Prohibits direct or indirect making available of value	Blocks new inflows, support, and replenishment	Prevents adaptive financial replenishment
Sectoral goods / technology prohibitions	Bans export, sale, supply, transfer, or import of listed categories	Restricts material and technological flows	Degrades military, industrial, and revenue capacity

<sup>1</sup> Council of the European Union. (2024). *Council Regulation (EU) 2024/1745 of 24 June 2024 amending Regulation (EU) No 833/2014 as regards the contractual “no-Russia” clause and related anti-circumvention measures.*

<sup>2</sup> European Commission. (2024). *FAQs on the “no re-export to Russia” clause.*

<sup>3</sup> European Commission. (2023). *Guidance for EU operators: Implementing enhanced due diligence to shield against Russia sanctions circumvention.*

<sup>4</sup> European Commission. (2025). *Enhanced due diligence for operators manufacturing and/or trading with common high priority items.*

<sup>5</sup> Council of the European Union. (2024). *Council Regulation (EU) 2024/1745 of 24 June 2024 amending Regulation (EU) No 833/2014 as regards the contractual “no-Russia” clause and related anti-circumvention measures.*

<sup>6</sup> European Commission. (2026). *Frequently asked questions on asset freezes, reporting obligations, and competent authority practice.*

<b>Mechanism</b>	<b>Main legal effect</b>	<b>Operational logic</b>	<b>Strategic function</b>
Ancillary-service restrictions	Bans technical assistance, brokering, financing, software, and related support	Targets enabling services around controlled items	Prevents lawful appearance of unlawful capability transfer
Service denial	Prohibits specific professional and business-relevant services	Restricts advisory, organisational, and technical functionality	Weakens operational capacity and external integration
Transaction bans	Prohibits dealings with designated entities or categories of entities	Blocks institutional commercial interaction	Produces strategic disaffiliation from sanctioned actors
Controlled derogations / authorisations	Allows narrow exceptions under administrative control	Converts residual lawful activity into licensed activity	Preserves proportionality and legal sustainability
Anti-circumvention / due diligence	Targets evasive structuring and requires risk-calibrated compliance	Governs indirect paths around the rules	Preserves real effectiveness of primary prohibitions
Contractual no-Russia clause	Requires operators to bind non-EU partners contractually	Extends control into downstream private chains	Limits third-country diversion and re-export risk
Reporting / information-sharing	Mandates disclosure to competent authorities and the Commission	Creates administrative visibility and traceability	Supports enforcement, detection, and recalibration
No-claims / liability shields	Blocks certain contractual claims and protects compliant actors	Reduces private-law pressure against compliance	Stabilises the regime in commercial litigation
Criminalised violation framework	Treats serious violations and circumvention as offences	Increases penalties and legal-person liability	Hardens deterrence and enforcement credibility

*Authorship: analytical framework (this report) was prepared by the author.*

*Sources:*

- EUR-Lex texts of Regulations 269/2014 and 833/2014.
- Commission FAQs and guidance on services, asset freezes, circumvention, and due diligence.
- Directive (EU) 2024/1226. (Council of the European Union, 2014a, 2014b; European Commission, 2026a, 2026d; European Parliament and Council of the European Union, 2024).

A tenth mechanism is the pair of liability shields and no-claims rules, which are crucial to the internal coherence of sanctions law. Regulation 833/2014 provides that actions by persons or entities shall not give rise to liability if they did not know, and had no reasonable cause to suspect, that their conduct would infringe the sanctions measures. It also states that no claims connected with contracts or transactions whose performance has been affected by the sanctions shall be satisfied if made by specified Russian or Russia-linked claimants. This is a highly consequential legal mechanism. Sanctions would be far harder to enforce if compliant operators remained broadly exposed to damages claims, guarantee claims, indemnity actions, or analogous forms of private-law retaliation from sanctioned counterparties. The no-claims mechanism therefore protects the sanctions regime from being undermined through ordinary contractual litigation. It converts sanctions compliance from a commercially hazardous choice into a legally defensible one<sup>1,2</sup>.

That feature points to a deeper property of the legal sanctions’ regime: it governs not only public-law prohibitions but also the private-law consequences of non-performance. This is particularly important in complex cross-border business relations, where the most immediate pressure on compliance may arise not from regulators but from contractual counterparties invoking warranties, performance bonds, or damages clauses. By foreclosing satisfaction of specified claims, the EU reduces the capacity of sanctioned actors to weaponise private-law remedies against sanctions implementation. This

<sup>1</sup> Council of the European Union. (2014). *Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*

<sup>2</sup> Court of Justice of the European Union. (2020). *Bank Refah Kargaran v Council (Case C-134/19 P).*

mechanism is therefore defensive as well as restrictive. It protects the normative integrity of the sanctions' regime within civil and commercial dispute settings. In effect, it ensures that the legal force of sanctions is not silently neutralised by downstream litigation over frustrated contractual expectations. The law thus manages enforceability on both the public and private sides of the compliance equation<sup>1,2</sup>.

An eleventh, increasingly visible mechanism is defensive non-recognition and non-enforcement in response to Russian anti-suit injunction practice under Article 248 of the Russian Arbitration Procedure Code. The 2024 EU act explains that Russian courts had issued anti-suit injunctions and disproportionate financial penalties aimed at preventing European companies from pursuing proceedings in foreign courts or tribunals. In response, the Union introduced a prohibition on the recognition or enforcement in Member States of injunctions, orders, judgments, or other court decisions pursuant to or derived from Article 248 or equivalent Russian legislation, as well as certain associated criminal-proceedings assistance or punishment. This mechanism is particularly important for Part Five because it shows the sanctions regime entering more deeply into the field of private international law and transnational dispute control. The legal objective is not merely to restrict economic flows, but to shield the Union legal space from coercive extraterritorial or anti-procedural effects generated by Russian judicial measures. The mechanism is therefore a form of jurisdictional defence through sanctions law<sup>3,4</sup>.

A twelfth mechanism is the criminalisation of serious violations and circumvention, now reinforced at EU level by Directive (EU) 2024/1226. The directive sets minimum EU-wide rules on criminal offences and penalties for the violation and circumvention of Union restrictive measures, requires effective, dissuasive, and proportionate penalties for natural persons, and provides for liability of legal persons. This is a major development in legal technique. Earlier phases of the sanctions regime relied much more heavily on national penalty systems and variable enforcement cultures. The directive does not erase national implementation, but it narrows the space for radical divergence by supplying a common baseline. As a mechanism of restriction, criminalisation performs two functions at once. It deters deliberate breach and circumvention, and it signals that sanctions' law is no longer peripheral compliance regulation but part of the Union's more serious enforcement architecture<sup>5,6</sup>.

The existence of criminalisation also changes how the earlier mechanisms should be understood. Asset freezes, service bans, anti-circumvention clauses, reporting duties, and no-Russia clauses are not merely compliance expectations backed by reputational risk. They increasingly operate within an environment in which intentional or serious breach may trigger criminal liability, including for legal persons. This changes internal governance incentives for firms, financial institutions, and professional-service providers. Compliance is no longer just a matter of avoiding administrative trouble or market embarrassment; it becomes a matter of avoiding exposure to a more structured punitive framework. In institutional terms, the regime thus moves from a primarily preventive architecture to a preventive-plus-penal architecture. That development strengthens deterrence, but it also raises the stakes of legal certainty, drafting quality, and guidance clarity<sup>7,8</sup>.

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<sup>1</sup> Council of the European Union. (2014). *Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.*

<sup>2</sup> Council of the European Union. (2022). *Council Regulation (EU) 2022/328 of 25 February 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.*

<sup>3</sup> Council of the European Union. (2024). *Council Regulation (EU) 2024/3192 of 16 December 2024 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.*

<sup>4</sup> Council of the European Union. (2024). *Council Decision (CFSP) 2024/3187 of 16 December 2024 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.*

<sup>5</sup> European Parliament and Council of the European Union. (2024). *Directive (EU) 2024/1226 of 24 April 2024 on the definition of criminal offences and penalties for the violation of Union restrictive measures.*

<sup>6</sup> European Union. (2024). *Criminal offences and penalties for the violation of EU restrictive measures.*

<sup>7</sup> European Parliament and Council of the European Union. (2024). *Directive (EU) 2024/1226 of 24 April 2024 on the definition of criminal offences and penalties for the violation of Union restrictive measures.*

<sup>8</sup> European Commission. (2026). *Consolidated FAQs on the implementation of Council Regulation No 833/2014 and Council Regulation No 269/2014.*

Taken together, the core legal mechanisms of restriction in the Russia sanctions regime reveal a mature and highly differentiated legal toolkit. The regime acts by freezing and isolating, but also by denying goods, services, finance, legal effect, contractual comfort, procedural leverage, and opportunities for circumvention. Its effectiveness does not rest on maximal severity in every individual provision. Rather, it rests on the cumulative interaction of multiple mechanisms that reinforce one another across public law, private law, trade regulation, administrative governance, and enforcement. This is why the legal sphere is central to the overall sanctions' architecture of the EU. It is where geopolitical pressure is translated into a structured environment of controlled illegality, permitted exception, and monitored compliance. That understanding is also methodologically important for the next subsection: once the main mechanisms have been identified, the analysis can turn more precisely to the legal limits, derogations, and forms of judicial review that determine whether those mechanisms remain sustainable in practice<sup>1,2,3</sup>.

#### 5.1.4. Legal Limits, Derogations, and Judicial Review

A mature sanctions regime cannot be assessed only by the breadth of its prohibitions. It must also be evaluated through the legal limits that discipline those prohibitions, the derogations that prevent them from becoming normatively overbroad, and the judicial mechanisms that keep the regime within the Union's constitutional order. In the EU context, these three dimensions are inseparable. Restrictive measures are designed to exert pressure, but they are not intended to suspend the rule of law or create an unchecked field of executive discretion. This is especially important in the Russian case, where sanctions have become denser, more technical, and more durable over time. The more extensive the regime becomes, the more necessary it is to identify the legal boundaries within which it may operate. A long-term sanctions framework that lacked such boundaries would become politically vulnerable, legally brittle, and increasingly difficult to defend before courts and regulated actors alike. For that reason, the present subsection treats legal limits, derogations, and judicial review not as secondary safeguards appended to the regime, but as internal conditions of its durability<sup>4,5</sup>.

The first of those limits is constitutional in nature. Article 215 TFEU does not merely empower the Council to adopt restrictive measures against natural or legal persons and non-state entities; it also states expressly that such acts "shall include necessary provisions on legal safeguards". That formulation is crucial because it demonstrates that legal protection is embedded in the very legal basis of EU sanctions. The architecture of restrictive measures is therefore not one in which coercive content appears first and safeguards are added later out of prudence or political convenience. Rather, the Treaty itself anticipates that measures interfering with rights and lawful expectations must be structured in a way that preserves legal guarantees. The General Court has confirmed this logic by stating that a measure adopted under Article 215(2) TFEU is valid only on condition that it contains safeguards for the respect of the fundamental rights of the persons concerned. In other words, sanctions are not constitutionally exceptional spaces lying beyond ordinary legal discipline. They are coercive measures whose legality depends, from the outset, on the inclusion of safeguards<sup>6,7</sup>.

A second foundational limit concerns the legal nature of sanctions themselves. EU case-law and official guidance consistently distinguish restrictive measures from criminal punishment in the classical sense. The Bank Melli line of case-law summarised by EUR-Lex states that fund-freezing measures are not

<sup>1</sup> European Union. (2026). *EU restrictive measures in view of Russia's invasion of Ukraine*.

<sup>2</sup> European Parliament and Council of the European Union. (2024). *Directive (EU) 2024/1226 of 24 April 2024 on the definition of criminal offences and penalties for the violation of Union restrictive measures*.

<sup>3</sup> European Commission. (2026). *Frequently asked questions on provision of services concerning sanctions adopted following Russia's military aggression against Ukraine (Article 5n of Council Regulation 833/2014)*.

<sup>4</sup> European Union. (2012). *Consolidated version of the Treaty on the Functioning of the European Union, Article 215*.

<sup>5</sup> Council of the European Union. (2014). *Council Regulation (EU) 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*.

<sup>6</sup> European Union. (2012). *Consolidated version of the Treaty on the Functioning of the European Union, Article 215*.

<sup>7</sup> General Court of the European Union, 2014

criminal in character. The Commission's asset-freeze FAQ similarly notes that sanctions in general, and asset freezes in particular, do not entail expropriation and are of a temporary nature. This distinction is far from merely terminological. It shapes how proportionality, review intensity, and derogation design are to be understood. Because sanctions are preventive rather than punitive in doctrine, they must be justified by their regulatory purpose and calibrated to that purpose. They may impose severe constraints, but they do not authorise the Union to disregard the principles that govern limitations on rights within the EU legal order<sup>1,2</sup>.

That said, the preventive nature of sanctions does not mean that EU institutions face a single, uniform standard of review across the whole regime. One of the most useful analytical distinctions made by the courts is the distinction between general rules and individual listing decisions. The Bank Melli summary explains that, with regard to the general rules defining the procedures for giving effect to restrictive measures, the Council enjoys broad discretion as to what to take into consideration when adopting economic and financial sanctions. In that field, judicial review is correspondingly limited to checking whether procedural rules and the duty to state reasons have been complied with, whether the facts are materially accurate, and whether there has been manifest error or misuse of powers. This is a structurally important limit on judicial substitution. The courts do not replace the Council's political and strategic assessment with their own. They instead examine legality, rationality, and procedural discipline. Thus, in the field of general sanctions design, the legal limit lies not in eliminating political discretion, but in bounding it<sup>3,4</sup>.

By contrast, when the courts review an individualised listing or maintenance decision, the intensity of judicial scrutiny becomes significantly stronger. The Kadi judgment remains the leading authority here. It states that the Courts of the European Union must ensure, in principle, the full review of the lawfulness of Union acts in the light of fundamental rights. Later Russia-related case-law has translated that principle into concrete review standards. In Case T-363/22, the General Court reiterated that judicial review cannot be restricted to an abstract assessment of the cogency of the reasons relied on by the Council, but must verify whether the factual allegations in the summary of reasons are substantiated, at least where one sufficient reason can independently support the decision. This is one of the most important legal limits in the sanctions field. It prevents the listing mechanism from becoming a purely political label and requires the Council to maintain evidentiary discipline<sup>5,6</sup>.

A closely related limit is the obligation to state reasons. According to recent General Court case-law, the statement of reasons required by Article 296 TFEU must disclose in a clear and unequivocal fashion the reasoning followed by the institution so as to enable the person concerned to ascertain the reasons for the act and the court to exercise its power of review. The same case-law also makes clear that the statement of reasons must identify not only the legal basis for the measure but also the actual and specific reasons why the Council considers that such a measure has to be adopted in respect of the person concerned. This requirement is indispensable in sanctions cases because the addressee often experiences the restrictive measure as a severe and immediate disruption of legal and economic existence. Without an adequate statement of reasons, the right to challenge the measure would become largely theoretical. The duty to state reasons therefore acts as both a procedural and substantive

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<sup>1</sup> Bank Melli Iran v Council & Council of the European Union. (2009). *Judgment of the Court of First Instance (Second Chamber)*, 14 October 2009 II – 3974.

<sup>2</sup> European Commission. (2026). *Frequently asked questions on provision of services concerning sanctions adopted following Russia's military aggression against Ukraine (Article 5n of Council Regulation 833/2014)*.

<sup>3</sup> Bank Melli Iran v Council & Council of the European Union. (2009). *Judgment of the Court of First Instance (Second Chamber)*, 14 October 2009 II – 3974.

<sup>4</sup> Court of Justice of the European Union. (2017, March 28). *PJSC Rosneft Oil Company v Her Majesty's Treasury and Others (Case C-72/15)*. ECLI:EU:C:2017:236.

<sup>5</sup> European Commission, Yassin Abdullah Kadi, et al. (2013). *EUR-Lex - 62010CJ0584 – EN: Judgment of the Court (Grand Chamber)*, 18 July 2013. Document 62010CJ0584.

<sup>6</sup> General Court of the European Union. (2024). *NKO AO National Settlement Depository (NSD) v Council of the European Union (Case T-494/22)*.

boundary: it structures the Council's decision-making and enables external review of that decision-making<sup>1,2</sup>.

The rights of the defence and the right to effective judicial protection form the next major cluster of limits. In *Kadi*, the Court made clear that these rights are fundamental rights within the Union legal order. It specified that the rights of the defence include the right to be heard and access to the file, subject to legitimate confidentiality interests, while effective judicial protection requires that the person concerned be able to ascertain the reasons on which the decision is based and decide, with full knowledge of the relevant facts, whether to bring proceedings. The Court also stressed that the competent Union authority must disclose the summary of reasons, enable the person effectively to make known observations, and examine carefully and impartially whether the reasons are well founded in the light of those observations and any exculpatory evidence. That formulation remains central to sanctions law today. It demonstrates that the legal limit is not exhausted by formal notification; it requires a meaningful opportunity to contest the measure<sup>3</sup>.

These general principles are reflected directly in the text of Regulation 269/2014. Recital 8 states that the procedure for amending the list in Annex I should include providing designated persons or entities with the grounds for listing so as to give them an opportunity to submit observations. Article 14 then operationalises that requirement by obliging the Council to communicate its decision, including the grounds for listing, either directly or through publication of a notice. The same article provides that, where observations are submitted or substantial new evidence is presented, the Council shall review its decision and inform the person or entity accordingly. Article 14(4) further requires the list to be reviewed at regular intervals and at least every twelve months. This is a highly significant legal design. It shows that the sanctions regime incorporates not only initial notification, but also reconsideration and periodic re-examination as ordinary parts of its operation<sup>4</sup>.

From an institutional standpoint, these review mechanisms are not symbolic. Recent General Court case-law confirms that Article 14(3) of Regulation 269/2014 has real procedural significance. In *Case T-494/22*, the Court expressly referred to Article 14(3) and noted that, where observations are submitted or substantial new evidence is presented, the Council must review its decision to include the person on the lists at issue. This indicates that reconsideration is not merely a discretionary courtesy extended by the Council. It is part of the legal architecture of the regime. For analytical purposes, that is highly important. It means that the sanctions system contains an internal correction mechanism before or alongside judicial challenge. Such a mechanism cannot eliminate litigation, but it can improve the legal sustainability of listings by requiring the Council to revisit them in light of new material<sup>5,6</sup>.

The regime's derogation structure is the next key limit. It is tempting to view derogations as political concessions or practical exceptions, but legally they play a more fundamental role. They are one of the principal ways in which the EU ensures that restrictive measures remain targeted, proportionate, and operable in real legal and commercial life. In Regulation 269/2014, derogations do not abolish the asset freeze; they conditionally authorise departures from it under controlled circumstances and subject to competent-authority oversight. The significance of this design is that the law does not present sanctions as absolute interruption in all situations. Instead, it creates a system of managed exceptions through which basic needs, professional rights, judicial claims, and certain pre-existing obligations may still be addressed without dissolving the restrictive effect of the regime. Derogations are therefore not

<sup>1</sup> General Court of the European Union. (2026). *Feras Al Akhras v Council of the European Union (Case T-176/24)*.

<sup>2</sup> European Commission, Yassin Abdullah Kadi, et al. (2013). *EUR-Lex - 62010CJ0584 – EN: Judgment of the Court (Grand Chamber), 18 July 2013. Document 62010CJ0584*.

<sup>3</sup> European Commission, Yassin Abdullah Kadi, et al. (2013). *EUR-Lex - 62010CJ0584 – EN: Judgment of the Court (Grand Chamber), 18 July 2013. Document 62010CJ0584*.

<sup>4</sup> Council of the European Union. (2014). *Council Regulation (EU) 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*.

<sup>5</sup> General Court of the European Union. (2024). *NKO AO National Settlement Depository (NSD) v Council of the European Union (Case T-494/22)*.

<sup>6</sup> Council of the European Union. (2014). *Council Regulation (EU) 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*.

weaknesses in the legal architecture. They are mechanisms through which that architecture avoids self-defeating rigidity<sup>1,2</sup>.

This becomes especially clear in Article 4 of Regulation 269/2014, which permits competent authorities to authorise the release of frozen funds or economic resources where they are necessary to satisfy basic needs, intended exclusively for reasonable professional fees or reimbursement of legal-service expenses, intended for routine holding or maintenance charges, or necessary for extraordinary expenses subject to notification conditions. The inclusion of basic needs such as food, rent, medicines, insurance, and utilities underscores that sanctions are not meant to destroy the minimum conditions of subsistence. Equally important is the explicit reference to legal-service costs. That provision confirms that even listed persons remain within a legal order that recognises representation, advice, and procedural defence as legitimate needs. The extraordinary-expenses clause also reveals an important feature of derogation design: sanctions law must remain capable of addressing unusual but legally relevant factual situations without abandoning the freeze as such. In practice, this transforms competent authorities into gatekeepers of proportionality<sup>3</sup>.

The derogation architecture extends beyond basic needs. Article 5 of Regulation 269/2014 allows the release of certain frozen funds or economic resources where they are subject to an arbitral decision rendered before listing, to a judicial or administrative decision rendered in the Union, or to a judicial decision enforceable in the Member State concerned, provided that the payment is used exclusively to satisfy claims recognised by such a decision, is not for the benefit of a listed person, and recognition is not contrary to public policy in the Member State concerned. This is a remarkable provision because it reflects the continuing relevance of adjudicated rights even in a sanctions' setting. The law does not simply erase prior legal relations. It subjects their enforcement to a sanctions filter. In doing so, it acknowledges that judicial and arbitral outcomes remain part of the legal landscape, but only insofar as their execution does not undermine the objectives of restrictive measures. Derogation here functions as a method of reconciling adjudicated claims with sanctions policy<sup>4</sup>.

Article 6 adds another layer by permitting the release of frozen funds where a payment by a listed person is due under a contract or agreement concluded, or an obligation that arose, before the date of listing, provided that the competent authority determines that the funds are to be used for a payment by the listed person and that the payment is not in breach of the prohibition on making funds or economic resources available. Read together with Article 7, which permits the crediting of frozen accounts and certain pre-listing payments so long as the additions remain frozen, the structure shows that the law does not pretend that listing instantaneously dissolves all pre-existing legal obligations. Rather, it reclassifies them into a controlled environment. The sanctions regime thus limits the direct economic freedom of the listed person, but it does not wholly deny the legal existence of prior contracts, debts, or adjudicated entitlements. In long-term sanctions practice, that is a crucial distinction. It reduces unnecessary legal chaos while still preserving the immobilising effect of the measure<sup>5,6</sup>.

The services field demonstrates the same logic in a more recent and politically sensitive form. The Commission's FAQ on Article 5n, updated on 22 January 2026, states expressly that the sanctions on legal advisory services have been designed so as to preserve access to justice and the right of defence. It further explains that the prohibition does not apply to services strictly necessary for the exercise of the right of defence in judicial proceedings and the right to an effective legal remedy, or to services strictly necessary to ensure access to judicial, administrative, or arbitral proceedings in a Member State, or for

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<sup>1</sup> Ibid.

<sup>2</sup> European Commission. (2024). *Frequently asked questions on asset freezes following sanctions adopted in view of Russia's military aggression against Ukraine and Belarus' involvement in it.*

<sup>3</sup> Council of the European Union. (2014). *Council Regulation (EU) 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.*

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

<sup>6</sup> General Court of the European Union. (2024). *NKO AO National Settlement Depository (NSD) v Council of the European Union (Case T-494/22).*

the recognition or enforcement of a judgment or arbitration award rendered in a Member State. This is a highly consequential clarification. It shows that even where the EU has decided to restrict professional services very broadly, it has not accepted a model of total legal isolation. Instead, the regime differentiates between ordinary legal-commercial support and core procedural access. That differentiation is one of the main legal limits that prevents service sanctions from becoming incompatible with the Union's rule-of-law commitments<sup>1</sup>.

At the same time, the existence of derogations does not mean that the regime becomes loose or indeterminate. Most derogations are mediated through national competent authorities, and that administrative choice introduces both flexibility and risk. Flexibility arises because competent authorities can respond to concrete factual settings that no regulation could fully anticipate. Risk arises because the wider the room for national authorisation practice, the greater the possibility of divergent interpretations across Member States. One authority may read necessity narrowly; another may adopt a more functional approach. One may treat a payment structure as consistent with the objectives of the regime; another may regard it as too close to indirect benefit. These variations do not invalidate the sanctions framework, but they form an important part of its legal limits in practice. The law is uniform at Union level, but its day-to-day proportionality is often administered nationally<sup>2,3</sup>.

## 5.2. Review of Legal Sanctions

### 5.2.1. Asset Freezes and the Immobilisation of Economic Resources

The asset-freeze mechanism should be treated as the central legal instrument of the EU's individual financial sanctions against Russia, because it converts political designation into a concrete and immediately operative form of juridical incapacitation. In the current Russia sanctions regime, the European Commission states that travel bans and financial measures now target 1,206 individuals and more than 108 organisations under the basic listing architecture of Council Decision 2014/145/CFSP and Council Regulation (EU) No 269/2014. That scale is analytically important, because it shows that asset freezes are not a peripheral supplement to trade and sectoral measures, but one of the Union's most heavily used coercive legal tools against Russia. At the same time, their significance lies not merely in the number of listed actors, but in the legal quality of the measure itself. An asset freeze interrupts the normal use of property, payment capacity, contractual execution, and access to financial infrastructure without requiring the Union to prove criminal liability in the classical sense. This makes it particularly suitable for a sanctions regime that is designed to be preventive, immediate, and strategically scalable. In the Russian context, asset freezes have therefore become both a symbol of designation and a practical mechanism of exclusion from lawful economic circulation in the Union legal space<sup>4,5</sup>.

From a doctrinal perspective, the first point to stress is that an asset freeze is not equivalent to confiscation. The Council's 2024 update of the EU Best Practices explains that administrative freezing is to be distinguished from judicial freezing, seizure, and confiscation, which belong to national enforcement processes and cannot be imposed within the scope of restrictive measures as such. The Commission's asset-freeze FAQ makes the same point more directly by stating that sanctions in general, and asset freezes in particular, do not entail expropriation and are temporary in nature. This distinction

<sup>1</sup> European Commission. (2026). *Frequently asked questions on provision of services concerning sanctions adopted following Russia's military aggression against Ukraine (Article 5n of Council Regulation (EU) No 833/2014)*.

<sup>2</sup> Council of the European Union. (2014). *Council Regulation (EU) 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*.

<sup>3</sup> European Union. (2024). *General framework for EU sanctions*.

<sup>4</sup> European Commission. (2026). *Sanctions adopted following Russia's military aggression against Ukraine*.

<sup>5</sup> Council of the European Union. (2014). *Council Regulation (EU) 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*.

matters because it shapes both the legal justification and the reviewability of the measure. The EU is not formally extinguishing title to property in the manner of a criminal confiscation order; rather, it is suspending the legal usability of funds and economic resources within the jurisdictional reach of Union law. Yet this formal distinction should not obscure the practical severity of the measure. In operational terms, immobilisation can be economically devastating even where ownership is not formally transferred<sup>1,2</sup>.

The effectiveness of asset freezes depends heavily on the breadth of the legal definitions used in Regulation 269/2014. Article 1 defines economic resources as assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but may be used to obtain funds, goods, or services. It also defines the freezing of economic resources as preventing their use to obtain funds, goods, or services in any way, including by selling, hiring, or mortgaging them. The corresponding definition of the freezing of funds is even broader, because it covers any move, transfer, alteration, use of, access to, or dealing with funds that would change their volume, amount, location, ownership, possession, character, or destination. These definitions are fundamental to the legal architecture of the measure. They ensure that the sanctions regime is not confined to bank balances narrowly understood, but extends to the full range of assets and legal relationships through which economic value may be mobilised. In effect, the law targets not only wealth, but economic functionality<sup>3</sup>.

This broad definitional strategy explains why Article 2 of Regulation 269/2014 is constructed as a double mechanism rather than a single prohibition. Article 2(1) provides that all funds and economic resources belonging to, owned, held, or controlled by listed persons, entities, or bodies, or associated persons or entities listed in Annex I, shall be frozen. Article 2(2) then adds that no funds or economic resources shall be made available, directly or indirectly, to or for the benefit of those same listed actors. The first limb immobilises what the designated actor already has within legal reach. The second limb blocks the replenishment of economic capacity through new inflows, support, or transactional cooperation. This two-part structure is one of the main reasons why the asset-freeze regime is more powerful than a simple account-blocking measure. It disables both existing economic agency and future economic reinforcement. As a result, the measure works not merely by containment, but by ongoing deprivation of lawful access to external value<sup>4,5</sup>.

A central legal question is how far this mechanism extends beyond the named person or entity in Annex I. The Commission's asset-freeze FAQ makes clear that the restrictions can affect transactions with entities owned or controlled by listed persons, even where those entities are not themselves separately named in Annex I. The FAQ further states that if a designated person is deemed to own or control a non-designated entity, it can be presumed that control extends to that entity's assets and that any funds or economic resources made available to the entity would reach or benefit the designated person. However, that presumption is not irrebuttable. The same guidance explains that it may be rebutted on a case-by-case basis if the entity demonstrates that some or all of its assets are outside the control of the listed person and that the value made available would not in fact reach or benefit that person. This is a sophisticated legal design, because it avoids both under-inclusion and over-formalism. It allows sanctions to reach complex control structures while still preserving a route for factual rebuttal<sup>6,7</sup>.

The practical significance of the ownership-and-control doctrine is very considerable. A narrowly formal approach would allow listed actors to continue operating through subsidiaries, nominees, affiliated vehicles, and corporate intermediaries that are not themselves expressly listed. The EU has instead

<sup>1</sup> Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures*.

<sup>2</sup> European Commission. (2023). *Asset freeze and prohibition to provide funds or economic resources: Frequently asked questions concerning sanctions adopted following Russia's military aggression against Ukraine and Belarus' involvement in it*.

<sup>3</sup> Council of the European Union. (2014). *Council Regulation (EU) 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*.

<sup>4</sup> Ibid.

<sup>5</sup> European Commission. (2026). *Sanctions adopted following Russia's military aggression against Ukraine*.

<sup>6</sup> European Commission. (2023). *Asset freeze and prohibition to provide funds or economic resources: Frequently asked questions concerning sanctions adopted following Russia's military aggression against Ukraine and Belarus' involvement in it*.

<sup>7</sup> Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures*.

chosen a more functional approach, under which the legal assessment turns on effective reach and benefit, not solely on nominal registration status. This increases the burdens on financial institutions, counterparties, and compliance teams, because they must undertake real due diligence rather than merely screen names against a list. The asset-freeze regime therefore extends beyond the published annex in a meaningful operational sense. It creates a wider compliance perimeter around the listed actor, and this perimeter is especially important in the Russian case, where complex holding structures, offshore vehicles, and politically connected intermediary entities have often been used to diffuse ownership visibility. For that reason, the true reach of an asset freeze is usually broader than the Annex I entry alone would suggest<sup>1,2</sup>.

Another major feature of the regime is its insistence on direct and indirect non-availability. Article 2(2) does not prohibit only obvious payments or transfers to a listed person. It also prohibits making funds or economic resources available indirectly or for the benefit of a listed person. This formulation is extremely important because it shifts the legal analysis from the immediate recipient to the functional beneficiary. The Commission FAQ illustrates this point by stating that even where an entity is neither owned nor controlled by the listed person, it cannot be ruled out that funds or economic resources might still be made indirectly available to that listed person through the transaction in question. In practice, this creates an anti-formalist logic: the law is interested in economic consequence, not merely in corporate façade. The asset-freeze regime thus operates through substantive benefit analysis rather than through a purely documentary test of party names<sup>3,4</sup>.

This functional logic makes banks and other financial intermediaries the principal operational gatekeepers of the regime. Credit institutions must block transfers, maintain frozen balances, refuse prohibited releases, and screen transactional relationships for ownership, control, and indirect benefit risk. Yet the burden does not stop with banks. Because the definition of economic resources is broad and includes intangible assets capable of generating value, public institutions, registries, securities infrastructure, insurers, and corporate service providers may also become bearers of sanctions obligations. The Commission FAQ explicitly notes that public institutions such as a trademark register must not enable the use of the intellectual-property rights of a listed person or of a person owned or controlled by a listed person. This is a highly revealing example. It shows that the asset-freeze mechanism extends into administrative and regulatory infrastructures that would not ordinarily be seen as part of “financial sanctions” in a narrow sense. In that respect, immobilisation is a regime of cross-sector legal restraint, not merely a banking rule<sup>5</sup>.

The treatment of intangibles confirms this point further. The Commission explains that intellectual-property rights can qualify as economic resources and are therefore subject to the same restriction, because they may be used to obtain funds, goods, or services. That means patent rights, trademark rights, licence streams, and other intangible entitlements may all fall within the logic of immobilisation. A listed person’s economic resources are therefore frozen not only when physical or financial assets are blocked, but also when legally protected intangible assets can no longer be used to generate value in the Union. This has important implications for a high-technology and services-based economy. It means the sanctions regime is capable of targeting economic utility embedded in rights, not only in things. The broad concept of economic resources is thus one of the strongest legal design choices in the asset-

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<sup>1</sup> European Commission. (2023). *Asset freeze and prohibition to provide funds or economic resources: Frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it.*

<sup>2</sup> Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures.*

<sup>3</sup> Council of the European Union. (2014). *Council Regulation (EU) 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.*

<sup>4</sup> European Commission. (2023). *Asset freeze and prohibition to provide funds or economic resources: Frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it.*

<sup>5</sup> *Ibid.*

freeze framework. It ensures that immobilisation remains effective in a world where value often takes dematerialised form<sup>1,2</sup>.

Table 5.2.1-1. Core legal components of the EU asset-freeze mechanism under Regulation 269/2014

Legal component	Main rule	Legal function	Practical effect
Definition of funds	Broad category of financial assets and benefits of every kind	Prevents narrow construction limited to cash or accounts	Extends immobilisation to securities, balances, claims, guarantees, and similar assets
Definition of economic resources	Assets of every kind that may be used to obtain funds, goods, or services	Captures non-cash value-bearing assets	Reaches tangible and intangible property, including certain IP-related assets
Freezing of funds	Prevents transfer, alteration, use, access, or dealing that changes legal or economic usability	Immobilises existing financial value	Blocks transactions and management of listed assets
Freezing of economic resources	Prevents use of resources to obtain funds, goods, or services	Suspends monetisation capacity	Blocks sale, mortgage, hire, licensing, or analogous exploitation
Non-availability rule	Prohibits making funds or economic resources available, directly or indirectly, to or for listed persons' benefit	Blocks new inflows and third-party support	Prevents replenishment through intermediaries or indirect structuring
Ownership/control extension	Can apply beyond expressly listed entities where effective ownership or control exists	Prevents evasion through non-listed vehicles	Expands compliance perimeter around listed persons
Derogation system	Allows limited authorised uses for basic needs, legal fees, routine holding, extraordinary expenses, pre-existing claims, and related matters	Preserves targeted character and proportionality	Maintains legal operability while keeping restrictive effect intact

Authorship: analytical framework (this report) was prepared by the author.

Sources:

- Council of the European Union. (2014). *Council Regulation (EU) 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.*
- European Commission. (2023). *Asset freeze and prohibition to provide funds or economic resources: Frequently asked questions concerning sanctions adopted following Russia's military aggression against Ukraine and Belarus' involvement in it.*
- Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures.*

A further strength of the regime is that it does not leave immobilisation as an undefined absolute. The Commission's 2019 opinion on derogations states that the common derogations from asset-freeze obligations are meant to enable designated persons to satisfy certain needs and obligations and are a clear expression of the targeted nature of EU restrictive measures and of respect for the principle of proportionality. This is a highly important doctrinal clarification. It shows that derogations are not political concessions grafted onto a rigid system after the fact. They are part of the legal logic through which the EU distinguishes sanctions from indiscriminate deprivation. In other words, the Union seeks

<sup>1</sup> European Commission. (2023). *Asset freeze and prohibition to provide funds or economic resources: Frequently asked questions concerning sanctions adopted following Russia's military aggression against Ukraine and Belarus' involvement in it.*

<sup>2</sup> Council of the European Union. (2014). *Council Regulation (EU) 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.*

to immobilise value, not to create total civil death. The derogation framework is therefore internal to the legitimacy of the freeze mechanism itself<sup>1,2</sup>.

Article 4 of Regulation 269/2014 gives this principle concrete form. It allows national competent authorities to authorise the release of frozen funds or economic resources, or the making available of certain funds or economic resources, where these are necessary for basic needs, intended exclusively for reasonable professional fees or reimbursement of incurred expenses associated with legal services, intended exclusively for routine holding or maintenance charges, or necessary for extraordinary expenses. The list is legally and politically revealing. It indicates that sanctions are meant to restrict strategic and economic agency, but not to extinguish access to food, housing, medicine, utilities, or legal representation. It also confirms that routine maintenance costs remain sanction-relevant even where the underlying asset is frozen, because frozen assets often still require custody, servicing, or administrative upkeep. The extraordinary-expenses clause further allows national authorities to manage atypical but serious situations under a notification discipline involving the other Member States and the Commission. This is a carefully calibrated model of controlled exception rather than blanket relaxation<sup>3,4</sup>.

The derogation system also protects the continuing relevance of adjudicated claims and pre-existing legal relationships. Under Article 5, competent authorities may authorise the release of frozen funds or economic resources where the assets are subject to an arbitral decision rendered prior to listing, to a judicial or administrative decision rendered in the Union, or to a judicial decision enforceable in the Member State concerned, provided that the payment is used exclusively to satisfy claims secured or recognised by that decision, is not for the benefit of a listed person, and is not contrary to public policy. Article 6 complements this by allowing the release of certain frozen funds or economic resources where a payment by a listed person is due under a contract or agreement concluded, or under an obligation that arose, before listing, so long as the payment is not in breach of Article 2(2). These provisions are crucial for understanding the legal sophistication of the regime. They show that the freeze mechanism does not deny the existence of contracts, debts, or awards. Rather, it subjects their performance to a sanctions filter<sup>5</sup>.

Article 7 provides an additional nuance that is often overlooked in public discussion. It states that Article 2(2) does not prevent the crediting of frozen accounts by financial or credit institutions receiving funds transferred by third parties onto the account of a listed person, provided that any additions to those accounts will also be frozen and the relevant competent authority is informed without delay. It likewise allows the addition to frozen accounts of interest or other earnings, payments due under pre-listing contracts, and payments due under judicial, administrative, or arbitral decisions, again on condition that such additions are also frozen. This provision is analytically important because it confirms that immobilisation is not the same as erasure. Frozen accounts may still exist as repositories of value, and value may still accrue to them, but that value remains unusable absent an authorised derogation. The law thereby preserves financial traceability and legal continuity while maintaining economic non-usability. This is a sophisticated form of containment rather than a simplistic zero-balance model<sup>6</sup>.

The asset-freeze regime also relies heavily on information duties, which are indispensable for turning immobilisation from a formal rule into an enforceable system. Article 8 requires natural and legal persons, entities, and bodies to supply immediately any information that would facilitate compliance with the Regulation, including information on accounts and amounts frozen under Article 2, and to

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<sup>1</sup> European Commission. (2019). *Commission opinion on the application of derogations from the freezing of funds and from the prohibition of making funds and economic resources available to designated persons and entities*.

<sup>2</sup> Council of the European Union. (2014). *Council Regulation (EU) 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*.

<sup>3</sup> Ibid.

<sup>4</sup> European Commission. (2019). *Commission opinion on the application of derogations from the freezing of funds and from the prohibition of making funds and economic resources available to designated persons and entities*.

<sup>5</sup> Council of the European Union. (2014). *Council Regulation (EU) 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*.

<sup>6</sup> Ibid.

cooperate with the competent authority in verifying such information. Article 12 further requires the Commission and Member States to inform each other of measures taken under the Regulation and to share relevant information, in particular regarding frozen funds, authorisations under Articles 4 to 6, and violation or enforcement problems and judgments handed down by national courts. These provisions matter because a freeze is only as effective as the informational visibility supporting it. Hidden assets, ambiguous ownership structures, and fragmented national implementation can all undermine legal immobilisation. Reporting and cooperation provisions therefore perform a crucial intelligence function within the sanctions' regime<sup>1,2</sup>.

Anti-circumvention obligations reinforce that informational architecture. Article 9 states that it is prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the measures referred to in Article 2. This is a short provision, but one of great legal significance. It means the Union does not rely only on enumerated prohibited acts; it also targets schemes designed to frustrate the objective of the freeze mechanism. In the Russian context, this is especially important because adaptation through layered corporate structures, intermediaries, asset transfers, and disguised benefit channels has been a persistent practical challenge. The anti-circumvention rule therefore acts as a legal backstop against creative compliance avoidance. It prevents the regime from being reduced to a game of formal relabelling<sup>3,4</sup>.

A further stabilising element is the regime's liability shield. Article 10 provides that the freezing of funds and economic resources, or the refusal to make funds or economic resources available, carried out in good faith on the basis that such action is in accordance with the Regulation, shall not give rise to liability unless the freezing or withholding resulted from negligence. It also states that actions by natural or legal persons shall not give rise to liability if they did not know, and had no reasonable cause to suspect, that their actions would infringe the Regulation. This is a highly important rule for practical implementation. Without it, banks, custodians, registries, and counterparties would face severe uncertainty about civil liability arising from sanctions compliance. The law therefore protects compliant behaviour from being chilled by private-law exposure. That protection is one of the reasons the freeze mechanism can work at scale<sup>5</sup>.

Article 11 adds a related but distinct mechanism by blocking certain claims connected with contracts or transactions whose performance has been affected by the sanctions. No claims of that kind are to be satisfied where they are made by designated persons or by persons acting through or on behalf of them. This is a critical piece of sanctions architecture. It ensures that the asset-freeze regime is not undone through ordinary contractual and indemnity litigation brought by sanctioned actors against those who complied with the law. In other words, the Regulation governs not only the public-law prohibition but also the downstream private-law consequences of non-performance. That is particularly important in high-value Russian business relationships involving guarantees, bonds, compensation clauses, and financing obligations. The no-claims rule thus protects the integrity of immobilisation within the wider legal ecosystem of commercial enforcement<sup>6</sup>.

The General Court's case-law confirms that these internal limits and exceptions matter for proportionality analysis. In *NSD v Council*, the Court held that the effects of restrictive measures were confined to the territory of the Union and did not prevent the applicant from engaging in activities in its home country or in other third countries. The Court also noted that while the restrictive measures prevent the applicant from using the funds or economic resources belonging to it, they do not deprive it

<sup>1</sup> Council of the European Union. (2014). *Council Regulation (EU) 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*

<sup>2</sup> Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures*.

<sup>3</sup> Council of the European Union. (2014). *Council Regulation (EU) 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*.

<sup>4</sup> European Commission. (2023). *Asset freeze and prohibition to provide funds or economic resources: Frequently asked questions concerning sanctions adopted following Russia's military aggression against Ukraine and Belarus' involvement in it*.

<sup>5</sup> Council of the European Union. (2014). *Council Regulation (EU) 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*.

<sup>6</sup> *Ibid.*

of the right to receive interest or other earnings on frozen accounts, provided that such earnings are also frozen. Most importantly, the Court stressed that Regulation 269/2014 contains derogations enabling national authorities to authorise the release of certain funds or economic resources for basic needs, legal services, routine holding or maintenance, extraordinary expenses, and certain pre-existing contractual payments. On that basis, the Court concluded that the interference with the applicant’s freedom to conduct a business and right to property could not be regarded as disproportionate. This is a major judicial endorsement of the targeted design of the freeze regime<sup>1</sup>.

The same judgment is also important because it clarifies the interpretation of payment under Article 6. The Court held that, given the broad definitions of funds and economic resources in Article 1, the concept of payment in Article 6 cannot be interpreted narrowly as referring only to transfers of money. It reasoned that a restrictive interpretation would run counter to the possibility of releasing broadly defined funds or economic resources in order to make a payment due under a pre-listing contract or agreement. On that basis, the Court concluded that the derogation in Article 6 could allow national authorities to authorise the release of frozen funds or economic resources to enable the return of customers’ securities or bonds held in frozen accounts with EU securities depositories. This is a legally important clarification. It shows that the asset-freeze regime is not mechanically cash-centred, but capable of addressing broader forms of contractual performance where the legal conditions for derogation are met. In practice, that makes the regime more coherent and more defensible<sup>2,3</sup>.

More broadly, the recent case-law also supports the proposition that asset freezes are legally justified where they are rationally connected to the Union’s foreign-policy objectives and remain proportionate in light of their limited territorial scope and the availability of derogations. In *NSD v Council*, the Court expressly linked the restrictive measures to the objective of preserving peace and international security and of increasing the cost of Russia’s actions against Ukraine. In *SBK Art v Council*, the General Court likewise treated the restrictive logic as part of the Union’s effort to exert maximum pressure on the Russian authorities and reduce the revenue base and enabling environment available to the Russian state and those materially or financially supporting it. This case-law does not make asset freezes immune from challenge. It does, however, demonstrate that the Courts regard them as legally appropriate instruments when grounded in intelligible listing criteria and embedded in a system of safeguards. That judicial posture is one of the reasons the freeze mechanism has remained central to the EU’s sanctions policy<sup>4,5</sup>.

Table 5.2.1-2. Effectiveness drivers and structural constraints of the EU asset-freeze regime against Russia

Dimension	Effectiveness driver	Structural constraint
Legal breadth	Broad definitions of funds and economic resources widen the scope of immobilisation	Broad concepts can increase interpretative uncertainty and over-compliance risk
Operational reach	Ownership/control doctrine extends the regime beyond explicitly listed names	Beneficial ownership opacity and complex structures make factual tracing difficult
Immediate coercive effect	Freezes operate rapidly once listing enters into force	Their impact depends on prior asset visibility and cooperation by intermediaries
Normative robustness	Derogations preserve proportionality and targeted character	Divergent national authorisation practices may reduce uniformity

<sup>1</sup> General Court of the European Union. (2024). *NKO AO National Settlement Depository (NSD) v Council of the European Union (Case T-494/22)*.

<sup>2</sup> Ibid.

<sup>3</sup> Council of the European Union. (2014). *Council Regulation (EU) 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*.

<sup>4</sup> General Court of the European Union. (2024). *NKO AO National Settlement Depository (NSD) v Council of the European Union (Case T-494/22)*.

<sup>5</sup> General Court of the European Union. (2025). *SBK Art OOO v Council of the European Union (Case T-102/23)*.

Dimension	Effectiveness driver	Structural constraint
Anti-evasion capacity	Direct/indirect benefit logic and anti-circumvention rules block formalistic avoidance	Indirect benefit tests can be evidentially difficult in cross-border cases
Implementation incentives	Liability shields and no-claims rules protect compliant operators	Private actors may still respond with excessive de-risking or delayed decisions
Judicial sustainability	Courts have recognised proportionality where safeguards and derogations exist	Listings still remain vulnerable where reasons or evidence are insufficient

*Authorship: analytical framework (this report) was prepared by the author.*

Sources:

- Council of the European Union. (2014). *Council Regulation (EU) 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.*
- European Commission. (2019). *Commission opinion on the application of derogations from the freezing of funds and from the prohibition of making funds and economic resources available to designated persons and entities.*
- European Commission. (2023). *Asset freeze and prohibition to provide funds or economic resources: Frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it.*
- Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measure.*
- General Court of the European Union. (2024). *NKO AO National Settlement Depository (NSD) v Council of the European Union (Case T-494/22).*

The main practical limitations of the asset-freeze mechanism arise not from its legal conception, which is relatively sophisticated, but from its implementation environment. First, the measure is only as effective as the quality of information available on asset location, beneficial ownership, control structures, and intermediary channels. Secondly, because derogations are administered by national competent authorities, the everyday proportionality of the regime is partly decentralised, which can produce interpretative divergence across Member States. Thirdly, private actors often respond to sanctions risk with over-compliance, refusing transactions or services that may in principle be lawful under a derogation or outside the real reach of the freeze. Finally, the more complex the asset form, the harder it becomes to translate legal immobilisation into operational immobilisation. Securities, trust-like structures, nominee holdings, offshore vehicles, and intangible rights all require more than a basic bank-screening model. These are not reasons to abandon the measure, but they are reasons to assess its effectiveness realistically<sup>1,2</sup>.

The analytical conclusion is therefore clear. Asset freezes and the immobilisation of economic resources should be classified as one of the most legally mature and strategically useful components of the EU sanctions architecture against Russia. Their strength lies in the combination of broad definitional drafting, the double mechanism of freezing plus non-availability, the extension through ownership and control, the reach to intangible and indirect value channels, and the presence of derogations that preserve targetedness and proportionality. Their limits lie in evidentiary opacity, uneven national administration, and the practical difficulty of tracing complex control and benefit structures in real time. Even so, the case-law and the administrative guidance together show that the regime is not merely punitive in appearance, but carefully constructed as a preventive and reviewable instrument of legal-economic incapacitation. For Part Five of the present report, that finding is important because it

<sup>1</sup> Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures.*

<sup>2</sup> European Commission. (2023). *Asset freeze and prohibition to provide funds or economic resources: Frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it.*

confirms that asset freezes are not only a symbolic sanction. They are a foundational legal technology of exclusion, pressure, and controlled incapacitation within the broader EU sanctions system<sup>1,2,3</sup>.

### 5.2.2. Non-Recognition and Non-Enforcement of Certain Russian Anti-Suit Injunctions, Judgments, and Related Penalties

The EU’s prohibition on the recognition and enforcement of certain Russian anti-suit injunctions and related decisions should be treated as one of the most legally innovative elements of the post-2024 Russia sanctions architecture. Unlike asset freezes, trade bans, or service restrictions, this measure does not primarily deny material resources or market access. Instead, it protects the Union legal space against the extraterritorial and coercive effects of Russian judicial acts that are seen by the Union as incompatible with established principles of international dispute settlement. In that sense, the measure operates at the intersection of sanctions law, private international law, and the law of international commercial dispute resolution. Its purpose is not to suspend all legal interaction with Russian courts, nor to create a general policy of non-recognition of Russian judgments. Rather, it targets a defined class of judicial measures associated with Russian anti-suit practice and with the penalties imposed for non-compliance with that practice. This distinction is fundamental, because without it the measure would be misunderstood as a broad judicial embargo, which it is not. The provision is best understood as a defensive legal sanction aimed at neutralising a specific coercive litigation technique used against EU operators<sup>4,5</sup>.

The immediate political-legal context of this measure was the EU’s 15th package of sanctions, adopted on 16 December 2024. The Council’s sanctions timeline states expressly that the package included a “ban on the recognition or enforcement in the EU of rulings issued by Russian courts based on Article 248 of the Arbitration Procedure Code of the Russian Federation”. This package-level description is important because it shows how the Union itself presented the measure in public institutional communication. It was not introduced as a general civil-procedure reform, nor as a technical private-law clarification. It was presented as part of the Union’s restrictive-measures response to Russia’s continuing destabilising conduct. At the same time, the public summary is narrower than many political paraphrases might suggest. The prohibition concerned rulings based on Article 248 of the Russian Arbitration Procedure Code, not Russian judgments in general. The specificity of that description is one of the keys to analysing the measure correctly<sup>6</sup>.

The legal rationale was made explicit in the recitals to the December 2024 amending regulation. The Council stated that Russian courts had recently issued decisions based on Article 248 of the Arbitration Procedure Code of the Russian Federation which prohibited European companies from initiating or continuing proceedings in foreign courts or tribunals against Russian companies and had also imposed, inter alia, disproportionately high financial penalties in cases of failure to comply. The Union further declared that the manner in which Russian courts issued such anti-suit injunctions and fines was in clear violation of established international principles and long-standing practices in the resolution of international business disputes. That recital is extremely significant for the analytical structure of this subsection. It tells us that the EU measure was not based merely on political displeasure with Russian litigation strategy. It was framed as a response to what the Union considered a serious distortion of the

<sup>1</sup> Council of the European Union. (2014). *Council Regulation (EU) 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.*

<sup>2</sup> European Commission. (2026). *Sanctions adopted following Russia’s military aggression against Ukraine.*

<sup>3</sup> General Court of the European Union. (2024). *NKO AO National Settlement Depository (NSD) v Council of the European Union (Case T-494/22).*

<sup>4</sup> Council of the European Union. (2024). *Council Regulation (EU) 2024/3192 of 16 December 2024 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine;*

<sup>5</sup> Council of the European Union. (2025). *Council Regulation (EU) 2025/395 of 24 February 2025 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*

<sup>6</sup> Council of the European Union. (2026). *Timeline — EU sanctions against Russia.*

accepted architecture of international commercial justice. In other words, the prohibition was justified as the defence of legal order, not only as economic pressure<sup>1,2</sup>.

The same recital also explains the immediate purpose of the Union’s response. In order to prevent efforts by claimants to enforce such anti-suit injunctions or fines, or any other court decision based on Article 248 or equivalent Russian legislation, the Union introduced a prohibition on the recognition or enforcement in the Union of injunctions, orders, judgments, or other court decisions pursuant to or in relation to Article 248 of the Arbitration Procedure Code of the Russian Federation or equivalent Russian legislation. This wording matters for at least three reasons. First, it confirms that the EU’s focus was not only on injunctions as such, but also on related judicial acts built on the same Russian legal basis. Secondly, it shows that the Union was responding not merely to the issuance of such decisions in Russia, but to potential attempts to project their legal effects into the EU legal area. Thirdly, the reference to “equivalent Russian legislation” demonstrates that the Council intended the rule to be partly future-proof, so that functionally similar Russian measures could not easily escape the prohibition by being re-labelled or relocated within the Russian legal system<sup>3,4</sup>.

The operative legal rule was inserted into Regulation 833/2014 as Article 11c. In its original December 2024 form, Article 11c(1) provided that no injunction, order, relief, judgment, or other court decision pursuant to or derived from Article 248 of the Arbitration Procedure Code of the Russian Federation or equivalent Russian legislation was to be recognised, given effect, or enforced in a Member State. This is a notably broad formula within a narrow field. It does not stop at non-enforcement, which would have been the more familiar language of civil-procedure resistance. It also prohibits recognition and even the giving of legal effect. That broader wording suggests that the Union wished to prevent not only direct execution of Russian anti-suit measures, but also any more indirect reliance on them within Member State legal systems. The legal technique is therefore stronger than a simple refusal to execute. It is a denial of juridical traction inside the Union<sup>5</sup>.

The phrase “recognised, given effect or enforced” deserves close attention. Recognition would normally relate to treating the foreign decision as legally valid for a given purpose within the Member State. Enforcement would concern coercive or formal execution through domestic mechanisms. The intermediate phrase “given effect” goes further than both in an important way. It can capture situations in which a foreign decision is not formally recognised or executed through ordinary exequatur-type procedures, but is nevertheless relied on or treated as legally consequential in some other judicial or administrative context. By using all three concepts together, the Union created a deliberately comprehensive shield against juridical spillover from the Russian anti-suit mechanism. This makes the provision particularly important for complex commercial disputes, where legal pressure is often exerted not only through formal enforcement but also through collateral procedural and evidentiary uses of foreign judicial acts. The EU rule is thus both preventive and structurally defensive<sup>6</sup>.

It is equally important to state what the provision does not do. It does not introduce a general non-recognition regime for Russian judgments as such. It does not purport to invalidate all Russian commercial, civil, or administrative decisions in the Union. Nor does it create a universal rule against cooperation with any Russian adjudicatory outcome. The prohibition is expressly limited to injunctions, orders, relief, judgments, or other court decisions issued pursuant to or derived from the Russian anti-suit framework identified by the EU. That narrowness is a strength rather than a weakness. It makes the provision legally more defensible, avoids overreach into areas not necessary for the sanctions’

<sup>1</sup> Council of the European Union. (2024). *Council Regulation (EU) 2024/3192 of 16 December 2024 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*

<sup>2</sup> Council of the European Union. (2024). *Council Decision (CFSP) 2024/3187 of 16 December 2024 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*

<sup>3</sup> Ibid.

<sup>4</sup> Council of the European Union. (2024). *Council Regulation (EU) 2024/3192 of 16 December 2024 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*

<sup>5</sup> Council of the European Union. (2024). *Council Regulation (EU) 2024/3192 of 16 December 2024 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*

<sup>6</sup> Ibid.

objective, and preserves the targeted logic that runs through the broader EU restrictive-measures architecture. In analytical terms, the measure is a selective jurisdiction-protection tool, not a wholesale embargo on Russian adjudication<sup>1</sup>.

The second paragraph of Article 11c is no less significant. It provides that no request for assistance during an investigation or other criminal proceedings, and no punishment or other sanction pursuant to the Russian Criminal Code based on an alleged violation of an injunction, order, relief, judgment, or other court decision pursuant to or derived from Article 248 or equivalent Russian legislation, shall be recognised, given effect, or enforced in a Member State. This expands the Union’s defensive posture beyond the civil-commercial plane. It shows that the EU anticipated not only the direct use of Russian anti-suit decisions, but also the possibility that their breach might be leveraged through criminal-investigative or punitive pathways. The significance of this rule is substantial. It prevents Member States from becoming indirect enforcement auxiliaries for a Russian litigation strategy that the Union had already judged incompatible with established international principles. In effect, the EU refused both the primary coercive order and the secondary punitive apparatus built around it<sup>2</sup>.

That second paragraph is especially important for understanding the phrase “related penalties” in the title of this subsection. The Union was not concerned only with the anti-suit injunction itself, but also with the financial penalties and criminal-law consequences that could be attached to an alleged breach of such an injunction. The December 2024 recital had already referred to “disproportionately high financial penalties” imposed by Russian courts for failure to comply. Article 11c(2) then addressed the related punitive dimension in operative legal language. This makes the EU measure more sophisticated than a simple non-recognition clause. It does not merely neutralise the anti-suit order at the level of civil-procedure effect; it also blocks the downstream coercive chain by which Russia could try to intensify pressure on EU companies through criminal proceedings or associated punitive measures. The provision therefore functions as a shield against both primary injunction pressure and secondary sanction pressure<sup>3,4</sup>.

From a broader legal-policy perspective, the December 2024 measure marked a shift in the EU’s Russia sanctions from predominantly economic interdiction toward defence of the Union’s adjudicatory and arbitral space. Anti-suit injunctions of the type described by the Council are capable of undermining the ability of European companies to rely on foreign courts or tribunals, including arbitral tribunals, in disputes with Russian counterparties. That is why the recital explicitly referred to proceedings in foreign courts or tribunals and to international business disputes. The issue was therefore not simply one of civil-procedure inconvenience. It concerned the preservation of party autonomy, access to agreed dispute-resolution mechanisms, and the practical viability of transnational legal remedies. By refusing recognition and enforcement in the EU, the Union sought to ensure that Russian anti-suit tactics would not acquire secondary leverage through Member State legal systems. In this sense, the measure is protective of legal process as much as it is restrictive of Russian judicial outputs<sup>5,6</sup>.

The December 2024 package also linked this development to a wider deterioration in the Russian legal and business environment. In recital 9 of Regulation 2024/3192, the Council stated that operators should be aware that Russia was a country where the rule of law was no longer applied and that the Russian Federation had adopted several pieces of legislation targeting the assets of companies from “unfriendly countries”, including Member States. The Council warned that this could lead to Union

<sup>1</sup> Council of the European Union. (2024). *Council Regulation (EU) 2024/3192 of 16 December 2024 amending Regulation (EU) No. 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine*; Council of the European Union. (2026). *Timeline – EU sanctions against Russia*.

<sup>2</sup> Council of the European Union. (2024). *Council Regulation (EU) 2024/3192 of 16 December 2024 amending Regulation (EU) No. 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine*.

<sup>3</sup> Ibid.

<sup>4</sup> Council of the European Union. (2024). *Council Decision (CFSP) 2024/3187 of 16 December 2024 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine*.

<sup>5</sup> Ibid.

<sup>6</sup> Council of the European Union. (2024). *Council Regulation (EU) 2024/3192 of 16 December 2024 amending Regulation (EU) No. 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine*.

assets being stranded in Russia without the possibility for orderly withdrawal, and that Union operators should consider winding down business in Russia or refraining from new business there. This broader contextual language matters for the interpretation of Article 11c. It places the non-recognition rule within an integrated EU diagnosis of legal, institutional, and investment risk in Russia. The anti-suit injunction problem was therefore not treated as an isolated procedural anomaly, but as one manifestation of a wider breakdown in predictable legal conditions<sup>1</sup>.

A further evolution followed with the EU's 16th package, adopted on 24 February 2025. The February 2025 amending regulation replaced Article 11c with more precise wording. Instead of referring generically to Article 248, the revised text referred specifically to Article 248.1 or Article 248.2 of the Arbitration Procedure Code of the Russian Federation or equivalent Russian legislation. This drafting change is analytically valuable. It indicates that the Union moved from an initial, broader shorthand reference to a more exact identification of the Russian legal provisions considered problematic. Such precision strengthens the legal defensibility of the measure, because it reduces interpretative ambiguity and narrows the risk that the prohibition could be read more broadly than intended. It also suggests that the EU regarded the December 2024 response as only the first stage in a more developed litigation-defence architecture<sup>2</sup>.

The February 2025 reform did more than refine Article 11c. It also amended Article 5ab to prohibit, directly or indirectly, transactions with legal persons, entities, or bodies that had lodged a claim before a Russian court against certain EU-linked persons in order to obtain an injunction, order, relief, judgment, or other court decision pursuant to or derived from Article 248.1 or Article 248.2, in connection with contracts or transactions affected by EU sanctions, where those claimants were listed in Annex XLIII. This is a major development in the legal design of the regime. The EU moved beyond passive non-recognition and adopted an active restrictive measure against certain claimants who sought to weaponise the Russian anti-suit framework. The logic is straightforward. If Article 11c blocks the downstream legal effect of the Russian decision inside the Union, Article 5ab can also penalise or isolate the party seeking to obtain and exploit that decision. Together, the two provisions form a more complete defensive system<sup>3</sup>.

This two-step architecture is one of the most important features of the current regime. The first step is juridical denial: the Russian anti-suit injunction or related decision is not to be recognised, given effect, or enforced in the EU. The second step is transactional deterrence: certain claimants who actively pursued such decisions against EU-connected actors may themselves become subject to transaction restrictions. The result is a significantly more serious legal response than a standard foreign-judgment exception. It means that the EU is not merely saying "this decision will not be honoured here". It is also saying that participation in the Russian anti-suit strategy may itself attract restrictive legal consequences within the Union. That dual design materially strengthens the protective effect of the measure. It also signals to Russian and Russia-linked litigants that anti-suit pressure will not be a cost-free tactic where EU sanctions are involved<sup>4</sup>.

To clarify the evolution of the legal framework, the key stages may be summarised as follows.

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<sup>1</sup> Council of the European Union. (2024). *Council Regulation (EU) 2024/3192 of 16 December 2024 amending Regulation (EU) No. 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.*

<sup>2</sup> Council of the European Union. (2025). *Council Regulation (EU) 2025/395 of 24 February 2025 amending Regulation (EU) No. 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.*

<sup>3</sup> *Ibid.*

<sup>4</sup> Council of the European Union. (2025). *Council Regulation (EU) 2025/395 of 24 February 2025 amending Regulation (EU) No. 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.*

Table 5.2.2-1. Evolution of the EU legal response to Russian anti-suit injunctions and related penalties

Date / package	Legal act	Core innovation	Analytical significance
16 December 2024 (15th package)	Council Decision (CFSP) 2024/3187	Introduced, at CFSP level, the prohibition on recognition or enforcement in the Union of certain Russian anti-suit injunctions and related court decisions	Established the strategic and political basis for a defensive judicial-response mechanism
16 December 2024 (15th package)	Council Regulation (EU) 2024/3192	Inserted Article 11c into Regulation 833/2014; prohibited recognition, giving effect, or enforcement in a Member State of decisions pursuant to or derived from Article 248 APC RF or equivalent Russian legislation; also blocked related requests for assistance, punishments, and sanctions	Converted the political decision into directly applicable Union law and widened protection beyond pure civil enforcement
24 February 2025 (16th package)	Council Regulation (EU) 2025/395	Replaced Article 11c to refer specifically to Article 248.1 and 248.2 APC RF; amended Article 5ab to target certain claimants using the Russian anti-suit framework	Increased legal precision and added active deterrence against litigation-based sanctions circumvention
24 February 2025 (16th package)	Council sanctions timeline / package summary	Presented the February package as a further strengthening of the sanctions system	Confirmed that the EU viewed litigation-coercion tools as part of the broader sanctions' battlefield

Authorship: analytical framework (this report) was prepared by the author.

Sources:

- Council of the European Union. (2024). *Council Decision (CFSP) 2024/3187 of 16 December 2024 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.*
- Council of the European Union. (2024). *Council Regulation (EU) 2024/3192 of 16 December 2024 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.*
- Council of the European Union. (2025). *Council Regulation (EU) 2025/395 of 24 February 2025 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.*
- Council of the European Union. (2026). *Timeline — EU sanctions against Russia.*

The legal significance of the February 2025 refinement lies partly in its move toward greater doctrinal precision. When a sanctions provision operates in a field as sensitive as recognition and enforcement of foreign judicial acts, drafting clarity matters immensely. Over-breadth creates litigation risk and interpretative uncertainty, while over-narrowness can allow evasive adaptation. By replacing the generic Article 248 reference with explicit references to Articles 248.1 and 248.2, the EU appears to have attempted a better balance between scope and precision. It identified the problematic Russian provisions more exactly while preserving the catch-all reference to equivalent Russian legislation. This is the kind of drafting adjustment characteristic of a maturing sanctions regime. It indicates an effort to move from headline reaction to legally sustainable design<sup>1</sup>.

The practical effect of Article 11c within Member States is potentially far-reaching, even though the measure is narrow in subject matter. Where a claimant seeks to rely on a Russian anti-suit injunction, related judgment, or associated punitive measure inside the Union, Member State authorities are instructed not merely to decline execution, but to deny recognition and effect altogether. This can matter in commercial enforcement proceedings, asset-related proceedings, insolvency-related interactions, and disputes over whether a party acted lawfully in continuing foreign litigation or arbitration. The prohibition therefore protects EU operators from a second layer of pressure. They may still face coercive exposure in Russia, but that exposure is denied additional leverage through EU courts and authorities.

<sup>1</sup> Ibid.

In this sense, Article 11c does not eliminate the primary risk, but it materially reduces the transnational amplification of that risk. That is a meaningful sanctions effect even without asset blocking or direct financial prohibition<sup>1,2</sup>.

At the same time, the measure has clear limitations, and those should be acknowledged explicitly. First, it operates only within the legal space of the Union and cannot by itself neutralise the domestic effect of Russian anti-suit injunctions inside Russia. Secondly, it does not automatically compensate EU companies for losses caused by such Russian measures, although the broader 2025 amendments created related litigation and recovery tools elsewhere in the Regulation. Thirdly, the concept of “equivalent Russian legislation” may require interpretative work at Member State level if Russia continues to modify or diversify its litigation-control mechanisms. Finally, because the provision is relatively new, its practical force will depend heavily on how consistently national courts, competent authorities, and private litigants understand and invoke it. These are not fatal weaknesses, but they do show that the measure is a shield with territorial and institutional limits, not a complete solution to cross-border litigation coercion<sup>3</sup>.

A further strength of the EU approach is that it avoids conflating defensive legal protection with indiscriminate judicial disengagement. By targeting a narrow and politically salient class of Russian decisions, the Union can maintain that it is defending the integrity of international dispute resolution rather than simply refusing cooperation with an entire foreign legal system. This matters for proportionality and for the external presentation of EU sanctions as rule-based instruments. The narrower the measure, the easier it is to justify as a necessary and specific response to a concrete abuse. The December 2024 and February 2025 acts both follow this logic. They focus on judicial acts linked to a sanctions-related anti-suit strategy and on claimants using that strategy, rather than on Russian judgments in general. That selectivity is one of the reasons why this measure should be classified as legally sophisticated<sup>4,5</sup>.

The current structure also illustrates a more general transformation in EU sanctions law. Traditionally, the legal review of sanctions focused on listings, asset freezes, trade controls, and service bans. By contrast, Article 11c and the related 2025 amendments show the sanctions regime reaching into the domain of litigation strategy, judgment effects, and forum control. This is an important evolution for the present report. It suggests that the EU increasingly understands sanctions not merely as economic restrictions, but as tools for protecting the Union’s legal and commercial order against hostile or coercive external legal acts. That makes Part Five especially significant, because the legal sphere is no longer only the place where sanctions are drafted and reviewed. It is also a field in which sanctions respond to attempts to weaponise law itself. The non-recognition and non-enforcement rule is therefore not a marginal doctrinal detail. It is an example of sanctions law adapting to a more juridified form of geopolitical conflict<sup>6,7,8</sup>.

The measure’s main effectiveness drivers and constraints may be summarised as follows.

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<sup>1</sup> Council of the European Union. (2024). *Council Regulation (EU) 2024/3192 of 16 December 2024 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*

<sup>2</sup> Council of the European Union. (2025). *Council Regulation (EU) 2025/395 of 24 February 2025 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*

<sup>3</sup> Ibid.

<sup>4</sup> Council of the European Union. (2024). *Council Decision (CFSP) 2024/3187 of 16 December 2024 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*

<sup>5</sup> Council of the European Union. (2025). *Council Regulation (EU) 2025/395 of 24 February 2025 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*

<sup>6</sup> Ibid.

<sup>7</sup> Council of the European Union. (2024). *Council Regulation (EU) 2024/3192 of 16 December 2024 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*

<sup>8</sup> Council of the European Union. (2026). *Timeline — EU sanctions against Russia.*

Table 5.2.2-2. Effectiveness drivers and structural constraints of the EU’s Article 11c mechanism

Dimension	Effectiveness driver	Structural constraint
Normative precision	February 2025 reform specified Articles 248.1 and 248.2 APC RF, reducing ambiguity	“Equivalent Russian legislation” may still require interpretation in future cases
Protective reach	Prohibition covers recognition, giving effect, and enforcement, not enforcement alone	Measure cannot neutralise the primary coercive effect of Russian decisions inside Russia
Sanctions integration	Embedded in Regulation 833/2014 as part of the sanctions’ regime, not as a standalone private-law rule	Dependent on awareness and use by national courts, authorities, and litigants
Secondary pressure blocking	Article 11c(2) refuses recognition of related criminal-assistance requests, punishments, and sanctions	Cross-border factual proof may still be complex where Russian proceedings are opaque
Deterrence capacity	Article 5ab adds transaction bans for certain claimants using the anti-suit mechanism	Restrictive effect depends on Annex-based designation and scope of listed claimants
Rule-of-law defensibility	Narrow targeting avoids a blanket ban on Russian judgments in general	Narrow scope means the measure does not address every hostile Russian legal tactic

Authorship: analytical framework (this report) was prepared by the author.

Sources:

- Council of the European Union. (2024). *Council Regulation (EU) 2024/3192 of 16 December 2024 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*
- Council of the European Union. (2025). *Council Regulation (EU) 2025/395 of 24 February 2025 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*
- Council of the European Union. (2026). *Timeline — EU sanctions against Russia.*

The overall conclusion is that the EU’s prohibition on the recognition and non-enforcement of certain Russian anti-suit injunctions, judgments, and related penalties should be classified as a strategically significant but carefully delimited legal sanction. Its significance lies in the fact that it protects EU courts and authorities from becoming channels through which Russian litigation-coercion techniques acquire additional force. Its careful delimitation lies in the fact that it does not purport to reject Russian adjudication in general, but only a narrowly defined set of decisions linked to Article 248.1, Article 248.2, or equivalent Russian legislation. The December 2024 innovation and the February 2025 refinement together show a sanctions regime learning to respond to legal coercion with legal counter-architecture. This makes the measure particularly interesting from the standpoint of long-term sanctions design. It is not an economic embargo instrument in the traditional sense, but it is nevertheless a real sanction because it withdraws legal recognition, denies enforceability, and raises the cost of using Russian anti-suit mechanisms against EU-connected actors. In that regard, it represents one of the clearest examples in the current Russia regime of the Union using sanctions law to defend the integrity of its legal order<sup>1,2,3</sup>.

### 5.2.3. Restrictions on Legal Advisory and Arbitration-Related Services

The restrictions on legal advisory and arbitration-related services occupy a particularly sensitive place in the EU sanctions architecture, because they sit at the intersection of sanctions policy, access to justice, professional independence, and the practical conduct of cross-border business disputes. Unlike trade bans or asset freezes, these restrictions operate directly upon the legal services

<sup>1</sup> Ibid.

<sup>2</sup> Council of the European Union. (2025). *Council Regulation (EU) 2025/395 of 24 February 2025 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*

<sup>3</sup> Council of the European Union. (2024). *Council Regulation (EU) 2024/3192 of 16 December 2024 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*

environment through which Russian state actors and Russia-established entities might otherwise continue to organise commercial life, defend transactions, restructure assets, or maintain contractual leverage. Yet the legal design chosen by the Union is not a blanket prohibition on lawyering or arbitration as such. From the outset, the EU framed the measure as a restriction on a specific category of legal advisory services, while expressly excluding legal representation in judicial, arbitral, and mediation proceedings. This distinction is fundamental for the present report, because it shows that the Union sought to impair non-contentious legal-commercial support without extinguishing minimum procedural access. The subsection must therefore be analysed not as a story of a general “ban on arbitration”, but as a more refined regime of selective service denial combined with procedural carve-outs<sup>1,2</sup>.

The immediate legal source of this regime was the eighth package of sanctions adopted on 6 October 2022. The Council’s official press release stated that the package extended the prohibition on the provision of certain services to Russia by adding architectural and engineering services, IT consultancy services, and legal advisory services. In parallel, Regulation (EU) 2022/1904 inserted the relevant amendments into Regulation 833/2014. That chronology matters because it shows that the legal-advisory restriction was not part of the original 2014 sanctions regime, but a later-stage escalation responding to the prolonged and deepening conflict. It also reflects a broader shift in EU sanctions design after 2022: the Union moved beyond classic trade and finance restrictions and began targeting the business-enabling service ecosystem that supports commercial operation, restructuring, compliance, and dispute management. Legal services became sanction-relevant because they were viewed as part of the infrastructure through which Russian state and corporate actors could continue to function under pressure<sup>3,4</sup>.

At the core of the regime lies Article 5n(2) of Regulation 833/2014, under which it is prohibited, directly or indirectly, to provide legal advisory services to the Government of Russia or to legal persons, entities, or bodies established in Russia. The dual formula “directly or indirectly” is critical, because it widens the rule beyond straightforward retainer relationships and captures arrangements where the immediate service recipient is not the only or ultimate beneficiary. The provision is also targeted as to addressees: it is not framed as a general territorial prohibition on all legal work connected with Russia, but as a sanctions measure addressed to the Russian Government and Russia-established entities. This means that the architecture of the prohibition is recipient-centred rather than subject-matter-centred. That design is consistent with the broader structure of Article 5n, which regulates the provision of specified services to certain sanctioned target categories. It also makes the service restriction functionally analogous to transaction and service bans elsewhere in Regulation 833/2014<sup>5,6</sup>.

The EU legislator also chose to define the notion of legal advisory services with unusual specificity. Recital 19 of Regulation 2022/1904 states that legal advisory services cover the provision of legal advice to customers in non-contentious matters, including commercial transactions, involving the application or interpretation of law; participation with or on behalf of clients in commercial transactions, negotiations, and other dealings with third parties; and the preparation, execution, and verification of legal documents. This definitional choice has major analytical importance. It shows that the EU was targeting the non-contentious legal machinery of commerce rather than the entire legal profession as such. The definition reaches contract drafting, transactional structuring, negotiation support, and

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<sup>1</sup> Council of the European Union. (2022). *Council Regulation (EU) 2022/1904 of 6 October 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*

<sup>2</sup> Council of the European Union. (2022). *EU adopts its latest package of sanctions against Russia over the illegal annexation of Ukraine’s Donetsk, Luhansk, Zaporizhzhia and Kherson regions.*

<sup>3</sup> Ibid.

<sup>4</sup> Council of the European Union. (2022). *Council Regulation (EU) 2022/1904 of 6 October 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*

<sup>5</sup> Ibid.

<sup>6</sup> European Commission. (2026). *Frequently asked questions on provision of services concerning sanctions adopted following Russia’s military aggression against Ukraine (Article 5n of Council Regulation 833/2014).*

documentary execution. In effect, the prohibition was designed to deprive Russian public and corporate actors of non-contentious legal-operational support, not to bar them from every form of legal process<sup>1</sup>.

Equally important is what the definition explicitly excludes. The same recital states that legal advisory services do not include representation, advice, preparation of documents, or verification of documents in the context of legal representation services, namely in matters or proceedings before administrative agencies, courts, or other duly constituted official tribunals, or in arbitral or mediation proceedings. This carve-out is the doctrinal centre of the present subsection. It means that there is no general EU prohibition on legal representation in arbitration under Article 5n. Arbitral representation, and work intrinsically bound to such representation, falls outside the concept of prohibited legal advisory services. The EU thereby preserved a core distinction between legal support for commercial operation and legal support for dispute resolution. This is one of the main reasons why the heading of this subsection must speak of “arbitration-related services” rather than a “ban on arbitration”: the sanction reaches the arbitration field only partially and indirectly<sup>2,3</sup>.

The Commission’s 2026 FAQ confirms this interpretation in unambiguous terms. It states that, as indicated in recital 19 of Regulation 2022/1904, legal advisory services do not include representation, advice, preparation of documents, or verification of documents in the context of legal representation services, including proceedings before administrative agencies, courts, or other duly constituted official tribunals, or in arbitral or mediation proceedings. The FAQ concludes expressly that legal representation is therefore not subject to the prohibition. This clarification matters greatly in practice, because without it many market actors would have read Article 5n far more broadly and might have concluded that any arbitration-related lawyering for a Russia-established entity was unlawful. The Commission instead reinforced the narrower reading: contentious representation remains outside the core prohibition. For the sanctions’ regime, this is a key legitimacy-preserving feature<sup>4</sup>.

This distinction has been strongly reinforced by the EU courts. In *ACE-Avocats, ensemble v Council*, the General Court described the measure as a prohibition on the provision of legal advisory services to the Russian Government and entities established in Russia, while examining extensive arguments based on the right to be advised by a lawyer, legal professional privilege, the rule of law, and proportionality. The Court held, in substance, that the prohibition did not infringe the right guaranteed by Article 47 of the Charter because Article 5n(5) and 5n(6) preserve access to legal assistance where it is linked to judicial proceedings and effective remedies. The Court also explained that the “strictly necessary” criterion in those paragraphs is intended to avoid abuse of the exceptions, not to undermine access to a lawyer in the context of proceedings. This case is central because it demonstrates that the Union courts have treated the measure not as a wholesale exclusion from legal process, but as a calibrated restriction compatible with minimum procedural guarantees<sup>5</sup>.

The General Court went further and clarified that the scope of the exceptions is broader than a narrowly formal reading might suggest. It stated that Article 5n(5) and 5n(6) permit legal advisory services where a lawyer is called upon for assistance in defending a client or representing a client before the courts, or for advice as to the manner of instituting or avoiding judicial proceedings. It also held that those provisions permit a lawyer to carry out a prior assessment of the legal situation of Russia-established entities in order to determine whether the advice sought is strictly necessary to ensure access to judicial proceedings, to pre-empt or anticipate such proceedings, or to ensure that they are properly conducted once commenced. This is highly consequential for arbitration-related work. It indicates that preliminary legal analysis connected with the prospect of contentious proceedings may remain outside the prohibition if it is genuinely tied to procedural access or defence. Thus, the dividing line is not simply

<sup>1</sup> Council of the European Union. (2022). *Council Regulation (EU) 2022/1904 of 6 October 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine*.

<sup>2</sup> *Ibid.*

<sup>3</sup> European Commission. (2026). *Frequently asked questions on provision of services concerning sanctions adopted following Russia’s military aggression against Ukraine (Article 5n of Council Regulation 833/2014)*.

<sup>4</sup> *Ibid.*

<sup>5</sup> General Court of the European Union. (2024). *ACE-Avocats, ensemble v Council of the European Union (Case T-828/22)*.

between “before” and “during” proceedings, but between non-contentious commercial support and procedurally necessary legal assistance<sup>1</sup>.

The specific exceptions in Article 5n(5) and Article 5n(6) are therefore the legal hinge of the whole regime. Article 5n(5) excludes from the prohibition services that are strictly necessary for the exercise of the right of defence in judicial proceedings and the right to an effective legal remedy. Article 5n(6) excludes services strictly necessary to ensure access to judicial, administrative, or arbitral proceedings in a Member State, or for the recognition or enforcement of a judgment or an arbitration award rendered in a Member State, provided that such services are consistent with the objectives of Regulation 833/2014 and Regulation 269/2014. These provisions are carefully drafted. They preserve procedural access but do so within a sanctions-sensitive framework. In other words, the Union did not simply create an abstract “access to justice” reservation; it created a conditional, purpose-bound exemption that must remain compatible with the wider objectives of the sanctions’ regime<sup>2,3</sup>.

That architecture has one particularly important implication for arbitration. Article 5n(6) refers specifically to access to judicial, administrative, or arbitral proceedings in a Member State, and to the recognition or enforcement of a judgment or arbitration award rendered in a Member State. The Commission’s FAQ expressly states that this exemption applies only to proceedings in a Member State or to the recognition or enforcement of a judgment or award rendered in a Member State. However, the same FAQ adds that legal advisory services may still be allowed even outside the EU if they fall within Article 5n(5), that is, if they are strictly necessary for the exercise of the right of defence in judicial proceedings and the right to an effective legal remedy. This is a subtle but very important doctrinal distinction. It means that arbitral access in a Member State is expressly protected by Article 5n(6), while proceedings outside the Union may still be covered indirectly through the right-of-defence logic of Article 5n(5), depending on the circumstances<sup>4</sup>.

This distinction confirms why it is inaccurate to describe the EU regime as imposing a ban on arbitration. The Union has not prohibited arbitral proceedings as such, nor has it prohibited representation in those proceedings. What it has done is to prohibit a defined category of non-contentious legal advisory services provided to the Russian Government or Russia-established entities, while preserving arbitral access in a Member State and recognition or enforcement of awards rendered there. In addition, the case-law suggests that pre-litigation or pre-arbitration legal assessment may still be permissible where it is genuinely necessary to secure access to proceedings or to prepare for their proper conduct. The restriction therefore operates as a transactional and corporate law constraint, not as a general anti-arbitration norm. This distinction is essential for serious legal analysis and should be maintained throughout Part Five<sup>5,6,7</sup>.

The distinction between prohibited advice and permitted representation becomes clearer when one examines *Jemerak*. In that case, the Court of Justice held that the authentication by a notary of a contract for the sale of immovable property in a Member State owned by a legal person established in Russia, the notarial acts implementing that contract, and translation services provided by an interpreter during such authentication were not covered by the prohibition on legal advisory services. The Court’s operative part is important not only because it narrows the prohibition in the notarial context, but because it confirms that not every legally relevant act performed by a legal professional fall within the concept of prohibited “legal advisory services”. Where the act is essentially formal, legally required, impartial, and not oriented toward promoting the specific interests of one party through legal advice, it may fall outside the

<sup>1</sup> General Court of the European Union. (2024). *ACE-Avocats, ensemble v Council of the European Union (Case T-828/22)*.

<sup>2</sup> Ibid.

<sup>3</sup> European Commission. (2026). *Frequently asked questions on provision of services concerning sanctions adopted following Russia’s military aggression against Ukraine (Article 5n of Council Regulation 833/2014)*.

<sup>4</sup> Ibid.

<sup>5</sup> Council of the European Union. (2022). *Council Regulation (EU) 2022/1904 of 6 October 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine*.

<sup>6</sup> General Court of the European Union. (2024). *ACE-Avocats, ensemble v Council of the European Union (Case T-828/22)*.

<sup>7</sup> European Commission. (2026). *Frequently asked questions on provision of services concerning sanctions adopted following Russia’s military aggression against Ukraine (Article 5n of Council Regulation 833/2014)*.

prohibition. The judgment therefore protects a narrow but significant category of legal-formal acts necessary for property disposal and documentation<sup>1,2,3</sup>.

At the same time, the Commission’s FAQ makes clear that notarial services are generally covered by Article 5n(1)(a) if they are provided to an entity established in Russia or to the Government of Russia and do not fall within one of the applicable exceptions. It gives examples such as the authentication of contracts, certification of signatures, and the establishment of deeds regarding factual circumstances, all of which can fall under the notion of preparation, execution, and verification of legal documents. The same FAQ then draws the Jemerak-based qualification: where a notary acts with complete independence and impartiality, under a legal obligation imposed by the national system, and merely authenticates a contract for the sale of immovable property without providing legal advice intended to promote the specific interests of the parties, the activity may fall outside the scope of the prohibition. This is a fine-grained and fact-sensitive standard. It underscores once again that the EU chose a functional, not a purely formal, concept of legal advisory activity<sup>4,5</sup>.

The same approach governs the treatment of indirect provision. The Commission explains that legal advisory services are “indirectly” provided when another operator than the immediate recipient is also benefiting from them. It gives the example of an EU subsidiary receiving legal consultation which indirectly benefits the Russian parent company. Whether the prohibition applies therefore depends on a case-by-case assessment of the actual benefit flow. Legal consultation regarding a local issue affecting the EU subsidiary alone is less likely to constitute prohibited indirect provision, whereas legal consultation aimed at setting up a new globally operating corporate structure would likely amount to indirect provision to the Russian parent. This is one of the more operationally demanding parts of the regime. It requires law firms and in-house legal teams to analyse not merely formal client identity, but also corporate benefit architecture<sup>6</sup>.

A related point, often overlooked, is that the prohibition applies regardless of the type of law involved. The Commission states explicitly that the ban covers legal advisory services under EU law, Russian law, or any other non-EU law when provided by a Russian representative office of an EU-based legal entity to the Government of Russia or to companies in Russia, unless an exception or derogation applies. This is highly significant because it prevents an easy argument that sanctions should only bite when the legal service concerns EU law or sanctions law as such. The Union’s focus is on the provision of restricted services to restricted recipients, not on the formal source of the substantive law being discussed. For professional practice, this means that Russian-law advice rendered by EU-linked entities can fall within the prohibition just as much as EU-law advice<sup>7</sup>.

The regime also rejects a broad humanitarian or professional-relations carve-out for pro bono work. The Commission’s 2026 FAQ states expressly that no specific exemptions or derogations are provided for pro bono legal advisory services as such, and that such services are generally prohibited when provided to the Government of Russia or to legal persons, entities, or bodies established in Russia. However, as with remunerated services, pro bono work is not prohibited if it falls outside the scope of the prohibition, for example, because it is provided to a natural person rather than a Russia-established legal entity, or because it falls within Article 5n(5) or 5n(6). This is an important illustration of the regime’s logic. The

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<sup>1</sup> Court of Justice of the European Union. (2024). *GM, ON v PR (Case C-109/23, Jemerak)*.

<sup>2</sup> Court of Justice of the European Union. (2024). *GM, ON v PR*.

<sup>3</sup> European Commission. (2026). *Frequently asked questions on provision of services concerning sanctions adopted following Russia’s military aggression against Ukraine (Article 5n of Council Regulation 833/2014)*

<sup>4</sup> *Ibid.*

<sup>5</sup> Court of Justice of the European Union. (2024). *GM, ON v PR (Case C-109/23, Jemerak)*.

<sup>6</sup> European Commission. (2026). *Frequently asked questions on provision of services concerning sanctions adopted following Russia’s military aggression against Ukraine (Article 5n of Council Regulation 833/2014)*.

<sup>7</sup> *Ibid.*

prohibition is not built around whether the lawyer is paid, but around the nature, recipient, and purpose of the service. Thus, the EU’s approach is recipient- and function-centred, not fee-centred<sup>1</sup>.

Another operationally relevant point is that the current regime extends beyond the “main” legal advice to certain ancillary services. According to the Commission FAQ, Article 5n(3a) prohibits the provision of ancillary services, such as technical assistance, brokering services, financing, or financial assistance, related to services prohibited under Article 5n(1) and (3). The same FAQ explains that under Article 5n(10), competent authorities may authorise the provision of otherwise prohibited services, including those ancillary services. This matters for legal and arbitration-related practice because complex dispute-support or transaction-support arrangements may involve not only pure legal advice but also related facilitation services. The sanctions regime thus seeks to prevent easy functional substitution by cutting off some of the auxiliary support structure around prohibited services<sup>2</sup>.

The derogation structure has also become more differentiated over time. The Commission explains that, after 30 September 2024, operators wishing to provide certain intra-group services to legal persons established in Russia that are owned by, or solely or jointly controlled by, EU, EEA, Swiss, or partner-country entities must obtain authorisation from the relevant national competent authority under Article 5n(10)(h). It also clarifies that this derogation may apply even where the Russian entity is jointly controlled by an EU company and a non-partner-country company. This indicates that the Union has gradually moved from a narrower wind-down logic to a more managed authorisation framework for some intra-group services. Legally, this is highly relevant because it acknowledges that not all Russia-related legal and other restricted services are equally problematic where the beneficiary structure remains heavily EU-linked. The regime is therefore not static; it has evolved into a more conditional authorisation system in specific corporate contexts<sup>3</sup>.

The General Court in ACE also clarified an important hard edge of the regime: legal advice relating to divestment from Russia, the wind-down of business activities there, or share-transfer arrangements involving Russian shareholders can still be prohibited where it is intended directly or indirectly for the Russian Government or entities established in Russia. The Court noted that such prohibition may be lifted only under the applicable derogation framework, including Article 12b(2a) and the relevant authorisation provisions. This observation is analytically valuable because it shows that the sanctions architecture does not treat all “exit-related” legal work as automatically permissible. Legal advice about leaving Russia may still amount to prohibited non-contentious legal support for Russian counterparties, unless it fits within a specific derogation. The regime therefore seeks to distinguish genuine compliance-compatible exit work from legal services that continue to serve the commercial interests of Russia-established actors<sup>4</sup>.

The main legal architecture of this subsection may be summarised as follows.

Table 5.2.3-1. Core legal structure of the EU restrictions on legal advisory and arbitration-related services

Element	Main legal content	Practical meaning	Analytical significance
Basic prohibition	Article 5n(2) prohibits direct or indirect provision of legal advisory services to the Government of Russia and Russia-established entities	Restricts non-contentious legal-commercial support	Targets the business-enabling legal environment rather than litigation as such
Definition of legal advisory services	Advice in non-contentious matters, transactional participation, preparation/execution/verification of legal documents	Covers contract, negotiation, structuring,	Shows the regime is aimed at transactional legal operations

<sup>1</sup> European Commission. (2026). *Frequently asked questions on provision of services concerning sanctions adopted following Russia’s military aggression against Ukraine (Article 5n of Council Regulation 833/2014)*.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> General Court of the European Union. (2024). *ACE-Avocats, ensemble v Council of the European Union (Case T-828/22)*.

Element	Main legal content	Practical meaning	Analytical significance
		and documentation work	
Express exclusion	Legal representation, including in arbitral or mediation proceedings, is excluded from the concept	Arbitration representation is not generally prohibited	Confirms there is no blanket EU ban on arbitration
Article 5n(5) exception	Services strictly necessary for the right of defence and effective legal remedy	Preserves minimum procedural justice	Prevents the regime from becoming incompatible with Article 47 Charter
Article 5n(6) exception	Services strictly necessary for access to judicial, administrative, or arbitral proceedings in a Member State, or recognition/enforcement of judgments or awards rendered there	Protects access to EU-based dispute resolution and award enforcement	Makes the arbitration-related carve-out territorially and functionally specific
Indirect provision doctrine	Services may be prohibited where another operator also benefits, e.g. a Russian parent	Requires case-by-case benefit analysis	Extends the regime beyond formal client identity
Authorised derogations	National competent authorities may authorise certain intra-group or wind-down related services	Creates controlled flexibility	Preserves economic manageability without abandoning sanctions logic

*Authorship: analytical framework (this report) was prepared by the author.*

*Sources:*

- Council of the European Union. (2022). *Council Regulation (EU) 2022/1904 of 6 October 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*
- General Court of the European Union. (2024). *ACE-Avocats, ensemble v Council of the European Union (Case T-828/22).*
- Court of Justice of the European Union. (2024). *GM, ON v PR (Case C-109/23, Jemerak).*
- European Commission. (2026). *Frequently asked questions on provision of services concerning sanctions adopted following Russia’s military aggression against Ukraine (Article 5n of Council Regulation 833/2014).*

From the standpoint of effectiveness, the restrictions on legal advisory services have clear strengths. They interfere directly with the ability of Russia-established entities and the Russian Government to obtain transactional legal support, corporate structuring advice, contract-related drafting, and negotiation assistance from EU-linked providers. That can increase legal friction in commercial dealings, complicate restructurings, hinder certain financing or transfer arrangements, and make it harder to preserve normalised business operations under sanctions pressure. At the same time, the regime is more legally sustainable precisely because it does not extinguish representation in arbitral and judicial proceedings. By preserving procedural defence and EU-connected arbitral access, the Union reduced the risk that the measure would be struck down or widely regarded as incompatible with rule-of-law commitments. In that respect, the regime combines coercive effect with a significant degree of constitutional self-restraint<sup>1,2</sup>.

Its limitations, however, should also be stated clearly. First, the borderline between prohibited non-contentious advice and permitted procedurally necessary assistance can be factually difficult to apply, especially in pre-arbitration strategy, settlement-oriented advice, compliance counselling, or mixed corporate-dispute situations. Secondly, the “indirect provision” test places substantial interpretative burdens on law firms and in-house teams, who must assess not only the formal client but the

<sup>1</sup> General Court of the European Union. (2024). *ACE-Avocats, ensemble v Council of the European Union (Case T-828/22).*

<sup>2</sup> European Commission. (2026). *Frequently asked questions on provision of services concerning sanctions adopted following Russia’s military aggression against Ukraine (Article 5n of Council Regulation 833/2014).*

downstream beneficiary structure. Thirdly, national competent-authority authorisation practice may vary, especially in intra-group and wind-down scenarios. Fourthly, the regime’s territorial orientation toward proceedings and awards in a Member State leaves more uncertainty around some extra-EU arbitral contexts, even though Article 5n(5) may still preserve a right-of-defence route. These constraints do not negate the sanction’s value, but they do make it a compliance-intensive and interpretation-sensitive instrument<sup>1,2</sup>.

Table 5.2.3-2. Effectiveness drivers and structural constraints of the EU restrictions on legal advisory and arbitration-related services

Dimension	Effectiveness driver	Structural constraint
Commercial disruption	Blocks non-contentious legal support for transactions, structuring, and documentation	Complex matters often mix contentious and non-contentious elements
Anti-circumvention reach	Direct/indirect formula captures benefit flowing to Russian parents or affiliates	Benefit analysis is fact-intensive and can generate uncertainty
Rule-of-law defensibility	Express carve-outs preserve legal representation and procedural access	Narrow carve-outs may still leave grey zones in pre-dispute strategy
Arbitration impact	Restricts some arbitration-adjacent advisory work outside pure representation	Does not amount to a general ban on arbitration or arbitral representation
Administrative flexibility	Authorisation routes allow narrowly controlled intra-group or wind-down services	National practice may diverge in timing, interpretation, and scope
Compliance seriousness	Encourages high-level internal screening by law firms and corporates	Risk of over-compliance may chill lawful or exempt procedural work

Authorship: analytical framework (this report) was prepared by the author.

Sources:

- Council of the European Union. (2022). *Council Regulation (EU) 2022/1904 of 6 October 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*
- General Court of the European Union. (2024). *ACE-Avocats, ensemble v Council of the European Union (Case T-828/22).*
- Court of Justice of the European Union. (2024). *GM, ON v PR (Case C-109/23, Jemerak).*
- European Commission. (2026). *Frequently asked questions on provision of services concerning sanctions adopted following Russia’s military aggression against Ukraine (Article 5n of Council Regulation 833/2014).*

The overall conclusion is that the EU restrictions on legal advisory and arbitration-related services should be classified as a targeted and legally sophisticated instrument of service denial, not as a blanket prohibition on legal process. Their primary function is to deprive the Russian Government and Russia-established entities of non-contentious legal-commercial support from EU-linked providers, thereby increasing friction in transactional, corporate, and organisational activity. Their legal sustainability rests on the equally deliberate decision to exclude legal representation in judicial, arbitral, and mediation proceedings from the core prohibition and to preserve narrowly framed exceptions for defence, effective remedy, access to proceedings in a Member State, and recognition or enforcement of awards rendered there. As a result, the measure exerts meaningful coercive pressure while remaining more defensible

<sup>1</sup> European Commission. (2026). *Frequently asked questions on provision of services concerning sanctions adopted following Russia’s military aggression against Ukraine (Article 5n of Council Regulation 833/2014).*

<sup>2</sup> General Court of the European Union. (2024). *ACE-Avocats, ensemble v Council of the European Union (Case T-828/22).*

than a broader anti-lawyer or anti-arbitration ban would have been. For the purposes of this report, it is best understood as a sanction against legal-operational enablement, not against adjudication itself<sup>1,2,3</sup>.

#### 5.2.4. Restrictions on Intellectual-Property Rights, Trade Secrets, and Related Technology Rights

The restrictions on intellectual-property rights, trade secrets, and related technology rights should be understood not as a single isolated sanction, but as a multi-layered legal cluster within the EU's Russia regime. Their importance lies in the fact that they move sanctions law beyond the classic model of controlling only physical goods, financial flows, or listed persons. In this field, the Union has progressively recognised that military, industrial, and economic capability can be transferred not only through hardware and capital, but also through legally protected knowledge, software-related rights, industrial know-how, confidential technical information, and registration-based exclusivities. As a result, the sanctions architecture has evolved towards a more sophisticated model in which the law restricts not only the export of goods and technology, but also the licensing, transfer, and operational use of the intangible rights that make those goods and technologies reproducible, maintainable, and commercially exploitable. For the purposes of the present report, this subsection therefore covers three linked domains: first, the prohibition on transferring intellectual-property rights and trade secrets connected with controlled goods and technology; secondly, the anti-circumvention obligations concerning the use of such rights by non-EU controlled entities and third-country counterparties; and thirdly, the later restrictions on the registration of certain intellectual-property rights in the Union by Russian nationals, residents, and companies<sup>4,5,6</sup>.

The first decisive step in this direction was taken in the 11th package adopted on 23 June 2023. The Council's public sanctions timeline described that package, among other things, as including "a ban on the sale, licensing or transfer of intellectual property rights or trade secrets". The amending regulation itself translated that political description into operative legal language by inserting, across multiple export-control provisions of Regulation 833/2014, a prohibition on selling, licensing, or otherwise transferring intellectual-property rights or trade secrets, as well as granting rights to access or re-use material or information protected by intellectual-property rights or constituting trade secrets, where those rights or information were related to controlled goods and technology and to their provision, manufacture, maintenance, or use. That step was legally significant because it marked an explicit shift from a goods-centred export-control model to a goods-plus-intangibles model. The Union thereby acknowledged that capability transfer can occur through rights and protected information even where the physical shipment of the item itself is blocked<sup>7,8</sup>.

The legal formula used by the Union in 2023 deserves close attention. The prohibition does not stop at the sale or licence of a patent, copyright-related software entitlement, or trade secret in the narrow sense. It also extends to the grant of rights to access or re-use any material or information protected by means of intellectual-property rights or constituting trade secrets, provided that this material or information is related to the relevant controlled goods and technology and to their provision,

<sup>1</sup> Council of the European Union. (2022). *Council Regulation (EU) 2022/1904 of 6 October 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.*

<sup>2</sup> General Court of the European Union. (2024). *ACE-Avocats, ensemble v Council of the European Union (Case T-828/22).*

<sup>3</sup> European Commission. (2026). *Frequently asked questions on provision of services concerning sanctions adopted following Russia's military aggression against Ukraine (Article 5n of Council Regulation 833/2014).*

<sup>4</sup> Council of the European Union. (2023). *Council Regulation (EU) 2023/1214 of 23 June 2023 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.*

<sup>5</sup> Council of the European Union. (2024). *Council Regulation (EU) 2024/1745 of 24 June 2024 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.*

<sup>6</sup> Council of the European Union. (2025). *Council Regulation (EU) 2025/2033 of 23 October 2025 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.*

<sup>7</sup> Council of the European Union. (2023). *Council Regulation (EU) 2023/1214 of 23 June 2023 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.*

<sup>8</sup> Council of the European Union. (2026). *Timeline – packages of sanctions against Russia since February 2022.*

manufacture, maintenance, or use. This drafting is deliberate and functionally expansive. It captures not only formal title transfer, but also access rights, re-use rights, technical know-how exposure, and similar intangible channels through which the sanctioned goods or technology could still be operationalised. In practical terms, this means that the sanctions regime does not allow a controlled item to be withheld physically while the protected documentation, design logic, production instructions, maintenance manuals, or software-related exploitation rights are quietly transferred instead. The legal object of restriction is therefore technological enablement, not merely the physical object<sup>1</sup>.

Another important aspect of the 2023 reform is that these intangible-rights prohibitions were not confined to one narrow article of Regulation 833/2014. The amending act inserted this legal formula into several different export-control provisions covering dual-use goods, military- and defence-relevant items, aviation- and space-related goods, firearms and ammunition, and various goods capable of contributing to Russian industrial or technological capacity. That legislative choice matters analytically because it shows that the Union did not treat intellectual-property and trade-secret restrictions as a niche specialist add-on. Instead, it embedded them across the wider sectoral sanctions architecture wherever the protected intangible could serve as an enabling layer for controlled goods and technology. In effect, the EU reframed the export-control system so that the relevant legal question became not only “Can the item be exported?” but also “Can the protected knowledge-rights ecosystem around that item be transferred or made usable in Russia?”<sup>2</sup>

This expansion is best understood as a response to the structural weaknesses of classical sanctions design. If a sanctioned state or sanctioned end-user cannot lawfully purchase a machine, component, or software tool, but can still acquire the licence, protected schematics, production instructions, technical package, or legally usable confidential know-how needed to reproduce or maintain it, the restriction remains materially incomplete. The Union’s 2023 amendments attempted to close exactly that gap. They reflected an understanding that intellectual-property rights and trade secrets are not merely private-law assets. In an industrial-security context, they are vectors of technological capability. By regulating the transfer of such rights where they are linked to controlled goods and technology, the EU sought to deprive Russia not only of physical deliveries but of the intangible architecture of reproduction and sustainment. This is one of the clearest examples in the current sanctions regime of the Union translating export-control logic into knowledge-control logic<sup>3</sup>.

At the same time, the Union recognised that such restrictions could create legitimate problems in relation to divestment and business withdrawal from Russia. For that reason, the sanctions framework also preserved a wind-down and divestment derogation. Article 12b, as amended over time, allows competent authorities to authorise, under specified conditions, the sale, supply, or transfer of certain controlled goods and technologies, as well as the sale, licensing, or transfer in any other way of intellectual-property rights or trade secrets and the granting of rights to access or re-use related protected material or information, where this is strictly necessary for divestment from Russia or the wind-down of business activities there. What matters for the present stage of the report is that this derogation has not remained static. The October 2025 amending regulation stated that Russia’s increasingly hostile legal environment could leave Union assets stranded without the possibility of orderly withdrawal, and on that basis, it extended relevant divestment derogations, including this one, until 31 December 2026. This demonstrates that the EU has sought to balance capability denial with an orderly exit logic for Union operators<sup>4,5</sup>.

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<sup>1</sup> Council of the European Union. (2023). *Council Regulation (EU) 2023/1214 of 23 June 2023 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Council of the European Union. (2025). *Council Regulation (EU) 2025/2033 of 23 October 2025 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*

<sup>5</sup> Council of the European Union. (2024). *Council Regulation (EU) 2024/1745 of 24 June 2024 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*

That derogation is analytically important because it confirms that the EU does not regard all transfers of protected rights as equally undesirable in every circumstance. The objective is not to trap Union undertakings indefinitely in a hostile and increasingly law-distorted Russian market. Rather, the objective is to prevent such rights from continuing to support Russian capability, while still allowing tightly controlled rights transfers where they are strictly necessary to exit the market or unwind exposure. In other words, the restriction on IP and trade secrets is not absolute in the abstract. It is strategically conditional. This conditionality improves the legal sustainability of the regime, because it aligns sanctions pressure with the Union's policy preference that undertakings should withdraw from Russia rather than remain trapped there<sup>1</sup>.

A further step in the legal architecture concerns anti-circumvention and control over non-EU entities. Article 8a of Regulation 833/2014 requires natural and legal persons, entities, and bodies to 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 in the Regulation. The Commission's guidance on Article 8a makes the relevance of intellectual-property rights and trade secrets explicit. It explains that where sanctioned goods are produced on the basis of intellectual-property rights or trade secrets previously transferred by an EU operator to a non-EU entity which that operator owns or controls, and the EU operator does not act to prevent their further use in support of supply to Russia, the operator cannot be regarded as having taken all necessary and feasible actions. The same guidance states that the timing of the transfer is not decisive, so long as the EU operator still retains the power to block further use. This is a major development in sanctions technique. It means that the legal reach of the EU regime can persist even after an earlier transfer of rights if control over downstream use remains available<sup>2,3</sup>.

This "best efforts" model is particularly notable because it modifies the usual temporal logic of sanctions. A purely transactional view would focus on whether the intellectual-property right or trade secret was transferred before or after the prohibition entered into force. The Commission's guidance adopts a more functional approach. It asks instead whether the EU operator still has the capacity to prevent the right or secret from being used in a way that undermines the sanctions regime. This introduces an ongoing governance responsibility over intangible rights that may already have been contractually shared or licensed before the sanctions tightened. For legal policy, this is significant. It converts IP-related sanctions from a one-time transfer prohibition into a continuing duty of downstream control and prevention<sup>4</sup>.

The Union also extended this anti-circumvention approach into the contractual sphere. In the 14th package of June 2024, Article 12ga was inserted to require natural and legal persons, entities, and bodies, when selling, licensing, or otherwise transferring intellectual-property rights or trade secrets, as well as when granting rights to access or re-use protected material or information related to common high priority items listed in Annex XL, to contractually prohibit their third-country counterparts and possible sublicensees from using those rights or secrets in connection with such items intended for sale, supply, transfer, or export to Russia or for use in Russia. This provision is one of the most sophisticated sanctions techniques in the current regime. The Union is not merely prohibiting conduct; it is requiring operators to embed sanctions-compliance restraints into their own private-law chains. In effect, contract law becomes an instrument of geopolitical risk containment<sup>5</sup>.

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<sup>1</sup> Council of the European Union. (2025). *Council Regulation (EU) 2025/2033 of 23 October 2025 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.*

<sup>2</sup> Council of the European Union. (2024). *Council Regulation (EU) 2024/1745 of 24 June 2024 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.*

<sup>3</sup> European Commission. (2024). *FAQs on sanctions against Russia and Belarus, with focus on the following provision: Article 8a of Council Regulation (EU) No 833/2014.*

<sup>4</sup> *Ibid.*

<sup>5</sup> Council of the European Union. (2024). *Council Regulation (EU) 2024/1745 of 24 June 2024 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.*

That contractualisation of IP-related sanctions has practical implications beyond abstract doctrine. It means that EU rights-holders and technology providers can no longer treat licensing agreements, technology-transfer clauses, and sublicense structures as commercially neutral legal instruments where common high priority items are concerned. They must actively design those instruments so as to inhibit diversion to Russia and must provide “adequate remedies” in the event of contractual breach. This reinforces the wider anti-circumvention logic of the sanctions’ regime, but in an especially important field: intangible rights are often easier to replicate, split, or conceal than physical goods. By forcing contractual discipline into the licensing chain, Article 12ga reduces the risk that a formal export ban will be circumvented by a legally dressed-up rights-transfer structure through third countries<sup>1</sup>.

The sanctions regime has also continued to expand in the field of software-related technology rights. The October 2025 amending regulation added further restrictions concerning the provision to the Government of Russia or to legal persons, entities, or bodies established in Russia of software for enterprise management, software for industrial design and manufacture, and certain software with uses in the banking and financial sector. Crucially for this subsection, the same act also prohibited the sale, licensing, or other transfer of intellectual-property rights or trade secrets, as well as the grant of access or re-use rights to protected material or information, where these were related to that software and to its provision, manufacture, maintenance, or use. This development is highly relevant because it shows the sanctions framework moving from rights connected with controlled hardware and industrial goods into rights connected with software ecosystems. In other words, the Union increasingly treats code-related rights, protected software know-how, and software-linked trade secrets as strategic technology enablers requiring direct regulation<sup>2</sup>.

This extension into software-related rights is not a marginal technical amendment. It reflects a broader strategic understanding that Russia’s military-industrial and state-administrative capabilities increasingly depend on software layers that can be maintained, adapted, and reproduced through intangible rights and confidential information rather than through physical imports alone. In legal terms, the 2025 reform confirms that the Union is no longer restricting only the transfer of software as an object; it is also restricting the rights environment that allows software to be lawfully used, maintained, and evolved. That is a considerable widening of sanctions technique, and it places intellectual-property law and trade-secret governance much closer to the centre of sanctions policy than in the earlier phases of the regime<sup>3</sup>.

To summarise the first major dimension of this subsection, the EU’s restrictions on intellectual-property rights and trade secrets are no longer limited to a narrow export-control adjunct. They now form a structured legal field connecting export bans, software restrictions, divestment derogations, best-efforts duties, and contractual anti-circumvention requirements. This structure may be represented as follows.

Table 5.2.4-1. Core sanction mechanisms concerning intellectual-property rights, trade secrets, and related technology rights

Mechanism	Main legal content	Practical function	Analytical significance
Export-related IP/trade-secret ban (2023)	Prohibits sale, licensing, transfer, or grant of access/re-use rights regarding IPRs, trade secrets, and protected information related to controlled goods and technology	Blocks intangible capability transfer linked to sanctioned items	Converts export control into knowledge-rights control

<sup>1</sup> Council of the European Union. (2024). *Council Regulation (EU) 2024/1745 of 24 June 2024 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*

<sup>2</sup> Council of the European Union. (2025). *Council Regulation (EU) 2025/2033 of 23 October 2025 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*

<sup>3</sup> Ibid.

Mechanism	Main legal content	Practical function	Analytical significance
Divestment / wind-down derogation	Allows competent authorities to authorise certain rights transfers strictly necessary for divestment or wind-down	Prevents Union assets from being irretrievably trapped in Russia	Balances sanctions pressure with orderly exit logic
Article 8a best-efforts obligation	Requires EU operators to use best efforts so non-EU controlled entities do not undermine sanctions	Extends compliance duties into controlled foreign subsidiaries and downstream use of transferred rights	Creates continuing responsibility over the exploitation of IPRs and trade secrets
Article 12ga contractual clause	Requires contractual prohibition on the use of relevant IPRs/trade secrets by third-country counterparties and sublicensees in relation to common high priority items for Russia	Pushes anti-circumvention discipline into private licensing chains	Makes contract drafting part of sanctions enforcement
Software-related rights restrictions (2025)	Extends restrictions to IPRs and trade secrets related to enterprise-management, industrial-design/manufacture, and certain financial software	Targets digital capability and maintenance ecosystems	Shows sanctions law moving from hardware-centred to software-rights-centred control

*Authorship: analytical framework (this report) was prepared by the author.*

Sources:

- Council of the European Union. (2023). *Council Regulation (EU) 2023/1214 of 23 June 2023 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*
- Council of the European Union. (2024). *Council Regulation (EU) 2024/1745 of 24 June 2024 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*
- European Commission. (2024). *FAQs on sanctions against Russia and Belarus, with focus on the following provision: Article 8a of Council Regulation (EU) No 833/2014.*
- Council of the European Union. (2025). *Council Regulation (EU) 2025/2033 of 23 October 2025 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*

The second major branch of this subsection is different in nature. It concerns not the transfer of rights related to controlled goods or software, but the acceptance of new applications for certain intellectual-property rights in the Union. This mechanism was introduced in the 14th package through Article 5s of Regulation 833/2014. Article 5s provides that intellectual-property offices and other competent institutions constituted under the law of a Member State or the Union shall not accept new applications for registration filed by Russian nationals, natural persons residing in Russia, or legal persons, entities, or bodies established in Russia in respect of certain intellectual-property rights, and shall likewise not accept requests or submissions filed by such persons during the relevant registration procedures. The Commission’s IPR FAQ explains that the primary burden of implementation falls on the Commission, the EUIPO, and national intellectual-property offices. This is an unusual legal technique within sanctions law, because it does not regulate export, finance, or services in the ordinary sense. It regulates entry into the Union rights-registration system itself<sup>1,2</sup>.

The rationale for Article 5s was made explicit in both the recitals to the 2024 amending regulation and the Commission’s later IPR FAQ. The regulation stated that the Russian Government and Russian courts had been undertaking actions to illegitimately deprive Member State intellectual-property-rights holders of their protection in Russia, resulting in an undue competitive advantage for Russian industry and contributing to Russian revenues. The Council press release on the 14th package presented the measure as a restriction on accepting applications for registrations in the EU of certain intellectual-property rights

<sup>1</sup> Council of the European Union. (2024). *Council Regulation (EU) 2024/1745 of 24 June 2024 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*

<sup>2</sup> European Commission. (2024). *Frequently asked questions on intellectual property rights concerning sanctions adopted in view of Russia’s military aggression against Ukraine and Belarus’ involvement in it.*

by Russian nationals and companies, with the aim of offsetting those Russian actions. The Commission FAQ repeats this rationale and places it in a wider context that includes Russian parallel-import practice and Russian measures restricting Union companies' ability to reassert or recover control over their rights and industrial know-how. Analytically, this is important because Article 5s is not aimed at depriving Russia of military technology directly. It is a retorsive and protective measure responding to what the Union regarded as abusive Russian treatment of Union rights-holders<sup>1,2,3</sup>.

The scope of Article 5s is also broader and more systematised than a brief public summary might suggest. According to the Commission's November 2024 FAQ, the rights covered include new applications for patents, trademarks, industrial designs, and geographical indications, including not only national filings but also EU filings and certain international routes involving the EPO, WIPO, the Madrid system, the Hague system, and Geneva Act notifications, where the relevant procedural phase enters Union or national office handling. This is a broad administrative perimeter. It shows that the Union did not wish to leave simple forum-shopping routes open inside the broader international IP registration architecture. At the same time, the FAQ states clearly that Article 5s does not affect the maintenance and renewal of existing intellectual-property rights; it concerns only new applications and certain requests or submissions during registration procedures. This distinction is crucial. The Union is blocking new acquisition or procedural advancement of protected rights in the Union by target persons, but it is not automatically extinguishing pre-existing rights<sup>4</sup>.

The implementation technique is equally notable. The Commission FAQ explains that non-acceptance under Article 5s does not necessarily require a formal decision of refusal in every case; rather, the office may communicate that the application, request, or submission will not be processed by virtue of Article 5s and that no filing number or filing date will be accorded. The applicant may in principle re-submit if Article 5s is later repealed. This design is interesting because it is administratively efficient and sanctions-sensitive. Instead of converting every blocked filing into a fully adjudicated refusal, the Union created a mechanism of procedural non-entry. This reduces administrative burden while preserving the restrictive effect. It also reflects the idea that Article 5s is a sanctions measure, not a substantive reassessment of the merits of the intellectual-property claim itself<sup>5,6</sup>.

The regime is not wholly absolute, however. Article 5s(5), as explained in the Commission FAQ, exempts nationals of a Member State, of an EEA country, or of Switzerland, and natural persons holding a temporary or permanent residence permit in a Member State, an EEA country, or Switzerland. The FAQ further clarifies that dual nationals holding, for example, both Russian nationality and Member State nationality are exempt irrespective of residence, whereas dual nationals holding Russian nationality plus the nationality of some other non-EU/non-EEA/non-Swiss state are not exempt on that basis. It also notes that joint applications by a target person together with a non-target or otherwise exempt person are still caught by Article 5s, although the non-target person may re-file without the target person. This shows that the Union designed the measure to target Russian legal-person and residence/nationality connections, while still preserving an exit route for persons already embedded in the wider European legal area<sup>7</sup>.

The interaction with individual financial sanctions is also important. The Commission's IPR FAQ explains that Regulation 269/2014 and Regulation 833/2014 apply independently and must both be complied

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<sup>1</sup> Council of the European Union. (2024). *Council Regulation (EU) 2024/1745 of 24 June 2024 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.*

<sup>2</sup> Council of the European Union. (2024). *Russia's war of aggression against Ukraine: comprehensive EU's 14th package of sanctions cracks down on circumvention and adopts energy measures.*

<sup>3</sup> European Commission. (2024). *Frequently asked questions on intellectual property rights concerning sanctions adopted in view of Russia's military aggression against Ukraine and Belarus' involvement in it.*

<sup>4</sup> Ibid.

<sup>5</sup> Council of the European Union. (2024). *Council Regulation (EU) 2024/1745 of 24 June 2024 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.*

<sup>6</sup> European Commission. (2024). *Frequently asked questions on intellectual property rights concerning sanctions adopted in view of Russia's military aggression against Ukraine and Belarus' involvement in it.*

<sup>7</sup> Ibid.

with. Even before Article 5s, the Commission had taken the position that applications for the registration of new intellectual-property rights by persons listed in Annex I to Regulation 269/2014, or by persons owned or controlled by them, should be rejected because such applications create new rights for the benefit of the applicant and therefore qualify as making economic resources available. At the same time, existing registered intellectual-property rights owned or controlled by designated persons do not necessarily have to be invalidated or revoked. They may remain in place, though frozen, and may in certain circumstances be renewed if the conditions of the asset-freeze regime are respected. This interaction is analytically revealing. It shows that the EU’s IP-related sanctions operate through both the individual restrictive-measures track and the sectoral Russia-regulation track, each with different logics and different target categories<sup>1,2</sup>.

Taken together, these measures demonstrate that the EU has moved decisively away from the older assumption that intellectual-property law is merely a neutral background system unaffected by sanctions except incidentally. In the current Russia regime, intellectual-property rights, trade secrets, protected technical information, software-related rights, and registration procedures are all treated as possible channels of strategic enablement, circumvention, or retaliatory legal leverage. The Union has responded accordingly with a legal architecture that combines transfer bans, licensing restrictions, downstream-control duties, contractual obligations, registration-access limits, and carefully preserved derogations. This is a substantial doctrinal development. It places IP and trade-secret governance within the core of sanctions policy rather than at its edges<sup>3,4,5</sup>.

The main effectiveness drivers and structural constraints of this IP-related sanctions field may be summarised as follows.

Table 5.2.4-2. Effectiveness drivers and structural constraints of the EU’s IP-, trade-secret-, and technology-rights restrictions

Dimension	Effectiveness driver	Structural constraint
Intangible capability denial	Rights-transfer bans close the loophole whereby controlled technology could still be operationalised through licences, know-how, or protected information	Determining whether a given right or secret is sufficiently related to a controlled good or technology can be fact-sensitive
Anti-circumvention resilience	Article 8a and Article 12ga extend control into non-EU subsidiaries and third-country contractual chains	Enforcement depends heavily on documentation, contractual architecture, and the practical ability to block downstream use
Software control	2025 reforms extend the same logic to software-related rights, reflecting the strategic importance of digital capability	Software-related licensing and maintenance arrangements are often complex, cross-border, and technically opaque
Retaliatory / protective legal logic	Article 5s responds directly to Russian actions undermining Union rights-holders in Russia and denies easy access to the EU registration system	The measure is narrow to new filings and selected procedural stages, so its economic pressure is indirect rather than immediate
Rule-of-law defensibility	Existing rights are not automatically extinguished; exemptions and permit-holder carve-outs preserve a degree of proportionality	The coexistence of Regulations 833/2014 and 269/2014 creates a layered compliance environment that may be difficult for offices and businesses to navigate

<sup>1</sup> European Commission. (2024). *Frequently asked questions on intellectual property rights concerning sanctions adopted in view of Russia’s military aggression against Ukraine and Belarus’ involvement in it.*

<sup>2</sup> Council of the European Union. (2014). *Council Regulation (EU) 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.*

<sup>3</sup> Council of the European Union. (2023). *Council Regulation (EU) 2023/1214 of 23 June 2023 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*

<sup>4</sup> Council of the European Union. (2024). *Council Regulation (EU) 2024/1745 of 24 June 2024 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*

<sup>5</sup> Council of the European Union. (2025). *Council Regulation (EU) 2025/2033 of 23 October 2025 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*

Dimension	Effectiveness driver	Structural constraint
Exit manageability	Divestment derogations recognise the need for orderly withdrawal from Russia and reduce the risk of stranded Union assets	Authorisation remains discretionary and nationally administered, which can lead to uneven practice

*Authorship: analytical framework (this report) was prepared by the author.*

Sources:

- Council of the European Union. (2023). *Council Regulation (EU) 2023/1214 of 23 June 2023 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*
- Council of the European Union. (2024). *Council Regulation (EU) 2024/1745 of 24 June 2024 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*
- European Commission. (2024). *FAQs on sanctions against Russia and Belarus, with focus on the following provision: Article 8a of Council Regulation (EU) No 833/2014.*
- European Commission. (2024). *Frequently asked questions on intellectual property rights concerning sanctions adopted in view of Russia’s military aggression against Ukraine and Belarus’ involvement in it.*
- Council of the European Union. (2025). *Council Regulation (EU) 2025/2033 of 23 October 2025 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*

The overall conclusion is that the EU’s restrictions on intellectual-property rights, trade secrets, and related technology rights should be classified as one of the most conceptually advanced elements of the current sanctions’ regime. Their significance lies in the fact that they recognise intangible rights and protected knowledge not merely as private assets, but as strategic infrastructures of production, maintenance, market entry, and technological adaptation. Through the 2023 export-related bans, the 2024 contractual and registration-access measures, and the 2025 software-rights expansion, the Union has progressively constructed a sanctions field that reaches into the juridical mechanisms through which technology is owned, controlled, exploited, and reproduced. The regime remains targeted rather than absolute, because it preserves divestment derogations, exemptions for certain categories of persons, and the continued existence of pre-existing rights in defined circumstances. Even so, the direction of travel is clear: the EU now treats IP and trade-secret governance as an integral part of sanctions policy, not as a legally separate domain standing outside it. For Part Five of the present report, this is a critical finding, because it shows that the “legal sphere” of sanctions has expanded well beyond courts and asset freezes into the structured regulation of intangible power itself<sup>1,2,3,4</sup>.

### 5.3. Long-Term Legal Resilience of Sanctions

#### 5.3.1. Conditions of Legal Resilience: Clarity, Precision, and Update Capacity

Long-term legal resilience in the sanctions’ context should be understood as the capacity of a restrictive-measures regime to remain lawful, intelligible, operable, reviewable, and adaptable over an extended

<sup>1</sup> Council of the European Union. (2023). *Council Regulation (EU) 2023/1214 of 23 June 2023 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*

<sup>2</sup> Council of the European Union. (2024). *Council Regulation (EU) 2024/1745 of 24 June 2024 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*

<sup>3</sup> Council of the European Union. (2025). *Council Regulation (EU) 2025/2033 of 23 October 2025 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.*

<sup>4</sup> European Commission. (2024). *Frequently asked questions on intellectual property rights concerning sanctions adopted in view of Russia’s military aggression against Ukraine and Belarus’ involvement in it.*

period without losing either coercive force or constitutional defensibility. In the EU context, that concept is especially important because the Russia regime is no longer a short-cycle emergency reaction. It has become a dense and cumulative body of law composed of multiple regulations, decisions, annexes, guidance instruments, review mechanisms, and enforcement layers. A sanctions regime of that scale cannot remain effective merely through political will. It must also remain sufficiently clear for operators to apply, sufficiently precise for courts to defend, and sufficiently updateable for institutions to respond to circumvention and changing conflict dynamics. The official Council position that EU sanctions are targeted, proportionate, temporary in nature, and regularly reviewed is therefore not just descriptive rhetoric. It is one of the Union's statements of what resilience is supposed to mean in legal terms. The present subsection proceeds on the basis that clarity, precision, and update capacity are not ancillary virtues of the regime, but the core conditions of its long-duration survival<sup>1,2</sup>.

The first of those conditions is clarity. In a sanctions system that imposes obligations on banks, exporters, insurers, technology firms, registries, lawyers, notaries, carriers, and competent authorities across the Union, a legally ambiguous rule can rapidly produce fragmentation, over-compliance, under-enforcement, or both at once. Clarity matters because sanctions law is not applied only by judges after the fact. It is applied every day by private and public actors who must decide in real time whether an asset can be released, whether a transaction is lawful, whether a service falls within an exception, or whether an indirect benefit risk is too high to proceed. The more durable the regime becomes, the more costly legal obscurity becomes. Unclear sanctions rules do not merely create technical inconvenience; they erode confidence in the regime and increase the likelihood of defensive non-performance beyond what the law actually requires. That, in turn, can generate proportionality problems and political backlash. For a sanctions regime intended to last through repeated package updates and possible litigation cycles, clarity is therefore a condition of social and institutional usability as much as of doctrinal coherence<sup>3,4</sup>.

The EU's sanctions framework contains an important structural advantage in this respect: its legal architecture is itself relatively clear at the constitutional level. The Union's sanctions system rests on a recognised two-step structure in which CFSP decisions define the Union position and regulations give that position direct legal effect in the internal legal order. The Council's official explanation of the sanctions process shows a clearly articulated institutional pipeline through preparatory bodies, Coreper II, Council adoption, and publication in the Official Journal. This matters for resilience because a legally sustainable regime needs a visible and repeatable production chain, not merely ad hoc political announcements. Clarity at the source level makes later interpretative disputes easier to manage because operators know which acts have binding force and through which institutional procedure they emerged. It also reduces the risk that sanctions policy will appear arbitrary or institutionally improvised. In this respect, the EU's multi-step adoption procedure is not bureaucratic surplus. It is one of the regime's long-term stabilisers<sup>5,6</sup>.

A second stabilising element is the EU's explicit insistence that sanctions are targeted, proportionate, and temporary, and that they are regularly reviewed. The Council's current Russia sanctions page states this in direct terms and links the temporary nature of measures to the Union's ability to calibrate, ease, or end them if the policy objectives or meaningful steps toward those objectives are achieved. This proposition has legal significance beyond politics. It frames the regime not as an open-ended state of exceptional restriction, but as a conditional legal instrument whose continued existence depends on review and policy assessment. That built-in temporality is a resilience factor because it supports proportionality and helps the Union defend the sanctions system as reversible and rule-bound rather

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<sup>1</sup> Council of the European Union. (2026). *Russia's war against Ukraine: EU sanctions*

<sup>2</sup> European Union. (2024). *General framework for EU sanctions*.

<sup>3</sup> Council of the European Union. (2025). *How the EU adopts and reviews sanctions*.

<sup>4</sup> European Commission. (2026). *Frequently asked questions concerning sanctions adopted following Russia's military aggression against Ukraine and Belarus' involvement in it*.

<sup>5</sup> Council of the European Union. (2025). *How the EU adopts and reviews sanctions*.

<sup>6</sup> Council of the European Union. (2025). *The EU sanctions process explained*.

than confiscatory or permanent by default. It also gives institutions a formal basis for amendment rather than forcing them to choose between static continuity and total repeal. A sanction that can be reviewed and recalibrated is more likely to survive judicial, political, and compliance stress than one drafted as an indefinite absolute<sup>1</sup>.

Precision is the next key condition, and it should be distinguished from mere clarity. A rule can be easy to read and still be drafted too broadly, too vaguely, or too bluntly to remain durable in practice. Precision in the sanctions field means that the norm identifies its addressees, conduct, exceptions, and temporal or functional limits with enough specificity to guide behaviour and survive review. The Russia regime has increasingly moved in that direction. The consolidated versions of Regulation 833/2014 and Regulation 269/2014 currently accessible through EUR-Lex are dated 16 January 2026 and 15 December 2025 respectively, while the corresponding core CFSP decisions have also continued to be updated. Those dates matter because they illustrate the continuity of a stable legal backbone combined with repeated fine-grained amendment. Precision here does not mean immobility. It means that the basic acts remain identifiable and continuous even as their content is progressively refined<sup>2,3</sup>.

This is one reason why update capacity should not be confused with legal instability. The Russia regime has expanded through nineteen packages as of October 2025, yet it has done so largely by inserting new restrictions, annexes, derogations, review clauses, and anti-circumvention devices into an already recognisable legal framework. The Council's current sanctions page states that 19 packages have been adopted so far, and the packages timeline shows how new measures have been layered into the regime in 2024 and 2025 without replacing the basic 2014 framework. That pattern is itself a resilience asset. It allows the Union to react to new methods of evasion or new strategic sectors without requiring a full legal redesign each time. A system that can absorb amendment without losing its identity is more resilient than one that must be rebuilt from zero whenever the target adapts. In that sense, update capacity is best seen as the regime's ability to evolve incrementally but coherently<sup>4,5</sup>.

The package history of 2025 is especially instructive on this point. On 24 February 2025, the Union adopted the 16th package, which targeted banks using SPFS, shadow-fleet vessels, media outlets, software, and further entities and persons. On 20 May 2025, the 17th package broadened pressure on the shadow fleet and Russia's military and industrial complex, while the Council also linked that package to broader measures on hybrid threats and human-rights violations under other sanctions regimes. On 18 July 2025, the 18th package introduced further energy, banking, software, and transaction restrictions, including a full transaction ban on Nord Stream 1 and 2. On 23 October 2025, the 19th package targeted Russian energy, third-country banks, crypto providers, and diplomatic-movement regulation, and the Council stated explicitly that the package would not be the last. This sequence shows not only persistence, but legal adaptability across new sectors and circumvention techniques<sup>6,7,8,9</sup>.

Long-term resilience, however, requires more than package adoption. It also requires interpretative maintenance. This is where the Commission's guidance system becomes crucial. The Commission's sanctions FAQ page explains that it maintains a consolidated body of implementation guidance for the Russia and Belarus measures, and the consolidated version page shows that the latest compiled FAQ version was issued on 23 January 2026. The dedicated guidance-documents page also provides RSS

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<sup>1</sup> Council of the European Union. (2026). *Russia's war against Ukraine: EU sanctions*.

<sup>2</sup> European Union. (2026). *EU restrictive measures in view of Russia's invasion of Ukraine*.

<sup>3</sup> European Union. (2026). *Consolidated text: Council Regulation (EU) No 833/2014*; European Union. (2025). *Consolidated text: Council Regulation (EU) No 269/2014*.

<sup>4</sup> Council of the European Union. (2026). *Russia's war against Ukraine: EU sanctions*.

<sup>5</sup> Council of the European Union. (2026). *Timeline – packages of sanctions against Russia since February 2022*.

<sup>6</sup> Council of the European Union. (2025). *Three years of Russia's full-scale invasion and war of aggression against Ukraine: EU adopts its 16th package of economic and individual measures*.

<sup>7</sup> Council of the European Union. (2025). *Russia's war of aggression against Ukraine: EU agrees 17th package of sanctions*.

<sup>8</sup> Council of the European Union. (2025). *Russia's war of aggression against Ukraine: EU adopts 18th package of economic and individual measures*.

<sup>9</sup> Council of the European Union. (2025). *19th package of sanctions against Russia: EU targets Russian energy, third-country banks and crypto providers*.

feeds so operators can track updates across topics. This is an underappreciated feature of legal resilience. A sanctions regime remains durable not only because its formal law exists, but because institutions continue to translate that law into operationally usable form. In the EU case, the guidance layer functions as a structured interpretative feedback loop between the legislator, competent authorities, and the regulated community<sup>1,2,3</sup>.

The services field gives a concrete example of how interpretative maintenance supports resilience. The Commission’s dedicated page for Article 5n shows that the services FAQ was updated on 22 January 2026, well after the legal advisory restrictions had been litigated and after multiple package updates had altered the sanctions environment. The existence of such a recent update demonstrates that the Union is not leaving complex service bans to static legislative text alone. Instead, it continues to refine operational interpretation in response to new questions and factual situations. That matters because service restrictions are among the areas most vulnerable to over-compliance, under-compliance, and procedural-rights objections. A regime that updates guidance at this level is better equipped to preserve both coercive force and legal intelligibility over time. Update capacity, in other words, is partly legislative and partly interpretative<sup>4,5</sup>.

Table 5.3.1-1. Core conditions of long-term legal resilience in the EU sanctions regime against Russia

Condition	Main content	Why it matters for resilience	Main official anchors
Clarity of legal architecture	Clear institutional chain from CFSP decision to binding regulation and OJ publication	Reduces ambiguity about legal force, hierarchy, and addressees	Article 29 TEU / Article 215 TFEU architecture; Council sanctions process explanations
Precision of drafting	Defined addressees, conduct, exceptions, annex logic, and review clauses	Supports foreseeability, proportionality, and enforceability	Regulations 833/2014 and 269/2014 in consolidated current versions
Regular review and temporality	Measures are targeted, proportionate, temporary, and recalibratable	Makes long-duration sanctions easier to defend legally and politically	Council Russia sanctions page
Update capacity through packages	New packages insert targeted adaptations without replacing the basic regime	Allows reaction to circumvention and new sectors while preserving continuity	16th–19th package timeline and press releases
Interpretative maintenance	FAQs, topic-specific guidance, consolidated documents, RSS updates	Keeps the regime operational for firms, authorities, and courts	Commission FAQs and guidance pages
Judicial correction	Review of reasons, factual substantiation, legal certainty, Charter constraints	Prevents drift into arbitrary or opaque coercion	Rosneft, ACE, NSD, and related case-law
Enforcement harmonisation	Minimum criminal-law rules for violation of restrictive measures	Improves credibility and reduces divergence in serious breach handling	Directive (EU) 2024/1226

Authorship: analytical framework (this report) was prepared by the author.

Sources:

- Council of the European Union. (2025). *How the EU adopts and reviews sanctions*.
- Council of the European Union. (2026). *Russia's war against Ukraine: EU sanctions*.

<sup>1</sup> European Commission. (2026). *Frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it*.

<sup>2</sup> European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it*.

<sup>3</sup> European Commission. (2026). *Guidance documents*.

<sup>4</sup> European Commission. (2026). *Provision of services: Frequently asked questions on sanctions against Russia and Belarus, with focus on Article 5n of Council Regulation (EU) No 833/2014*.

<sup>5</sup> European Commission. (2026). *Frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it*.

- Council of the European Union. (2026). *Timeline — packages of sanctions against Russia since February 2022*.
- European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia's military aggression against Ukraine and Belarus' involvement in it*.
- European Commission. (2026). *Guidance documents*.
- European Union. (2026). *Consolidated text: Council Regulation (EU) No 833/2014*.
- European Union. (2025). *Consolidated text: Council Regulation (EU) No 269/2014*.

Judicial review is another indispensable condition of resilience because it forces the regime to maintain precision under pressure. If restrictive measures are to survive long cycles of challenge, they must remain capable of being explained, evidenced, and defended before courts. The General Court's recent case-law on Russia-related listings is significant in this respect. In the 2024 judgment accessible under Case T-363/22, the Court reiterated that judicial review entails verification of the factual allegations in the summary of reasons underpinning the decision, with the consequence that review extends not merely to abstract plausibility but to evidentiary substantiation. This is a demanding standard, but it is also a resilience factor. A sanctions regime that can survive because its factual predicates are reviewable is much more durable than one that depends solely on broad political discretion. Judicial review thus acts as a quality-control mechanism for precision<sup>1</sup>.

The Rosneft judgment remains central to the resilience question because it addresses the relationship between legal certainty and evolving sanctions technique. The Court held that the principles of legal certainty and *nulla poena sine lege certa* do not preclude Member States from imposing penalties for infringements of Article 3 and 3a of Regulation 833/2014 even though those provisions are not exhaustively defined by the regulation itself. The key point is not that precision is unimportant, but that EU law tolerates a degree of gradual clarification so long as the meaning of the norm is sufficiently foreseeable. This is highly relevant for long-term sanctions. A regime facing adaptive circumvention cannot be drafted with total *ex ante* completeness. Rosneft shows that legal resilience is compatible with structured interpretative development, provided that operators are not confronted with genuinely unforeseeable penalty exposure. In other words, the Court accepted foreseeable clarification, not open-ended vagueness<sup>2</sup>.

The significance of Rosneft for the present subsection is that it provides a judicial theory of resilience appropriate to sanctions law. Sanctions regimes must evolve as targets change behaviour, routes, technologies, and legal tactics. If the law required perfect anticipatory specificity on every point, the regime would become either ineffective or impossibly cumbersome. Rosneft instead suggests a more realistic model: rules must be clear enough to be foreseeable and precise enough to be applied without arbitrariness, but they may still be clarified through practice and case-law. That model supports the Union's current combination of basic regulations, amending packages, guidance documents, and judicial interpretation. It also helps explain why update capacity and legal certainty are not opposites in the sanctions field. Properly managed, they are complementary. The more predictable the process of clarification becomes, the more resilient the regime is likely to be<sup>3,4</sup>.

The 2024 ACE-Avocats litigation illustrates another dimension of precision: the need to distinguish prohibited support from protected procedural access. The case title itself highlights the right to be advised by a lawyer and Articles 47 and 52(2) of the Charter in the context of the prohibition on legal advisory services to the Russian Government and Russia-established entities. What this shows for resilience purposes is that the EU's legal sustainability depends on the quality of its internal carve-outs. A sanctions rule can remain robust if it is paired with clearly identifiable exceptions that preserve core procedural guarantees. The Union's choice to prohibit non-contentious legal advisory services while

<sup>1</sup> General Court of the European Union. (2024). *Restrictive measures adopted in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (Case T-363/22)*.

<sup>2</sup> Court of Justice of the European Union. (2017). *PJSC Rosneft Oil Company v Her Majesty's Treasury and Others (Case C-72/15)*.

<sup>3</sup> *Ibid.*

<sup>4</sup> Council of the European Union. (2025). *How the EU adopts and reviews sanctions*.

preserving access to judicial and arbitral representation is one example of that technique. ACE therefore demonstrates that precision is not only about narrowing prohibitions; it is also about drawing defensible boundaries between coercion and constitutional minimums. In a long-duration sanctions regime, such calibrated boundaries are essential<sup>1</sup>.

The NSD case points to the same conclusion from a different angle. The 2024 judgment in Case T-494/22 specifically referred to Article 6(1) of Regulation 269/2014 and noted that national authorities may authorise the release of certain frozen funds or economic resources in defined circumstances. This is important because it shows that the durability of asset freezes depends not on absolute severity, but on the intelligibility and controllability of derogations. A regime without operative derogations quickly becomes disproportionate or commercially chaotic. A regime with excessively loose derogations loses coercive force. NSD illustrates the middle model: the law remains restrictive, but it is paired with administrable exceptions capable of preserving proportionality. In resilience terms, this is a precision dividend rather than a weakness<sup>2</sup>.

Enforcement capacity is another part of legal resilience, and here Directive (EU) 2024/1226 is particularly important. The directive establishes minimum rules concerning criminal offences and penalties for the violation of Union restrictive measures, and the EUR-Lex summary states that it had to be transposed into national law by 20 May 2025, with application from the same date. This is a major resilience enhancement because long-term sanctions weaken when serious breaches are handled with radically divergent national seriousness. By creating a common minimum baseline for criminalisation, the EU reduces one of the classic vulnerabilities of sanctions systems: fragmented enforcement. The directive does not centralise all enforcement, but it raises the floor. In a mature sanctions' regime, clarity of substantive obligations must be matched by some clarity and seriousness on the consequences of breach. Otherwise, legal resilience remains only formal<sup>3,4</sup>.

The enforcement directive also matters because it helps convert update capacity into credible effect. As the package history of 2025 shows, the Union continued adding new tools addressing SPFS-linked institutions, crypto providers, shadow-fleet logistics, software, Nord Stream transactions, and other evolving circumvention vectors. A regime that can innovate legislatively but cannot enforce serious violations of those innovations remains strategically fragile. Directive 2024/1226 addresses that gap by supplying common minimum rules in an area that had previously depended more heavily on Member State variation. From a resilience perspective, this means that update capacity is no longer only the ability to legislate new prohibitions. It increasingly includes the ability to harden the enforcement follow-through of those prohibitions. That makes the regime not only more expansive, but more coherent over time<sup>5,6,7</sup>.

What the package practice of 2025 further demonstrates is that update capacity must be selective, not merely cumulative. The 16th package focused heavily on SPFS, shadow-fleet vessels, and sanction circumvention through financial and propaganda infrastructures. The 17th package concentrated on military technology and energy revenue through further targeting of the shadow fleet and related actors. The 18th package deepened pressure in energy, banking, software, and trade, including the Nord Stream transaction ban and banking-sector software restrictions. The 19th package then moved into crypto, third-country banks, and diplomatic-movement regulation. This is not random expansion. It shows a sanctions regime attempting to follow the shifting operational geography of evasion and support. Legal

<sup>1</sup> General Court of the European Union. (2024). *ACE-Avocats, ensemble v Council of the European Union (Case T-828/22)*.

<sup>2</sup> General Court of the European Union. (2024). *NKO AO National Settlement Depository (NSD) v Council of the European Union (Case T-494/22)*.

<sup>3</sup> European Union. (2024). *Criminal offences and penalties for the violation of EU restrictive measures*.

<sup>4</sup> European Parliament and Council of the European Union. (2024). *Directive (EU) 2024/1226 of 24 April 2024 on the definition of criminal offences and penalties for the violation of Union restrictive measures*.

<sup>5</sup> Council of the European Union. (2025). *Three years of Russia's full-scale invasion and war of aggression against Ukraine: EU adopts its 16th package of economic and individual measures*.

<sup>6</sup> Council of the European Union. (2025). *Russia's war of aggression against Ukraine: EU adopts 18th package of economic and individual measures*.

<sup>7</sup> European Union. (2024). *Criminal offences and penalties for the violation of EU restrictive measures*.

resilience therefore depends not just on the existence of amendment tools, but on institutions being able to prioritise new legal interventions without dissolving the coherence of the underlying framework<sup>1,2,3</sup>.

At the same time, there is a real risk that a highly updateable regime becomes too complex for its own good. The more layers of package amendments, annexes, guidance notes, and cross-references accumulate, the greater the burden on operators and authorities trying to identify the current legal position. EUR-Lex itself partly acknowledges this by stressing, in the consolidated texts, that the consolidated versions are meant purely as documentation tools and have no legal effect, while the authentic versions remain those published in the Official Journal. That distinction is legally sound, but operationally it reveals a tension. The regime depends on consolidation for usability, yet legal certainty ultimately rests on the authentic amending acts and official texts. This means that clarity in a mature sanctions’ regime is always partly mediated through documentation and institutional curation. If that curation weakens, complexity becomes a resilience risk<sup>4,5,6</sup>.

That complexity problem is magnified by the fact that the Russia sanctions field is no longer one regime in the narrow sense, but an ecosystem of interlinked measures covering the core Ukraine framework, hybrid-threat sanctions, human-rights measures, support sanctions against Belarus, Iran, and North Korea, and sector-specific guidance across finance, energy, services, IP, and anti-circumvention. The Council’s timeline page explicitly notes, for example, that the 17th package formed part of a broader set of measures also targeting hybrid activities, domestic human-rights violations, and riot-control agents under other sanctions regimes. From one perspective, that cross-regime layering is a strength because it increases strategic flexibility. From another, it raises the legal-compliance burden and can blur the boundary between framework-specific and ecosystem-wide obligations. Long-term resilience therefore requires not only the capacity to add measures, but also the capacity to keep the boundaries among measures cognitively manageable. Otherwise, legal density may begin to undermine legal usability<sup>7,8</sup>.

Table 5.3.1-2. Main resilience drivers and erosion risks in the legal architecture of EU sanctions against Russia

Dimension	Resilience driver	Erosion risk
Normative clarity	Stable constitutional and procedural chain from CFSP decision to regulation	Dense amendments and cross-references can reduce readability for operators
Precision	Narrower drafting, carve-outs, derogations, and annex logic support foreseeability	Over-breadth or poorly delimited indirect-benefit tests may generate over-compliance
Judicial defensibility	Courts require substantiated reasons and preserve Charter-compatible boundaries	Repeated litigation can expose drafting weaknesses or evidentiary thinness
Update capacity	Packages 16–19 show the regime can react quickly to new sectors and circumvention routes	Excessive package layering may create a fragmented and hard-to-navigate legal environment
Interpretative maintenance	FAQs, guidance documents, and regular updates sustain operational usability	Heavy dependence on soft-law interpretation may reveal tension between law-on-the-books and law-in-use
Enforcement coherence	Directive 2024/1226 strengthens minimum criminal-law follow-through	National variation in implementation and institutional capacity may persist

<sup>1</sup> Council of the European Union. (2025). *Three years of Russia’s full-scale invasion and war of aggression against Ukraine: EU adopts its 16th package of economic and individual measures*.

<sup>2</sup> Council of the European Union. (2025). *Russia’s war of aggression against Ukraine: EU adopts 18th package of economic and individual measures*.

<sup>3</sup> Council of the European Union. (2025). *19th package of sanctions against Russia: EU targets Russian energy, third-country banks and crypto providers*.

<sup>4</sup> European Union. (2026). *EU restrictive measures in view of Russia’s invasion of Ukraine*.

<sup>5</sup> European Union. (2025). *Consolidated text: Council Regulation (EU) No 833/2014*.

<sup>6</sup> European Union. (2025). *Consolidated text: Council Decision 2014/145/CFSP*.

<sup>7</sup> Council of the European Union. (2026). *Timeline — packages of sanctions against Russia since February 2022*.

<sup>8</sup> Council of the European Union. (2026). *Russia’s war against Ukraine: EU sanctions*.

Dimension	Resilience driver	Erosion risk
Documentary usability	Consolidated texts make the regime navigable in practice	Consolidated texts have documentary value only, requiring continued attention to authentic OJ acts

*Authorship: analytical framework (this report) was prepared by the author.*

Sources:

- Council of the European Union. (2026). *Russia's war against Ukraine: EU sanctions*.
- Council of the European Union. (2026). *Timeline — packages of sanctions against Russia since February 2022*.
- European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia's military aggression against Ukraine and Belarus' involvement in it*.
- European Commission. (2026). *Guidance documents*.
- European Union. (2024). *Criminal offences and penalties for the violation of EU restrictive measures*.
- European Union. (2025). *Consolidated text: Council Regulation (EU) No 833/2014*.

When the different elements are brought together, a clearer picture emerges of what legal resilience actually requires in the Russia sanctions regime. It requires stable basic acts but also amendable annexes and sectoral provisions. It requires courts that discipline arbitrariness without depriving institutions of the capacity to react to fast-changing conflict conditions. It requires guidance that translates legislation into compliance practice, while not replacing the legislation itself. It requires enforcement harmonisation strong enough to deter serious breach, but not so blunt that it undermines foreseeability. Above all, it requires a legal culture in which amendment is treated as a normal method of preservation rather than as evidence that the regime was defective from the start. In the EU's current practice, that culture is visible in the package cycle, the guidance cycle, and the litigation cycle operating together<sup>1,2,3</sup>.

The analytical conclusion of this subsection is therefore straightforward. The long-term legal resilience of EU sanctions against Russia depends less on the abstract severity of the measures than on the quality of their legal engineering. Clarity is needed so the regime can be understood and applied across the Union's multi-level enforcement environment. Precision is needed so that restrictions remain reviewable, proportionate, and resistant to both under-inclusion and overreach. Update capacity is needed so that the regime can keep pace with circumvention, technological change, and the widening legal battlefield of the war. The evidence from 2024–2026 shows that the EU has built substantial resilience on all three axes, particularly through repeated package adaptation, updated guidance, judicially enforced evidentiary discipline, and the new criminal-law layer introduced by Directive 2024/1226. Yet the same evidence also shows that complexity and interpretative burden are becoming structural risks. The regime is resilient, but it remains resilient only so long as clarity, precision, and update capacity continue to be actively maintained rather than merely assumed<sup>4,5,6,7</sup>.

### 5.3.2. Judicial Defensibility and Litigation Pressure

Judicial defensibility is one of the decisive criteria of long-term sanctions resilience because a restrictive-measures regime that cannot survive sustained review before courts will, over time, lose both coercive credibility and normative legitimacy. In the EU context, this issue is particularly acute because sanctions against Russia are not administered in a purely executive field insulated from adjudication.

<sup>1</sup> Council of the European Union. (2025). *How the EU adopts and reviews sanctions*.

<sup>2</sup> Council of the European Union. (2026). *Russia's war against Ukraine: EU sanctions*.

<sup>3</sup> European Commission. (2026). *Guidance documents*; Court of Justice of the European Union. (2017). *PJSC Rosneft Oil Company v Her Majesty's Treasury and Others (Case C-72/15)*.

<sup>4</sup> Council of the European Union. (2026). *Russia's war against Ukraine: EU sanctions*.

<sup>5</sup> Council of the European Union. (2026). *Timeline — packages of sanctions against Russia since February 2022*.

<sup>6</sup> European Union. (2024). *Criminal offences and penalties for the violation of EU restrictive measures*.

<sup>7</sup> European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia's military aggression against Ukraine and Belarus' involvement in it*.

They are embedded in a constitutional order that requires reviewability, reason-giving, evidentiary discipline, and respect for fundamental rights. At the same time, the Union has deliberately built a sanctions framework that is expected to evolve through repeated amendments, changing annexes, and new anti-circumvention techniques. That creates structural litigation pressure. Every new criterion, new sectoral restriction, new reporting duty, or new procedural carve-out increases the chances that the regime will be tested in Luxembourg. The analytical question is therefore not whether litigation is an incidental by-product of sanctions. It is whether the EU has built a system capable of absorbing litigation pressure without losing legal coherence or operational force. In the Russian case, the evidence strongly suggests that judicial defensibility has become one of the regime's principal mechanisms of self-stabilisation<sup>1,2</sup>.

The scale of litigation pressure is not hypothetical. In its official review of judicial activity for 2024, the Court of Justice of the European Union noted that the sanctions intensified by the EU in response to Russia's actions against Ukraine had already generated dozens of cases before the General Court. The same institutional review stressed that those cases illustrated the effort to reconcile the rigour necessary for sanctions effectiveness with the protection of individual rights. That observation is highly significant for the present subsection. It means that, at the level of the Union's own judicial institutions, Russia sanctions are already understood as a sustained and high-volume litigation field rather than a set of occasional challenges. The same review also recorded an average duration of proceedings before the General Court of 18.5 months in 2024, while emphasising that the Court is capable of reacting more rapidly where circumstances require. This is relevant because litigation pressure does not threaten resilience only through adverse judgments. It also tests whether the judicial system can process complex sanctions disputes with sufficient speed to keep legal review meaningful in a fast-moving sanctions environment<sup>3</sup>.

A first condition of judicial defensibility is that the sanctions regime must be reviewable in principle and not shielded from meaningful judicial scrutiny by the political character of the Common Foreign and Security Policy. The classic authority here remains *Kadi*, where the Court of Justice held that the Courts of the European Union must ensure, in principle, the full review of the lawfulness of Union acts in the light of the fundamental rights forming an integral part of the EU legal order. Although *Kadi* did not concern the Russia regime, its constitutional significance for all later restrictive-measures litigation is unavoidable. The judgment confirmed that sanctions are not constitution-free instruments of foreign policy. They are Union acts that must withstand scrutiny as to rights of the defence, effective judicial protection, proportionality, the right to property, and the obligation to state reasons. That principle is one of the basic pillars of long-term resilience. A sanctions system can remain durable only if courts accept its legitimacy as a reviewable legal structure rather than a political black box. The EU's sanctions architecture against Russia has benefited from being developed under that post-*Kadi* paradigm rather than outside it<sup>4</sup>.

However, judicial defensibility in the sanctions field does not mean that all parts of the regime are reviewed in the same way or with the same intensity. The distinction drawn in *Bank Melli Iran v Council* remains instructive. According to the EUR-Lex summary of that judgment, so far as the general rules defining the procedures for giving effect to restrictive measures are concerned, the Council enjoys a broad discretion as to what to take into consideration. Judicial review in that area is therefore not equivalent to a complete substitution of judicial policy assessment for institutional foreign-policy judgment. Rather, the courts examine legality, procedure, manifest error, the duty to state reasons, and the factual basis in a structured but not unlimited manner. This distinction matters greatly for the Russia regime. It means that the legal durability of broad sectoral or framework rules rests partly on the courts' recognition that the Council must retain room to define and adjust coercive strategy. At the same time,

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<sup>1</sup> European Union. (2024). *General framework for EU sanctions*.

<sup>2</sup> Council of the European Union. (2026). *Russia's war against Ukraine: EU sanctions*.

<sup>3</sup> Court of Justice of the European Union. (2025). *Judicial activity 2024*.

<sup>4</sup> Court of Justice of the European Union. (2013). *European Commission and Others v Yassin Abdullah Kadi (Joined Cases C-584/10 P, C-593/10 P and C-595/10 P)*.

that discretion is not unbounded. It remains conditioned by the very standards that allow the regime to survive review<sup>1</sup>.

The Russia-specific constitutional anchor for this balance is Rosneft. In that case, the Court of Justice addressed the validity of provisions of Decision 2014/512/CFSP and Regulation 833/2014 and confirmed that the Court has jurisdiction to review the legality of restrictive measures against natural or legal persons within the framework of the CFSP. The judgment also explicitly addressed the obligation to state reasons and the principles of legal certainty and *nulla poena sine lege certa* in the context of the Russia sanctions regime. This is a core resilience judgment because it rejected the idea that the political sensitivity of Russia sanctions placed them outside structured judicial control. At the same time, Rosneft confirmed that the legal certainty principle does not prohibit the gradual clarification of norms through interpretation and application. That point is essential in a long-term sanctions' regime. It means that update capacity and legal certainty can coexist, provided the rules remain sufficiently foreseeable and judicially intelligible<sup>2</sup>.

Rosneft is especially important because it gives a judicial account of why sanctions law cannot be measured against an unrealistic standard of total ex ante completeness. The Court's reasoning on legal certainty recognises that, in a field shaped by rapidly changing geopolitical and commercial behaviour, norms will sometimes require judicial and administrative clarification. That does not mean vague rules are acceptable. It means that the law may be sufficiently certain even where its margins are progressively refined through case-law and interpretation. This logic is highly relevant to the Russian sanctions regime as it has evolved since 2022. New package measures on software, SPFS, shadow-fleet logistics, legal advisory services, anti-suit injunctions, and intellectual-property rights have often required just such clarification. A resilient regime is therefore not a regime without interpretative development. It is a regime in which that development remains bounded by foreseeability, reason-giving, and reviewability. Rosneft provides the doctrinal bridge for that proposition<sup>3,4</sup>.

A second indispensable component of judicial defensibility is the obligation to state reasons. This is not a formal nicety. In the sanctions field, it is one of the core mechanisms through which the regime remains legally contestable and therefore constitutionally sustainable. The titles of recent Russia sanctions cases show how recurrent this issue is across very different kinds of measures. It appears in *SBK Art OOO v Council*, in *NKO AO National Settlement Depository (NSD) v Council*, in *MegaFon v Council*, in *Euro Asia Cargo v Council*, and in other recent Russia-related challenges. The recurrence of the ground itself is revealing. It indicates that, as the sanctions regime becomes denser and more heterogeneous, the burden on the Council to explain why a given person, entity, or body is included, maintained, or otherwise targeted remains under continuous pressure. A regime that failed to internalise that pressure would quickly become vulnerable to annulment or narrowing by the courts<sup>5,6,7,8</sup>.

The most direct recent expression of the evidentiary standard appears in the General Court's 2024 judgment in Case T-363/22. As reflected in the case metadata and in the discussion of the judgment, the Court emphasised that judicial review of restrictive measures cannot be reduced to an abstract assessment of the cogency of the Council's reasons. Rather, the review must verify whether the factual allegations in the summary of reasons are substantiated, at least where one sufficient reason is capable of independently justifying the measure. This is a very demanding standard, and it is a major reason why the Russia sanctions regime has had to develop more carefully formulated statements of reasons and more robust documentary files over time. Yet this pressure is not purely negative. It is also a source of

<sup>1</sup> General Court of the European Union. (2009). *Bank Melli Iran v Council of the European Union (Case T-390/08)*.

<sup>2</sup> Court of Justice of the European Union. (2017). *PJSC Rosneft Oil Company v Her Majesty's Treasury and Others (Case C-72/15)*.

<sup>3</sup> Ibid.

<sup>4</sup> Council of the European Union. (2025). *How the EU adopts and reviews sanctions*.

<sup>5</sup> General Court of the European Union. (2025). *SBK Art OOO v Council of the European Union (Case T-102/23)*.

<sup>6</sup> General Court of the European Union. (2024). *NKO AO National Settlement Depository (NSD) v Council of the European Union (Case T-494/22)*.

<sup>7</sup> General Court of the European Union. (2025). *MegaFon OAO v Council of the European Union (Case T-193/23)*.

<sup>8</sup> General Court of the European Union. (2026). *Euro Asia Cargo Private Ltd v Council of the European Union (Case T-232/24)*.

resilience. Because the Council knows that bare association or formulaic accusation will not necessarily survive review, the system is pushed toward greater discipline in both drafting and evidentiary assembly<sup>1</sup>.

Closely linked to the duty to state reasons are the rights of the defence and the right to effective judicial protection. Here, Kadi remains foundational, but the principle continues to animate Russia-related litigation. The Court of Justice in Kadi held that the person concerned must be able to ascertain the reasons on which the decision is based, submit observations, and challenge the measure effectively before a court. Those requirements remain central to the defensibility of Russia sanctions because the more far-reaching and prolonged the measures become, the more important it is that listed persons and targeted entities can understand the basis on which they were designated or maintained. Without that possibility, litigation pressure would not diminish; it would merely become more destructive because the courts would be forced to correct a structurally opaque regime. The EU has avoided that outcome precisely by insisting that sanctions remain embedded in a reviewable reasons-and-remedies structure<sup>2,3</sup>.

At the same time, the courts have accepted that those rights do not always require a prior hearing before initial inclusion on a sanctions list. The 2025 Curia press release on MegaFon v Council is particularly clear on this point. It states that the General Court rejected MegaFon's arguments on the rights of the defence and noted that the Council was under no obligation to hear MegaFon before including it on the relevant list, because such a step would have precluded the element of surprise ensuring the effectiveness of inclusion. The same press release explains that where the extension of restrictive measures was based on the same grounds, the Council had no obligation to inform MegaFon of its intention to maintain the company's name on the list. This is a crucial doctrinal compromise. It allows the sanctions system to preserve operational effectiveness while still remaining subject to *ex post* judicial control. In resilience terms, that balance is essential. A regime that required prior adversarial procedure in every inclusion case would lose coercive immediacy; a regime with no *ex post* review would lose legal legitimacy<sup>4</sup>.

The judgment in NSD v Council illustrates another form of judicial balancing relevant to long-term resilience: the handling of third-party effects and proportionality. In its official press release, Curia explained that the General Court confirmed the restrictive measures adopted against NSD, finding that the undertaking played a systemically important role in the functioning of Russia's financial system and therefore provided materially and financially significant support to the Russian Government. At the same time, the Court addressed the argument that the measures affected the property rights of NSD's customers who were not themselves subject to sanctions. The press release notes that the Court recalled that NSD could not rely on a right to property that it did not itself hold, but that national authorities implementing derogations must ensure compliance with Article 52 of the Charter when dealing with customers' assets, and that such customers have remedies before national courts. This is a good example of how judicial defensibility can be maintained without collapsing the regime into either maximal severity or unmanageable exception. The Union courts upheld the measure while pushing the proportionality filter partly into national implementation and judicial protection<sup>5</sup>.

The legal advisory services litigation gives a different but equally important picture of sanctions resilience under judicial pressure. In the official press release on ACE-Avocats, ensemble v Council, the General Court confirmed that the prohibition on providing legal advisory services to the Russian

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<sup>1</sup> General Court of the European Union. (2024). *Restrictive measures adopted in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (Case T-363/22)*.

<sup>2</sup> Court of Justice of the European Union. (2013). *European Commission and Others v Yassin Abdullah Kadi (Joined Cases C-584/10 P, C-593/10 P and C-595/10 P)*.

<sup>3</sup> General Court of the European Union. (2024). *Restrictive measures adopted in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (Case T-363/22)*.

<sup>4</sup> General Court of the European Union. (2025). *MegaFon OAO v Council of the European Union (Case T-193/23)*.

<sup>5</sup> General Court of the European Union. (2024). *NKO AO National Settlement Depository (NSD) v Council of the European Union (Case T-494/22)*.

Government and entities established in Russia is valid, while simultaneously emphasising the fundamental right of all persons to be advised by a lawyer for the purposes of conducting, pre-empting, or anticipating judicial proceedings. The Court stated that the prohibition does not concern legal advisory services linked with judicial proceedings and therefore does not call the right in question into question. This is analytically significant because it shows the courts accepting a sanctions measure that interferes with a sensitive professional field, but only because the measure was drafted with constitutionally significant exceptions and exemptions. The lesson for long-term resilience is clear: the more intrusive the sanction, the more important it is that the rule itself contains clearly defensible boundaries preserving core procedural guarantees. ACE thus shows judicial defensibility being produced through internal legal calibration, not through judicial passivity<sup>1</sup>.

The same dynamic appears in *A2B Connect and Others v Council*, but this time in relation to broad sectoral restrictions affecting media transmission and associated advertising. The 2025 judgment shows the applicants alleging, among other things, infringement of freedom of expression and information under Article 11 of the Charter. The Court recalled that respect for fundamental rights is required of all Union action, including the implementation through regulations under Article 215 TFEU of CFSP decisions. At the same time, it held that the relevant restrictions could satisfy the conditions of Article 52(1) of the Charter, including legality, preservation of the essence of the right, pursuit of a general-interest objective, and proportionality. The judgment further noted that the measures targeted only a limited number of media outlets and did not prevent the applicants from providing access to all other content. This is important for the present subsection because it demonstrates that the EU can defend even broad, content-related sectoral measures if the legal basis is clear, the objective is compelling, and the interference is tightly justified<sup>2</sup>.

*A2B Connect* is also valuable because it shows that judicial defensibility extends beyond individual listings. Much of the public debate around sanctions litigation focuses on listed persons and freezing measures, but the Russia regime now includes many forms of broad prohibitions directed at sectors, media channels, trade flows, software, or service categories. Those measures generate a different kind of litigation pressure because the applicants are often intermediaries, platforms, operators, or commercial actors who argue that their own rights are interfered with by rules aimed at a wider strategic objective. The Court's reasoning in *A2B Connect* suggests that such rules can remain defensible where the Council demonstrates a strong general-interest aim, uses a sufficiently clear legal basis, and confines the interference to what is necessary. For long-term resilience, that matters enormously. It means that the sanctions regime does not depend only on surviving listing challenges; it must also survive broader regulatory challenges, and the courts have shown a willingness to sustain such measures where the architecture is sufficiently disciplined<sup>3,4</sup>.

Litigation pressure also grows when the Union adds new compliance obligations rather than only freezing or transaction bans. The 2024 judgments in *Fridman and Others v Council* and *Timchenko and Timchenko v Council* are important precisely because they concerned the obligation to report funds or economic resources, the obligation to cooperate with the competent national authority, and participation in activities the object or effect of which is to circumvent restrictive measures under Article 9(2) and (3) of Regulation 269/2014. These cases show that the judicial front has moved beyond classical designation issues toward the legality and proportionality of the compliance architecture surrounding the freeze itself. The official judicial-activity review of 2024 states that the General Court confirmed those reporting and cooperation duties and rejected challenges arguing that the Council had exercised criminal powers reserved to the Member States, finding that the measures were not criminal in nature and remained consistent with the EU legal framework. This is a major resilience point. It means that the

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<sup>1</sup> General Court of the European Union. (2024). *ACE-Avocats, ensemble v Council of the European Union (Case T-828/22)*.

<sup>2</sup> General Court of the European Union. (2025). *A2B Connect BV and Others v Council of the European Union (Case T-307/22)*.

<sup>3</sup> Ibid.

<sup>4</sup> Court of Justice of the European Union. (2025). *Judicial activity 2024*.

courts have accepted a broader anti-circumvention and disclosure infrastructure as part of the sanctions regime rather than treating it as an impermissible penalty regime in disguise<sup>1,2,3</sup>.

The significance of those cases increased further when the Timchenko litigation moved to the Court of Justice. The Timchenko litigation also moved to the Court of Justice at appellate level, illustrating that reporting and anti-circumvention obligations under Regulation 269/2014 are now generating second-instance judicial scrutiny. Even without entering into every doctrinal detail of that judgment, the procedural fact itself is analytically significant. It shows that new compliance obligations within the Russia regime are now generating second-instance judicial scrutiny at the highest level. This is what long-term litigation pressure looks like in practice: not just isolated annulment actions, but continued appellate testing of how far the Council can go in structuring anti-circumvention and reporting duties around the freeze mechanism. A regime that survives such appellate pressure is more likely to remain durable in the medium term<sup>4,5</sup>.

Table 5.3.2-1. Core judicial tests shaping the long-term defensibility of EU sanctions against Russia

Judicial test	Core legal content	Relevance for long-term resilience	Illustrative authorities
Full review in principle	Sanctions remain subject to review in light of fundamental rights	Prevents the sanctions field from becoming constitutionally exceptional	<i>Kadi</i>
Broad discretion for general rules	Council retains a broad margin in designing general restrictive-measures procedures	Allows strategic sanction design without judicial substitution of policy judgment	<i>Bank Melli Iran v Council</i>
Legal certainty with gradual clarification	Rules must be foreseeable but may be progressively clarified through interpretation	Makes update capacity compatible with legality	<i>Rosneft</i>
Duty to state reasons	Council must identify the actual and specific reasons for the measure	Supports challengeability and improves drafting discipline	<i>T-363/22, SBK Art, Euro Asia Cargo</i>
Substantiated factual basis	Courts verify whether factual allegations in the summary of reasons are substantiated	Forces evidentiary discipline in listings and maintenance decisions	<i>T-363/22</i>
Rights of the defence	Targeted persons must be able to understand and contest the measure effectively	Preserves legitimacy under prolonged sanctions	<i>Kadi, MegaFon, ACE</i>
Proportionality and Charter review	Interference with rights must remain appropriate and necessary in light of the objective pursued	Maintains constitutional sustainability of both listing-based and sectoral measures	<i>NSD, ACE, A2B Connect</i>

Authorship: analytical framework (this report) was prepared by the author.

Sources:

- Court of Justice of the European Union. (2013). *European Commission and Others v Yassin Abdullah Kadi (Joined Cases C-584/10 P, C-593/10 P and C-595/10 P)*.
- General Court of the European Union. (2009). *Bank Melli Iran v Council of the European Union (Case T-390/08)*.
- Court of Justice of the European Union. (2017). *PJSC Rosneft Oil Company v Her Majesty’s Treasury and Others (Case C-72/15)*.

<sup>1</sup> General Court of the European Union. (2024). *Mikhail Fridman and Others v Council of the European Union (Case T-635/22)*.

<sup>2</sup> General Court of the European Union. (2024). *Gennady Nikolayevich Timchenko and Elena Petrovna Timchenko v Council of the European Union (Case T-644/22)*.

<sup>3</sup> Court of Justice of the European Union. (2025). *Judicial activity 2024*.

<sup>4</sup> Court of Justice of the European Union. (2025). *Gennady Nikolayevich Timchenko and Elena Petrovna Timchenko v Council of the European Union (Case C-805/24 P)*.

<sup>5</sup> General Court of the European Union. (2024). *Gennady Nikolayevich Timchenko and Elena Petrovna Timchenko v Council of the European Union (Case T-644/22)*.

- General Court of the European Union. (2024). *Restrictive measures adopted in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (Case T-363/22)*.
- General Court of the European Union. (2024). *NKO AO National Settlement Depository (NSD) v Council of the European Union (Case T-494/22)*.
- General Court of the European Union. (2024). *ACE-Avocats, ensemble v Council of the European Union (Case T-828/22)*.
- General Court of the European Union. (2025). *A2B Connect BV and Others v Council of the European Union (Case T-307/22)*.

Recent case flow also shows that litigation pressure is becoming more variegated, not less. The Official Journal entries and case metadata for 2025–2026 show challenges concerning the concept of “association” in *SBK Art OOO v Council*, the concept of “benefitting from Russian decision-makers or from the Government of the Russian Federation” in *Rotenberg v Council*, and the inclusion and maintenance of an entity in Annex IV to Regulation 833/2014 and Decision 2014/512 in *Euro Asia Cargo v Council*. This matters because it demonstrates that judicial pressure is spreading across multiple doctrinal fronts: individual association criteria, benefit-based criteria, sectoral entity listings, dual-use restrictions, procedural rights, and proportionality. In other words, the courts are not testing one narrow legal hinge of the Russia regime. They are testing the regime’s full doctrinal perimeter. That makes the regime more exposed, but also more mature. A sanctions system that continues to function under such diversified litigation pressure has likely developed deeper internal coherence than one facing only repetitive challenges on a single ground<sup>1,2,3</sup>.

The same is true procedurally. Litigation pressure no longer ends with General Court judgments. It increasingly continues through appeals to the Court of Justice. EUR-Lex records, e.g., that Case C-452/25 P was brought on 9 July 2025 by SBK Art OOO against the General Court’s judgment of 30 April 2025 in Case T-102/23. That procedural continuation is significant in itself, because it means that the Union’s sanctions architecture must be defensible not only at first instance but also on points of law before the Court of Justice. Over time, that kind of appellate pressure will shape more stable doctrines on association, reasons, evidence, proportionality, and procedural rights. It also indicates that the sanctions field is becoming a mature appellate jurisprudence area, not merely a stream of isolated first-instance disputes. From the standpoint of resilience, this is double-edged. Appeals increase pressure and prolong uncertainty, but they also generate clearer precedent<sup>4,5</sup>.

For that reason, litigation pressure should not be viewed only as a threat to sanctions policy. It also acts as a feedback mechanism for legal quality. Repeated challenges force the Council to sharpen listing criteria, specify the legal basis more clearly, strengthen summaries of reasons, document factual support more carefully, and construct derogations or exceptions with greater discipline. The movement from broad formulations to more precise targeting in several areas of the Russia regime, including anti-suit injunctions, legal advisory restrictions, and IP-related controls, is consistent with that wider pattern of pressure-induced refinement. Courts do not write sanctions policy for the Council, but they do influence its legal engineering by policing the margins of acceptable coercion. Long-term resilience therefore depends on the Union’s willingness to learn from litigation rather than merely to defend against it. A regime that treats adverse arguments as information can become stronger over time, even when it occasionally loses on a specific point<sup>6,7</sup>.

<sup>1</sup> General Court of the European Union. (2025). *SBK Art OOO v Council of the European Union (Case T-102/23)*.

<sup>2</sup> General Court of the European Union. (2025). *Igor Rotenberg v Council of the European Union (Case T-268/24)*.

<sup>3</sup> General Court of the European Union. (2026). *Euro Asia Cargo Private Ltd v Council of the European Union (Case T-232/24)*.

<sup>4</sup> Court of Justice of the European Union. (2025). *Case C-452/25 P: Appeal brought on 9 July 2025 by SBK Art OOO against the judgment of the General Court in Case T-102/23, SBK Art v Council*.

<sup>5</sup> General Court of the European Union. (2025). *SBK Art OOO v Council of the European Union (Case T-102/23)*.

<sup>6</sup> Court of Justice of the European Union. (2013). *European Commission and Others v Yassin Abdullah Kadi (Joined Cases C-584/10 P, C-593/10 P and C-595/10 P)*.

<sup>7</sup> Court of Justice of the European Union. (2017). *PJSC Rosneft Oil Company v Her Majesty’s Treasury and Others (Case C-72/15)*; Court of Justice of the European Union. (2025). *Judicial activity 2024*.

Table 5.3.2-2. Main channels through which litigation pressure affects the resilience of EU sanctions against Russia

Channel of pressure	How it operates	Possible negative effect	Possible resilience-enhancing effect
Annulment actions against listings	Challenges to inclusion, maintenance, reasons, evidence, proportionality	Risk of annulment or narrowing of criteria	Improves evidentiary discipline and drafting quality
Challenges to sectoral prohibitions	Operators contest competence, Charter compatibility, proportionality	Risk of undermining wider regulatory measures	Clarifies the constitutional boundaries of sectoral sanctions
Appeals to the Court of Justice	First-instance judgments tested on points of law	Prolongs uncertainty and keeps pressure alive	Produces more stable precedent for future packages
Rights-of-defence litigation	Applicants contest communication, hearing, and procedural fairness	Can expose opaque or formulaic Council practice	Encourages better notification and clearer statements of reasons
Proportionality litigation	Applicants argue excessive interference with property, business, expression, or legal services	Raises political and judicial sensitivity around overreach	Forces the regime to preserve targetedness, derogations, and constitutional balance
Anti-circumvention / reporting litigation	Challenges to disclosure, cooperation, and best-efforts obligations	Could narrow compliance architecture if poorly designed	Confirms the legality of broader compliance-support mechanisms when carefully drafted

*Authorship: analytical framework (this report) was prepared by the author.*

**Sources:**

- Court of Justice of the European Union. (2025). *Judicial activity 2024*.
- General Court of the European Union. (2024). *NKO AO National Settlement Depository (NSD) v Council of the European Union (Case T-494/22)*.
- General Court of the European Union. (2024). *ACE-Avocats, ensemble v Council of the European Union (Case T-828/22)*.
- General Court of the European Union. (2025). *A2B Connect BV and Others v Council of the European Union (Case T-307/22)*.
- Court of Justice of the European Union. (2025). *Case C-452/25 P: Appeal brought on 9 July 2025 by SBK Art OOO against the judgment of the General Court in Case T-102/23, SBK Art v Council*.
- Court of Justice of the European Union. (2025). *Gennady Nikolayevich Timchenko and Elena Petrovna Timchenko v Council of the European Union (Case C-805/24 P)*.

The overall conclusion is that the EU sanctions’ regime against Russia has so far shown a substantial degree of judicial defensibility, but that defensibility is the product of constant legal labour rather than automatic institutional deference. The courts have accepted broad Council discretion in designing general restrictive-measures frameworks, yet they have also insisted on real reasons, substantiated facts, reviewable criteria, and Charter-compatible limits. They have upheld significant measures affecting funds, services, media transmission, and anti-circumvention obligations, but they have done so by reading the regime as one that preserves core procedural and proportionality safeguards. At the same time, litigation pressure is not diminishing. The General Court itself recognises that the Russia sanctions field has already generated dozens of cases, and the movement of some disputes into appeal confirms that a second doctrinal layer is now developing. For long-term resilience, this means that the Union cannot rely on political consensus alone. It must continue to defend sanctions through precision,

evidence, procedural fairness, and calibrated rights-balancing. The Russia regime remains judicially durable precisely to the extent that it remains legally disciplined under pressure<sup>1,2,3,4</sup>.

### 5.3.3. Enforcement Convergence, Over-Compliance, and Private-Law Frictions

The long-term legal resilience of the EU sanctions regime against Russia depends not only on the substantive content of prohibitions, but also on the degree to which those prohibitions are applied in a sufficiently convergent manner across the Union, without excessive private over-reaction and without uncontrolled destabilisation of private-law relations. In a multi-level legal order such as the EU, sanctions are never enforced by a single central authority alone. They are translated into operative reality by national competent authorities, national courts, financial institutions, professional intermediaries, registries, transport actors, notaries, corporate service providers, and private firms conducting sanctions-sensitive due diligence. That institutional structure gives the regime scale and reach, but it also creates friction. A sanctions system may be well drafted in Brussels or Luxembourg yet still become unstable if national implementation diverges sharply, if private actors respond with systematic de-risking that exceeds what the law actually requires, or if ordinary contractual and regulatory relationships become unmanageable under the pressure of sanctions. The proper focus of this subsection is therefore not merely enforcement in the criminal or administrative sense. It is the broader question of whether the Union can sustain a sufficiently convergent, proportionate, and legally manageable implementation ecology over time<sup>5,6</sup>.

A first structural point is that EU sanctions are formally Union acts, but their implementation remains deeply decentralised. The Council explains that sanctions decisions and regulations are adopted at EU level and apply within the jurisdiction of the Union, while the practical effect of those rules depends on the conduct of the Member States and of all persons and entities falling under EU jurisdiction. This arrangement is neither accidental nor temporary. It is part of the constitutional design of the sanctions system. In practical terms, that means the regime's effectiveness depends on how consistently Member States designate competent authorities, interpret derogations, exchange information, impose penalties, and supervise compliance. It also means that the quality of the regime cannot be judged solely by the text of a regulation. Long-term resilience requires a sufficient degree of enforcement convergence across twenty-seven national administrative and judicial environments<sup>7,8</sup>.

The Council's EU Best Practices for the effective implementation of restrictive measures, updated in July 2024, are especially important in this respect. The document states that it is intended to remain under constant review, that it contains non-exhaustive recommendations for effective implementation, and that it is meant to support implementation in accordance with Union and national law. The same text emphasises that the RELEX/Sanctions formation has a mandate to develop best practices among Member States and that the document seeks to identify key elements of implementation in light of the current state of practice and Member State priorities. This is highly relevant to long-term resilience. It means the Union has recognised that legislative text alone is not enough and that convergence must be supported through shared administrative understanding. The Best Practices document is therefore a convergence instrument even though it is not legally binding in itself<sup>9</sup>.

The content of those Best Practices confirms their bridging role between legislation and implementation. The document devotes substantial sections to the legislative framework, the role of economic operators

<sup>1</sup> Court of Justice of the European Union. (2025). *Judicial activity 2024*.

<sup>2</sup> Court of Justice of the European Union. (2013). *European Commission and Others v Yassin Abdullah Kadi (Joined Cases C-584/10 P, C-593/10 P and C-595/10 P)*.

<sup>3</sup> Court of Justice of the European Union. (2017). *PJSC Rosneft Oil Company v Her Majesty's Treasury and Others (Case C-72/15)*;

<sup>4</sup> General Court of the European Union. (2024). *ACE-Avocats, ensemble v Council of the European Union (Case T-828/22)*.

<sup>5</sup> Council of the European Union. (2025). *How the EU adopts and reviews sanctions*.

<sup>6</sup> Council of the European Union. (2026). *EU sanctions against Russia explained*.

<sup>7</sup> Council of the European Union. (2025). *How the EU adopts and reviews sanctions*.

<sup>8</sup> Council of the European Union. (2026). *EU sanctions against Russia explained*.

<sup>9</sup> Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures*.

and citizens, ownership and control, derogations, use of information by competent authorities, coordination and cooperation, and national effectiveness review. It also states that Member States should endeavour to have in place appropriate national procedures to evaluate the effectiveness of national performance regarding restrictive measures, taking into account, among other things, results from dialogue with the private sector. This is a crucial point for the present subsection. It shows that the Union itself treats enforcement convergence not as a passive by-product of formal law, but as a continuing administrative task requiring structured feedback, national evaluation, and engagement with private actors. A sanctions regime designed for years rather than weeks cannot remain resilient without exactly that type of iterative convergence work<sup>1</sup>.

The Commission's consolidated FAQs perform a similar function from a different institutional angle. The consolidated document states expressly that it is a working document drafted by the Commission services to give guidance to national authorities, EU operators, and citizens for the implementation and interpretation of Regulations 833/2014 and 269/2014, and that it is intended to help achieve the uniform application of sanctions across the EU, while noting that only the Court of Justice is competent to interpret EU law. This formulation is of major significance. It shows that the Commission is consciously positioning the FAQ system as an implementation-convergence device while also acknowledging the constitutional limit of soft-law interpretation. In other words, the Commission is not claiming to replace judicial authority. It is trying to reduce the space within which national authorities and private actors might otherwise drift apart in day-to-day practice. That is one of the central conditions of long-term sanctions durability<sup>2</sup>.

The need for such convergence tools is itself evidence of the complexity of the regime. The consolidated FAQ covers horizontal issues, circumvention and due diligence, execution of contracts and claims, best efforts, individual financial measures, and multiple sector-specific topics. In a short-lived sanctions episode, such a dense interpretative apparatus might look excessive. In a long-duration regime, however, it is a sign that institutions are trying to keep a fragmented implementation environment from drifting too far apart. From a resilience perspective, the crucial point is not that guidance exists, but that it is repeatedly updated and designed to operate across Member State authorities and private actors simultaneously. This is especially important in areas such as indirect benefit, corporate control, legal services, IP-related rights, and best-efforts duties, where formal compliance can easily diverge from functional compliance<sup>3,4</sup>.

A further major development in convergence is the new criminal-law layer introduced by Directive (EU) 2024/1226. The official EUR-Lex summary states that the directive defines criminal offences and penalties for violations of Union restrictive measures and thereby establishes minimum rules across the Member States. This development is critical because it addresses one of the classic structural weaknesses of EU sanctions: the existence of Union-level prohibitions combined with widely varying national approaches to serious violations. By introducing minimum rules on offences and penalties, the directive does not eliminate all national variation, but it narrows the acceptable range of divergence. In practical terms, it strengthens the argument that serious circumvention or deliberate breach should not be treated with radically different levels of legal seriousness depending on the Member State concerned. For long-term resilience, that is a substantial improvement in enforcement convergence<sup>5,6</sup>.

Even so, the existence of harmonising tools does not mean that enforcement convergence has been achieved once and for all. The very need for Best Practices, consolidated FAQs, topic-specific guidance,

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<sup>1</sup> Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures*.

<sup>2</sup> European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia's military aggression against Ukraine and Belarus' involvement in it*.

<sup>3</sup> Ibid.

<sup>4</sup> European Commission. (2026). *Frequently asked questions concerning sanctions adopted following Russia's military aggression against Ukraine and Belarus' involvement in it*.

<sup>5</sup> European Union. (2024). *Criminal offences and penalties for the violation of EU restrictive measures*.

<sup>6</sup> Directive (EU) 2024/1226 of the European Parliament and of the Council of 24 April 2024 on the definition of criminal offences and penalties for the violation of Union restrictive measures.

and a criminal-law directive indicates that the sanctions system remains exposed to divergence pressures. This is a structural feature of the regime, not a temporary defect. Different competent authorities must assess ownership and control, indirect benefit, best efforts, the scope of derogations, and the interaction between sanctions law and domestic procedural law in concrete cases. National courts likewise remain involved when third-party rights, contract performance, or the legality of implementing acts are at issue. The realistic objective for 2026–2030 is therefore not perfect uniformity, but controlled convergence. The resilience of the regime will depend on whether the Union can keep divergence within legally tolerable bounds<sup>1,2,3</sup>.

This brings us to the problem of over-compliance, which should be treated as a genuine resilience issue rather than a merely commercial irritation. Over-compliance occurs when private actors, faced with legal uncertainty, enforcement risk, or reputational concern, withdraw from conduct that is still lawful, licensable, or in principle outside the true scope of a prohibition. The Commission does not usually frame the issue in those exact terms, but the need for detailed clarification in the FAQs and the discussion of “firewalls” in the consolidated guidance strongly suggest that the institutions are aware of the risk of excessive de-risking. The consolidated FAQ notes that several instances had been brought to the Commission’s attention where there was a need to remove control by designated persons over non-designated EU entities and their assets, including several in the agrifood sector. That kind of guidance response points to a real implementation problem: private and public actors alike may treat sanctions exposure too broadly when factual control structures are complex. Over-compliance therefore threatens legal resilience by making the regime appear less targeted and less proportionate than it is on paper<sup>4</sup>.

The asset-freeze field is the clearest example of this pressure. The Commission’s asset-freeze FAQ states that only persons and entities listed in Annex I to Regulation 269/2014 are directly targeted by sanctions. It adds that if an entity is neither owned nor controlled by a listed person, the entity as such is in principle not affected by the asset freeze or by the prohibition on making funds or economic resources available to it. At the same time, the same FAQ immediately warns that it cannot be ruled out that funds or economic resources might still be made indirectly available to a listed person through that entity, so the assessment must be conducted on a case-by-case basis. This combination of targetedness and indirect-benefit risk is legally sophisticated, but it is also operationally demanding. It creates exactly the kind of environment in which banks, counterparties, and professional intermediaries may decide that the cheapest risk-management strategy is simply to decline participation altogether<sup>5</sup>.

A very similar dynamic exists in the services field. The Commission’s Article 5n FAQ explains that EU operators cannot use outsourced services to provide prohibited services indirectly to Russian legal entities, and that entities established in the EU, including subsidiaries of Russian companies, are prohibited from providing the listed services or software directly or indirectly to the Government of Russia or to entities established in Russia. These clarifications are entirely consistent with the anti-circumvention logic of the sanctions’ regime. Yet they also increase the interpretative burden on private actors, because they require assessments of indirect provision, benefit flow, corporate structure, and service character. The more such assessments depend on granular fact patterns, the greater the temptation for firms to avoid borderline situations altogether. Thus, over-compliance is not only a problem of excessive caution by banks. It is also a structural response to the complexity of indirect-service prohibitions and anti-circumvention duties<sup>6</sup>.

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<sup>1</sup> Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures*.

<sup>2</sup> European Union. (2024). *Criminal offences and penalties for the violation of EU restrictive measures*.

<sup>3</sup> European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it*.

<sup>4</sup> Ibid.

<sup>5</sup> European Commission. (2024). *Frequently asked questions on asset freezes following sanctions adopted in view of Russia’s military aggression against Ukraine and Belarus’ involvement in it*.

<sup>6</sup> European Commission. (2026). *Frequently asked questions on provision of services concerning sanctions adopted following Russia’s military aggression against Ukraine (Article 5n of Council Regulation (EU) No 833/2014)*.

Table 5.3.3-1. Main convergence mechanisms and over-compliance pressure points in the EU sanctions’ regime

Dimension	Convergence mechanism	Why it supports resilience	Over-compliance pressure point
Institutional implementation	Union regulations applied through Member States and EU jurisdiction-wide obligations	Gives the regime operational reach across the whole Union	National and private practice may diverge in risk assessment
Administrative coordination	<i>EU Best Practices for the effective implementation of restrictive measures</i>	Encourages shared implementation approaches and national evaluation of effectiveness	Best practices are non-binding and depend on uptake
Interpretative support	Consolidated Commission FAQs and topic-specific guidance	Promotes more uniform application by authorities and operators	Heavy reliance on guidance can reflect underlying legal complexity
Criminal-law enforcement	Directive (EU) 2024/1226	Narrows divergence in the treatment of serious violations	National transposition and enforcement cultures may still vary
Asset-freeze application	Case-by-case ownership/control and indirect-benefit analysis	Keeps the regime targeted rather than indiscriminately expansive	Complexity encourages defensive de-risking
Services restrictions	Clarified rules on indirect provision and intra-group service flows	Reduces opportunities for circumvention through outsourcing or corporate chains	Borderline scenarios may chill lawful or licensable conduct

Authorship: analytical framework (this report) was prepared by the author.

Sources:

- Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures*.
- European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it*.
- European Union. (2024). *Criminal offences and penalties for the violation of EU restrictive measures*.
- European Commission. (2024). *Frequently asked questions on asset freezes following sanctions adopted in view of Russia’s military aggression against Ukraine and Belarus’ involvement in it*.
- European Commission. (2026). *Frequently asked questions on provision of services concerning sanctions adopted following Russia’s military aggression against Ukraine (Article 5n of Council Regulation (EU) No 833/2014)*.

The third element of this subsection is private-law friction. This concept refers to the tensions that arise when public sanctions rules disrupt ordinary contractual, property, licensing, data-sharing, payment, and dispute-resolution relations among private or quasi-private actors. In a mature sanctions’ regime, such frictions are unavoidable. The legal question is whether they are canalised and managed in ways that preserve the targeted logic of the regime, or whether they spill over into broad commercial paralysis. The EU’s answer has been to build a set of liability shields, no-claims rules, derogations, reporting duties, and clarifications designed to stabilise private-law relations under sanctions pressure. This is a crucial part of long-term resilience because a sanctions regime that cannot manage private-law consequences will eventually lose support even among compliant actors<sup>1,2</sup>.

Two legal devices are especially important here: liability shields and no-claims clauses. The EUR-Lex material for Regulation 269/2014 shows that Article 10 protects persons who freeze funds or refuse to make funds or economic resources available in good faith, while Article 11 bars certain claims

<sup>1</sup> Council of the European Union. (2014). *Council Regulation (EU) 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*.

<sup>2</sup> Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.

connected with contracts or transactions whose performance has been affected by the sanctions. The corresponding material for Regulation 833/2014 likewise states that no claims in connection with any contract or transaction whose performance has been affected, directly or indirectly, in whole or in part, by the measures imposed under that regulation are to be satisfied. These rules are not ancillary. They are central to the private-law resilience of the sanctions' regime. Without them, compliant operators would remain exposed to a large volume of civil and commercial pressure from sanctioned counterparties seeking damages, payment, performance, or compensation for frustrated transactions<sup>1,2</sup>.

Those provisions perform a very specific systemic function. They ensure that the public-law choice to interrupt or restrict economic relations is not silently neutralised through private-law remedies. If a bank, custodian, notary, supplier, licensor, or registry could be sued successfully by a sanctioned party for complying with EU law, the sanctions regime would become internally contradictory. The no-claims and liability rules therefore shield the sanctions system from being hollowed out by contract law, tort law, or unjust-enrichment claims. At the same time, because these provisions operate only in relation to sanctions-affected contracts or transactions and are tied to good-faith or defined claimant categories, they are more targeted than a general immunity would be. That narrow but robust design is one of the principal reasons why the private-law side of the sanctions' regime remains manageable<sup>3,4,5</sup>.

A concrete illustration of private-law friction under sanctions appears in the Commission's REACH-related FAQ of July 2024. The document explains that a designated data owner, or a company owned or controlled by a designated person, remains obliged to enter mandatory data-sharing negotiations under REACH, but cannot receive financial benefits from those negotiations while designated. It adds that the costs due to the designated data owner could be kept in an escrow account until the designation ends, and that if the designated company is non-cooperative or insists on payment, the potential registrant may indicate to ECHA that agreement is not reachable due to the asset freeze, after which ECHA may decide whether to grant access to the studies. This is an exceptionally useful example for the present subsection. It shows how sanctions interact with regulatory private-law frameworks in a way that neither abolishes the underlying legal duty nor permits ordinary financial settlement. Instead, the regime creates a modified legal environment in which escrow, administrative intervention, and conditional continuation replace normal bilateral performance<sup>6</sup>.

This REACH example reveals something broader about the sanctions regime's long-term evolution. Private-law friction is not limited to commercial contracts in the narrow sense. It extends into data-sharing duties, regulatory cooperation, access to studies, licensing relations, and other hybrid public-private legal settings. The sanctions regime therefore needs tools capable of handling partial legal continuity: the underlying legal relationship often remains, but the normal financial or proprietary logic of that relationship is interrupted. Escrow structures, derogations, no-claims rules, and administrative substitutes are all techniques through which the EU tries to preserve legal operability without sacrificing the restrictive effect of the measure. The more long-term the sanctions become; the more important such techniques will be. Otherwise, sanctions law would create cumulative blockages in adjacent regulatory systems<sup>7,8</sup>.

The NSD litigation adds another important dimension, namely the relationship between private-law frictions and derogation practice. In the 11 September 2024 judgment, as summarised in the Curia

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<sup>1</sup> Council of the European Union. (2014). *Council Regulation (EU) 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*.

<sup>2</sup> Council of the European Union. (2014). *Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine*.

<sup>3</sup> Ibid.

<sup>4</sup> Council of the European Union. (2014). *Council Regulation (EU) 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*.

<sup>5</sup> Court of Justice of the European Union. (2017). *PJSC Rosneft Oil Company v Her Majesty's Treasury and Others (Case C-72/15)*.

<sup>6</sup> European Commission. (2024). *FAQs on sanctions against Russia and Belarus, with focus on REACH-related issues*.

<sup>7</sup> Ibid.

<sup>8</sup> Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures*.

digest, the General Court recalled that where the applicant did not challenge the lawfulness of the derogation itself but rather the lawfulness of measures taken by national authorities in implementing it, the General Court lacked jurisdiction under Article 263 TFEU to examine the legality of those national implementing acts. This is significant because it confirms that some of the most acute private-law and third-party frictions generated by sanctions are displaced into the sphere of national administration and litigation. The Union-level regime provides the freeze, the derogation logic, and the Charter-compatible framework, but many concrete rights adjustments occur at national level. For resilience purposes, this means that enforcement convergence and private-law manageability are inseparable. If national authorities implement derogations too divergently or too rigidly, private-law friction becomes a structural weakness in the sanctions’ regime itself<sup>1,2</sup>.

What follows from all of this is that enforcement convergence, over-compliance, and private-law frictions are not separate problems. They are three facets of the same implementation challenge. Weak convergence increases uncertainty; uncertainty increases over-compliance; over-compliance and legal interruption intensify private-law frictions; and growing private-law frictions then create political and judicial pressure for further clarification or reform. Conversely, stronger convergence through Best Practices, FAQs, criminal-law harmonisation, and more disciplined derogation practice can reduce excessive caution and make private-law adaptation more manageable. The legal resilience of the sanctions regime therefore depends on the Union’s ability to keep these three dimensions in balance. It is not enough to legislate new prohibitions. The regime must also continue to govern the implementation environment in which those prohibitions live<sup>3,4,5</sup>.

Table 5.3.3-2. Main private-law frictions and legal stabilisers in the EU sanctions’ regime

Field of friction	Nature of the legal problem	Stabilising technique in the sanctions’ regime	Main resilience effect
Contract performance	Contracts become partially or wholly non-performable because sanctions block payment, delivery, transfer, or services	No-claims clauses in Regulations 269/2014 and 833/2014	Prevents sanctions compliance from being undone through civil claims
Liability exposure	Banks, custodians, and other intermediaries’ risk being sued for freezing or refusing performance	Good-faith liability shields	Protects compliant conduct and preserves implementation willingness
Asset-freeze derogations	Third-party rights and continuing obligations require selective release or management of frozen assets	National derogation mechanisms under Union rules	Preserves proportionality and targetedness without dissolving the freeze
Regulatory private-law settings	Sectoral legal obligations continue to apply but financial settlement is blocked by sanctions	Escrow mechanisms, administrative substitutes, and case-by-case regulatory handling	Keeps adjacent regulatory systems operable under sanctions pressure
Corporate-control uncertainty	Non-designated entities may be linked to designated persons through ownership or control	Case-by-case control analysis and “firewall” approaches	Reduces the risk of either circumvention or indiscriminate blocking
Services and professional support	Borderlines between prohibited support and lawful representation or exempt conduct create withdrawal incentives	Detailed FAQs and carve-outs	Limits unnecessary legal paralysis while preserving coercive effect

Authorship: analytical framework (this report) was prepared by the author.

<sup>1</sup> General Court of the European Union. (2024). *NKO AO National Settlement Depository (NSD) v Council of the European Union (Case T-494/22)*.

<sup>2</sup> Court of Justice of the European Union. (2024). *Monthly Case-Law Digest September 2024*.

<sup>3</sup> Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures*.

<sup>4</sup> European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it*.

<sup>5</sup> European Union. (2024). *Criminal offences and penalties for the violation of EU restrictive measures*.

*Sources:*

- Council of the European Union. (2014). *Council Regulation (EU) 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.*
- Council of the European Union. (2014). *Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.*
- European Commission. (2024). *FAQs on sanctions against Russia and Belarus, with focus on REACH-related issues.*
- European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia's military aggression against Ukraine and Belarus' involvement in it.*
- General Court of the European Union. (2024). *NKO AO National Settlement Depository (NSD) v Council of the European Union (Case T-494/22).*

The overall conclusion is that the long-term resilience of EU sanctions against Russia depends as much on the quality of implementation ecology as on the legal force of the prohibitions themselves. Enforcement convergence matters because the regime is decentralised and technically complex. Over-compliance matters because legal ambiguity or intense risk sensitivity can make the regime appear broader and more disruptive than its text actually requires. Private-law frictions matter because sanctions do not operate in a vacuum. They intervene in a dense web of contracts, rights, duties, and regulatory relationships that must be stabilised if the system is to remain sustainable. The Union has already developed a substantial toolbox for that purpose: Best Practices, consolidated and sectoral FAQs, minimum criminal-law harmonisation, liability shields, no-claims clauses, derogation mechanisms, and sector-specific accommodations such as escrow-type solutions. However, the very need for such tools shows that resilience here is not automatic. It is an ongoing project of legal coordination, interpretative discipline, and calibrated containment of private-law spillover<sup>1,2,3,4</sup>.

#### **5.3.4. 2026–2030 Outlook: Stability Factors, Erosion Risks, and Adjustment Triggers**

The legal outlook for the EU sanctions regime against Russia in 2026–2030 should not be framed as a simple question of whether the sanctions will continue or end. The more precise question is whether the regime can remain legally stable, administratively operable, judicially defensible, and strategically updateable over a further medium-term cycle. As of 10 March 2026, the available official evidence suggests that the regime retains a strong formal basis for continuity: the core sectoral economic sanctions are currently extended until 31 July 2026, the individual territorial-integrity listings are prolonged until 15 March 2026, and the Crimea/Sevastopol restrictions were renewed until 23 June 2026. These rolling renewal cycles indicate that the Union continues to treat sanctions not as one-off reactions, but as a maintained legal architecture subject to periodic recalibration rather than automatic expiry. In analytical terms, this strongly supports the view that the 2026–2030 horizon should be understood as a phase of managed legal endurance, not temporary aftershock. The decisive issue is therefore not nominal survival, but the conditions under which survival remains effective and legitimate<sup>5,6,7,8</sup>.

<sup>1</sup> Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures.*

<sup>2</sup> European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia's military aggression against Ukraine and Belarus' involvement in it.*

<sup>3</sup> European Union. (2024). *Criminal offences and penalties for the violation of EU restrictive measures.*

<sup>4</sup> European Commission. (2024). *FAQs on sanctions against Russia and Belarus, with focus on REACH-related issues.*

<sup>5</sup> Council of the European Union. (2026). *Russia's war against Ukraine: EU sanctions.*

<sup>6</sup> Council of the European Union. (2025). *Russia's war of aggression against Ukraine: Council extends economic sanctions for a further 6 months.*

<sup>7</sup> Council of the European Union. (2025). *Russia's war of aggression against Ukraine: EU individual sanctions over territorial integrity prolonged for a further six months.*

<sup>8</sup> Council of the European Union. (2025). *Russia's illegal annexation of Crimea and the city of Sevastopol: EU renews restrictive measures until 23 June 2026.*

The first major stability factor is the regime’s modular renewal structure. The Russia sanctions system is not governed by a single sunset clause but by overlapping review cycles applying to sectoral economic measures, individual designations, Crimea-related restrictions, hybrid-threat measures, and associated country-support regimes. The official sanctions timeline shows, for example, that in October 2025 the Council prolonged the restrictive measures in view of Russia’s destabilising activities until 9 October 2026, while in September 2025 it prolonged the territorial-integrity listings until 15 March 2026. This multi-track renewal logic has two advantages. First, it prevents the whole regime from becoming hostage to a single binary renewal decision. Secondly, it allows the Union to adjust different legal clusters at different speeds depending on strategic need, litigation exposure, and circumvention developments. For the 2026–2030 outlook, this modularity is likely to remain one of the regime’s most important legal stabilisers<sup>1,2</sup>.

A second stability factor is the continued existence of a recognisable legal backbone. Despite the adoption of nineteen packages by October 2025, the EU has preserved the centrality of the same foundational architecture: the sanctions continue to operate through the long-running basic acts, especially Regulation 833/2014 and Regulation 269/2014, while new packages function primarily as amendments, annex updates, and selective insertions. This continuity matters because legal resilience depends not only on the ability to add new measures, but on the ability to do so without dissolving the identity and legibility of the regime itself. The Commission’s sanctions page still presents the system as a set of legal obligations addressed to all individuals, organisations, and bodies under EU jurisdiction, thereby emphasising continuity of normative force across successive updates. On the basis of the available official material, it is reasonable to infer that the Union will continue to prefer incremental legal thickening over wholesale legislative replacement in the 2026–2030 period. That is a resilience-enhancing pattern because it preserves accumulated jurisprudence, compliance experience, and administrative routines<sup>3,4</sup>.

A third stability factor is the regime’s now-proven update capacity through packages. The 2025 sequence is particularly revealing. The 16th package of 24 February 2025 targeted SPFS-linked financial channels, shadow-fleet vessels, software, and further persons and entities; the 17th package of 20 May 2025 deepened pressure on the shadow fleet and Russia’s military-industrial complex; the 18th package of 18 July 2025 added major energy, banking, and software measures; and the 19th package of 23 October 2025 expanded pressure to Russian energy, additional banks, crypto providers, and diplomatic-movement regulation. This sequence suggests that the Union has not exhausted its legislative creativity. On the contrary, it has demonstrated the ability to keep identifying new legal levers as the operational geography of sanctions evasion evolves. For the 2026–2030 horizon, this implies that the regime is likely to remain legally dynamic, with further packages or equivalent updates remaining a realistic expectation rather than an exceptional event. That assessment is an inference, but it is strongly grounded in the 2024–2025 pattern of repeated adaptation documented by the Council<sup>5,6,7,8</sup>.

A fourth stability factor is the increasingly dense interpretative infrastructure supporting the formal law. The Commission’s sanctions portal records that the consolidated FAQ document was updated on 23 January 2026, and the topic-specific services FAQ shows a further update on 22 January 2026. The existence of a maintained guidance ecosystem is a legal asset in its own right. A long-duration sanctions regime weakens when operators no longer know whether new prohibitions, derogations, or exceptions

<sup>1</sup> Council of the European Union. (2026). *Timeline — EU sanctions against Russia*.

<sup>2</sup> Council of the European Union. (2025). *Statement by the High Representative on behalf of the EU on the alignment of certain countries concerning restrictive measures in view of Russia’s destabilising activities*.

<sup>3</sup> European Commission. (2026). *Sanctions adopted following Russia’s military aggression against Ukraine*.

<sup>4</sup> Council of the European Union. (2026). *Russia’s war against Ukraine: EU sanctions*.

<sup>5</sup> Council of the European Union. (2025). *Three years of Russia’s full-scale invasion and war of aggression against Ukraine: EU adopts its 16th package of economic and individual measures*.

<sup>6</sup> Council of the European Union. (2025). *Russia’s war of aggression against Ukraine: EU agrees 17th package of sanctions*.

<sup>7</sup> Council of the European Union. (2025). *Russia’s war of aggression against Ukraine: EU adopts 18th package of economic and individual measures*.

<sup>8</sup> Council of the European Union. (2025). *19th package of sanctions against Russia: EU targets Russian energy, third-country banks and crypto providers*.

have been authoritatively clarified. By contrast, a regime with regularly updated guidance preserves a working bridge between legislation and application. This matters especially for legally sensitive fields such as legal services, anti-circumvention, due diligence, and cross-border corporate structures. For 2026–2030, the continued maintenance of this guidance layer is likely to be one of the key conditions of practical endurance<sup>1,2</sup>.

A fifth stability factor is the strengthening of the regime’s enforcement credibility. The official EUR-Lex summary on Directive (EU) 2024/1226 explains that the directive establishes criminal offences and penalties for violations of Union restrictive measures, thus addressing one of the classic weaknesses of multi-level sanctions systems: uneven seriousness of enforcement across jurisdictions. Even where the practical implementation of the directive will vary, the existence of a common legislative baseline significantly improves the regime’s long-term chances of survival. A sanctions regime that continues to expand substantively but does not improve its enforcement architecture will, over time, encourage calculated circumvention. A regime that combines new prohibitions with a more serious criminal-law framework is better positioned to deter systematic breach. From the standpoint of the 2026–2030 outlook, the enforcement layer is therefore likely to become more important, not less<sup>3</sup>.

A sixth stability factor lies in the Union’s growing use of anti-circumvention governance rather than mere prohibition. The Commission’s dedicated guidance on the Article 8a “best efforts” obligation was published on 22 November 2024, and later due-diligence guidance emphasised contractual prohibition of the use of intellectual-property rights or trade secrets in connection with common high priority items, together with risk-adapted stakeholder and transaction due diligence. The legal significance of this architecture is substantial. It shows that the Union is increasingly aware that long-term sanctions fail when they regulate only direct transactions while leaving downstream licensing, controlled subsidiaries, and third-country contractual chains untouched. The more sanctions become long-duration, the more resilience depends on structured anti-circumvention obligations of this kind. For the 2026–2030 period, one of the most plausible projections is that anti-circumvention duties will continue to deepen and widen. That is an inference, but it follows directly from the direction of legislative and interpretative development already visible in 2024–2025<sup>4,5</sup>.

However, the same factors that support continuity also generate the first major erosion risk: legal and operational complexity. A sanctions regime that grows through packages, annexes, carve-outs, cross-references, guidance documents, and sector-specific FAQs can preserve flexibility, but it can also become difficult to navigate. The Commission’s publication structure itself reflects that challenge, with a consolidated FAQ, topic-specific FAQs, and additional guidance notes all operating alongside the authentic legal acts published in the Official Journal. This architecture is workable so long as it is actively curated. But if the density of obligations continues to increase between 2026 and 2030, complexity itself may become a source of under-compliance, over-compliance, and uneven implementation. In that sense, legal resilience carries within it a possible legal-technical self-erosion mechanism: the more updateable the regime becomes, the more vulnerable it becomes to intelligibility loss<sup>6,7,8</sup>.

A second erosion risk is implementation divergence across Member States. Although the legal acts are Union-wide, many derogations, authorisations, penalties, and day-to-day compliance assessments

<sup>1</sup> European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it.*

<sup>2</sup> European Commission. (2026). *Provision of services: Frequently asked questions on sanctions against Russia and Belarus, with focus on Article 5n of Council Regulation (EU) No 833/2014.*

<sup>3</sup> European Union. (2024). *Criminal offences and penalties for the violation of EU restrictive measures.*

<sup>4</sup> European Commission. (2024). *FAQs on sanctions against Russia and Belarus, with focus on the following provision: Article 8a of Council Regulation (EU) No 833/2014.*

<sup>5</sup> European Commission. (2024). *Enhanced due diligence for operators manufacturing and/or trading with common high priority items.*

<sup>6</sup> European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it.*

<sup>7</sup> European Commission. (2026). *Frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it.*

<sup>8</sup> Council of the European Union. (2025). *How the EU adopts and reviews sanctions.*

continue to depend on national competent authorities and national courts. This decentralised element is built into the sanctions architecture and cannot be eliminated without a fundamentally different constitutional design. Yet over a medium-term horizon, divergence of practice may become more visible as the regime moves further into sophisticated areas such as software rights, anti-suit decisions, best-efforts duties, and third-country licensing chains. The more technically complex the sanctions become, the more likely it is that authorities will differ in how narrowly they interpret “strict necessity”, “indirect benefit”, or “best efforts”. That does not mean the regime is structurally unsound, but it does mean that legal resilience from 2026 to 2030 will depend heavily on the Union’s ability to keep narrowing implementation variance through guidance and enforcement convergence. This is partly an inference, but it follows directly from the system’s documented multi-level structure<sup>1,2</sup>.

A third erosion risk is the persistence of over-compliance and private-law friction. The Commission’s sanctions materials repeatedly reflect the need for guidance in areas where lawful derogations, exceptions, or carve-outs exist but are difficult to operationalise. The very existence of detailed FAQs on legal services, asset freezes, best efforts, and intellectual-property rights suggests that the Union is aware that private actors may respond to legal uncertainty by withdrawing even from transactions or services that remain legally possible. In the medium term, that behaviour can produce two different problems. It can undermine the regime’s claim to proportionality, and it can also create pressure from businesses and professionals who are formally compliant but economically paralysed by ambiguity. Thus, one of the regime’s real long-term vulnerabilities is not only evasion by sanctioned actors, but defensive excess by compliant actors. This is another reason why clarity and guidance remain central to resilience<sup>3,4</sup>.

A fourth erosion risk is the target’s continuing adaptation through third countries, shadow logistics, alternative payment channels, and digital assets. The official Council materials on the 19th package are explicit that the Union had to react to Russia’s increasing use of crypto in circumvention, to shadow-fleet transport, and to additional banks and third-country financial channels. This is highly relevant for the 2026–2030 outlook because it shows that circumvention is not a residual problem but a driver of the legal agenda itself. The sanctions regime remains durable only to the extent that it can continue identifying and addressing new circumvention vectors. If the target’s adaptation speed begins to exceed the Union’s legislative and enforcement response speed, legal resilience may erode even if the formal regime remains intact. The medium-term outlook therefore depends not only on the text of the sanctions, but on the comparative tempo of evasion versus legal adaptation<sup>5,6</sup>.

A fifth erosion risk is the gradual separation between the sanctions’ regime and adjacent non-sanctions regulatory strategies. The Council’s October 2025 position on phasing out Russian gas imports under REPowerEU is a useful example. The fact that the Union is developing a dedicated regulatory pathway to end dependency on Russian gas suggests that not every long-term pressure objective will continue to be pursued through the sanctions’ framework alone. This may be strategically sensible. But it also creates a legal-structural question for 2026–2030: will the sanctions regime remain the principal legal vehicle of pressure, or will some of its functions be displaced into sector-specific legislation? If the latter occurs, resilience will depend increasingly on coordination across legal instruments, not solely on the self-sufficiency of sanctions law. This is best understood as a medium-term adjustment challenge rather than a weakness in itself<sup>7</sup>.

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<sup>1</sup> Council of the European Union. (2025). *How the EU adopts and reviews sanctions*.

<sup>2</sup> European Commission. (2026). *Frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it*.

<sup>3</sup> European Commission. (2026). *Provision of services: Frequently asked questions on sanctions against Russia and Belarus, with focus on Article 5n of Council Regulation (EU) No 833/2014*.

<sup>4</sup> European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it*.

<sup>5</sup> Council of the European Union. (2025). *19th package of sanctions against Russia: EU targets Russian energy, third-country banks and crypto providers*.

<sup>6</sup> Council of the European Union. (2026). *Timeline – EU sanctions against Russia*.

<sup>7</sup> Council of the European Union. (2025). *Council agrees its position on rules to phase out Russian gas imports under REPowerEU*.

The first major category of adjustment triggers for 2026–2030 will be litigation signals. If the General Court or the Court of Justice begins repeatedly identifying deficiencies in the same areas—e.g., in statements of reasons, evidentiary substantiation, over-broad benefit tests, or inadequately framed exceptions—then those patterns will be strong signals that legislative or drafting recalibration is needed. The judicial-activity overview for 2024 already shows that Russia sanctions have generated dozens of cases and that the courts are actively engaged in calibrating rigour and rights protection. For a mature sanctions’ regime, litigation is not just a compliance cost. It is one of the principal mechanisms by which hidden structural weaknesses become visible. Over the next several years, repeated judicial scrutiny will likely remain one of the clearest indicators of whether the regime’s legal engineering remains sustainable<sup>1</sup>.

The second major category of adjustment triggers will be implementation and guidance stress. A rise in the number, scope, or frequency of Commission FAQs and guidance updates is not automatically a sign of weakness; it may simply reflect healthy maintenance. But if guidance increasingly has to compensate for unclear legislative drafting or to correct widespread divergent practice, that will indicate that the legal text itself may need tightening. The January 2026 consolidated FAQ and the topic-specific updates show that the Commission is already playing a very active interpretative role. Between 2026 and 2030, persistent heavy reliance on post hoc clarification could become a signal that certain parts of the regime require more explicit legislative rewording or more standardised derogation design. In this sense, the guidance ecosystem is not only a support tool. It is also a diagnostic instrument for future legal amendment<sup>2,3</sup>.

The third category of adjustment triggers will be new circumvention topologies. The official package materials already show the Union responding to SPFS, shadow fleets, crypto channels, third-country banks, and software-related enablement. That pattern strongly suggests that future recalibration will be triggered not only by traditional trade flows but by hybrid legal-commercial architectures that combine services, digital assets, licensing, transport opacity, and extra-EU intermediaries. The legal system’s challenge will be to keep responding quickly enough without sacrificing precision and defensibility. The more sanctions move into software rights, anti-suit tactics, indirect service provision, and extra-territorial licensing chains, the more each new package will need to be both technically sophisticated and tightly drafted. Thus, the best predictor of future amendment may not be headlining geopolitics alone, but the emergence of new circumvention techniques that expose old legal categories as too narrow<sup>4,5,6</sup>.

A fourth category of adjustment triggers will be political-legal alignment beyond the EU itself. The November and December 2025 statements on the alignment of certain third countries with relevant Council decisions show that non-member alignment continues to be treated as a meaningful part of the sanctions’ ecosystem. From a legal-resilience perspective, alignment matters because it reduces external gaps in enforcement space and broadens the de facto regulatory perimeter of the regime. If such alignment weakens over time, the legal regime may remain formally intact while losing part of its practical containment effect. Conversely, sustained or expanded alignment can reinforce resilience

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<sup>1</sup> Court of Justice of the European Union. (2025). *Judicial activity 2024*; Council of the European Union. (2025). *How the EU adopts and reviews sanctions*.

<sup>2</sup> European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it*.

<sup>3</sup> European Commission. (2026). *Provision of services: Frequently asked questions on sanctions against Russia and Belarus, with focus on Article 5n of Council Regulation (EU) No 833/2014*.

<sup>4</sup> Council of the European Union. (2025). *19th package of sanctions against Russia: EU targets Russian energy, third-country banks and crypto providers*.

<sup>5</sup> European Commission. (2024). *FAQs on sanctions against Russia and Belarus, with focus on the following provision: Article 8a of Council Regulation (EU) No 833/2014*.

<sup>6</sup> European Commission. (2024). *Enhanced due diligence for operators manufacturing and/or trading with common high priority items*.

without any textual change to the sanctions themselves. Thus, the 2026–2030 outlook should take into account not only internal EU law but also the surrounding field of partner-country legal convergence<sup>1,2</sup>.

Taken together, the most plausible 2026–2030 legal outlook is neither one of simple linear expansion nor one of imminent legal exhaustion. On the evidence currently available, the EU sanctions regime appears likely to remain in force and to continue evolving, but increasingly through a pattern of selective tightening, anti-circumvention deepening, enforcement hardening, and cross-instrument coordination. The pressure points are already visible: complexity, divergent implementation, over-compliance, and the target’s adaptive use of third-country channels and digital instruments. The stabilising forces are equally visible: renewal modularity, package machinery, guidance maintenance, and the stronger enforcement base provided by Directive (EU) 2024/1226. This means that the medium-term legal future of the regime is best described as durable but maintenance-intensive. Its survival is highly plausible; its quality will depend on constant legal refinement<sup>3,4,5</sup>.

Table 5.3.4-1. Main stability factors of the EU sanctions regime in the 2026–2030 legal outlook

Stability factor	Why it matters	Likely effect in 2026–2030
Modular renewal cycles	Different sanction clusters are renewed on different timetables	Preserves flexibility and avoids regime-wide cliff effects
Stable legal backbone	Core sanctions continue to operate through the same basic acts	Supports continuity, compliance memory, and judicial legibility
Package update machinery	Successive packages have expanded the regime into new sectors and circumvention areas	Keeps the regime responsive to evolving evasion strategies
Commission guidance ecosystem	FAQs and topic-specific guidance are regularly updated	Sustains operational clarity and day-to-day applicability
Criminal-law enforcement baseline	Directive (EU) 2024/1226 strengthens minimum enforcement seriousness	Improves deterrence and convergence in handling serious breaches
Anti-circumvention governance	Best-efforts, due diligence, and contractual controls extend the regime downstream	Reduces the risk of formal compliance combined with substantive evasion

*Authorship: analytical framework (this report) was prepared by the author.*

*Sources:*

- Council of the European Union. (2026). *Russia’s war against Ukraine: EU sanctions*.
- Council of the European Union. (2025). *Russia’s war of aggression against Ukraine: Council extends economic sanctions for a further 6 months*.
- Council of the European Union. (2026). *Timeline — EU sanctions against Russia*.
- European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it*.
- European Commission. (2024). *FAQs on sanctions against Russia and Belarus, with focus on the following provision: Article 8a of Council Regulation (EU) No 833/2014*.
- European Union. (2024). *Criminal offences and penalties for the violation of EU restrictive measures*.

<sup>1</sup> Council of the European Union. (2025). *Statement by the High Representative on behalf of the EU on the alignment of certain countries concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine*.

<sup>2</sup> Ibid.

<sup>3</sup> Council of the European Union. (2026). *Russia’s war against Ukraine: EU sanctions*.

<sup>4</sup> Council of the European Union. (2026). *Timeline — EU sanctions against Russia*.

<sup>5</sup> European Union. (2024). *Criminal offences and penalties for the violation of EU restrictive measures*.

Table 5.3.4-2. Main erosion risks and adjustment triggers for the EU sanctions regime in 2026–2030

Erosion risk / trigger	How it manifests	Why it matters legally
Complexity accumulation	Growing density of acts, annexes, guidance, and cross-references	Can undermine foreseeability, consistency, and operator usability
Implementation divergence	Different competent authorities and courts apply similar rules unevenly	Weakens uniformity and may erode proportionality
Over-compliance	Private actors refuse lawful transactions or services out of caution	Produces unnecessary private-law friction and legitimacy costs
New circumvention routes	Crypto, third-country banks, software rights, shadow logistics, licensing chains	Forces repeated legal recalibration and narrower drafting
Litigation patterns	Recurring challenges reveal weak drafting, thin evidence, or unstable criteria	Functions as an early warning system for legal reform
Guidance overload	Soft-law clarification increasingly compensates for legislative ambiguity	Signals that some provisions may require textual amendment
Cross-instrument fragmentation	Pressure objectives move partly into adjacent regulatory fields, such as energy phase-out rules	Requires stronger coordination between sanctions law and neighbouring legal regimes
External alignment shifts	Third-country alignment with EU decisions strengthens or weakens	Affects the practical perimeter of legal containment beyond the EU

Authorship: analytical framework (this report) was prepared by the author.

Sources:

- Council of the European Union. (2026). *Timeline — EU sanctions against Russia*.
- European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it*.
- Court of Justice of the European Union. (2025). *Judicial activity 2024*.
- Council of the European Union. (2025). *19th package of sanctions against Russia: EU targets Russian energy, third-country banks and crypto providers*.
- Council of the European Union. (2025). *Council agrees its position on rules to phase out Russian gas imports under REPowerEU*.
- Council of the European Union. (2025). *Statement by the High Representative on behalf of the EU on the alignment of certain countries concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine*.

The final conclusion of this subsection is that the EU sanctions regime against Russia enters the 2026–2030 period with a strong legal capacity for continuation, but only on the condition of active maintenance. The regime’s principal strengths are now clear: regular renewability, amendment capacity, guidance support, growing anti-circumvention sophistication, and a more serious enforcement layer. Its principal vulnerabilities are equally clear: (1) complexity, (2) implementation variance, private-law overreaction, and (3) the target’s continuing adaptation through indirect and extra-EU channels. The decisive policy implication is that the future resilience of the regime will depend less on headline political resolve than on ongoing legal craftsmanship—clearer drafting where needed, better guidance where ambiguity persists, and faster adjustment where circumvention evolves. In that sense, the most realistic outlook is neither stagnation nor collapse, but a continued cycle of legally managed adaptation. For the purposes of this report, that means the sanctions regime should be treated as a durable but permanently revisable legal system whose long-term effectiveness will depend on whether the Union can preserve clarity and precision while continuing to innovate<sup>1,2,3</sup>.

<sup>1</sup> Council of the European Union. (2026). *Russia’s war against Ukraine: EU sanctions*.

<sup>2</sup> European Commission. (2026). *Frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it*.

<sup>3</sup> European Union. (2024). *Criminal offences and penalties for the violation of EU restrictive measures*.

## 5.4. Proposals for the Further Development of the Legal Sanctions Regime

### 5.4.1. Improving Normative Precision and Drafting Discipline

If Part Five has shown that the legal effectiveness of sanctions depends not only on the substantive range of restrictions but also on their long-term resilience under review, implementation, and circumvention pressure, then the first proposal for further development must concern normative precision and drafting discipline. In the current Russia regime, the Union has already demonstrated a high degree of legislative adaptability. The Council's official sanctions page states that 19 packages have been adopted so far and that the measures are carefully targeted, proportionate, temporary in nature, and regularly reviewed. That institutional achievement is considerable. Yet the very success of cumulative package-making has also generated a more complex regulatory environment in which operators and authorities increasingly depend on guidance, annexes, and interpretative maintenance in order to identify the current legal position. From a law-reform perspective, the implication is clear: the next phase of development should place greater emphasis not only on adding new prohibitions but on improving the internal quality, usability, and structural discipline of the legal texts themselves. In this subsection, "drafting discipline" means the systematic use of clearer definitions, more stable article architecture, tighter recital-to-rule alignment, better differentiation between prohibitions and derogations, and more transparent update techniques. These are not cosmetic improvements. They are measures aimed at increasing legal certainty, reducing over-compliance, preserving judicial defensibility, and improving the enforceability of the regime over a further medium-term cycle<sup>1,2</sup>.

The need for such reform is already visible in the Union's own implementation ecosystem. The Commission's sanctions FAQ page records 63 FAQs, offers RSS alerts for updates, and states that the consolidated document contains the latest version of all FAQs published by the Commission on the implementation of the sanctions against Russia and Belarus. The separate consolidated-version page shows that the current consolidated FAQ was published and last updated on 23 January 2026. The guidance-documents page likewise offers separate RSS feeds and explains that the Commission services draft guidance to support national authorities, EU operators, and citizens in the interpretation and implementation of the relevant regulations, while also stressing that only the Court of Justice is competent to interpret EU law. These facts do not show failure; they show maintenance. However, they also indicate that the current legislative architecture has reached a level of density at which clarity increasingly depends on a large interpretative superstructure. That is a sign that the formal legal text should itself become more disciplined. The more the regime relies on post hoc clarification to preserve uniform application, the stronger the argument for upstream drafting reform<sup>3,4,5</sup>.

The first proposal is therefore to adopt a more standardised drafting template for new sanctions articles and amendment packages. At present, the regime has developed through repeated insertions into a long and heavily amended basic text, especially Regulation 833/2014. That technique has preserved continuity, but it has also produced a patchwork in which operators must move constantly between prohibitions, exceptions, anti-circumvention clauses, recitals, annexes, and FAQ clarifications. A more disciplined approach would require each newly inserted article or paragraph to follow a clearer structural order: first the rule, then the addressees, then the scope of prohibited conduct, then

<sup>1</sup> Council of the European Union. (2026). *Russia's war against Ukraine: EU sanctions*.

<sup>2</sup> Council of the European Union. (2025). *How the EU adopts and reviews sanctions*.

<sup>3</sup> European Commission. (2026). *Frequently asked questions concerning sanctions adopted following Russia's military aggression against Ukraine and Belarus' involvement in it*.

<sup>4</sup> European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia's military aggression against Ukraine and Belarus' involvement in it*.

<sup>5</sup> European Commission. (2026). *Guidance documents*.

exceptions, then derogations, then reporting or notification consequences, and finally any anti-circumvention extension. This would not alter policy substance, but it would significantly improve internal legibility. Since the Council itself explains that regulations lay down the precise scope of the measures and details for their implementation, improving the internal template of those regulations would directly strengthen legal usability. In long-duration sanctions, clarity of article architecture is itself a coercive asset because it reduces the space for both genuine confusion and opportunistic misreading<sup>1,2</sup>.

The second proposal is to impose stronger terminological discipline, especially in areas where the sanctions regime already distinguishes conceptually between related but non-identical legal categories. The Council's 2024 Best Practices document is highly instructive here. It expressly states that an "exemption" refers to a use that is not prohibited by the regulations, whereas a "derogation" refers to a use that is prohibited unless authorised by a competent authority. It also explains that the words "shall", "must", and "is obliged to" refer to legal obligations, while "should" refers to best practice and "may" or "might" to suggestions depending on circumstances. These distinctions are extremely valuable. However, they should not remain only in implementation guidance. They should be reflected more systematically and uniformly in the drafting of the legal acts themselves. One of the problems of a mature sanctions' regime is that similar words may carry different consequences in different provisions if drafting discipline weakens. The Union should therefore move toward a more explicit legislative style in which exemption, derogation, authorisation, notification, and best-efforts obligations are consistently defined and used across packages<sup>3</sup>.

This recommendation is particularly important because terminological inconsistency is not a merely linguistic problem; it is a source of uneven compliance and litigation. Where a competent authority treats an exemption as if it were a derogation, lawful conduct may be delayed or blocked unnecessarily. Where an operator mistakes a best-practice recommendation for a legal obligation, over-compliance can result. Conversely, where a derogation is treated informally as if it were self-executing, under-enforcement may follow. A sanctions regime that aims to remain targeted and proportionate over several years cannot afford such avoidable ambiguity. The point is not to over-legalise every nuance, but to ensure that the legal consequences attached to key terms are clear on the face of the legislative text. This is one of the simplest and most cost-effective forms of drafting reform available to the Union. It builds directly on distinctions the Council itself has already considered important enough to codify in its implementation Best Practices<sup>4,5</sup>.

The third proposal is to strengthen identifier discipline and annex drafting, especially for listings and entity-based restrictions. The Council's Best Practices state that, in order to improve effectiveness and avoid unnecessary problems caused by homonyms or near-identical names, as many specific identifiers as possible should be available at the moment of identification and published at the moment of adoption of the restrictive measure. The same document adds that after designation a constant review of identifiers should take place in order to specify and extend them, and that listing formats and identifiers should be harmonised. This is a highly valuable principle, but in a regime of the current scale it should be treated not as optional craftsmanship but as a core drafting standard. One of the most common sources of both mistaken identity and defensive over-compliance is poor or uneven identifier practice. A more disciplined annex model should therefore require fuller entity metadata, harmonised naming conventions, more consistent use of registration data and transliteration standards, and a clearer version-tracking method when annexes are updated. In long-term legal terms, precise annex drafting is as important as precise article drafting<sup>6</sup>.

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<sup>1</sup> Council of the European Union. (2025). *How the EU adopts and reviews sanctions*.

<sup>2</sup> Council of the European Union. (2026). *Russia's war against Ukraine: EU sanctions*.

<sup>3</sup> Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures*.

<sup>4</sup> Ibid.

<sup>5</sup> European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia's military aggression against Ukraine and Belarus' involvement in it*.

<sup>6</sup> Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures*.

The fourth proposal is to improve the alignment between recitals and operative provisions. In the current regime, recitals often carry essential policy explanation and interpretative context, especially in technically novel areas such as anti-suit injunctions, no-Russia clauses, best-efforts obligations, IP-rights restrictions, or service prohibitions. That drafting style is understandable, because recitals are where the legislator explains rationale, context, and objective. However, where too much interpretative precision is left in recitals rather than being carried through into operative text, there is a risk that the norm appears broader or less determinate than the policy explanation suggests. The 2024 and 2025 development of the anti-suit injunction mechanism is a useful illustration: the move from a broader reference to Article 248 APC RF toward a more precise reference to Articles 248.1 and 248.2 showed a later-stage tightening of the operative rule itself. The lesson is general. Where the Council repeatedly needs to rely on recital language to clarify the intended scope of a restriction, future packages should consider whether the operative text itself should be correspondingly refined. That would strengthen legal certainty and reduce the interpretative burden on courts and compliance teams<sup>1,2</sup>.

The fifth proposal is to adopt a more disciplined model for packaging prohibitions, exceptions, and derogations together within each regulatory cluster. One of the recurring implementation difficulties in the current regime is that the prohibition may be contained in one paragraph, an exception in another paragraph, a related derogation in a different article, and a later clarification only in guidance. This increases the risk that operators focus on the ban and miss the lawful carve-outs, or that authorities emphasise procedural control without clear textual anchoring. The litigation over legal advisory services shows why this matters. In the ACE line of cases, the General Court upheld the prohibition precisely because the regime preserved the right to effective judicial protection and because the prohibition did not concern legal advisory services provided in connection with judicial, administrative, or arbitral proceedings. That is a strong signal that precision-enhancing drafting should keep constitutional carve-outs close to the relevant prohibition rather than leaving them too dispersed. In long-term sanctions, constitutional durability often depends not only on what is prohibited, but on how clearly the protected space around the prohibition is drafted<sup>3</sup>.

The sixth proposal concerns anti-circumvention drafting, which should move toward more structured and transparent legal design. Over the last two years, the Union has increasingly relied on “best efforts”, due-diligence expectations, contractual no-Russia clauses, and indirect-benefit analysis in order to capture conduct that formal prohibitions alone would miss. This evolution is strategically necessary. Yet the more the regime moves away from simple direct bans and toward effect-based anti-circumvention rules, the greater the need for disciplined drafting. The proposal here is not to weaken anti-circumvention law, but to require that such rules identify more clearly the conduct expected, the factual indicators that matter, and the relationship between mandatory due diligence and merely recommended risk mitigation. The Commission’s Article 8a guidance is useful because it already shows the Union trying to explain these matters in operational terms. The next step should be to translate the most recurrent guidance-based distinctions into more explicit legislative drafting, so that anti-circumvention rules remain forceful without becoming structurally opaque<sup>4,5</sup>.

This reform is particularly important because anti-circumvention law is where precision and enforceability most often come into tension. If the legal formulation is too narrow, operators can redesign the transaction chain and escape the rule. If it is too open-ended, lawful actors may not be able to tell where routine commercial risk ends and sanctionable circumvention begins. The Union should therefore consider requiring, for major anti-circumvention provisions, a more standardised legislative accompaniment: a list of non-exhaustive objective indicators, a statement of the relevance of control

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<sup>1</sup> Council of the European Union. (2025). *How the EU adopts and reviews sanctions*.

<sup>2</sup> Council of the European Union. (2026). *Timeline — EU sanctions against Russia*.

<sup>3</sup> General Court of the European Union. (2024). *ACE-Avocats, ensemble v Council of the European Union (Case T-828/22)*.

<sup>4</sup> European Commission. (2024). *FAQs on sanctions against Russia and Belarus, with focus on the following provision: Article 8a of Council Regulation (EU) No 833/2014*.

<sup>5</sup> European Commission. (2024). *Enhanced due diligence for operators manufacturing and/or trading with common high priority items*.

and benefit, and where appropriate a reference to due-diligence expectations calibrated to risk. This would not remove the need for guidance, but it would make the law itself more intelligible. It would also strengthen the criminal-law follow-through of Directive (EU) 2024/1226, because enforcement becomes more defensible when the underlying obligation is more sharply formulated. In the medium term, disciplined anti-circumvention drafting is likely to be one of the main determinants of whether the sanctions regime remains both adaptable and judicially sustainable<sup>1,2</sup>.

The seventh proposal is to institutionalise more explicit Charter-sensitive drafting for rights-sensitive restrictions. The ACE judgment is again instructive: the General Court upheld the legal advisory services restriction precisely because the prohibition did not concern advice linked with judicial, administrative, or arbitral proceedings and because the fundamental right to be advised by a lawyer for the purposes of conducting, pre-empting, or anticipating judicial proceedings was preserved. The NSD judgment adds a related lesson: the national authorities implementing restrictive measures must ensure that interference with the property rights of affected customers complies with Article 52 of the Charter. MegaFon likewise confirms that prior hearing is not always required, because surprise may be necessary for effectiveness, but that the measure must still remain proportionate and justified by a fundamental public-interest objective. Taken together, these cases support a clear drafting recommendation. Where the Union legislates in especially rights-sensitive fields, the relevant regulation should state more directly what protected procedural or property-related space remains, rather than relying too heavily on later judicial extraction of that balance<sup>3,4,5</sup>.

A disciplined approach to rights-sensitive drafting would have at least three advantages. First, it would reduce the risk of over-compliance by making it more visible to operators when access to justice, basic needs, pre-existing adjudicated claims, or national implementation review must still be preserved. Secondly, it would improve judicial defensibility because courts are more likely to uphold intrusive restrictions when the legal text itself contains coherent safeguards. Thirdly, it would reduce dependence on scattered recitals and later FAQs to establish the minimum constitutionally protected perimeter of a measure. This is especially important in the current regime, where service bans, anti-suit measures, transaction bans, media-related restrictions, and IP-related controls increasingly interact with fundamental-rights arguments. Drafting discipline should therefore include a more systematic practice of placing the rights-preserving logic closer to the operative rule<sup>6,7</sup>.

Table 5.4.1-1. Proposed priorities for improving normative precision and drafting discipline in the EU sanctions regime

Proposed reform priority	Main drafting problem addressed	Expected legal effect	Main supporting material
Standardised article template	Dispersed structure of rule, exception, derogation, and reporting clauses	Greater readability, more stable implementation, lower compliance ambiguity	Council sanctions-adoption process materials; current package layering
Terminological discipline	Inconsistent or insufficiently explicit use of exemption, derogation, authorisation, and best-efforts language	Better legal certainty and less over-compliance	Council Best Practices 2024

<sup>1</sup> Directive (EU) 2024/1226 of the European Parliament and of the Council of 24 April 2024 on the definition of criminal offences and penalties for the violation of Union restrictive measures.

<sup>2</sup> European Union. (2024). *Criminal offences and penalties for the violation of EU restrictive measures*.

<sup>3</sup> General Court of the European Union. (2024). *ACE-Avocats, ensemble v Council of the European Union (Case T-828/22)*.

<sup>4</sup> General Court of the European Union. (2024). *NKO AO National Settlement Depository (NSD) v Council of the European Union (Case T-494/22)*.

<sup>5</sup> General Court of the European Union. (2025). *MegaFon OAO v Council of the European Union (Case T-193/23)*.

<sup>6</sup> General Court of the European Union. (2024). *ACE-Avocats, ensemble v Council of the European Union (Case T-828/22)*.

<sup>7</sup> General Court of the European Union. (2024). *NKO AO National Settlement Depository (NSD) v Council of the European Union (Case T-494/22)*.

Proposed reform priority	Main drafting problem addressed	Expected legal effect	Main supporting material
Stronger annex and identifier drafting	Mistaken identity, inconsistent listing metadata, insufficient identifiers	More accurate targeting and fewer false positives	Council Best Practices 2024
Recital-to-rule alignment	Key scope limitations left mainly in recitals or later guidance	Stronger foreseeability and easier judicial defence	2024–2025 package practice; anti-suit refinement example
Integrated drafting of safeguards	Rights-preserving exceptions too distant from prohibitions	Better Charter compatibility and clearer lawful carve-outs	ACE, NSD, MegaFon
Structured anti-circumvention formulation	Open-ended compliance expectations and benefit tests	Stronger enforceability with lower ambiguity	Article 8a guidance; due-diligence guidance; Directive 2024/1226
Guidance-to-legislation feedback loop	Recurrent FAQ clarifications not converted into legislative refinement	More self-explanatory legal texts and less interpretative overload	Commission FAQs and guidance pages

Authorship: analytical framework (this report) was prepared by the author.

Sources:

- Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures*.
- Council of the European Union. (2025). *How the EU adopts and reviews sanctions*.
- European Commission. (2026). *Frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it*.
- European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it*.
- General Court of the European Union. (2024). *ACE-Avocats, ensemble v Council of the European Union (Case T-828/22)*.
- General Court of the European Union. (2024). *NKO AO National Settlement Depository (NSD) v Council of the European Union (Case T-494/22)*.
- General Court of the European Union. (2025). *MegaFon OAO v Council of the European Union (Case T-193/23)*.

The eighth proposal is to strengthen private-law stabilisation clauses through more explicit and better co-ordinated drafting. The current regime already contains liability shields and no-claims provisions, and those are among the principal legal devices preventing the sanctions architecture from being hollowed out by private litigation. Yet as the regime moves further into services, IP rights, software, data-sharing, and other hybrid legal fields, private-law friction becomes more complex. A more disciplined drafting approach would therefore require that, whenever a new sanctions provision predictably disrupts ongoing contractual or regulatory private-law relations, the legislator explicitly considers whether the associated liability shield, no-claims rule, derogation route, or escrow-like accommodation is sufficiently clear. The point is not to make sanctions commercially comfortable. It is to ensure that the law itself anticipates major private-law spillover rather than leaving it to ad hoc post-legislative repair. In a long-duration regime, commercial and regulatory manageability is part of legal resilience<sup>1,2,3</sup>.

The ninth proposal is to create a more systematic legislative feedback loop from FAQ practice back into binding text. The Commission’s FAQ page and guidance page together show a well-developed soft-law ecosystem that supports national authorities, operators, and citizens and is updated through RSS-notified revisions. This is extremely useful operationally. However, in a regime intended to endure into 2030, the most recurrent and legally significant FAQ clarifications should not remain indefinitely in soft

<sup>1</sup> Council of the European Union. (2014). *Council Regulation (EU) 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*.

<sup>2</sup> Council of the European Union. (2014). *Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine*.

<sup>3</sup> European Commission. (2024). *FAQs on sanctions against Russia and Belarus, with focus on REACH-related issues*.

law alone. Where the same questions return repeatedly—e.g., on indirect provision, ownership and control, legal representation carve-outs, best efforts, or the practical meaning of no-Russia clauses—the Union should consider codifying the clarification in the next relevant amending regulation. This would not eliminate soft law, but it would reduce the risk that the formal legal act becomes less authoritative in practice than the living FAQ environment around it. Normative precision is best preserved when guidance educates but the law speaks for itself on the most recurrent points<sup>1,2,3</sup>.

The tenth proposal is to improve the drafting of authorisation and derogation procedures themselves, not merely the substantive exceptions. The Council’s Best Practices emphasise dialogue with the private sector, state that Member States should develop structured dialogue and co-operation with relevant private organisations on the implementation of freezing measures, and recommend that Member States have procedures to evaluate the effectiveness of national performance regarding restrictive measures, taking into account results from dialogue with the private sector. These are strong implementation recommendations. Yet the next step should be to translate some of their spirit into more disciplined legal drafting. In particular, where derogations are central to proportionality and targetedness, the legal text should indicate with greater consistency the basic procedural parameters: whether notification is required, whether consultation is required, whether the competent authority must assess “strict necessity”, and how closely the derogation is tied to the objectives of the regulation. More structured drafting of derogation procedures would reduce national divergence and make the regime more predictable without making it looser<sup>4</sup>.

A closely related proposal is to improve versioning discipline when major amendments are adopted. At present, the Union benefits greatly from EUR-Lex consolidation and from the Commission’s practice of maintaining consolidated FAQ documents. But the very need for these documentary tools shows that the amendment history of the sanctions’ regime is becoming difficult to navigate. A more disciplined approach would pair major amendment packages with clearer article-by-article change summaries, concordance mapping for affected provisions, and explicit identification of whether a given amendment merely extends an existing measure, changes its addressees, narrows its scope, adds a derogation, or creates a new reporting duty. Such a practice would not alter the legal force of the Official Journal text, but it would materially improve usability and reduce interpretative lag. In long-term sanctions governance, documentary precision is not a secondary administrative matter; it is part of the law’s real-world intelligibility. The Commission’s and Council’s heavy investment in guidance and review processes already points in that direction<sup>5,6</sup>.

The eleventh proposal is to treat listing maintenance with the same drafting seriousness as initial designation. The Council’s Best Practices already require constant review of identifiers and regular review of the need to maintain designations. The courts, for their part, continue to insist that factual allegations in the statement of reasons must be substantiated and that the Council cannot rely on undisciplined formulae where a measure is challenged. From the perspective of drafting discipline, this suggests that future reforms should not focus only on the legal sufficiency of initial listing criteria. They should also address the drafting and evidentiary quality of maintenance acts, updates of summaries of reasons, and changes to annexed identifiers over time. A sanctions regime that lasts for years is especially vulnerable to the quiet deterioration of maintenance quality, because listings become

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<sup>1</sup> European Commission. (2026). *Frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it.*

<sup>2</sup> European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it.*

<sup>3</sup> European Commission. (2026). *Guidance documents.*

<sup>4</sup> Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures.*

<sup>5</sup> Council of the European Union. (2025). *How the EU adopts and reviews sanctions.*

<sup>6</sup> European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it.*

routinised. One of the most important proposals for the next phase is therefore to keep maintenance drafting as evidence-based and identifier-rich as initial designation drafting<sup>1,2</sup>.

The twelfth proposal is to frame future package amendments around a clearer distinction between norms aimed at direct prohibition and norms aimed at implementation support. One reason why mature sanctions regimes become difficult to navigate is that rules imposing direct bans, rules requiring reporting, rules governing authorisations, and rules describing anti-circumvention expectations are often layered into the same legislative space without a stable drafting grammar. Over time, this can make operators treat all provisions as equally prohibitory, even where some of them are primarily administrative or procedural. A more disciplined model would classify new provisions more transparently by legal function. This would support compliance, reduce over-compliance, and improve criminal-law defensibility where Directive (EU) 2024/1226 becomes relevant, because clearer classification makes it easier to understand which duties are capable of grounding serious enforcement consequences and which are supporting duties within the broader compliance architecture. In a long-term regime, functionally transparent drafting is one of the best protections against cumulative legal opacity<sup>3,4,5</sup>.

Table 5.4.1-2. Suggested drafting-discipline measures and their expected medium-term benefits

Suggested measure	Drafting objective	Expected benefit for 2026–2030 resilience
Single structured template for new restrictive provisions	Organise each rule in the same order: prohibition, addressee, scope, exception, derogation, reporting, anti-circumvention	Greater readability and lower compliance error rate
Union-wide terminology discipline	Use exemption, derogation, authorisation, notification, and best-efforts language consistently	Better legal certainty and lower litigation risk
Enhanced annex and identifier standards	Require fuller metadata, harmonised naming, and regular update discipline	More accurate targeting and fewer mistaken-identity problems
Closer recital–operative-text alignment	Transfer recurrent scope-limiting clarification into the binding article where appropriate	Stronger foreseeability and easier judicial defence
Rights-sensitive drafting clauses	Make protected procedural or Charter-relevant space more visible within the rule	Higher constitutional resilience and lower over-compliance
Codification of recurrent FAQ clarifications	Turn frequently repeated soft-law explanations into legislative refinement	Reduce dependence on extra-textual interpretation
Procedural discipline for derogations	Clarify the basic authorisation logic and review language more consistently	Narrower implementation divergence across Member States
Improved amendment-versioning practice	Make package effects easier to track article by article	Faster operator adaptation and more coherent compliance practice

*Authorship: analytical framework (this report) was prepared by the author.*

Sources:

- Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures*.
- Council of the European Union. (2025). *How the EU adopts and reviews sanctions*.
- European Commission. (2026). *Frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it*.

<sup>1</sup> Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures*.

<sup>2</sup> Court of Justice of the European Union. (2025). *Judicial activity 2024*.

<sup>3</sup> Directive (EU) 2024/1226 of the European Parliament and of the Council of 24 April 2024 on the definition of criminal offences and penalties for the violation of Union restrictive measures.

<sup>4</sup> European Union. (2024). *Criminal offences and penalties for the violation of EU restrictive measures*.

<sup>5</sup> European Commission. (2026). *Guidance documents*.

- European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia's military aggression against Ukraine and Belarus' involvement in it.*
- European Commission. (2026). *Guidance documents.*
- Directive (EU) 2024/1226 of the European Parliament and of the Council of 24 April 2024 on the definition of criminal offences and penalties for the violation of Union restrictive measures.
- General Court of the European Union. (2024). *ACE-Avocats, ensemble v Council of the European Union (Case T-828/22).*
- General Court of the European Union. (2024). *NKO AO National Settlement Depository (NSD) v Council of the European Union (Case T-494/22).*

The overall conclusion is that improving normative precision and drafting discipline should be treated as the first and most foundational proposal for the further development of the EU legal sanctions regime. The present sanctions architecture has proved that it can expand, adapt, and survive litigation. However, precisely because it has grown into a dense and long-duration legal system, the next stage of reform should emphasise the quality of legal engineering as much as the breadth of restriction. Better structure, clearer terminology, stronger annex discipline, closer recital-to-rule alignment, more explicit Charter-sensitive drafting, more transparent anti-circumvention language, and a stronger feedback loop from FAQ practice back into legislation would all improve the regime without softening its strategic effect. On the contrary, such reforms would make sanctions more enforceable, more reviewable, and more proportionate in practice. For a regime expected to endure into 2030 and beyond, that is not a minor technical matter. It is one of the main conditions of sustained legal effectiveness<sup>1,2,3</sup>.

#### 5.4.2. Protected Legal Pathways and Controlled Derogations

The second proposal for the further development of the EU legal sanctions regime should be the creation of a more coherent system of protected legal pathways and controlled derogations. If the previous subsection argued that the regime requires stronger drafting discipline, the present subsection addresses the corresponding substantive question: how should the Union preserve legally necessary channels of action without diluting sanctions pressure? This issue is now central to long-term resilience. The Commission's sanctions overview states that EU sanctions are carefully targeted and designed to be proportionate, while reducing unintended consequences as much as possible, and the Council's Russia sanctions page continues to present the regime as a maintained legal architecture subject to review and calibration rather than as an indiscriminate embargo. A sanctions system that is supposed to endure into 2030 cannot rely only on prohibitions. It must also preserve specific lawful pathways for defence, basic needs, humanitarian action, regulatory continuity, and orderly withdrawal where those pathways are necessary to keep the regime proportionate, judicially defensible, and practically manageable. The objective of reform, therefore, should not be wider permissiveness. It should be better-structured selectivity<sup>4,5</sup>.

That proposal is grounded in the current legal architecture itself. Regulation 269/2014 already contains derogations allowing competent authorities to authorise the release of certain frozen funds or economic resources where they are necessary for basic needs, intended exclusively for reasonable legal expenses, or needed for routine holding, maintenance, or certain pre-existing claims. The Commission's consolidated sanctions FAQ further explains that national competent authorities may authorise the release of frozen funds or the provision of funds or economic resources where they are necessary to satisfy the basic needs of natural or legal persons or intended exclusively for payment of fees or service

<sup>1</sup> Council of the European Union. (2026). *Russia's war against Ukraine: EU sanctions.*

<sup>2</sup> European Commission. (2026). *Frequently asked questions concerning sanctions adopted following Russia's military aggression against Ukraine and Belarus' involvement in it.*

<sup>3</sup> Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures.*

<sup>4</sup> European Commission. (2026). *Overview of sanctions and related resources.*

<sup>5</sup> Council of the European Union. (2026). *Russia's war against Ukraine: EU sanctions.*

charges for routine holding or maintenance of economic resources. The Council's 2024 Best Practices document reinforces this by expressly listing basic needs, the right of defence in relation to legal-service expenses, the right of ownership, humanitarian purposes, and related considerations among the factors competent authorities may take into account when granting derogations. These sources show that the existing system already recognises that strict prohibition must be coupled with safeguarded legal channels. The problem is not the absence of protected pathways in principle. The problem is that they remain dispersed, unevenly operationalised, and often too dependent on case-by-case interpretative work<sup>1,2,3</sup>.

The legal-services field provides an equally important illustration. The Commission's January 2026 FAQ on Article 5n states that the sanctions on legal advisory services were designed so as to preserve access to justice and the right of defence, and that the prohibition does not apply to services strictly necessary for the exercise of the right of defence in judicial proceedings and the right to an effective legal remedy, or to services strictly necessary to ensure access to judicial, administrative, or arbitral proceedings in a Member State, or for the recognition or enforcement of a judgment or arbitration award rendered in a Member State. The General Court's October 2024 press release in *ACE-Avocats, ensemble v Council* confirms the same logic, stating that the prohibition on legal advisory services does not concern legal advisory services provided in connection with judicial, administrative, or arbitral proceedings and therefore does not call the fundamental right to effective judicial protection into question. This is precisely the kind of legal architecture a resilient sanctions regime needs: coercive in relation to non-contentious commercial support, but deliberately protective in relation to core procedural justice. Yet the current system still requires operators to reconstruct this balance across recitals, articles, exemptions, derogations, and FAQs. The next stage of reform should make these pathways more explicit and easier to administer<sup>4,5</sup>.

A similar lesson emerges from the treatment of intellectual-property rights. The Commission's November 2024 IPR FAQ states that sanctions are not punitive and that their purpose is not to deprive the designated person of its rights. For that reason, the FAQ explains that, where conditions are met, a derogation under Article 4(1)(a) or (c) of Regulation 269/2014 for the purpose of renewing a frozen intellectual-property right appears legitimate, and that the same decision may authorise both the release of the necessary frozen funds and the renewal by the relevant EU or Member State IP office. This is an exceptionally useful example for future law reform. It shows that protected legal pathways are not limited to courts or humanitarian action. They also extend to the preservation of legal continuity in rights systems where failure to act would destroy the right itself rather than merely suspend its use. A long-duration sanctions regime must therefore distinguish between economic exploitation of rights, which may properly be restricted, and procedural preservation of rights, which may need to remain possible under controlled conditions<sup>6,7</sup>.

The same principle appears in other regulatory contexts. The Commission's July 2024 REACH-related FAQ explains that where sanctions block normal financial settlement or data-sharing performance, alternatives such as escrow arrangements, administrative decisions by ECHA, or other controlled mechanisms may still preserve the operability of the regulatory framework without nullifying the restrictive measure. This is analytically important because it shows that the Union already has practical experience of managing sanctions in a way that neither abolishes the underlying legal relationship nor allows unrestricted performance. The legal pathway is not left fully open, but neither is it closed

<sup>1</sup> European Union. (2025). *Consolidated text: Council Regulation (EU) No 269/2014*.

<sup>2</sup> European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia's military aggression against Ukraine and Belarus' involvement in it*.

<sup>3</sup> Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures*.

<sup>4</sup> European Commission. (2026). *Provision of services: Frequently asked questions on sanctions against Russia and Belarus, with focus on Article 5n of Council Regulation (EU) No 833/2014*.

<sup>5</sup> General Court of the European Union. (2024). *ACE-Avocats, ensemble v Council of the European Union (Case T-828/22)*.

<sup>6</sup> European Commission. (2024). *Frequently asked questions on intellectual property rights concerning sanctions adopted in view of Russia's military aggression against Ukraine and Belarus' involvement in it*.

<sup>7</sup> European Union. (2025). *Consolidated text: Council Regulation (EU) No 269/2014*.

absolutely. Instead, it is re-routed through a controlled channel compatible with sanctions objectives. This is exactly the model that should be generalised in proposal form. In long-term sanctions governance, the question is often not whether a pathway should exist, but what kind of supervision should attach to it<sup>1</sup>.

A further current example of protected legal pathways appears in the February 2025 reform of Regulation 269/2014. Council Regulation (EU) 2025/390 introduced a claim for damages in Article 11a for Union persons who suffer direct or indirect damages, including legal costs, as a consequence of claims lodged in third-country courts in relation to contracts or transactions affected by the sanctions, where effective remedies are not available in that third-country jurisdiction. The same act inserted Article 11b, allowing a court of a Member State, on an exceptional basis, to hear such damages claim under *forum necessitatis* where no other court of a Member State has jurisdiction and the case has a sufficient connection with the Member State concerned. This reform is highly significant for the present subsection. It shows that the Union has already begun to move beyond purely negative restriction and toward the protection of lawful Union actors through affirmative legal pathways. That development should be built upon rather than treated as exceptional<sup>2</sup>.

The first concrete proposal is therefore to codify, at the level of future package recitals and operative provisions, a general principle of protected legal pathways. The Union should make clearer in the legal text itself that sanctions are to be interpreted and applied in a manner that preserves specifically identified lawful channels necessary for basic needs, legal defence, effective judicial protection, humanitarian action, the preservation of legal rights, and narrowly defined orderly exit or wind-down activity. Such a principle would not weaken restrictive measures. On the contrary, it would strengthen them by reducing the risk that lawful pathways are discovered only through *post hoc* litigation or heavy FAQ dependence. The Commission's overview page already states that sanctions are meant to be proportionate and to reduce unintended consequences, while the existing regulations and guidance already embody that logic in dispersed form. The next stage of development should simply make that organising principle more explicit and more operational<sup>3,4</sup>.

The second proposal is to move toward a tiered derogation architecture. At present, the regime often distinguishes between what is outside the prohibition, what is possible under a derogation, and what is merely explained in soft-law guidance, but this differentiation is not always presented in a sufficiently transparent and standardised way. The Council's Best Practices provide an important starting point by stating that "exemption" refers to uses not prohibited by the regulations, while "derogation" refers to uses prohibited unless authorised by a competent authority. Building on that distinction, future reforms should divide protected pathways into at least three categories: (1) genuine exemptions that operate automatically; (2) standard derogations that should normally be granted when objective conditions are met; and (3) high-scrutiny derogations requiring additional justification, notification, or coordination. Such a model would make the current system easier to navigate and would reduce the tendency of operators to treat every lawful pathway as if it were discretionary and uncertain<sup>5</sup>.

The third proposal is to create an explicit fast-track category for derogations related to basic needs, legal fees, routine asset maintenance, welfare-type payments, and the preservation of legal rights whose lapse would cause irreversible legal loss. The Council's Best Practices already identify basic needs, legal-service expenses, and humanitarian purposes as central derogation concerns, and the Commission's IPR FAQ explicitly treats the renewal of frozen rights as a legitimate case for derogation where conditions are met. These materials suggest that the Union already recognises a hierarchy of

<sup>1</sup> European Commission. (2024). *FAQs on sanctions against Russia and Belarus, with focus on REACH-related issues*.

<sup>2</sup> Council of the European Union. (2025). *Council Regulation (EU) 2025/390 of 24 February 2025 amending Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine*.

<sup>3</sup> European Commission. (2026). *Overview of sanctions and related resources*.

<sup>4</sup> European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia's military aggression against Ukraine and Belarus' involvement in it*.

<sup>5</sup> Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures*.

urgency and importance. The problem is that the procedural consequences of that recognition are not always visible or standardised. A controlled fast-track mechanism—with defined documentation requirements, short indicative response periods, and mandatory reason-giving—would preserve sanctions pressure while reducing unnecessary hardship and legal decay. In a long-term regime, such a mechanism would strengthen proportionality without creating a general relaxation channel<sup>1,2</sup>.

The fourth proposal is to create a more explicit protected litigation and arbitration corridor. The current Article 5n framework already preserves access to judicial, administrative, and arbitral proceedings in a Member State and to the recognition or enforcement of judgments and arbitral awards rendered there, while also preserving the right of defence more generally. However, as the Commission’s January 2026 FAQ makes clear, the practical boundaries between prohibited legal advisory services and permitted procedural assistance remain fact-sensitive, especially in pre-proceedings assessment and extra-EU contexts. The Union should therefore codify more clearly that representation, preparatory advice strictly necessary for contemplated litigation or arbitration, enforcement-related work, and defensive procedural measures remain protected pathways subject to appropriate anti-circumvention safeguards. The objective should be to reduce the present dependence on FAQ reconstruction and to ensure that law firms, arbitral counsel, and competent authorities can identify the procedural safe corridor directly from the legislative text. This would not amount to a weakening of the legal-services restriction. It would amount to a clearer constitutional calibration of it<sup>3,4</sup>.

The fifth proposal is to extend the logic of forum necessitatis and damages recovery into a broader model of protected defensive recourse for Union operators. Regulation (EU) 2025/390 already recognises that Union persons may face situations of denial of justice in third-country litigation connected with sanctions-affected contracts or transactions. It responds by creating a damages action and, exceptionally, a forum necessitatis pathway. That innovation is legally and strategically important. It acknowledges that the sanctions regime itself can generate exposure for Union operators in hostile or law-distorted legal environments and that the EU should not treat such operators as if they were merely collateral actors. Future development should therefore consider whether similarly structured protective pathways are needed in related contexts, especially, where sanctions’ compliance triggers coercive litigation, retaliatory measures, or blocked access to effective remedies abroad. In long-term terms, this is part of making the sanctions regime not only restrictive but also institutionally protective of those who are expected to comply with it<sup>5</sup>.

Table 5.4.2-1. Core protected legal pathways already visible in the current EU sanctions regime

Protected pathway	Current legal anchor	Existing control logic	Why it matters for future reform
Basic needs	Regulation 269/2014 Article 4; Council Best Practices	NCA authorisation; proportionality and documentation	Prevents sanctions from becoming socially indiscriminate
Legal fees and right of defence	Regulation 269/2014 Article 4; Article 5n(5) and 5n(6); ACE case-law	Narrowly framed exceptions and derogations	Preserves access to justice and judicial defensibility
Judicial / arbitral access in a Member State	Article 5n(6) and Commission services FAQ	Strict-necessity test and consistency with sanctions objectives	Keeps legal process open without allowing general non-contentious support

<sup>1</sup> Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures*.

<sup>2</sup> European Commission. (2024). *Frequently asked questions on intellectual property rights concerning sanctions adopted in view of Russia’s military aggression against Ukraine and Belarus’ involvement in it*.

<sup>3</sup> European Commission. (2026). *Provision of services: Frequently asked questions on sanctions against Russia and Belarus, with focus on Article 5n of Council Regulation (EU) No 833/2014*.

<sup>4</sup> General Court of the European Union. (2024). *ACE-Avocats, ensemble v Council of the European Union (Case T-828/22)*.

<sup>5</sup> Council of the European Union. (2025). *Council Regulation (EU) 2025/390 of 24 February 2025 amending Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine*.

Protected pathway	Current legal anchor	Existing control logic	Why it matters for future reform
Preservation of IP rights	Commission IPR FAQ; Article 4 derogation logic	NCA discretion; bank release plus office-level renewal in one decision	Avoids irreversible loss of rights through mere procedural lapse
Regulatory continuity under sanctions stress	REACH-related FAQ	Escrow, administrative substitution, controlled continuation	Shows that legal relationships can be stabilised without dissolving sanctions
Damages recovery / forum necessitatis	Regulation (EU) 2025/390, Articles 11a and 11b	Court access under defined exceptional conditions	Protects Union operators facing denial of justice abroad
Humanitarian / civil-society work	Article 5n derogation practice; Best Practices; Commission guidance	NCA authorisation under defined conditions	Reduces unintended social and rule-of-law harm

*Authorship: analytical framework (this report) was prepared by the author.*

*Sources:*

- European Union. (2025). *Consolidated text: Council Regulation (EU) No 269/2014.*
- Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures.*
- European Commission. (2026). *Provision of services: Frequently asked questions on sanctions against Russia and Belarus, with focus on Article 5n of Council Regulation (EU) No 833/2014.*
- European Commission. (2024). *Frequently asked questions on intellectual property rights concerning sanctions adopted in view of Russia’s military aggression against Ukraine and Belarus’ involvement in it.*
- European Commission. (2024). *FAQs on sanctions against Russia and Belarus, with focus on REACH-related issues.*
- Council of the European Union. (2025). *Council Regulation (EU) 2025/390 of 24 February 2025 amending Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.*

The sixth proposal is to make humanitarian and civil-society derogations more predictable, especially in the Russia-related services field. The Commission’s January 2026 services FAQ states that pro bono legal services are generally prohibited if they fall within the prohibition, but may be authorised by national competent authorities where they are necessary for humanitarian purposes or for civil-society activities that directly promote democracy, human rights, or the rule of law in Russia. The Council’s Best Practices likewise list humanitarian purposes, including the delivery of medical supplies, food, evacuation, and related assistance, among the considerations relevant to derogations. This already points toward a normatively coherent model. Yet the present system still relies heavily on discretionary and fact-specific authorisation. The Union should now consider a more structured humanitarian and civil-society derogation protocol, with standard criteria, indicative documentary requirements, and more visible recognition that such pathways are part of the regime’s rule-of-law credibility rather than exceptional indulgences<sup>1,2</sup>.

The seventh proposal is to build a more coherent framework for controlled continuity in regulated private-law settings. The REACH-related FAQ demonstrates that sanctions can be reconciled with continuing regulatory duties through escrow, administrative intervention, and modified performance channels. The IPR FAQ demonstrates the same logic in relation to renewal of rights. These examples suggest that the Union should not treat each adjacent legal field as a unique emergency. It should instead develop a general model for preserving legally necessary procedural continuity while maintaining the restrictive effect on value transfer, control, or economic benefit. Such a model could be used in intellectual-property procedures, regulatory data-sharing systems, certain licensing

<sup>1</sup> European Commission. (2026). *Provision of services: Frequently asked questions on sanctions against Russia and Belarus, with focus on Article 5n of Council Regulation (EU) No 833/2014.*

<sup>2</sup> Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures.*

environments, and other hybrid public-private legal spaces. In practice, this would make the sanctions regime easier to apply and reduce the need for ad hoc interpretative rescue after conflicts arise<sup>1,2</sup>.

The eighth proposal is to standardise national competent authority procedures far more rigorously. The Commission's overview page states that Member States are responsible for implementation and enforcement, while the Commission monitors correct and uniform implementation and provides guidance to Member States. The Best Practices document adds that Member States should endeavour to develop appropriate national procedures and should exchange the results of effectiveness evaluations in the RELEX/Sanctions formation. These are important foundations, but they do not yet guarantee sufficiently convergent derogation practice. The Union should therefore develop a standard procedural toolkit for NCAs dealing with sanctions derogations: model application forms, a minimum core of required documents, common reason-giving templates, indicative timelines, and a clearer distinction between standard, urgent, and exceptional requests. This would not centralise all decisions in Brussels. It would, however, reduce avoidable divergence and make controlled derogations far more predictable across the Union<sup>3,4</sup>.

The ninth proposal is to establish a more formal EU-level support and escalation layer for derogation-sensitive sectors. The Commission's overview page notes that the EU sanctions helpdesk already supports European operators, particularly SMEs, with resources, information, and cost-free personalised help in sanctions due-diligence checks, and that the Commission also answers interpretation questions raised by national competent authorities as well as economic and humanitarian operators. The Council's Best Practices further note that the Commission has established a contact point at EU level for humanitarian aid in environments subject to sanctions. These institutional elements could be developed into a more coherent support structure for protected legal pathways. For example, the Union could maintain an expert coordination channel for urgent derogation questions involving legal defence, humanitarian access, or rights-preservation matters, without displacing the final decision-making role of national authorities. In a multi-level sanctions regime, guidance and escalation channels are part of the law's operational architecture, not merely administrative convenience<sup>5,6</sup>.

The tenth proposal is to require stronger reason-giving discipline for derogation refusals. Much of the current resilience debate focuses on judicial review of listings or prohibitions, but controlled derogations also generate serious legal consequences. Where a person is denied access to frozen funds for basic needs, denied permission to preserve an IP right, or denied a service needed for effective judicial protection, the legal significance of the refusal may be considerable. A resilient sanctions regime should therefore ensure that derogation refusals are reasoned with enough clarity to permit internal review, national judicial control where available, and at least some degree of cross-Member-State learning. This is especially important because national implementation remains central to the system. The more intrusive the derogation decision, the stronger the case for transparent and reviewable reasoning. The Union's own commitment to proportionate and targeted sanctions' supports precisely this type of procedural discipline<sup>7,8,9</sup>.

The eleventh proposal is to integrate more explicit anti-circumvention safeguards into derogation design, rather than treating derogations and circumvention rules as separate worlds. The February 2025 reform of Regulation 269/2014 and the Article 8a guidance show that the Union is increasingly attentive to the risk that owned or controlled entities outside the Union may be used to undermine restrictive

<sup>1</sup> European Commission. (2024). *FAQs on sanctions against Russia and Belarus, with focus on REACH-related issues*.

<sup>2</sup> European Commission. (2024). *Frequently asked questions on intellectual property rights concerning sanctions adopted in view of Russia's military aggression against Ukraine and Belarus' involvement in it*.

<sup>3</sup> European Commission. (2026). *Overview of sanctions and related resources*.

<sup>4</sup> Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures*.

<sup>5</sup> Ibid.

<sup>6</sup> European Commission. (2026). *Overview of sanctions and related resources*.

<sup>7</sup> Ibid.

<sup>8</sup> Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures*.

<sup>9</sup> General Court of the European Union. (2024). *NKO AO National Settlement Depository (NSD) v Council of the European Union (Case T-494/22)*.

measures and that operators must use best efforts to prevent that result. The correct response, however, is not to make derogations so narrow or unpredictable that lawful pathways collapse. It is to attach proportionate conditions to derogations where circumvention risk is real. Such conditions might include use of frozen accounts, escrow-type arrangements, restricted beneficiary chains, reporting obligations, or purpose-specific limits. In this way, protected legal pathways remain open, but they remain open under supervision. That is the essence of a controlled derogation model<sup>1,2</sup>.

The twelfth proposal is to convert recurrent derogation-related clarifications from FAQ practice into legislative feedback. The current FAQ environment already makes clear where the regime repeatedly needs explanation: the meaning of strict necessity, the treatment of pro bono legal services, the distinction between entities established in Russia and EU subsidiaries of Russian companies, the renewal of frozen IP rights, and the handling of regulatory obligations in sanctions-affected sectors. Rather than leaving these matters indefinitely in extra-textual guidance, the Union should identify the most recurrent and legally consequential clarifications and codify them in future amendment packages. This would strengthen legal certainty and reduce dependence on an ever-expanding soft-law layer. It would also support judicial defensibility by making the operative text more self-sufficient. A mature sanctions regime should not require operators to reconstruct core protected pathways from multiple scattered interpretative sources if those pathways are repeatedly relied upon in practice<sup>3,4,5</sup>.

Table 5.4.2-2. Proposed reform package for protected legal pathways and controlled derogations

Proposed reform	Main objective	Expected legal benefit
General principle of protected legal pathways	Make clear that sanctions preserve defined lawful channels for defence, basic needs, humanitarian action, rights preservation, and orderly exit	Improves proportionality and judicial defensibility
Tiered derogation architecture	Distinguish clearly between exemptions, standard derogations, and high-scrutiny derogations	Reduces ambiguity and implementation divergence
Fast-track urgent derogations	Accelerate decisions on basic needs, legal fees, rights-preserving actions, and comparable urgent matters	Prevents unnecessary hardship and irreversible legal loss
Protected litigation / arbitration corridor	Clarify procedural safe channels for judicial and arbitral access, preparatory defence work, and enforcement-related services	Strengthens access to justice without weakening sanctions pressure
Structured humanitarian and civil-society protocol	Standardise criteria and documentation for humanitarian and rule-of-law related authorisations	Improves predictability and legitimacy
Regulatory continuity model	Generalise escrow-type and administrative-substitution solutions for adjacent legal regimes	Keeps wider legal systems operable under sanctions stress
NCA procedural toolkit	Standard forms, timelines, minimum documents, and common reasoning practice	Enhances convergence across Member States
EU-level support / escalation layer	Create coordinated expert support for derogation-sensitive sectors	Reduces uncertainty and speeds lawful implementation

<sup>1</sup> Council of the European Union. (2025). *Council Regulation (EU) 2025/390 of 24 February 2025 amending Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.*

<sup>2</sup> European Commission. (2024). *FAQs on sanctions against Russia and Belarus, with focus on the following provision: Article 8a of Council Regulation (EU) No 833/2014.*

<sup>3</sup> European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia's military aggression against Ukraine and Belarus' involvement in it.*

<sup>4</sup> European Commission. (2026). *Provision of services: Frequently asked questions on sanctions against Russia and Belarus, with focus on Article 5n of Council Regulation (EU) No 833/2014.*

<sup>5</sup> European Commission. (2024). *Frequently asked questions on intellectual property rights concerning sanctions adopted in view of Russia's military aggression against Ukraine and Belarus' involvement in it.*

Proposed reform	Main objective	Expected legal benefit
Reasoned derogation refusals	Require sufficiently transparent grounds for refusal of important requests	Improves reviewability and fairness
Anti-circumvention conditions within derogations	Keep lawful pathways open under proportionate supervisory conditions	Preserves coercive effect while avoiding blanket closure
Guidance-to-legislation feedback loop	Codify recurrent derogation clarifications in future packages	Makes the law more self-explanatory and less FAQ-dependent

*Authorship: analytical framework (this report) was prepared by the author.*

*Sources:*

- European Commission. (2026). *Overview of sanctions and related resources.*
- Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures.*
- European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it.*
- European Commission. (2026). *Provision of services: Frequently asked questions on sanctions against Russia and Belarus, with focus on Article 5n of Council Regulation (EU) No 833/2014.*
- European Commission. (2024). *Frequently asked questions on intellectual property rights concerning sanctions adopted in view of Russia’s military aggression against Ukraine and Belarus’ involvement in it.*
- European Commission. (2024). *FAQs on sanctions against Russia and Belarus, with focus on REACH-related issues.*
- Council of the European Union. (2025). *Council Regulation (EU) 2025/390 of 24 February 2025 amending Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.*

The overall conclusion is that the future development of the EU legal sanctions regime should not be conceived as a choice between severity and flexibility. The more realistic and legally sustainable objective is to build controlled flexibility through better-protected legal pathways. The current system already contains the essential building blocks: (1) derogations for basic needs, legal fees, and routine maintenance; (2) procedural exceptions for judicial and arbitral access; (3) rights-preservation solutions in the IP field; (4) administrative continuity mechanisms in adjacent regulatory areas; and (5) even a new forum necessitatis route for damages claims in exceptional cross-border situations. What is still missing is a more coherent architecture that makes those pathways visible, structured, and convergent across Member States. For the period to 2030, that would be one of the most effective ways to strengthen both the legitimacy and the durability of the sanctions’ regime. Protected legal pathways do not undermine sanctions. Properly designed, they are one of the conditions that allow sanctions to remain targeted, enforceable, and constitutionally sustainable over time<sup>1,2,3</sup>.

### 5.4.3. Stronger Enforcement Coordination and Anti-Circumvention Governance

If the previous proposal concerned normative precision and drafting discipline, the third proposal must address the operational side of sanctions law: stronger enforcement coordination and more structured anti-circumvention governance. The EU sanctions regime against Russia has already reached a stage at which the legal force of prohibitions alone is no longer sufficient to ensure effectiveness. The Commission’s overview of sanctions states that Member States are responsible for implementation and enforcement, while the Commission monitors the correct and uniform implementation of EU sanctions

<sup>1</sup> European Commission. (2026). *Overview of sanctions and related resources.*

<sup>2</sup> Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures.*

<sup>3</sup> Council of the European Union. (2025). *Council Regulation (EU) 2025/390 of 24 February 2025 amending Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.*

and supports Member States by answering interpretation questions. The Commission’s page on making sanctions effective adds that effective and diligent implementation is key to ensuring that sanctions meet their objectives. The strategic implication is straightforward. In a long-duration regime, resilience depends not only on what the law forbids, but on whether the Union can coordinate enforcement across multiple authorities, reduce divergence, and continuously identify and close circumvention pathways before they become routinised<sup>1,2</sup>.

The current architecture already contains important building blocks. The Commission explains that it supports sanctions implementation through a regular expert group meeting on sanctions implementation, the “Freeze and Seize” Task Force established in March 2022, a High-Level Group allowing all 27 Member State authorities to share information together with representatives of EU industry and business, and ad hoc stakeholder meetings held to provide guidance and discuss implementation with operators. The same page adds that the EU coordinates sanctions with major international allies and partners such as the United States, the United Kingdom, Japan, Australia, Canada, and others. This is a substantial institutional base. But it remains, in important respects, an accumulation of mechanisms rather than a fully integrated enforcement-governance model. The next step should therefore be to convert these instruments into a more structured and permanent coordination architecture, with clearer escalation routes, more systematic reporting, and stronger feedback into both legislation and guidance<sup>3</sup>.

The first proposal is thus to establish a more formalised EU sanctions implementation coordination framework built around the instruments that already exist. The regular expert group, the Freeze and Seize Task Force, the High-Level Group, and the Commission’s interpretative role should be treated as distinct but linked layers of a standing coordination system rather than as partially separate channels. The objective would be to reduce fragmentation between policy design, enforcement experience, and operator feedback. In practice, this could mean regularised agendas, more structured thematic workstreams, common follow-up formats, and clearer routing of recurrent issues from implementation to legislative review. Since the Council’s Best Practices are explicitly kept under constant review and designed to reflect current Member State priorities, the institutional foundations for such an approach already exist. What is needed is a more deliberate governance design around them<sup>4,5</sup>.

The second proposal is to intensify enforcement convergence among national competent authorities. The Commission’s contacts page states that the primary responsibility for implementation rests with the Member States and that EU operators should first and foremost reach out to their national competent authority on specific issues. That same page provides the latest contact details for all national competent authorities and notes that the Commission monitors correct and uniform implementation. This structure is constitutionally appropriate, but it leaves substantial room for divergence. Over time, variation in how NCAs interpret “strict necessity”, “indirect benefit”, “best efforts”, or the conditions for authorisation can undermine both fairness and effectiveness. The Union should therefore move toward more standardised procedural toolkits for NCAs, including model forms, common core documentation requirements, indicative timeframes, and structured reason-giving for approvals and refusals. This would not centralise decision-making, but it would narrow avoidable differences in practice<sup>6,7</sup>.

The Council’s 2024 Best Practices point strongly in the same direction. They describe themselves as non-exhaustive recommendations for effective implementation and emphasise that the RELEX/Sanctions formation develops best practices among Member States. They also recommend that Member States put in place appropriate national procedures to evaluate the effectiveness of national action regarding restrictive measures, taking into account dialogue with the private sector. This is

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<sup>1</sup> European Commission. (2026). *Overview of sanctions and related resources*;

<sup>2</sup> European Commission. (2025). *Making sanctions effective*.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures*.

<sup>6</sup> European Commission. (2026). *Contacts on EU sanctions*.

<sup>7</sup> European Commission. (2026). *Overview of sanctions and related resources*.

already very close to a convergence-governance logic. The next step should be to make such evaluation more systematic and more comparable across Member States. A long-term sanctions regime should not rely only on whether national authorities are active; it should also examine whether they are functionally aligned in the way they process similar cases. Enforcement coordination becomes more meaningful when it is supported by comparable indicators and recurring peer review rather than by ad hoc exchange alone<sup>1</sup>.

The third proposal is to build more firmly on Directive (EU) 2024/1226 as the criminal-law backbone of sanctions enforcement coordination. The EUR-Lex summary states that the directive sets minimum EU-wide rules for defining criminal offences and penalties for the violation and circumvention of EU restrictive measures, ensures common basic standards for penalties in all Member States, closes existing legal loopholes, and increases deterrence. It also requires cooperation among national authorities, the Commission, the EPPO, Eurojust, and Europol. This is one of the most important developments in the current sanctions' architecture. However, as a proposal for further regime development, it should be followed by a stronger implementation-monitoring model: comparative transposition review, recurring reporting on practical application, and thematic enforcement dialogues on areas of recurrent circumvention risk. In the 2026–2030 period, criminal-law convergence will be one of the key tests of whether the sanctions regime is truly durable or merely broad on paper<sup>2,3</sup>.

The fourth proposal is to strengthen the operational role of the Freeze and Seize Task Force as a permanent sanctions-enforcement coordination hub rather than primarily an asset-freeze response body. The Commission states that the Task Force was set up to explore links between assets belonging to listed persons and criminal activities and that its aim is to strengthen coordination at operational level to ensure effective enforcement of EU sanctions across all Member States. It also notes that the Task Force includes Commission representatives, contact points from each Member State, Eurojust, and Europol, and coordinates its work with the G7/EU/Australia REPO Task Force. This is an exceptionally valuable institutional platform because it already sits at the intersection of sanctions enforcement, criminal-law cooperation, and international asset-tracing coordination. The proposal here is to widen its functional scope toward recurring typology analysis, coordinated response to new evasion patterns, and structured lessons-learned transmission into legislative and guidance updates. That would make the Task Force more central to anti-circumvention governance as such<sup>4,5</sup>.

This is especially important because the sanctions regime is increasingly confronting networked circumvention, not merely direct breach. The Commission's page on making sanctions effective states that, to prevent circumvention, it is mobilising trade and customs services to spot the redirection of trade flows through third countries, reaching out to third countries for shared assessment and remedial discussion, and gathering information on circumvention patterns from the private sector. This description is revealing. It shows that anti-circumvention governance already depends on customs intelligence, trade-pattern analysis, diplomatic outreach, and private-sector reporting. In a long-term regime, these functions should not remain loosely connected. They should be integrated through a more formal anti-circumvention coordination cycle that identifies typologies, prioritises sectors, and channels findings into both enforcement action and legal amendment<sup>6</sup>.

The fifth proposal is therefore to establish a more explicit EU typology and red-flag architecture for sanctions evasion. The Commission's due-diligence guidance for EU operators already offers a list of indicative red flags, including suspicious ownership restructurings, board or management links with designated persons, shell-like corporate behaviour, and other patterns that may signal circumvention. The same guidance emphasises that those red flags are indicative and should be supplemented by

<sup>1</sup> Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures*.

<sup>2</sup> European Union. (2024). *Criminal offences and penalties for the violation of EU restrictive measures*.

<sup>3</sup> Directive (EU) 2024/1226 of the European Parliament and of the Council of 24 April 2024 on the definition of criminal offences and penalties for the violation of Union restrictive measures and amending Directive (EU) 2018/1673.

<sup>4</sup> European Commission. (2025). *Sanctions against individuals, companies and organisations*.

<sup>5</sup> European Commission. (2025). *Making sanctions effective*.

<sup>6</sup> *Ibid.*

updated typologies detected through information shared by the Commission, the Member States, or exchanges with operator representatives. This is already the embryo of a typology-based enforcement model. The proposal is to make that model more systematic and dynamic by institutionalising regular publication or circulation of updated risk typologies for competent authorities and, where appropriate, for operators. Anti-circumvention governance works best when it is informed by a live, shared understanding of how evasion actually occurs<sup>1</sup>.

The sixth proposal is to tighten the link between Article 8a “best efforts” obligations, the “no re-export to Russia” clause under Article 12g, and the enhanced due-diligence obligations now linked to common high priority items under Article 12gb. The Commission’s 2024 best-efforts FAQ and due-diligence guidance show that the EU is already moving toward a model in which operators must not only refrain from prohibited exports but must also manage downstream risk in controlled subsidiaries, contractual chains, and third-country relationships. The Article 12g FAQ further explains that the “no re-export to Russia” clause must contain adequate remedies to be activated in case of breach, while the due-diligence guidance states that Article 12gb does not replace Article 12g but adds a due-diligence layer for trade in specified common high priority items. This is an important advance. But the next step should be to organise these obligations into a more coherent anti-circumvention governance package, rather than leaving operators to piece together multiple related duties from separate provisions and guidance documents<sup>2,3</sup>.

In practical terms, this means that future packages should more clearly link contractual controls, risk-calibrated due diligence, and best-efforts duties within the same policy logic. The current framework has the right instinct: it no longer assumes that sanctions can be enforced only at the border or at the moment of direct transfer. Instead, it reaches into corporate governance and contract design. Yet the legal articulation of these layers could still be more coherent. Operators should be able to understand, directly from the regulatory cluster, when they must insert a no-Russia clause, when they must conduct enhanced due diligence, when their controlled foreign entities trigger best-efforts duties, and what remedial action is expected if risk indicators appear. Stronger integration of these obligations would make anti-circumvention governance both more serious and more predictable<sup>4,5,6</sup>.

Table 5.4.3-1. Core current mechanisms of EU enforcement coordination and anti-circumvention governance

Mechanism	Current function	Strength	Main limitation
Regular expert group on sanctions implementation	Connects the Commission with relevant Member State authorities	Supports continuous administrative coordination	Not yet a fully structured enforcement-governance framework
Freeze and Seize Task Force	Coordinates operational work on asset freezes and links with criminal activity	Brings together Commission, Member States, Eurojust, and Europol	Can be further expanded into a broader anti-circumvention hub
High-Level Group and ad hoc stakeholder meetings	Facilitates information-sharing with Member States and industry	Improves practical feedback from the field	Feedback is not always visibly converted into legislative refinement
Directive (EU) 2024/1226	Harmonises offences and penalties for violations and circumvention	Creates a common criminal-law baseline	National implementation and enforcement cultures may still diverge

<sup>1</sup> European Commission. (2023). *Guidance for EU operators: Implementing enhanced due diligence to shield against Russia sanctions circumvention*.

<sup>2</sup> European Commission. (2024). “No re-export to Russia” clause.

<sup>3</sup> European Commission. (2024). *Enhanced due diligence for operators manufacturing and/or trading with common high priority items*.

<sup>4</sup> Ibid.

<sup>5</sup> European Commission. (2024). “No re-export to Russia” clause.

<sup>6</sup> European Commission. (2024). *FAQs on sanctions against Russia and Belarus, with focus on the following provision: Article 8a of Council Regulation (EU) No 833/2014*.

Mechanism	Current function	Strength	Main limitation
Article 8a best efforts	Extends sanctions responsibility to controlled non-EU entities	Addresses downstream circumvention via corporate control	Requires fact-intensive assessment and strong operator governance
Article 12g no-re-export clause	Pushes anti-circumvention controls into contracts with third-country partners	Makes private-law drafting part of sanctions enforcement	Effectiveness depends on adequate remedies and monitoring
Article 12gb enhanced due diligence	Requires operators trading in specified CHP items to conduct stronger due diligence	Moves governance beyond simple formal compliance	Creates significant compliance burdens if not well coordinated
Whistleblower tool and helpdesk	Generate intelligence and support compliance	Improve reporting and operator access to guidance	Need stronger integration into an overall risk-governance cycle

*Authorship: analytical framework (this report) was prepared by the author.*

*Sources:*

- European Commission. (2025). *Making sanctions effective*.
- European Commission. (2025). *Sanctions against individuals, companies and organisations*.
- European Union. (2024). *Criminal offences and penalties for the violation of EU restrictive measures*.
- European Commission. (2023). *Guidance for EU operators: Implementing enhanced due diligence to shield against Russia sanctions circumvention*.
- European Commission. (2024). *“No re-export to Russia” clause*.
- European Commission. (2024). *Enhanced due diligence for operators manufacturing and/or trading with common high priority items*.
- European Commission. (2026). *Contacts on EU sanctions*.

The seventh proposal is to strengthen the role of the private sector as an intelligence partner, while keeping formal enforcement authority public. The Commission’s page on making sanctions effective explicitly says that it gathers information on circumvention patterns from the private sector, and the contacts page notes that SMEs can receive personalised support through the EU Sanctions Helpdesk. These are important foundations for a more mature governance model. A regime aimed at long-term containment of circumvention cannot rely only on ex post enforcement by public authorities. It must also extract structured intelligence from firms that see suspicious routing, complex beneficial-ownership arrangements, abnormal trade behaviour, or abrupt shifts in customer patterns. The challenge is to do this in a way that does not simply outsource law enforcement to private compliance departments. The Union should therefore treat private-sector input as a governed source of typologies and alerts, not as a substitute for public decision-making<sup>1,2</sup>.

This is where the EU Sanctions Whistleblower Tool becomes especially valuable. The Commission’s contacts page states that anyone aware of possible violations of EU sanctions can report them anonymously through the tool and that, if the information is credible and well documented, the Commission will refer it to the relevant Member State or States together with its legal interpretation. The due-diligence guidance likewise notes that anonymous reporting can cover past, ongoing, or planned violations, including schemes to circumvent EU sanctions. That makes the tool more than a transparency feature. It is a governance mechanism linking private or insider information to Member State enforcement. The proposal here is to integrate whistleblower reporting more systematically into the wider anti-circumvention architecture, including typology development, risk signalling, and

<sup>1</sup> European Commission. (2025). *Making sanctions effective*.

<sup>2</sup> European Commission. (2026). *Contacts on EU sanctions*.

feedback into guidance updates. Anonymous reporting should be treated as one strand of sanctions intelligence, not as an isolated mailbox<sup>1,2</sup>.

The eighth proposal is to improve the external dimension of anti-circumvention governance. The Commission’s “making sanctions effective” page states that the EU reaches out to third countries to agree on a shared assessment, compare data, and discuss remedial measures, while also coordinating sanctions with major allies and partners. This indicates that external engagement is already part of the sanctions-enforcement model. Yet in a 2026–2030 perspective, this should become more systematic and more clearly linked to operational evidence. The Union should differentiate more clearly between third countries that require technical engagement, those that require diplomatic pressure, and those whose operators or institutions appear repeatedly in circumvention typologies. Stronger enforcement coordination inside the Union will not be sufficient if third-country routing continues to outpace the EU’s external response. For that reason, anti-circumvention governance should be explicitly designed as both an internal and an external coordination problem<sup>3</sup>.

The ninth proposal is to introduce a more visible sector-priority model for enforcement coordination. The current guidance already suggests this direction: the EU has given special attention to common high priority items, shadow-fleet structures, services, crypto-related circumvention, and specific third-country trade routes. The 2025 sanctions narrative on the Commission and Council sides confirms that the Union has repeatedly returned to these areas because they are especially relevant for Russia’s adaptation. Rather than treating all sanctions fields as equally urgent at all times, the Union should articulate a rolling enforcement-priority framework that identifies the sectors and mechanisms most vulnerable to current circumvention. This would improve resource allocation for NCAs, customs, financial supervisors, and criminal investigators. In long-duration sanctions, selective prioritisation is not a sign of weakness. It is a sign of strategic maturity<sup>4,5</sup>.

The tenth proposal is to require stronger feedback loops between enforcement practice and legislative amendment. One of the strongest features of the current regime is its package-update capacity. Yet package-making becomes more effective when driven by structured enforcement knowledge rather than only by broad political logic. The typologies gathered through customs work, NCA practice, Freeze and Seize coordination, private-sector reporting, and whistleblower information should more visibly inform subsequent narrowing, expansion, or redrafting of the rules. This is especially important where the same loopholes recur despite guidance, or where the same compliance burdens recur because the legal text is under-specified. Better feedback discipline would reduce the distance between law-in-books and law-in-action. It would also make anti-circumvention governance more evidence-based and less reactive<sup>6,7</sup>.

The eleventh proposal is to treat compliance support and enforcement support as complementary, not separate, pillars. The contacts page states that the EU Sanctions Helpdesk offers cost-free personalised support to SMEs performing sanctions due-diligence checks. That is valuable because many circumvention vulnerabilities emerge not from deliberate wrongdoing but from weak compliance capacity among smaller operators. A stronger regime therefore requires both sharper enforcement against intentional evasion and better compliance support for actors willing to comply but lacking expertise. In institutional terms, this means that helpdesk outputs, frequently asked questions, and stakeholder meetings should feed back into risk detection rather than being treated purely as service

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<sup>1</sup> European Commission. (2023). *Guidance for EU operators: Implementing enhanced due diligence to shield against Russia sanctions circumvention*.

<sup>2</sup> European Commission. (2026). *Contacts on EU sanctions*.

<sup>3</sup> European Commission. (2025). *Making sanctions effective*.

<sup>4</sup> Ibid.

<sup>5</sup> European Commission. (2024). *Enhanced due diligence for operators manufacturing and/or trading with common high priority items*.

<sup>6</sup> European Commission. (2025). *Making sanctions effective*.

<sup>7</sup> European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it*.

functions. A resilient regime is not only one that punishes violation. It is one that reduces the pool of avoidable non-compliance through structured support<sup>1,2</sup>.

The twelfth proposal is to improve public-private calibration so that anti-circumvention governance does not simply turn into systemic over-compliance. The more operators are asked to assess indirect benefit, downstream use, third-country rerouting, controlled subsidiaries, contractual remedies, and due-diligence red flags, the greater the risk that they respond with blanket refusal rather than calibrated compliance. That is not an argument against stronger governance. It is an argument for coupling governance with clearer thresholds, model clauses, risk indicators, and support channels. If the Union wants the private sector to function as an intelligent implementation partner, it must reduce the incentives for purely defensive de-risking where lawful or authorisable conduct still exists. This is one of the key reasons why stronger enforcement coordination and stronger anti-circumvention governance must be accompanied by better clarity, not only tougher rules<sup>3,4,5</sup>.

Table 5.4.3-2. Proposed reform package for stronger enforcement coordination and anti-circumvention governance

Proposed reform	Main objective	Expected medium-term benefit
Permanent EU sanctions implementation coordination framework	Integrate expert group, Freeze and Seize, High-Level Group, and Commission interpretation into a standing architecture	Reduces fragmentation between policy, enforcement, and operator feedback
Standardised NCA procedures	Harmonise core procedural practice for authorisations, refusals, and risk assessments	Narrows implementation divergence across Member States
Directive 2024/1226 follow-through review	Track real convergence in criminal-law enforcement after transposition	Improves deterrence and seriousness of response to violations
Expanded Freeze and Seize mandate	Use the Task Force as a broader anti-circumvention coordination hub	Better operational response to cross-border evasion networks
EU typology and red-flag cycle	Regularly update shared circumvention patterns and indicators	Strengthens detection and prevention capacity
Integrated governance of Articles 8a, 12g, and 12gb	Align best efforts, contractual controls, and due-diligence duties	Makes anti-circumvention obligations more coherent and usable
Structured private-sector intelligence role	Use industry feedback as governed input for enforcement and drafting	Improves real-time visibility into evasion patterns
Whistleblower-tool integration	Link anonymous reporting more directly to typology, guidance, and enforcement workflows	Enhances detection of hidden or planned circumvention
Priority-sector enforcement model	Focus enforcement coordination on the most sensitive circumvention channels	Improves resource allocation and strategic responsiveness
Compliance-support / enforcement-support feedback loop	Connect helpdesk, FAQs, and stakeholder meetings to risk detection	Reduces avoidable non-compliance and over-compliance

Authorship: analytical framework (this report) was prepared by the author.

Sources:

- European Commission. (2025). *Making sanctions effective*.
- European Commission. (2025). *Sanctions against individuals, companies and organisations*.

<sup>1</sup> European Commission. (2026). *Contacts on EU sanctions*.

<sup>2</sup> European Commission. (2026). *Frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it*.

<sup>3</sup> European Commission. (2023). *Guidance for EU operators: Implementing enhanced due diligence to shield against Russia sanctions circumvention*.

<sup>4</sup> European Commission. (2024). *“No re-export to Russia” clause*.

<sup>5</sup> European Commission. (2024). *Enhanced due diligence for operators manufacturing and/or trading with common high priority items*.

- European Commission. (2026). *Contacts on EU sanctions*.
- European Commission. (2023). *Guidance for EU operators: Implementing enhanced due diligence to shield against Russia sanctions circumvention*.
- European Commission. (2024). *“No re-export to Russia” clause*.
- European Commission. (2024). *Enhanced due diligence for operators manufacturing and/or trading with common high priority items*.
- European Union. (2024). *Criminal offences and penalties for the violation of EU restrictive measures*.

The overall conclusion is that the future legal strength of the EU sanctions regime against Russia will depend heavily on whether the Union can move from a system of multiple valuable instruments to a more coherent model of enforcement coordination and anti-circumvention governance. The current regime already contains many of the necessary components: Commission monitoring, NCA networks, the Freeze and Seize Task Force, the High-Level Group, criminal-law harmonisation, typology-based due diligence, contractual no-Russia clauses, enhanced due diligence for high-priority items, the sanctions helpdesk, and the whistleblower tool. What is still needed is stronger integration, clearer priority-setting, and more systematic feedback between operational practice and legal design. In a sanctions regime expected to remain active into 2030, that shift is no longer optional. It is one of the central conditions of maintaining coercive effect without losing legal manageability. Stronger coordination and smarter anti-circumvention governance are therefore not secondary administrative refinements. They are core legal-policy requirements for the next phase of the regime<sup>1,2,3</sup>.

#### 5.4.4. Monitoring, Periodic Review, and Legal-Quality Feedback Loop

The fourth proposal for the further development of the EU legal sanctions regime should be the creation of a more structured system of monitoring, periodic review, and legal-quality feedback. If sanctions are expected to remain in force and evolve into 2030 and beyond, they cannot be governed only through package adoption and occasional litigation. They require a standing architecture capable of detecting where the regime is functioning well, where it is being circumvented, where implementation is diverging, and where the legal text itself is becoming too complex or too dependent on soft-law repair. The Commission’s overview of sanctions states that Member States are responsible for implementation and enforcement, while the Commission monitors the correct and uniform implementation of EU sanctions and provides guidance to Member States. That statement already contains the kernel of a monitoring model. The problem is that the current architecture still operates through multiple separate channels—renewals, guidance updates, case-law, helpdesk support, whistleblower reporting, enforcement coordination—without yet being fully articulated as one integrated legal-governance cycle. The main proposal of this subsection is therefore to convert those existing instruments into a more visible and methodical review-and-feedback system<sup>4,5</sup>.

A useful starting point is the fact that the current sanctions regime already operates through periodic renewal cycles. The Council’s sanctions page states that the economic sanctions against Russia have been extended successively for six months at a time since July 2016 and are currently extended until 31 July 2026. The corresponding Council press release of 22 December 2025 confirms the same date and reiterates that the EU remains ready to step up pressure on Russia, including by adopting further sanctions. This means that the Union already has a natural periodic review rhythm at the level of major sectoral measures. The problem is not the absence of review points, but the absence of a more explicit analytical framework for what should be assessed at those points beyond broad political judgment. A durable sanctions system should not only ask whether a measure should be renewed. It should also ask

<sup>1</sup> European Commission. (2025). *Making sanctions effective*.

<sup>2</sup> European Union. (2024). *Criminal offences and penalties for the violation of EU restrictive measures*.

<sup>3</sup> European Commission. (2026). *Overview of sanctions and related resources*.

<sup>4</sup> Ibid.

<sup>5</sup> Council of the European Union. (2026). *Russia’s war against Ukraine: EU sanctions*.

whether it remains legally clear, enforceable, proportionate, resistant to circumvention, and administratively manageable<sup>1,2</sup>.

The current Commission architecture also already contains part of the institutional basis for a more systematic monitoring model. The overview page explains that DG FISMA prepares proposals for sanctions regulations, represents the Commission in sanctions-related discussions with Member States at the Council Working Party of Foreign Relations Counsellors, and is in charge of monitoring the implementation and enforcement of EU sanctions across all Member States. The same page further states that DG FISMA is increasingly supporting Member States by answering interpretation questions raised by national competent authorities, as well as economic and humanitarian operators. This is significant because it shows that legislative preparation, interpretative support, and monitoring are already linked within a single Commission service. What is still missing is a more formal mechanism by which these monitoring functions are turned into recurring evaluation outputs feeding back into legal refinement. In other words, the institutional spine exists, but the feedback loop still needs clearer articulation<sup>3</sup>.

The existing sanctions-information infrastructure also supports the case for a formal monitoring model. The same Commission page notes that the EU sanctions map provides comprehensive details of all EU sanctions regimes and their corresponding legal acts, that the consolidated financial-sanctions list is managed and updated whenever necessary to reflect the officially adopted texts, and that the EU sanctions helpdesk offers resources, information, and cost-free personalised help to operators performing sanctions due-diligence checks. These are not merely informational services. They are already functional components of a monitoring environment. The sanctions map reflects the evolving formal perimeter of the regime; the consolidated list reflects the current financial-designation universe; and the helpdesk captures areas where firms experience uncertainty, documentation gaps, or repeated operational difficulty. A stronger legal-quality feedback loop should therefore treat these instruments not only as dissemination tools, but also as sources of structured monitoring data<sup>4</sup>.

The Council's 2024 EU Best Practices for the effective implementation of restrictive measures provide another strong foundation for this approach. The document expressly states that it is kept under constant review and that the RELEX/Sanctions formation meets periodically in a specific configuration whose mandate includes the development of best practices among Member States in the implementation of restrictive measures. This is a remarkably important statement for the proposal section. It means that the Council itself already accepts a permanent monitoring-and-review logic at the implementation level. However, Best Practices remain primarily recommendations and do not yet constitute a fully developed review methodology with defined indicators, reporting formats, or trigger-based amendment logic. The next step should be to build on this existing institutional habit of review and convert it into a more explicit monitoring architecture with stronger output discipline<sup>5</sup>.

The Commission's FAQ and guidance ecosystem is equally relevant because it already functions as a de facto legal-quality monitoring mechanism. The FAQ page lists numerous topic-specific guidance documents, including updates in late 2025 on export-related restrictions, infrastructure transaction bans, state-owned enterprises, banknotes, enhanced due diligence, targeted vessels, and divestment from Russia. The consolidated FAQ page and the topic-specific services FAQ further show that the Commission regularly updates and republishes clarifications as implementation questions evolve. The existence of such a dense update cycle demonstrates that the Commission is already receiving signals about where the legal text is difficult to apply or where new circumvention patterns are emerging. In a more mature regime, these FAQ updates should be treated as monitoring outputs in their own right.

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<sup>1</sup> Council of the European Union. (2026). *Russia's war against Ukraine: EU sanctions*.

<sup>2</sup> Council of the European Union. (2025). *Russia's war of aggression against Ukraine: Council extends economic sanctions for a further 6 months*.

<sup>3</sup> European Commission. (2026). *Overview of sanctions and related resources*.

<sup>4</sup> Ibid.

<sup>5</sup> Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures*.

Recurrent clarification needs are often one of the clearest indicators that the law itself may require amendment, consolidation, or re-drafting<sup>1,2,3</sup>.

Judicial activity provides a further indispensable strand of the feedback loop. Curia's review of judicial activity for 2024 states that Russia-related restrictive measures have generated dozens of cases before the General Court and that those cases illustrate the effort to reconcile the rigour necessary for sanctions effectiveness with the protection of individual rights. The same review records that the General Court's average duration of proceedings in 2024 was 18.5 months, while also showing that restrictive measures were among the principal matters dealt with by the Court. These figures are not just institutional background. They indicate that the sanctions regime is already under sustained legal-quality testing by the judiciary. A mature monitoring system should therefore integrate judgments, appeals, recurring pleas, annulment patterns, and timing data into the periodic review cycle. Courts are not only external reviewers of sanctions. They are one of the most important sensors of hidden drafting weakness, evidentiary fragility, and overbroad legal design<sup>4</sup>.

Enforcement monitoring must also be included. The EUR-Lex summary of Directive (EU) 2024/1226 explains that the directive sets minimum rules on criminal offences and penalties for the violation of Union restrictive measures and requires cooperation among national authorities, the Commission, the EPPO, Eurojust, and Europol. That makes the directive much more than a symbolic hardening of sanctions law. It provides a legal basis for more comparable enforcement data and for a more structured view of how violations are detected, prosecuted, and sanctioned across Member States. In proposal terms, this means that the next phase of sanctions governance should not treat enforcement outcomes as national black boxes. It should use the directive to create a regularised enforcement-observation layer within the wider review model. The long-term resilience of the regime depends on whether serious breaches can be monitored as systematically as legislative amendments are monitored<sup>5,6</sup>.

The first concrete proposal is therefore to establish a formal EU sanctions monitoring framework built on five integrated pillars: legal-text monitoring, implementation monitoring, enforcement monitoring, litigation monitoring, and operator-feedback monitoring. Legal-text monitoring would track amendments, annex changes, new derogations, and new anti-circumvention provisions. Implementation monitoring would assess NCA practice, authorisation patterns, and divergence risks. Enforcement monitoring would focus on violations, referrals, investigations, and penalties. Litigation monitoring would map recurring grounds of challenge, annulments, appeals, and timing. Operator-feedback monitoring would draw on helpdesk interactions, stakeholder meetings, FAQ update demand, and whistleblower signals. This structure does not require the creation of an entirely new institution; it requires the existing institutions to work within a more disciplined review grammar<sup>7,8,9</sup>.

The second proposal is to adopt a more explicit periodic review calendar for sanctions quality, distinct from but linked to the existing renewal calendar. The current six-month renewal cycle for economic sanctions is an obvious anchor, but not every kind of review needs to occur at the same interval. The Union should therefore distinguish at least three review frequencies. A continuous review layer would cover urgent circumvention alerts, FAQ updates, and major judgments. A semi-annual review layer would align with sectoral sanctions renewals and focus on implementation trends, legal clarity, and

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<sup>1</sup> European Commission. (2026). *Frequently asked questions concerning sanctions adopted following Russia's military aggression against Ukraine and Belarus' involvement in it.*

<sup>2</sup> European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia's military aggression against Ukraine and Belarus' involvement in it.*

<sup>3</sup> European Commission. (2026). *Provision of services: Frequently asked questions on sanctions against Russia and Belarus, with focus on Article 5n of Council Regulation (EU) No 833/2014.*

<sup>4</sup> Court of Justice of the European Union. (2025). *Judicial activity 2024.*

<sup>5</sup> European Union. (2024). *Criminal offences and penalties for the violation of EU restrictive measures.*

<sup>6</sup> Directive (EU) 2024/1226 of the European Parliament and of the Council of 24 April 2024 on the definition of criminal offences and penalties for the violation of Union restrictive measures and amending Directive (EU) 2018/1673.

<sup>7</sup> European Commission. (2026). *Overview of sanctions and related resources.*

<sup>8</sup> Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures.*

<sup>9</sup> Court of Justice of the European Union. (2025). *Judicial activity 2024.*

high-risk evasion sectors. An annual review layer would examine the regime more holistically, including legal-quality trends, judicial outcomes, helpdesk patterns, and criminal-enforcement developments. Such a calendar would make monitoring less reactive and more institutionalised<sup>1,2,3</sup>.

The third proposal is to define a common set of monitoring indicators. The present regime already generates many forms of relevant information, but they are not yet clearly organised into a stable indicator framework. For legal-quality purposes, the Union should monitor the number of repeated FAQ clarifications required for the same provision, the frequency of litigation on the same legal ground, and the recurrence of amendments targeting the same loophole. For implementation purposes, it should track authorisation categories, average processing times, refusal patterns, and reported divergence questions from NCAs. For enforcement purposes, it should monitor cases opened, referrals made, breaches detected, and cooperation patterns under Directive 2024/1226. For anti-circumvention purposes, it should track typologies identified, sectors affected, use of whistleblower input, and red-flag concentrations. Such indicators would not eliminate judgment, but they would make periodic review far more evidence-based<sup>4,5,6</sup>.

Table 5.4.4-1. Proposed monitoring architecture for the EU legal sanctions’ regime

Monitoring pillar	Core questions	Suggested indicators	Main existing source base
Legal-text monitoring	Is the regime becoming clearer or more fragmented?	Number of amendments per cluster, repeated FAQ clarifications, recurring recitals-to-rule mismatches	EUR-Lex acts, Commission FAQs, Council package materials
Implementation monitoring	Are Member States applying similar rules in sufficiently similar ways?	Volume and category of derogation requests, indicative processing times, refusal patterns, frequent NCA queries	NCAs, Commission guidance requests, Council Best Practices processes
Enforcement monitoring	Are serious violations and circumvention being detected and pursued consistently?	Referrals, investigations, prosecutions, cooperation requests, penalties imposed	Directive (EU) 2024/1226 framework, national data, Commission monitoring
Litigation monitoring	Where is the regime under greatest judicial strain?	Number of cases, recurring pleas, annulments, appeals, average duration of proceedings	Curia annual review, General Court and Court of Justice case flow
Operator-feedback monitoring	Where are lawful actors struggling most with clarity or over-compliance?	Helpdesk requests, stakeholder-meeting themes, whistleblower reports, recurring compliance questions	Sanctions helpdesk, Commission FAQs, whistleblower tool
Anti-circumvention monitoring	Where are the main evasion patterns emerging?	Typologies identified, sectors affected, third-country routing signals, red-flag concentrations	Commission due-diligence guidance, Freeze and Seize / REPO-linked work, customs and trade analysis

Authorship: analytical framework (this report) was prepared by the author.

Sources:

- European Commission. (2026). *Overview of sanctions and related resources*.
- European Commission. (2025). *Making sanctions effective*; European Commission. (2026). *Contacts on EU sanctions*.

<sup>1</sup> Council of the European Union. (2025). *Russia’s war of aggression against Ukraine: Council extends economic sanctions for a further 6 months*.

<sup>2</sup> Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures*.

<sup>3</sup> European Commission. (2026). *Frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it*.

<sup>4</sup> European Commission. (2025). *Making sanctions effective*.

<sup>5</sup> European Commission. (2026). *Contacts on EU sanctions*.

<sup>6</sup> European Union. (2024). *Criminal offences and penalties for the violation of EU restrictive measures*.

- European Commission. (2026). *Frequently asked questions concerning sanctions adopted following Russia's military aggression against Ukraine and Belarus' involvement in it.*
- Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures.*
- Court of Justice of the European Union. (2025). *Judicial activity 2024.*
- European Union. (2024). *Criminal offences and penalties for the violation of EU restrictive measures.*

The fourth proposal is to require more systematic periodic reporting from national competent authorities. The current Commission overview confirms that Member States are responsible for implementation and enforcement and that the Commission provides guidance and monitors uniform implementation. The logical next step is to make monitoring less dependent on ad hoc information flows. NCAs should report periodically on a common minimum set of matters: the number and type of derogation applications received; average handling times; categories of refusal; recurring interpretative difficulties; and instances in which national authorities believe legislative clarification is needed. This would not require public disclosure of sensitive case details. It would require structured aggregation sufficient to identify convergence problems and legal-pressure points. In a system built on decentralised enforcement, periodic NCA reporting is one of the most basic missing links in the feedback chain<sup>1,2</sup>.

The fifth proposal is to create a dedicated legal-quality review layer drawing on litigation and interpretative practice. Curia's judicial-activity review already shows that restrictive measures in the context of the war in Ukraine have generated dozens of cases and that the General Court is playing an active role in reconciling sanctions rigour with the protection of individual rights. The Commission's dense FAQ environment shows, in parallel, where operators and authorities repeatedly need clarification. These two streams should be read together rather than separately. If the same legal questions recur simultaneously in litigation and in guidance requests—e.g., indirect benefit, best efforts, litigation-related carve-outs, or the scope of a derogation—that should be treated as a formal signal that the legal text may need revision. A legal-quality review layer would therefore not merely summarise judgments. It would identify patterns of legal stress and propose targeted drafting improvement<sup>3,4</sup>.

The sixth proposal is to formalise an operator-facing feedback loop built around the sanctions' helpdesk, stakeholder meetings, and frequently asked questions. The overview page states that the helpdesk supports European operators, especially SMEs, with cost-free personalised help for sanctions due-diligence checks, and the January 2026 Commission feature on “real SMEs, real sanctions compliance stories” confirms that the helpdesk had been supporting SMEs and other organisations since March 2025. That same feature shows how firms experience real pressure from unclear documentation expectations, bank pushback, and due-diligence burdens. Such evidence should not remain anecdotal. It should be systematised and fed into periodic review, because operator difficulties are often the earliest sign that a legal rule is becoming over-complex, under-specified, or vulnerable to over-compliance. A monitoring model that ignores operator experience will detect problems too late<sup>5,6</sup>.

The seventh proposal is to integrate the EU sanctions whistleblower tool more directly into the review cycle. The overview page explains that sharing information about sanctions violations can contribute to the success of ongoing investigations and increase the effectiveness of EU sanctions, while the whistleblower page states that reports can be made anonymously through a highly secure online platform managed by the Commission. In a mature sanctions' regime, such information should not be treated only as case-specific enforcement intelligence. Aggregated reporting patterns can also reveal where breaches are recurring, which sectors are most vulnerable, and whether certain anti-

<sup>1</sup> European Commission. (2026). *Overview of sanctions and related resources.*

<sup>2</sup> Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures.*

<sup>3</sup> Court of Justice of the European Union. (2025). *Judicial activity 2024.*

<sup>4</sup> European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia's military aggression against Ukraine and Belarus' involvement in it.*

<sup>5</sup> European Commission. (2026). *Overview of sanctions and related resources.*

<sup>6</sup> European Commission. (2026). *Real SMEs, real sanctions compliance stories.*

circumvention devices are being systematically bypassed. The Union should therefore use whistleblower information, in anonymised and aggregated form where necessary, as one of the feedback inputs for monitoring and legal recalibration. Anonymous reporting is not only an enforcement tool. It is also an indicator of hidden implementation stress<sup>1,2</sup>.

The eighth proposal is to include a more explicit independent evaluation component within the periodic-review system. The current regime is strong in internal monitoring: the Commission monitors implementation, the Council reviews and renews measures, Best Practices are under constant review, and the courts test legal quality through litigation. But internal review alone may not always capture cumulative complexity, operator burden, or the relationship between legal design and real circumvention behaviour. The Union should therefore consider commissioning periodic independent analytical assessments focused specifically on legal quality, implementation divergence, and anti-circumvention effectiveness. Such assessments would not replace institutional judgment. They would provide an external perspective capable of identifying blind spots, especially in technically complex sectors where legal drafting, compliance burden, and enforcement practice interact in subtle ways. In long-duration sanctions, some degree of structured outside evaluation is a strength, not a concession<sup>3,4,5</sup>.

The ninth proposal is to establish clear adjustment triggers. Monitoring without trigger logic easily degenerates into information accumulation without reform. A stronger regime should define, at least internally, what kinds of signals justify legislative amendment, guidance revision, enhanced enforcement coordination, or further diplomatic engagement. Repeated litigation losses or recurring adverse judicial observations should trigger legal-text review. Heavy reliance on repeated FAQ clarification for the same issue should trigger drafting review. Strong clustering of whistleblower reports or typology alerts in one sector should trigger anti-circumvention review. Persistent divergence in NCA practice should trigger coordination and possible procedural standardisation. Trigger-based governance would make periodic review more action-oriented and reduce the current reliance on diffuse institutional intuition<sup>6,7,8</sup>.

Table 5.4.4-2. Proposed adjustment triggers within the EU sanctions monitoring and review cycle

Trigger type	Typical signal	Recommended response
Legal-quality trigger	Repeated litigation on the same drafting weakness; adverse judicial observations; recurring ambiguity	Redraft the provision, tighten the scope, or clarify the operative text in the next package
Guidance overload trigger	Repeated FAQ updates on the same issue; constant operator confusion	Convert recurrent soft-law clarifications into legislative text or structured annex guidance
Implementation divergence trigger	NCAs interpret similar derogations or obligations in markedly different ways	Issue common procedural templates, coordinated guidance, or targeted Best Practices update
Enforcement trigger	Low follow-through on serious violations, uneven prosecution patterns, weak reporting on criminal cases	Strengthen Directive 2024/1226 implementation review and operational coordination

<sup>1</sup> European Commission. (2026). *Overview of sanctions and related resources*.

<sup>2</sup> European Commission. (2026). *EU sanctions whistleblower tool*.

<sup>3</sup> Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures*.

<sup>4</sup> Court of Justice of the European Union. (2025). *Judicial activity 2024*.

<sup>5</sup> European Commission. (2025). *Making sanctions effective*.

<sup>6</sup> Ibid.

<sup>7</sup> European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it*.

<sup>8</sup> Court of Justice of the European Union. (2025). *Judicial activity 2024*.

Trigger type	Typical signal	Recommended response
Circumvention trigger	New typologies, repeated third-country routing, clustered whistleblower alerts, sector-specific evasion growth	Launch targeted anti-circumvention package, revise due-diligence expectations, intensify external engagement
Over-compliance trigger	Helpdesk patterns and stakeholder feedback show repeated lawful transactions blocked out of caution	Clarify lawful pathways, publish model guidance, improve derogation visibility
Strategic-coherence trigger	Pressure objective increasingly pursued through separate regulatory regimes rather than sanctions law alone	Review the fit between sanctions law and adjacent regulatory instruments

*Authorship: analytical framework (this report) was prepared by the author.*

Sources:

- European Commission. (2025). *Making sanctions effective*.
- European Commission. (2026). *Overview of sanctions and related resources*.
- European Commission. (2026). *Consolidated version of the frequently asked questions concerning sanctions adopted following Russia’s military aggression against Ukraine and Belarus’ involvement in it*.
- European Commission. (2026). *EU sanctions whistleblower tool*.
- Court of Justice of the European Union. (2025). *Judicial activity 2024*.
- Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures*.

The tenth proposal is to make the monitoring system more closely linked to package preparation. The current sanctions process, as explained by the Council, already runs through a structured institutional pathway. But that pathway can be strengthened if monitoring outputs are fed into it in a more systematic way. Semi-annual and annual review outputs should identify which legal clusters are working with relatively low friction, which are generating recurring implementation burdens, and which are repeatedly exposed to circumvention or litigation. This would improve legislative selectivity and reduce the risk of unnecessary proliferation of poorly integrated provisions. Strong monitoring should not produce more law automatically. It should produce better-targeted law. In the long term, that is how periodic review supports both effectiveness and restraint<sup>1,2</sup>.

The eleventh proposal is to ensure that the monitoring architecture also captures external-alignment and perimeter effects. The January 2026 statement by the High Representative on the alignment of certain countries with the prolongation of restrictive measures until 31 July 2026 shows that third-country alignment remains relevant to the wider sanctions ecosystem. A review system focused only on internal EU law would miss an important dimension of effectiveness: whether the legal perimeter of containment is widening, holding, or narrowing. In practical terms, the Union should monitor not only its own prohibitions and enforcement activity but also the degree to which partner-country alignment supports or weakens the real reach of the regime. External alignment is not a substitute for EU legal quality, but it is an important contextual indicator for medium-term policy adaptation<sup>3,4</sup>.

The twelfth proposal is to treat monitoring and review not merely as a technical afterthought, but as a core element of the legal quality of the sanctions’ regime itself. A sanctions system intended to remain in force across multiple years, economic sectors, and litigation cycles must be able to learn from its own operation. The Union already possesses many of the necessary instruments: regular renewals, Commission monitoring, Best Practices under constant review, helpdesk support, the whistleblower tool, a growing guidance corpus, judicial scrutiny, and a new enforcement directive. The task for 2026–

<sup>1</sup> Council of the European Union. (2025). *How the EU adopts and reviews sanctions*.

<sup>2</sup> Council of the European Union. (2026). *Russia’s war against Ukraine: EU sanctions*.

<sup>3</sup> Council of the European Union. (2026). *Statement by the High Representative on behalf of the European Union on the alignment of certain countries concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine*.

<sup>4</sup> Council of the European Union. (2025). *Russia’s war of aggression against Ukraine: Council extends economic sanctions for a further 6 months*.

2030 is to connect those instruments into a coherent legal-governance cycle. Properly designed, monitoring does not weaken sanctions by making them hesitant. It strengthens sanctions by making them more precise, more enforceable, and more resilient under pressure. In that sense, a stronger monitoring and feedback architecture is not supplementary to sanctions law. It is part of what will make the regime legally durable in the next phase<sup>1,2,3</sup>.

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<sup>1</sup> European Commission. (2026). *Overview of sanctions and related resources*; Council of the European Union. (2024). *EU Best Practices for the effective implementation of restrictive measures*.

<sup>2</sup> Court of Justice of the European Union. (2025). *Judicial activity 2024*.

<sup>3</sup> European Union. (2024). *Criminal offences and penalties for the violation of EU restrictive measures*.