

The European Union's Unprecedented Sanctions against Russia: Legal and Institutional Implications

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Abstract

The European Union's sanctions against Russia are deemed to be 'unprecedented' in both scale and character, raising questions about their specific nature and long-term institutional implications for the adoption of sanctions within the EU legal order. How do the EU sanctions against Russia differ from previous EU sanctions regimes and to what extent does this affect the EU's sanctions policy in practice? Various dimensions can be identified to answer this question. First of all, there is an evolution towards broad designation criteria for the adoption of individual sanctions in combination with a wide range of sectoral sanctions. This evolution raises critical questions relating to the EU's compliance with fundamental rights, the principle of proportionality, and its own sanctions competence. Second, the unprecedented focus on ensuring sanctions effectiveness has led to new anti-circumvention mechanisms, which are also subject to questions of competence and proportionality. Third, the sanctions against Russia have triggered significant institutional innovations, most notably a substantial expansion of the European Commission's role since the start of Russia's full-scale war against Ukraine. In parallel, the EU has increasingly adopted complementary measures outside the Common Foreign and Security Policy (CFSP), pointing to a gradual supranationalisation of EU sanctions policy. The combination of all these elements implies that the EU's sanctions against Russia may be regarded as a 'game-changer' in the EU's sanctions practice with long-term legal and institutional consequences. Sanctions are no longer merely a foreign policy instrument but increasingly permeate the entire EU legal order.

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1. Introduction

The response of the European Union (EU) to Russia's full-scale invasion of Ukraine in 2022 has been widely described as 'unprecedented' in both scale and character.¹ At the end of 2025, the EU had adopted 19 sanctions packages, introducing a wide variety of sanctions. This includes restrictive measures against individuals and entities, economic sanctions targeting Russia's financial, trade, energy, transport and defence sectors, and specific sanctions such as a broadcasting ban for state-sponsored Russian media outlets and a prohibition of providing certain services such as IT consultancy or legal advice.²

Significantly, the 19 sanctions packages build upon the list of sanctions that were adopted already in 2014 in response to the destabilising events in Eastern Ukraine and Russia's illegal annexation of Crimea.³ As a result, the relevant legal instruments imposing the restrictive measures against Russia go back to this period and were gradually extended and supplemented with additional sanctions regimes. In essence, six sets of restrictive measures can be distinguished: (i) sanctions aimed at putting an end to 'actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine';⁴ (ii) sanctions adopted in view of 'Russia's actions destabilising the situation in Ukraine';⁵ (iii) sanctions in response to the illegal annexation of Crimea and Sevastopol;⁶ (iv) sanctions 'in response to the recognition of the non-government-controlled areas of the Donetsk and Luhansk oblasts of Ukraine and the ordering of Russian armed forces into those areas';⁷ (v) sanctions in

¹ For instance, the EU Council's website refers to 'massive and unprecedented sanctions', at: <https://www.consilium.europa.eu/en/policies/sanctions-against-russia-explained/>, accessed 20 December 2025.

² *Ibid.*

³ Significantly, the post-2014 sanctions were already described as 'unprecedented in both target and scope'. See: Sabine Fischer, 'European Union Sanctions Against Russia: Objectives, Impacts and Next Steps', *SWP Comments*, March 2014, at: https://www.swp-berlin.org/publications/products/comments/2015C17_fhs.pdf, accessed 20 December 2025.

⁴ Council Decision 2014/145/CFSP and 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 [2014] OJ L 78/6.

⁵ Council Decision 2014/512/CFSP and Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine [2014] OJ L 229/1.

⁶ Council Decision 2014/386/CFSP and Council Regulation (EU) No 692/2014 of 23 June 2014 concerning restrictions on goods originating in Crimea or Sevastopol, in response to the illegal annexation of Crimea and Sevastopol [2014] OJ L 183/9.

⁷ Council Decision (CFSP) 2022/266 and Council Regulation (EU) 2022/263 of 23 February 2022 concerning restrictive measures in response to the recognition of the non-government controlled areas of the Donetsk and Luhansk oblasts of Ukraine and the ordering of Russian armed forces into those areas [2022] OJ L1 42/77.

response to the accelerating and systemic repression in Russia;⁸ and (vi) sanctions in response to Russia's destabilising activities against the EU and its Member States.⁹

The first three sets of restrictive measures were already established in 2014 and significantly extended with every new package of sanctions. The fourth set of measures was adopted after Russia's full-scale invasion of Ukraine in February 2022. The fifth set of measures was introduced in 2024 after the tragic death of opposition politician Alexey Navalny. The sixth set of measures, the last one adopted to date, was enacted in October 2024 in response to Russia's (attempts of) foreign interference in the EU through hybrid actions. In addition, the Council has listed several Russian individuals under the (horizontal) EU Global Human Rights Sanctions regime for their gross violations of human rights in Ukraine during the war (e.g. in Bucha).¹⁰

Taken together, the EU's sanctions against Russia may indeed be regarded as unprecedented for a number of reasons. First, from a quantitative point of view, Russia is the most sanctioned country by the EU in terms of listed persons and entities, exceeding by far the sanctions list of countries such as Syria, Iran, and North Korea.¹¹ Russia is also the most sanctioned country in terms of EU sectoral restrictive measures, which have affected the import and export of an exceptionally wide and diversified range of products and services.

Second, from a qualitative perspective, the EU sanctions against Russia stand out in comparison to other sanctions regimes. While certain precedents may be found in other EU sanctions regimes (e.g. against Iran or North Korea) restrictive measures such as the broadcasting ban, the oil price cap or the ban on legal advisory services are novelties in the EU's sanctions practice. The immobilisation of the Russian Central Bank assets, while not the first freeze of this kind in history,¹² also marked a significant step within the EU's sanctions practice. The EU has displayed considerable legal creativity by devising mechanisms to channel immobilised revenues and tax windfall profits to finance Ukraine's reconstruction.¹³ The discussions on a possible use of

⁸ Council Decision (CFSP) 2024/1484 of 27 and Council Regulation 2024/1485 of 27 May 2024 concerning restrictive measures in view of the situation in Russia [2024] OJ L 1485.

⁹ Council Decision (CFSP) 2024/2643 of 8 October 2024 and Council Regulation (EU) 2024/2642 of 8 October 2024 concerning restrictive measures in view of Russia's destabilizing activities [2024] OJ L 2642.

¹⁰ For an overview of sanctioned individuals, see: <<https://www.sanctionsmap.eu/>>

¹¹ *Ibid.*

¹² See the United States' sanctions against Syria (U.S. Executive Order 13582, Blocking Property of the Government of Syria and Prohibiting Certain Transactions with Respect to Syria, 2011), Iran (Executive Order 13599, Blocking Property of the Government of Iran and Iranian Financial Institutions, 2012), and Afghanistan (Executive Order 14064 2022, Protecting Certain Property of the Afghanistan Bank for the Benefit of the People of Afghanistan, 2022).

¹³ Council Press release, 'Extraordinary revenues generated by immobilised Russian assets: Council greenlights the use of net windfall profits to support Ukraine's self-defence and reconstruction', 27 March 2024; Anna Caprile and Tim Peters with Ana Luisa Melo Almeida, *Confiscation of immobilised Russian sovereign assets: State of play, arguments and scenarios*, European Parliament Research Service Briefing, September 2025.

frozen Russian state assets to finance loans for Ukraine¹⁴ and the EU's decision to immobilise those assets on the 'emergency' legal basis of Article 122 TFEU¹⁵ further illustrate the unprecedented developments triggered by the Russia sanctions.

Third, as a consequence of the quantitative and qualitative dimensions, the EU sanctions against Russia are also the most complex and most sophisticated, triggering an unprecedented list of implementation challenges. It is sufficient to look at the long list of 'frequently asked questions', prepared by the Commission services to guide national authorities, EU operators and citizens with the application of sanctions.¹⁶ At the end of 2025, this document already counted more than 450 pages. Significantly, that guidance is non-binding since 'only the Court of Justice of the EU is competent to interpret EU law'.¹⁷ Not surprisingly, the volume and scope of the EU sanctions against Russia also resulted in an unprecedented number of judicial proceedings before the Court of Justice of the European Union ('CJEU').¹⁸

Proceeding from these observations, this contribution analyses the specific nature and long-term institutional implications of the EU's sanctions against Russia. How do those sanctions differ from previous EU sanctions regimes and to what extent does this affect the EU's sanctions policy in practice? Various dimensions can be identified to answer this question. First, the chapter analyses the evolution towards broad designation criteria for the adoption of individual sanctions as well as the introduction of new sectoral sanctions. This evolution raises critical questions relating to the EU's compliance with fundamental rights, the principle of proportionality, and its own sanctions competence (1). Second, the unprecedented focus on ensuring sanctions effectiveness has led to new anti-circumvention mechanisms, some of which are also subject to legal debates (2). Third, the EU sanctions against Russia have triggered significant institutional innovations and an evolution towards the adoption of complementary measures outside the EU's Common Foreign and Security Policy (CFSP) (3). The combination of all these elements implies that the EU's sanctions against Russia may be regarded as a 'game-changer' in the EU's sanctions practice with long-term legal and institutional consequences. Sanctions are no longer merely a foreign policy instrument but increasingly permeate the entire EU legal order.(4).

¹⁴ Peter Van Elsuwege, 'Walking a Tightrope: On the Legal Stakes of the EU's Proposed Reparations Loan for Ukraine', *Verfassungsblog* 8 December 2025.

¹⁵ Council Regulation (EU) 2025/2600 of 12 December 2025 on emergency measures addressing the serious economic difficulties caused by Russia's actions in the context of the war of aggression against Ukraine [2025] OJ L 2600.

¹⁶ Commission Consolidated FAQs on the implementation of Council Regulation No 833/2014 and Council Regulation o 269/2014, at: <https://finance.ec.europa.eu/publications/consolidated-version_en> accessed on 20 December 2025.

¹⁷ This caveat is explicitly mentioned in the Commission's FAQ document. See also the *Jemerak* case where the Court of Justice held that the authentication by a notary of a contract for the sale of immovable property belonging to a legal person established in Russia is not covered by the ban on legal services, whereas the Commission had suggested otherwise. See: Case C-109/03, *Jemerak* [2024] EU:C:2024:681.

¹⁸ Celia Challet, *Sanctions against Russia and the Court of Justice of the EU* (Brill 2026), forthcoming.

2. The Ever-Expanding Scope of EU Sanctions against Russia: Are There Any Limits to the Council's Discretion?

The dynamic evolution of the EU's sanctions against Russia triggered new legal questions that have been the subject of various cases before the CJEU. Broadly speaking, two main trends can be distinguished. On the one hand, the Council gradually developed and expanded the designation criteria for the sanctions listing of natural and legal persons. On the other hand, the EU's sanctions practice entered into uncharted territories with the adoption of new sectoral sanctions such as *inter alia* the banning of broadcasting and certain legal services. Both evolutions raise questions about the balance between the Council's discretion in adopting sanctions as an instrument of EU foreign policy and respect for fundamental rights in the EU legal order.

2.1. *The Evolution of Sanctions Designations and the Role of the Court of Justice*

According to the Council Sanctions Guidelines, 'the decision to subject a person or entity to targeted restrictive measures requires clear criteria, tailored to each specific case'.¹⁹ Such a decision must be taken on 'a sufficiently solid factual basis'.²⁰ This implies that sanctions designations must be substantially motivated and based on verifiable information. Since the war in Ukraine makes it difficult in practice to access certain sources, designations are often based on indirect references, such as press articles and websites.²¹ Whereas this practice is not exclusively related to the EU's sanctions against Russia,²² the use of open-source material is now (more) widely accepted.²³

Apart from the more flexible approach towards the gathering of relevant information, the actual reasons for adding persons and entities on the EU's sanctions list also evolved over time. The initial sanctions focused on the targets' support for the actions and policies undermining Ukraine's territorial integrity or evidence that they were benefitting from Russian decision-makers. Such conduct-based designations turned out to be difficult to prove when challenged before the CJEU. For instance, in the case of Aven and Fridman, the General Court found that the Council's evidence illustrated 'a degree of proximity' between the two oligarchs and Vladimir Putin but that this was

¹⁹ Council of the EU, *Sanctions Guidelines* (2018) doc. 5664/18, 9.

²⁰ Joined Cases C-584/10 P, C-593/10 P and C-595/10 P *Commission and Others v. Yassin Abdullah Kadi* [2013] EU:C:2013:518 (*Kadi II*) para. 119.

²¹ See e.g. Case T-193/22 *OT v. Council* [2023] EU: T:2023:716 paras 116-120.

²² With respect to the EU sanctions against Syria, the CJEU referred to 'the difficulty in obtaining more specific evidence in a state at civil war and having an authoritarian regime'. See Case C-630/13 P *Anboubou v. Council* [2015] EU:C:2015:247 para. 47; Case T-257/19 *Al Zoubi v. Council* [2021] EU: T:2021:819 para. 50.

²³ For a critical note on this evolution, see: Antonino Ali, 'Examining the Legality of EU Restrictive Measures on the Russian Federation: The Information Gathering Process in Sanction Imposition' in Antonio Bultrini, Francesco Giumelli, Clara Portela, Mirko Sossai (eds.), *International Sanctions in Practice: An Interdisciplinary Perspective* (Routledge 2024) 35-36.

insufficient to conclude that they actually supported the regime's actions or policies.²⁴ Accordingly, the General Court annulled their initial listing, which was based on the 'support' criterion. The practical implications of this annulment turned out to be very minimal because the Council introduced additional, more broadly defined designation criteria. The so-called criterion (g) targeting 'leading businesspersons or legal persons, entities or bodies involved in economic sectors providing a substantial source of revenue to the Government of the Russian Federation' was an important game-changer. The core issue under this criterion is not the support of the targeted persons for Russia's actions against Ukraine or their close connections with the Russian leadership, but their activities in strategic economic sectors. This is a noticeable difference in comparison to the sanctions regime against Syria, where leading businesspersons were targeted because of their close links with the Syrian regime.²⁵ Under the Russia sanctions, the existence of a close connection with the Russian leadership is irrelevant because the reason for their targeting is related to their business activity in a sector that provides a substantial source of revenue for the Russian government.²⁶ This makes it more difficult for Russian oligarchs to challenge the validity of the restrictive measures before the CJEU.²⁷

Significantly, the scope of criterion (g) gradually extended to include also 'immediate family members' of leading businesspersons and 'other natural persons, benefitting from them' as well as other businesspersons providing revenue for the government.²⁸ Moreover, additional listing criteria were added, *inter alia* for facilitating infringements on the prohibition against sanctions circumvention or for frustrating the relevant sanctions provisions.²⁹ Taken together, this expansion of the listing criteria in the Council's sanctions practice regarding Russia goes much further than in other sanctions regimes. It is based upon the dual objective to exert maximum pressure on the Russian government to desist from its military aggression against Ukraine and to avoid the risk of sanctions circumvention.³⁰

The impact of this evolution is mostly visible with respect to the targeting of family members of leading businesspersons. With respect to the category of 'associated' family members, the established case law clearly provides that individuals cannot be designated on the sole basis of their family ties with leading business figures in a

²⁴ Cases T-301/22 *Aven v Council* [2024] EU:T:2024:214 and [2024] T-304/22 *Fridman v Council* EU:T:2024:215.

²⁵ Francesca Finelli, 'Countering Circumvention of Restrictive Measures: the EU Response' (2023) 60 *CML Rev* 733.

²⁶ See the Opinion of Advocate General Medina in Case 696/23 P *Pumpayanski v. Council* EU:C:2025:409 para 72.

²⁷ Francesca Finelli, 'Who are the Russian Oligarchs? Recent Developments in the Case Law of the European Court of Justice', (2023) 8 *European Papers* 1516-1519.

²⁸ Article 2 (1) g) of Council Decision 2014/145/CFSP (consolidated version).

²⁹ Article 2 (1) h) of Council Decision 2014/145/CFSP (consolidated version).

³⁰ Council Decision 2023/1094/CFSP of 5 June 2023 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine [2023] OJ L 146/20, recitals 4 and 5.

targeted country.³¹ Following a confirmation of this approach in cases such as *Prighozina*³² and *Mazepin*,³³ the Council amended criterion (g) and introduced another significant evolution in the EU's targeting practice. As explained by the General Court in *Ezubov v. Council*, the extended criterion (g) now includes two categories of family members: the ones that are deemed to be 'associated' with the leading businesspersons because of the existence of economic or business links and the ones that have benefited from them.³⁴ With this further extension, the Council again broadened the scope of its sanctions designations in response to the General Court's earlier case law. However, the new requirement also has its limitations. In view of the objective of avoiding sanctions circumvention, the General Court (GC) defined the beneficiary requirement as 'any benefit regardless of its nature, which is not necessarily undue, but which must be quantitatively or qualitatively non-negligible'.³⁵ Accordingly, the GC put some limits to a potentially very wide interpretation of this designation criterion. In *Tokareva*, it also excluded the possibility for the Council to target a person who is not directly associated with a person on the sanctions list.³⁶

Hence, the EU's sanctions practice reveals a constant 'back-and-forth' between the Council and the Court. Since the adoption of the initial sanctions against Russia in 2014, the designation criteria for listing individuals and entities have been constantly amended to address difficulties of compliance with the standards of judicial review. This has resulted in an expanded list of designation criteria, which is more far-reaching in comparison to previous sanctions regimes to address the flaws identified by the EU Courts in the original sanctions listings. Whereas the Council has a broad discretion in defining and re-defining those criteria, the Court has to ensure that their application in practice is in line with their determined objectives and scope.

2.2. *Entering Uncharted Territories: The Adoption of Innovative Sectoral Sanctions*

Apart from the expanded listing of natural and legal persons, the EU sanctions against Russia also stand out because they introduced specific restrictions of a more general nature. The very nature of these measures have raised questions about the Council's competence to adopt such measures, as well as their compliance with fundamental rights. Two sectoral measures deserve particular attention in this respect: the broadcast ban against selected Russian media, and the ban on legal advisory services.

The broadcast ban against certain Russian media, introduced in the immediate aftermath of Russia's invasion of Ukraine,³⁷ was a particularly innovative measure

³¹ Case C-376/10 P *Tay Za v. Council* [2012] EU: 2012:138.

³² Case T-212/22 *Prighozina v. Council* [2023] EU: T:2023:104, para. 95.

³³ Case T-743/22 *Mazepin v Council* [2024] EU: T:2024:180, para. 92.

³⁴ Case T-273/24 *Ezubov v Council* [2025] EU: T:2025:628, para. 32.

³⁵ *Ibid.* para. 46.

³⁶ Case T-744/22 *Tokareva v. Council* [2024] EU: T:2024:608, para. 49.

³⁷ Council Decision (CFSP) 2022/351 of 1 March 2022 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine [2022] OJ L 65/5; Council Regulation (EU) 2022/350 of 1 March 2022 amending Regulation (EU) No 833/2014

adopted under the CFSP. For the first time, the Council adopted an EU-wide prohibition for EU operators and internet providers from broadcasting the contents of media from a specific country. This measure was complemented by, or perhaps paved the way for, an increased use of sanctions against journalists and a stand-alone regime responding to Russia's destabilising activities,³⁸ thereby signalling a broader effort to address propaganda and disinformation through EU sanctions.

At the time, the prohibition stood out as one of the most controversial EU restrictive measures against Russia. Some argued that the Council had overstepped its CFSP competence by adopting a measure that pertained to media regulation and by precluding any control by an independent regulator.³⁹ Significant concerns were voiced as to the risk of arbitrariness raised by the ban⁴⁰ as well as its compliance with the freedom of expression and information in the meaning of Article 11(1) of the Charter of fundamental rights (the Charter).⁴¹

These questions reached the General Court, whose landmark ruling in *RT France*⁴² confirmed that the Council could adopt the broadcast ban under the CFSP and that the circumstances justified a restriction to the freedom of expression and information as entailed by the broadcast ban. With respect to the Council's competence, the General Court dismissed Russia Today's claim that only national regulatory authorities could impose sanctions on an audiovisual media outlet.⁴³ The broadcast ban aims to protect the EU 'against disinformation and destabilisation campaigns conducted by media outlets under the control of [Russia's leadership] which threatened the Union's public order and security, in a context marked by military aggression against Ukraine'.⁴⁴ It thus contributes to the objectives of peace and security under Article 3(1) and (5) TEU since 'propaganda and disinformation campaigns are capable of undermining the foundations of democratic societies and are an integral part of the arsenal of modern warfare'.⁴⁵ In any event, the General Court stressed that the national authorities' competence pursues different objectives and, unlike a CFSP action, it cannot guarantee a uniform and immediate intervention throughout the EU's

concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine [2022] OJ L 65/1.

³⁸ See Celia Challet, 'Politique étrangère et de sécurité commune et lutte contre la propagande : les sanctions de l'Union européenne à l'épreuve de la liberté d'expression' in Christophe Meaubeard, Sébastien Platon, Romain Tinière (eds), *Les mutations de la liberté d'expression dans l'Union européenne* (Bruylant 2025) 221-238.

³⁹ European Federation of Journalists, 'Fighting disinformation with censorship is a mistake', 1 March 2022 at <<https://europeanjournalists.org/blog/2022/03/01/fighting-disinformation-with-censorship-is-a-mistake/>> accessed 20 December 2025; Case T-307/22 *A2B Connect and Others v. Council*, [2025] EU:T:2025:331 paras 41-62.

⁴⁰ Viktor Szép, Ramses A. Wessel, 'Balancing restrictive measures and media freedom: *RT France v Council*' (2023) 60 CML Rev 1384.

⁴¹ Igor Popovic, 'The EU Ban of RT and Sputnik: Concerns Regarding Freedom of Expressions' *EJIL:Talk*, 30 March 2022; Ronan O. Fathaigh and Dirk Voorhoof, 'Freedom of Expression and the EU's Ban on Russia Today: A Dangerous Rubicon Crossed' (2022) 27 *Communications Law* 186-193.

⁴² Case T-125/22 *RT France v. Council* [2022] EU:T:2022:483.

⁴³ *Ibid.*, para. 46.

⁴⁴ *Ibid.*, para. 55.

⁴⁵ *Ibid.*, para. 56.

territory.⁴⁶ This approach was further confirmed in *A2B Connect*: ‘the competence attributed to the national administrative authorities by domestic law does not pursue the same objectives, is not based on the same premisses or the same values’,⁴⁷ and the ban applies ‘irrespective of the Member State in which [EU] operators are established and of the mode by which the content is broadcast’.⁴⁸ In other words, the effectiveness of the measure dictates an action at EU level and justifies the Council’s competence to enact the ban.

Importantly, in *RT France* the General Court dismissed the applicant’s claim that the broadcast ban entailed a disproportionate restriction of the freedom of expression and information under Article 11(1) of the Charter. The General Court recalled that, notwithstanding the essential role of audiovisual media in democratic societies, journalists have ‘duties and responsibilities’ to act in good faith and provide ‘reliable and precise information’.⁴⁹ Applying a detailed several-step reasoning, the General Court first stated that the prohibition has clear legal bases in EU law (i.e. Articles 29 TEU and 215 TFEU)⁵⁰ and that ‘it was foreseeable that [...] the large-scale media support for the military aggression against Ukraine by [Russia], provided during television and internet broadcasts by a media outlet entirely funded by the Russian State budget, could be targeted by such broadcast ban’.⁵¹ The Court also considered that the essence of the applicant’s freedom of expression was not impaired. The broadcast is temporary since it may only be renewed if two conditions continue to be fulfilled: 1) the continuation of Russia’s aggression against Ukraine, and 2) the continuation, by Russia and its associated media outlets, of ‘propaganda actions against the Union and its Member States’.⁵² The Court held that the measure also pursues an objective of general interest, notably given that it aims to protect the EU’s public order and security against propaganda and disinformation.⁵³ Finally, the Court considered that the broadcast ban was proportionate. There was evidence that RT France was controlled by Russian leaders⁵⁴ and that it had engaged in propaganda in support of Russia’s aggression against Ukraine,⁵⁵ notably by offering a ‘manifest imbalance’⁵⁶ in the views expressed by its invited speakers.⁵⁷ Crucially, the Court held that the ban was both appropriate and necessary as at the time, in the context of

⁴⁶ *Ibid.*, para. 58.

⁴⁷ *A2B Connect* (n 39). para. 57.

⁴⁸ *Ibid.*

⁴⁹ *RT France* (n 42) paras 133-138. The General Court referred, in particular, to *NIT S.R.L. v. Republic of Moldova*, 28470/12, paras 177-182.

⁵⁰ *RT France* (n 42) para. 149.

⁵¹ *Ibid.*, para. 151.

⁵² *Ibid.*, para. 155.

⁵³ *Ibid.*, paras 161-162.

⁵⁴ *Ibid.*, paras 171-174.

⁵⁵ *Ibid.*, paras 180-185.

⁵⁶ *Ibid.*, para. 211.

⁵⁷ *Ibid.*, para. 186.

extreme urgency of the Russian invasion, no other measure could have achieved the same outcome.⁵⁸

The Court's reasoning, which it reiterated in *A2B Connect*, is thus particularly important for the Council's practice. While it has sparked legal discussions that would go beyond the scope of this chapter,⁵⁹ in the *RT France* judgment, the Court affirmed the Council's margin of discretion to address situations of conflict through restrictive measures which, though *prima facie* associated with other fields of EU law, are motivated by EU security objectives.

In another important strand of case law, the Court of Justice has examined the legal implications of the ban on legal advisory services and assessed its compatibility with fundamental rights. The latter was bound to be a core aspect of the cases given that the ban effectively prohibits any form of legal advice to Russian legal persons and entities, regardless of whether they are individually targeted or affected by sectoral restrictions. In three distinct actions for annulment against the prohibition,⁶⁰ several bar associations argued that the Council had infringed the right to consult a lawyer in order to obtain legal advice in the meaning of Articles 47 and 7 of the Charter.⁶¹ According to them, these provisions protected a fundamental right of access to legal advice from a lawyer, in contentious but also non-contentious matters.⁶² This argument did not convince the General Court. While it recalled the 'cardinal importance' of the right to effective judicial protection under Article 47 of the Charter,⁶³ which includes the possibility to be advised, defended and represented by a lawyer, the General Court stressed that this provision does not protect a right for legal advisory services. Notwithstanding the 'fundamental role of lawyers in a State governed by the rule of law',⁶⁴ neither the Charter, nor Member States' constitutional traditions provide a fundamental right for all persons to have access to and be advised by a lawyer other than in the context of existing or probable litigation.⁶⁵ The right of access to and advice from a lawyer is only to be guaranteed in the event of a 'link to judicial proceedings have already been commenced or can be pre-empted or anticipated, on the basis of

⁵⁸ *Ibid.*, para. 197.

⁵⁹ Björnster Baade 'EU Sanctions Against Propaganda for War – Reflections on the General Court's Judgment in Case T-125/22 (RT France)' (2023) *ZaöRV* 257-281; Björnster Baade, 'The EU's "Ban" of RT and Sputnik: A Lawful Measure Against Propaganda for War' *Verfassungsblog* 8 March 2022; Ronan. Ó Fathaigh and D. Voorhoof, 'Case Law, EU: RT France v. Council: General Court finds ban on Russia Today not a violation of right to freedom of expression', *op. cit.*; Luigi Lonardo, 'Censorship in the EU as a Result of the War in Ukraine. *RT France v Council of the European Union*' (2023) 48 *European Law Review* 707-719; Sara Poli, Francesca Finelli 'Context specific and structural changes in EU restrictive measures adopted in reaction to Russia's aggression on Ukraine' (2023) 3 *Eurojus* 33.

⁶⁰ Case T-797/22 *Ordre néerlandais des avocats du barreau de Bruxelles v. Council* [2024] EU:T:2024:670 ; case T-798/22 *Ordre des avocats à la cour de Paris and Couturier v. Council* [2024] EU:T:2024:671; Case T-828/22 *ACE v. Council* [2024] EU:T:2024:672.

⁶¹ Case T-797/22 *Ordre néerlandais des avocats du barreau de Bruxelles v. Council* [2024] EU:T:2024:670, para. 30.

⁶² *Ibid.*

⁶³ *Ibid.*, para. 40.

⁶⁴ *Ibid.*, para. 43. The Court referred, in this respect, to Case 155/79, *AM & S Europe v. Commission* [1982] EU:C:1982:157, para. 18.

⁶⁵ *Ibid.*, paras 49-50.

tangible elements, at the stage at which the lawyer assesses his or her client's legal situation'.⁶⁶

This outcome is particularly significant for the EU's sanctions practice. This unprecedented measure was conceived as a cornerstone of the EU's fight against sanctions circumvention, based on the realistic acknowledgement that lawyers, may serve as an important vector (if not facilitator) of circumvention. It remains to be seen whether the judgments will be upheld by the Court of Justice (all first instance judgments have been appealed).⁶⁷ In the affirmative, the appeal judgments would provide an important confirmation that the Council may explore new types of measures to step up its response to circumvention.

Admittedly, one may ponder whether the General Court sufficiently considered the legal consequences of the ban, which are unparalleled too. According to the applicants, it is 'artificial and inappropriate' to distinguish between legal advisory services that are necessary to exercise the right to an effective remedy and those that are not:⁶⁸ until a piece of legal advice is provided, it cannot entirely be determined whether it relates to future litigation. The applicants also argued that the wording of the prohibition could lead to a form of self-censorship by lawyers, thereby restricting access to legal advice in practice.⁶⁹ The General Court did not really engage with these concerns. Neither did the Court of Justice address, in *Jemerak*, the referring court's concern that if the ban on legal advisory services were interpreted in such a broad way as to prohibit notaries from merely authenticating lawful transactions involving non-sanctioned Russian entities, there would be a significant restriction on the right to property.⁷⁰ While the Court eventually ruled that the ban does not apply to authenticating notarial acts, thereby sidelining the Commission's FAQs on the matter,⁷¹ it based its reasoning on the objective to ensure internal consistency within the Russia sanctions and on the fact that the latter did not prohibit non-sanctioned entities from selling their property.⁷² Either way, both sets of judgments have inherently upheld the premise that the Council might take innovative sectoral measures to respond to Russia's war against Ukraine.

3. Tackling Sanctions Circumvention as a New Priority

Another important feature of the EU's post-2022 Russia sanctions is the unprecedented attention to countering sanctions circumvention and closing loopholes to increase the effectiveness of the restrictive measures. Sanctions circumvention is by no means a new phenomenon and is an inevitable variable for each sanctions

⁶⁶ *Ibid.*, para. 51.

⁶⁷ Case C-865/24 P, *Ordre néerlandais des avocats du Barreau de Bruxelles and others v. Council* (pending) ; case C-866/24 P, *Ordre néerlandais des avocats à la cour de Paris et Couturier v. Council* (pending) ; case C-867/24 P, *ACE v. Council* (pending).

⁶⁸ Case T-797/22 (n 61) para. 32.

⁶⁹ *Ibid.*, paras 32-33.

⁷⁰ Case C-109/03, *Jemerak* [2024] EU:C:2024:681.

⁷¹ *Ibid.*, para. 30.

⁷² *Ibid.*, para. 49.

regime.⁷³ However, circumvention of the Russia sanctions has gained exceptional salience in the EU's sanctions practice due to several factors. First, the scale of the EU's sanctions, coupled with the imperative to make them effective to constrain Russia's capacity to wage war on Ukraine and to safeguard the Union's security interests, has significantly raised the stakes.⁷⁴ Second, prior economic interdependence between the EU and Russia has made compliance particularly demanding. Third, Russia has engaged in systematic and coordinated efforts to circumvent the sanctions. The most emblematic example of that is Russia's so-called 'shadow fleet', a network of obscurely owned tankers that transport Russian oil illicitly, notably through ship-to-ship transfers. While the practice of using a shadow fleet long predates the post-2022 sanctions against Russia (notable examples include Iran, North Korea and Venezuela),⁷⁵ it has expanded dramatically since then.⁷⁶ Another form of circumvention implies the use of front or shell companies which act as intermediaries for sanctioned entities or obscure the end-users of restricted products.⁷⁷ Russia has also redirected trade through alternative routes such as Turkey, Kazakhstan and China.⁷⁸ Finally, there has been a marked increase in Russia's use of alternative payment systems, including crypto-assets, to mitigate the impact of EU financial restrictions and SWIFT-related measures.⁷⁹

As a result of these combined factors, the EU's response to sanctions circumvention has been unprecedented legally, politically, and operationally. The EU has adopted a growing set of instruments which, taken together, represent a turning point for the law and practice of EU sanctions.

⁷³ On historical examples of sanctions circumvention, see Nicholas Mulder, *The Economic Weapon: The Rise of Sanctions as a Tool of Modern War* (Yale University Press 2024) 1-24; Agathe Demarais, *Backfire: How Sanctions Reshape the World Against U.S. Interests* (Cambridge University Press 2022); Keith A Preble, Charmaine N Willis, 'Trading with Pariahs: North Korean Sanctions and the Challenge of Weaponized Interdependence' (2024) 4 *Global Studies Quarterly*.

⁷⁴ Anna Caprile and Cristina Cirlig, 'EU sanctions against Russia 2025: State of play, perspectives and challenges' (2025) EPRS Briefing at:

<[https://www.europarl.europa.eu/RegData/etudes/BRIE/2025/767243/EPRS_BRI\(2025\)767243_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2025/767243/EPRS_BRI(2025)767243_EN.pdf)>, accessed 20 December 2025.

⁷⁵ See John Frittelli, 'The Global Oil Tanker Market: An Overview as It Relates to Sanctions' (2024) Congressional Research Service at: <<https://www.congress.gov/crs-product/R47962>> accessed 15 December 2025.

⁷⁶ Anna Caprile and Cabija Leclerc, 'Russia's "shadow fleet": Bringing the threat to light' (2025) EPRS Briefing at: <[https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI\(2024\)766242](https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2024)766242)> accessed 15 December 2025.

⁷⁷ See, for instance, Elżbieta Kaca, 'Countering the circumvention of EU sanctions against Russia by foreign companies' (2025) Polish Institute of International Affairs, <https://www.pism.pl/publications/countering-the-circumvention-of-eu-sanctions-against-russia-by-foreign-companies?>

⁷⁸ Oliver Ruth, 'The Impact of Sanctions and Alliances on Russian Military Capabilities' (2025) RUSI, <https://www.rusi.org/explore-our-research/publications/commentary/impact-sanctions-and-alliances-russian-military-capabilities>.

⁷⁹ Financial Times, 'Crypto coin for Russian shadow payment moves \$9bn' (2025) <https://www.ft.com/content/1c71cac0-b86b-4361-8f54-ee5d3bb5a489>.

European Commission, 'EU adopts 19th package of sanctions against Russia' (2025) https://finance.ec.europa.eu/news/eu-adopts-19th-package-sanctions-against-russia-2025-10-23_en.

The *first tool* used by the EU is evidently based upon the CFSP. Since 2022, the EU has amended the restrictive measures to introduce new provisions targeting circumvention. This is particularly evident regarding sanctions involving individual listings, such as asset freezes. The Council has broadened the listing criteria to target a wider range of individuals and entities involved in circumvention (see section 1). This includes individuals who facilitate sanctions evasion,⁸⁰ those who own or operate vessels in Russia's shadow fleet (particularly transporting crude oil or petroleum products),⁸¹ and, under the so-called 'criterion g', leading businesspersons operating in Russia, their immediate family members, or other natural persons benefiting from them.⁸² It is on the basis of this criterion that the EU has targeted Russian oligarchs and their inner circle.⁸³ The Council has also introduced a reporting obligation for listed individuals: they must declare all resources located in each relevant Member State.⁸⁴ Failure to do so constitutes circumvention, which may potentially lead to confiscation.⁸⁵ In May 2025, to prevent the delisting of Russian oligarchs who resigned or sold their business interests in order to claim that they no longer fulfilled their designation grounds, the Council amended the restrictive measures. It is now specified that even if such persons resign from their position or sell their shares, they will continue to be considered leading businesspersons unless sufficient, recent, and reliable information demonstrates otherwise.⁸⁶ While this is legally questionable as it effectively reverses the burden of proof and introduces a form of presumption that listed targets continue to fulfil the listing criteria,⁸⁷ it aims to prevent a premature release of assets. Additionally, the Council has sanctioned entities located in third countries, including India, China, and Kazakhstan, which contribute to Russia's military and technological development, ensuring that alternative supply chains supporting Russia's defense capabilities are targeted.⁸⁸

The EU's fight against circumvention is also visible with respect to the sectoral restrictions adopted under the CFSP. The EU has prohibited legal advisory services to Russian entities,⁸⁹ the transit of dual-use goods via Russia,⁹⁰ the re-export of sensitive goods to Russia (the so-called 'no Russia clause'),⁹¹ and access to EU ports for vessels suspected of violating sanctions, including more than 500 vessels in Russia's

⁸⁰ Council Regulation 269/2014 (n 4) as amended by subsequent acts, art 3(1)h.

⁸¹ *Ibid.*, art 3(1)k.

⁸² *Ibid.*, art 3(1)g.

⁸³ Celia Challet, 'Op-Ed: No Links, Still Listed: Reflections on AG Medina's Opinions in Russian Leading Businesspersons Cases' (2025) EU Law Live, <https://eulawlive.com/op-ed-no-links-still-listed-reflections-on-ag-medinas-opinions-in-russian-leading-businesspersons-cases/>.

⁸⁴ Council Regulation 269/2014 as amended by Council Regulation 2022/1273 [2022] OJ L 194/1, art 9(2).

⁸⁵ See Council Regulation (EU) 2022/880 amending Regulation 269/2014 [2022] OJ L 153/75.

⁸⁶ Council Decision 2025/904 amending Decision 2014/145/CFSP [2025] OJ L 2025/904.

⁸⁷ Celia Challet (n 18).

⁸⁸ Marco Sibona, 'Tackling Circumvention of EU Sanctions' (2024) Jacques Delors Institute at <https://institutdelors.eu/content/uploads/2025/04/PB_241001_Sanctions_Sibona_EN_3.pdf>, 4.

⁸⁹ Council Regulation 833/2014 (n 5) as amended by Council Regulation 2022/1904 [2022] OJ L 259/3, art 5n(a).

⁹⁰ Council Regulation 833/2014, as amended by subsequent acts, art 2(1)a.

⁹¹ *Ibid.*, art 12g.

shadow fleet transporting military equipment or stolen grain.⁹² Furthermore, the EU included a provision to ban exports to third countries that have been ‘identified by the Council as having systematically and persistently failed to prevent [their] sale, ply, transfer or export to Russia’.⁹³ While no country has been listed to date, this provision signalled the EU’s willingness to place the fight against circumvention at the forefront of its Russia sanctions. This was further illustrated by the 19th package of sanctions targeting Russia, adopted on 23 October 2025.⁹⁴ To disrupt the shadow fleet, the package expands listings across the entire maritime value chain—covering insurers, maritime registries providing false flags, shipbuilders, port operators, and key facilitators such as Lukoil’s UAE-based trading arm. The reinsurance of vessels belonging to the shadow fleet is now also prohibited.⁹⁵ The EU also imposed a transaction ban on the state-backed stablecoin A7A5⁹⁶ as well as on several third-country banks that circumvent EU sanctions.⁹⁷ Finally, the EU has imposed restrictions on maintaining relationships with entities active in several Russian special economic zones.⁹⁸

The *second tool* is based on EU criminal law. A Council decision in 2023 identified sanctions violations as an EU crime under Article 83(1) TEU,⁹⁹ paving the way for a directive harmonising national offences and penalties.¹⁰⁰ This marks an important step toward integrating sanctions enforcement into the EU criminal law framework, which has been complemented by a parallel increase in the cooperation between the European Anti-Fraud Office (OLAF) and Europol.¹⁰¹ The adoption of anti-money laundering directives and regulations in 2024 also aims to strengthen efforts to detect and prevent circumvention through financial channels.¹⁰²

The *third tool* consists of multilateral cooperation and sanctions diplomacy. The appointment of an EU Sanctions Envoy strengthened outreach to third countries to close loopholes. The EU has established coordination mechanisms, including the Freeze and Seize Taskforce and the REPO Taskforce with G7 partners and Australia,

⁹² *Ibid.*, art 3s.

⁹³ *Ibid.*, art 12f.

⁹⁴ Council Regulation 2025/2033 amending Regulation 833/2014 [2025] OJ L 2025/2033.

⁹⁵ Council Regulation 833/2014 (n 5), as amended by Council Regulation 2025/2033 (n 101), art 3s.

⁹⁶ *Ibid.*, annex LIII.

⁹⁷ *Ibid.*, annexes XLV and LVI.

⁹⁸ *Ibid.*, annex LII.

⁹⁹ Council Decision (EU) 2022/2332 on identifying the violation of Union restrictive measures as an area of crime that meets the criteria specified in Article 83(1) of the Treaty on the Functioning of the European Union [2022] OJ L 308/18.

¹⁰⁰ Directive (EU) 2024/1226 on the definition of criminal offences and penalties for the violation of Union restrictive measures and amending Directive (EU) 2018/1673 [2024] OJ L 2024/1226.

¹⁰¹ OLAF Press release, ‘OLAF and Europol join forces to strengthen the fight against circumvention’ (2025), https://anti-fraud.ec.europa.eu/media-corner/news/olaf-and-europol-join-forces-strengthen-fight-against-sanctions-circumvention-2025-11-20_en.

¹⁰² For a detailed overview of this important anti-money laundering ‘package’ and the underpinning legal instruments, see Council of the EU, Press release ‘Anti-money laundering: Council adopts package of rules’ [2024] <https://www.consilium.europa.eu/en/press/press-releases/2024/05/30/anti-money-laundering-council-adopts-package-of-rules/>.

to trace and freeze Russian assets.¹⁰³ Through the Global Export Control Coalition, which now comprises 39 countries, the EU participates in a Common High Priority List of critical items to harmonise export control requirements and limit international circumvention.¹⁰⁴

The *last tool* comprises of additional operational measures targeting the Russian shadow fleet. In April 2025, the EU amended the 2022 Vessel Monitoring Directive to introduce a mandatory ship reporting system.¹⁰⁵ Some Member States, particularly in the Baltic region, have joined Operation Nordic Warden and NATO's Operation Baltic Sentry to monitor shadow fleet routes in real time and support the enforcement of the restrictions on access to EU ports.¹⁰⁶ These hard-security efforts have prompted an escalation with Russia, which dispatched fighter jets and missile-armed ships to escort certain tankers.¹⁰⁷ However, these developments precisely demonstrate the EU's willingness to act on an important pressure point for Russia.

Taken together, these measures reflect the EU's increasingly comprehensive approach to countering sanctions circumvention. At the same time, they also raise critical questions of legal certainty, proportionality and compliance with fundamental rights, particularly with respect to the measures adopted under the CFSP. The latter have led to several cases before the CJEU, in which the Council invoked the objective of preventing circumvention to justify the legality of the individual listings and of the sectoral measures (see section 1).

It was not necessarily obvious how the Court would approach this argument, especially as there was no judicial precedent for measures such as the reporting obligation and the ban on legal advisory services. While the developments within the case law have reflected a nuanced picture as to the weight of anti-circumvention objectives in the review of the legality of individual listings,¹⁰⁸ the Court has so far upheld the validity of some of the new sectoral measures aiming to respond to circumvention. In addition to

¹⁰³ European Commission press release, 'Enforcing sanctions against listed Russian and Belarussian oligarchs: Commission's "Freeze and Seize" Task Force steps up work with international partners' [2022] https://ec.europa.eu/commission/presscorner/detail/sv/ip_22_1828.

¹⁰⁴ European Commission, 'EU and partners expand list of common high priority items to further weaken Russia's war effort' [2024], https://policy.trade.ec.europa.eu/news/eu-and-partners-expand-list-common-high-priority-items-further-weaken-russias-war-effort-2024-02-23_en.

¹⁰⁵ Commission Delegated Directive (EU) 2025/811 amending Annex I to Directive 2002/59/EC of the European Parliament and of the Council as regards information to be notified to ship reporting systems [2025] OJ L 2025/811.

¹⁰⁶ See Gonzalo Saiz Erasquin and Tom Keatinge, 'Countering Shadow Fleet Activity through Flag State Reform' (2025) RUSI, <https://www.rusi.org/explore-our-research/publications/insights-papers/countering-shadow-fleet-activity-through-flag-state-reform>.

¹⁰⁷ Joseph Ataman, 'Russian fighter jet protects "shadow fleet" vessel in first such move by Moscow, officials say' (2025) CNN, <https://edition.cnn.com/2025/05/20/europe/russian-fighter-jet-shadow-fleet-intl-cmd>.

¹⁰⁸ Cases T-744/22, *Tokareva v. Council* [2024] EU:T:2024:608; T-741/22, *Ezubov v. Council* [2024] EU:T:2024:605; T-497/22, *Mordashova v. Council* [2024] EU:T:2024:604. On these judgments, see Celia Challet, 'How far may the Council go to combat sanctions circumvention? Recent CJEU rulings on the restrictive measures against Russia' (2024) *EU Law Live*, <https://eulawlive.com/weekend-edition/weekend-edition-no207/>.

upholding the ban on legal advisory services (see section 1.2), the General Court has ruled that the reporting obligation imposed on listed individuals subject to asset freezes complies with EU rules.¹⁰⁹ This obligation forms part of the EU's broader effort to enhance the effective and uniform implementation of sanctions and to counter increasingly sophisticated evasion schemes. Under this requirement, listed individuals must disclose the funds or economic resources within the territory of a Member State that belong to them or that they own, hold or control. Failure to report shall be considered as participating in the circumvention of asset freezes.¹¹⁰

Several Russian oligarchs challenged the legality of the reporting obligation before the General Court.¹¹¹ They claimed that the Council lacked a proper legal basis to impose such positive obligations on listed persons. According to the applicants, the Council had exceeded its competence under Article 215 TFEU – and, more broadly, within the CFSP framework—since such measures went beyond the mere implementation of CFSP decisions.¹¹² They further argued that the Council infringed Article 40 TEU and Article 83(1) TFEU: the execution of CFSP decisions lies with the Member States, not with the Council,¹¹³ and any harmonisation of criminal penalties for breaches of restrictive measures must be carried out via directives adopted under the ordinary legislative procedure.¹¹⁴ The applicants also claimed that the reporting obligation breached the principle of legal certainty, based on the premise that the notions of 'ownership' and 'control' are complex and subject to divergent interpretations from one Member State to another.¹¹⁵

The General Court dismissed these claims by placing the objective to ensure an effective and uniform implementation of the restrictive measures at the centre of its reasoning. On the question of legal basis, the General Court held that the reporting obligation fell squarely within the Council's competence under Article 215 TFEU. It recalled the implementing role of regulations adopted pursuant to CFSP decisions and found that the obligation followed the same logic: it aimed to ensure the effective and uniform implementation of restrictive measures in light of increasingly complex circumvention schemes.¹¹⁶ The Court also referred to the unprecedented number of Russian listings, the persistence of circumvention practices, and the fact that when the reporting obligation was introduced, few domestic legislations already imposed it.¹¹⁷ The measure thus complied with Article 215(2) TFEU. The General Court also dismissed the alleged infringement of Article 83(1) TFEU: non-compliance with the reporting obligation qualifies as circumvention and not a crime, and Member States

¹⁰⁹ Case T-635/22, *Fridman and Others v. Council* [2024] EU:T:2024:620; case T-644/22, *Timchenko v. Council* [2024] EU:T:2024:621.

¹¹⁰ Council Regulation 269/2014 (n 47), art 9(3).

¹¹¹ *Fridman* (n 116) and *Timchenko v. Council* (n 109).

¹¹² *Fridman* (n 116) para. 44; *Timchenko* (n 109) para. 46.

¹¹³ *Fridman* (n 109) para. 49.

¹¹⁴ *Ibid.*, para. 6.

¹¹⁵ *Timchenko* (n 109) paras 109-111.

¹¹⁶ *Timchenko* (n 109) para. 57.

¹¹⁷ *Ibid.*, para. 58.

retain competence to determine the nature of the penalties applicable to breaches.¹¹⁸ As to Article 40 TEU, the provision does not regulate the division of competences between the Union and the Member States and could not be relied upon in this context.¹¹⁹

With respect to legal certainty, the Court found that the notions of ‘ownership’ and ‘control’ constitute autonomous concepts of EU law, which do not display ‘such ambiguity’ as to create legal uncertainty in the procedures before national authorities.¹²⁰ The Court recalled its previous case law, according to which a company may be considered owned or controlled by another entity ‘when it was in a situation where that other entity was in a position to influence its choices, even in the absence of any legal link of ownership or shareholding between either of those two economic entities’.¹²¹

The General Court’s reasoning was recently confirmed by the Court of Justice in the *Timchenko* appeal case.¹²² The Court not only confirmed the Council’s competence to adopt the reporting obligation on the basis of Article 215(2) TFEU,¹²³ but it also stressed that this provision’s reference to ‘restrictive measures’ does not limit the Council to adopting prohibitions only.¹²⁴ The Council may also impose positive obligations on listed persons when this is necessary to make sanctions effective.¹²⁵ The Court’s appeal judgment is thus significant as it preserves the Council’s discretion to adopt additional measures to strengthen the implementation of asset freezes.

4. The Creeping Supranationalisation of EU Sanctions Policy

The scale and complexity of the EU’s sanctions against Russia reveal a broader trend in the EU’s sanctions practice. In essence, this implies that sanctions can no longer be seen as a typical foreign policy instrument that is subject to the classic intergovernmental mechanisms of the CFSP. This is particularly visible at the institutional level, with an increasingly dominant role for the European Commission in the sanctions policy cycle. In addition, the Russia sanctions triggered a diversification of legal bases, implying an increased use of QMV in the Council. Taken together, these trends reveal a creeping supranationalisation of the EU’s sanctions policy.

4.1. The Evolving Institutional Architecture of the EU Sanctions Policy Cycle

The EU sanctions against Russia triggered important institutional evolutions in the entire policy cycle, from the preparation to the adoption and implementation of the sanctions. Most notably, the European Commission’s role has grown significantly

¹¹⁸ *Ibid.*, paras 76-80.

¹¹⁹ *Ibid.*, para. 61.

¹²⁰ *Timchenko* (n 109) paras 117 and 123-124.

¹²¹ *Ibid.*, para. 119. The Court referred to case C-123/18 P, *HTTS v. Council* [2019] EU:C:2019:694, para. 75

¹²² Case C-805/24 P *Gennady Timchenko and Elena Timchenko v. Council* [2025] EU:C:2025:792.

¹²³ *Ibid.*, paras 20-27.

¹²⁴ *Ibid.*, para. 28.

¹²⁵ *Ibid.*, paras 30-32.

since the start of Russia's full-scale war against Ukraine. The increasingly technical nature of the sectoral sanctions, requiring the expertise of the Commission services, as well as the pressure to act swiftly in times of crises, implies that 'the Commission *de facto* leads the EU sanctions drafting process'.¹²⁶ The Directorate-General for Financial Stability, Financial Services and Capital Markets Union (DG FISMA) plays a central role in the preparation of the Council regulations implementing restrictive measures in the EU legal order. As foreseen under Article 215 TFEU, such proposals are designed by the Commission and the High Representative to implement the foreign policy decision imposing sanctions under Article 29 TEU (CFSP). Whereas it used to be the case in the past that the CFSP decision would be adopted first, this practice has now changed. The Commission prepares the new sanctions packages and drafts the regulations, which form the foundation of the CFSP Council decisions. Accordingly, the order of the so-called 'two-tier procedure' for the adoption of sanctions has been reversed, with the European Commission in the driving seat.¹²⁷

DG FISMA is also in charge of monitoring the implementation and enforcement of EU sanctions in all Member States. It provides guidance through the publication of answers to frequently asked questions raised by national competent authorities and economic operators. The establishment of a 'Sanctions Whistleblower Tool' and a 'Freeze and Seize' Task Force strengthened its institutional role within the EU's sanctions policy. Moreover, the European Commission appointed a 'Special Envoy for the Implementation of EU Sanctions', to engage in high-level discussions with third countries to prevent sanctions evasion or circumvention. Taken together, these institutional evolutions put the European Commission at the forefront of the EU's sanctions policy. This may seem surprising in view of the essential political nature of sanctions as part of the EU's CFSP. Hence, the often shared perception that the CFSP is an essentially intergovernmental policy field has to be qualified.¹²⁸ The role of 'supranational' institutions such as the European Commission and the Court of Justice can hardly be underestimated.¹²⁹ Whereas this trend was already visible before the EU's sanctions against Russia and results from the integration of the CFSP in post-Lisbon EU legal order, their unprecedented nature accelerated this evolution.

The expanded scope of the EU's sanctions policy also has an impact on other institutional actors. For instance, the High Representative and the European External

¹²⁶ Yulia Miadzvetskaya, 'EU Sanctions Decision-Making in Times of War: Procedural Changes and Rise of the Commission' (2025) *Maastricht Journal of European and Comparative Law* 284. See also: Jan Lepeu, 'Ukraine, the de-targetization of EU Sanctions and the Rise of the European Commission as Architect of EU Foreign Policy' (2025) *International Politics* 975.

¹²⁷ *Ibid.*

¹²⁸ Alvarado de Elera, 'A Typology of Legal Acts in the European Union's Common Foreign and Security Policy' in Frank Hoffmeister and Lorant Havas (eds.), *The High Representative of the Union for Foreign Affairs and Security Policy as a Legal Actor. Liber Amicorum in Honour of Stephan Marquart* (Brill-Nijhoff, 2025), 22.

¹²⁹ See also: Peter Van Elsuwege, 'Judicial Review and the Common Foreign and Security Policy: Limits to the Gap-Filling Role of the Court of Justice' (2021) *CML Rev* 1731-1760.

Action Service (EEAS) are increasingly involved at various levels.¹³⁰ The High Representative intervened, amongst others, before the General Court to support the Council in defending restrictive measures such as the media broadcasting ban.¹³¹ The new anti-circumvention tools (see section 2) reinforce the role of the European Anti-Fraud Office (OLAF), Europol and the European Public Prosecutors Office (EPPO).¹³² The European Parliament, which typically has a limited role in traditional CFSP-based restrictive measures, is also increasingly involved through the adoption of sanctions on a non-CFSP legal basis (see section b.). To what extent the evolving institutional architecture of the EU sanctions policy cycle is only temporary and largely confined to the specific context of the Russia-related sanctions remains to be seen. Taking into account that institutional developments are rarely reversed, some lasting impact may well be expected.¹³³

4.2. *The diversification of legal bases to pursue EU sanctions objectives*

The creeping supranationalism of the EU's sanctions policy is also visible with respect to the decision-making procedure in the Council. Whereas the basic principle of unanimity for the adoption of CFSP decisions is still upheld, significant evolutions restricting the role of veto-players can be observed. Initially, the introduction of exemptions proved helpful to ensure the smooth adoption of new sanctions packages. This was most visible with the sixth sanctions package introducing *inter alia* an embargo on imports of Russian oil and petroleum products. To overcome a potential veto of certain import-dependent landlocked Member States, most notably Hungary, Slovakia and the Czech Republic, Russian crude oil delivered by pipeline was exempted from the embargo.¹³⁴ Given the limitations of this consensual approach, the use of alternative, non-CFSP legal bases became a more common practice to overcome potential vetoes within the Council. A typical example concerns the use of trade measures, such as the introduction of increased customs duties applicable to the import of agricultural products and fertilisers from Russia and Belarus.¹³⁵ Such measures can be adopted under Article 207 TFEU, taking into account that the

¹³⁰ Calle Hakansson, 'Understanding the European Union's Response to the Russian War on Ukraine: The Role of the European External Action Service' (2025) *Defence Studies* 845-863.

¹³¹ Madalena de Almeida Veiga, 'Combating Foreign Manipulation and Interference Through EU Restrictive Measures', in: F. Hoffmeister and L. Havas (eds.), *The High Representative of the Union for Foreign Affairs and Security Policy as a Legal Actor. Liber Amicorum in Honour of Stephan Marquart* (Brill-Nijhoff, 2025), 184-202.

¹³² 'OLAF and Europol Join Forces to Strengthen the Fight against Sanctions Circumvention', at: <https://anti-fraud.ec.europa.eu/media-corner/news/olaf-and-europol-join-forces-strengthen-fight-against-sanctions-circumvention-2025-11-20_en> accessed on 20 December 2025.

¹³³ Emilia Korkea-Aho and Luigi Lonardo, 'How Russia's War against Ukraine Changed EU Sanctions Decision-Making' (2025) *Journal of European Integration*.

¹³⁴ Council Decision (CFSP) 2022/884 of 3 June 2022 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, OJ (2022) L 153/128, recital 8 and Article 4o d).

¹³⁵ Regulation (EU) 2025/1227 of the European Parliament and of the Council of 17 June 2025 on the modification of customs duties applicable to imports of certain goods originating in or exported from the Russian Federation and the Republic of Belarus [2025] OJ L 1227.

common commercial policy contributes to the EU's external action objectives.¹³⁶ Following a similar logic, the European Commission proposed a ban on Russian gas imports in June 2025 on the combined legal bases of Articles 207 and 194(2) TFEU, covering the respective fields of common commercial policy (CCP) and energy, instead of Article 29 TEU (CFSP) and Article 215 TFEU (on restrictive measures).¹³⁷ Presenting the gas import ban as a trade measure instead of a foreign policy measure has significant institutional implications, since it does not require unanimity but qualified majority in the Council.¹³⁸

Another example of the trend towards the use of non-CFSP legal bases within the EU's sanctions policy concerns the immobilisation of Russian Central Bank assets. This measure was first introduced within the framework of the CFSP and subject to six-monthly renewal, requiring unanimity in the Council.¹³⁹ In the context of the discussions surrounding the introduction of a 'reparations loan' to Ukraine,¹⁴⁰ the Council adopted a new regulation 'on emergency measures addressing the serious economic difficulties caused by Russia's actions in the context of the war of aggression against Ukraine' on the legal basis of Article 122 (1) TFEU.¹⁴¹ This regulation includes a prohibition of transactions related to the management of reserves and assets of the Russian Central Bank. Accordingly, a measure that both in content (prohibiting the transfer of Russian assets) and objectives (countering Russia's war of aggression) traditionally falls with the scope of the CFSP is brought under a legal basis that is part of the EU economic policy chapter in the TFEU.¹⁴² The motives for this bold move are clear: it is no longer required to regularly extend the restrictive measures on the basis of unanimity within the Council. The question, however, is whether the recourse to Article 122 (1) TFEU is legally justifiable. According to the Commission, the new emergency regulation complements the CFSP-based restrictive measures since it has a different scope and pursues 'objectives that are specific to the area of the economic

¹³⁶ Article 207 (1) TFEU provides that '[t]he common commercial policy shall be conducted in the context of the principles and objectives of the Union's external action.' The latter are included in Article 21 TEU and *inter alia* refer to the consolidation of respect for international law.

¹³⁷ European Commission, Proposal for a Regulation of the European Parliament and of the Council on phasing out Russian natural gas imports, improving monitoring of potential energy dependencies and amending Regulation (EU) 2017/1938, COM (2025) 828 final.

¹³⁸ Viktor Szep and Lukas Schaupp, 'Energy Sanctions Reloaded. Navigating the Trade-Based Sanctions Divide in the EU's Proposed Gas Ban', *Verfassungsblog*, 25 June 2025.

¹³⁹ See: Council Decision (CFSP) 2022/395 of 9 March 2022 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine [2022] OJ L 81/8 and Council Regulation (EU) 2022/394 of 9 March 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, OJ (2022) L 81/1.

¹⁴⁰ See: Peter Van Elsuwege, 'Walking a Tightrope: On the Legal Stakes of the EU's Proposed Reparations Loan for Ukraine', *Verfassungsblog* 8 December 2025.

¹⁴¹ Council Regulation (EU) 2025/2600 of 12 December 2025 on emergency measures addressing the serious economic difficulties caused by Russia's actions in the context of the war of aggression against Ukraine [2025] L 2600.

¹⁴² See also: Jan Dunin-Wasowicz, 'Leveraging Article 122 TFEU to Block Russian Central Bank Assets. The Emergence of Sanctions-Like Measures under EU Economic Emergency Powers', at: <<https://eusanctions.substack.com/p/leveraging-article-122-tfeu-to-block>> accessed 20 December 2025.

stability of the Union'.¹⁴³ Reference is made to the macroeconomic implications of Russia's war of aggression against Ukraine and its implications for the EU. It is noteworthy that, in this respect, 'Ukraine is considered as an integral part of Europe's defence and security architecture and this latter is intrinsically connected with the economic situation in the Union'.¹⁴⁴ Moreover, it is argued that the economic stability of the Union is also affected by Russian hybrid threats against the EU Member States. Whether this is sufficient to bring the freezing of Russian Central Bank assets under the scope of Article 122(1) TFEU is subject to discussion. It may well be argued that the measure essentially aims to address the security situation of Ukraine, and therefore mainly falls within the CFSP. This raises significant constitutional questions regarding the choice of legal basis within the EU legal order and the delimitation between CFSP and non-CFSP external action. Further litigation before the Court of Justice is likely to be expected.¹⁴⁵

Apart from potential cases about the choice of legal basis, there is a significant pending case brought by the European Parliament against the Council concerning the applicable voting rights for the definition of sanctions targets.¹⁴⁶ Such targets are to be defined in an annex to, in this case, Council Decision (CFSP) 2024/2643 concerning restrictive measures in view of Russia's destabilising activities. When the Decision was adopted, the Annex with the actual list of sanctioned natural and legal persons, entities and bodies was left blank. Article 4 (1) of this Decision provides that '[t]he Council, acting by *unanimity* upon a proposal of a Member State or the High Representative [...] shall decide to establish and amend the list in the Annex'.¹⁴⁷ According to the European Parliament, this approach contradicts the wording of Article 31(2) TEU, which provides that decisions implementing an established CFSP decision shall be adopted by qualified majority voting. It is also deemed to violate Article 40 TEU in the sense that the Council's insistence on unanimity for the determination of the sanctions targets adversely affects the subsequent decision-making procedure under Article 215 TFEU.¹⁴⁸

Arguably, there is a lot of merit in the European Parliament's arguments. With its insistence on unanimity for the adoption and amendment of the actual sanctions lists, the Council precludes any meaningful implementation on the basis of QMV. This seems to contradict the logic of the Treaties, which envisage unanimity for the adoption

¹⁴³ European Commission, Proposal for a Council Regulation (EU) 2025/2600 of 12 December 2025 on emergency measures addressing the serious economic difficulties caused by Russia's actions in the context of the war of aggression against Ukraine, COM (2025) 3501 final, p. 2.

¹⁴⁴ *Ibid.*, p. 3.

¹⁴⁵ Hungary already announced its intention to challenge the validity of the Russian gas ban; see: <<https://www.euractiv.com/news/hungary-threatens-legal-steps-against-european-commission-over-russian-gas-ban/>> accessed 20 December 2025.

¹⁴⁶ Case C-883/24: Action brought on 19 December 2024 – *European Parliament v Council of the European Union* [2025] C 889.

¹⁴⁷ Council Decision (CFSP) 2024/2643 of 8 October 2024 concerning restrictive measures in view of Russia's destabilising activities [2024] L 2643.

¹⁴⁸ Case C-883/24: Action brought on 19 December 2024 – *European Parliament v Council of the European Union* [2025] C 889.

of truly political decisions, i.e. the adoption of sanctions and the designation criteria, whereas the actual application of those criteria is subject to QMV. When the Court of Justice follows this logic, this will have significant implications for the EU's sanctions practice. For instance, Member States would no longer be able to veto the adoption of sanctions against certain individuals or entities on the basis of their own national preferences. A notable example of such a case concerned the opposition of Hungary against the blacklisting of Russian Patriarch Kirill despite his support for the invasion of Ukraine and close links with Putin's regime.¹⁴⁹

5. Conclusions

The EU's sanctions against Russia may well be regarded as a true 'game-changer' with long-term legal and institutional implications. From a legal perspective, the evolving case law of the CJEU has played a decisive role in shaping the contemporary EU sanctions regime. The Court has not only further clarified the procedural thresholds for individual listings but also triggered an evolution in the Council's designation practice, from conduct-based to status-based designations. The scope of EU (sectoral) sanctions has also entered into uncharted territories with the adoption of new types of restrictive measures such as the broadcast ban and multiple anti-circumvention measures, thereby significantly broadening the substantive and territorial reach of EU sanctions.

These developments also reveal an increasing interaction between the CFSP and other areas of EU law and policy. On the one hand, several restrictive measures adopted under the CFSP touch upon other areas such as criminal law or media regulation. Their adoption on a CFSP legal basis signals a shift towards a broader and more security-driven understanding of EU law and policies. On the other hand, certain sanctions are increasingly complemented, or even replaced, by instruments adopted on alternative legal bases such as trade, energy, and economic emergency provisions under the TFEU. The adoption of asset immobilisation measures on the basis of Article 122(1) TFEU clearly illustrates this dynamic.

While many of these legal innovations are closely linked to the specific context of the Russia-related sanctions, it may reasonably be assumed that they will leave a long-term impact on the EU's sanctions practice. This is particularly evident from an institutional perspective. The Russia sanctions have accelerated a significant reconfiguration of institutional roles, with the European Commission – and DG FISMA in particular – emerging as the central actor throughout the EU's sanctions policy cycle. The Commission not only carefully prepares the subsequent sanctions packages but is also in charge of monitoring the implementation and enforcement in EU Member States.

¹⁴⁹ Leonie Kijewski and Jacopo Barigazzi, 'Orban wins again as furious EU envoys take church patriarch off Russian sanctions list', *Politico* 2 June 2022.

Accordingly, the EU's sanctions policy may no longer be regarded as an area of intergovernmental cooperation, despite its clear connection with the specific rules and procedures under the CFSP. The growing use of complementary measures adopted outside the CFSP, combined with the Commission's enhanced operational role, points towards a more integrated and cross-sectoral sanctions policy. Whereas some of the identified trends were already visible with respect to other sanctions regimes (such as the ones against Iran and Syria), the more comprehensive sanctions packages against Russia provided a significant quantum leap towards a more integrated EU sanctions policy that is permeating the entire EU legal order.