

Legal alert

The latest package of sanctions against Russia adopted – EU takes aim at Russian sanction dodging

14th package of sanctions has been in place since 24 June of this year. It includes a **further 69 individuals and 47 entities subject to asset freezes** (in total, over 2,200 individuals and entities are now included), and has introduced further restrictive measures targeting sectors of the Russian economy such as energy, finance and trade. However, its **main objective is to make it more difficult to circumvent EU restrictions.**

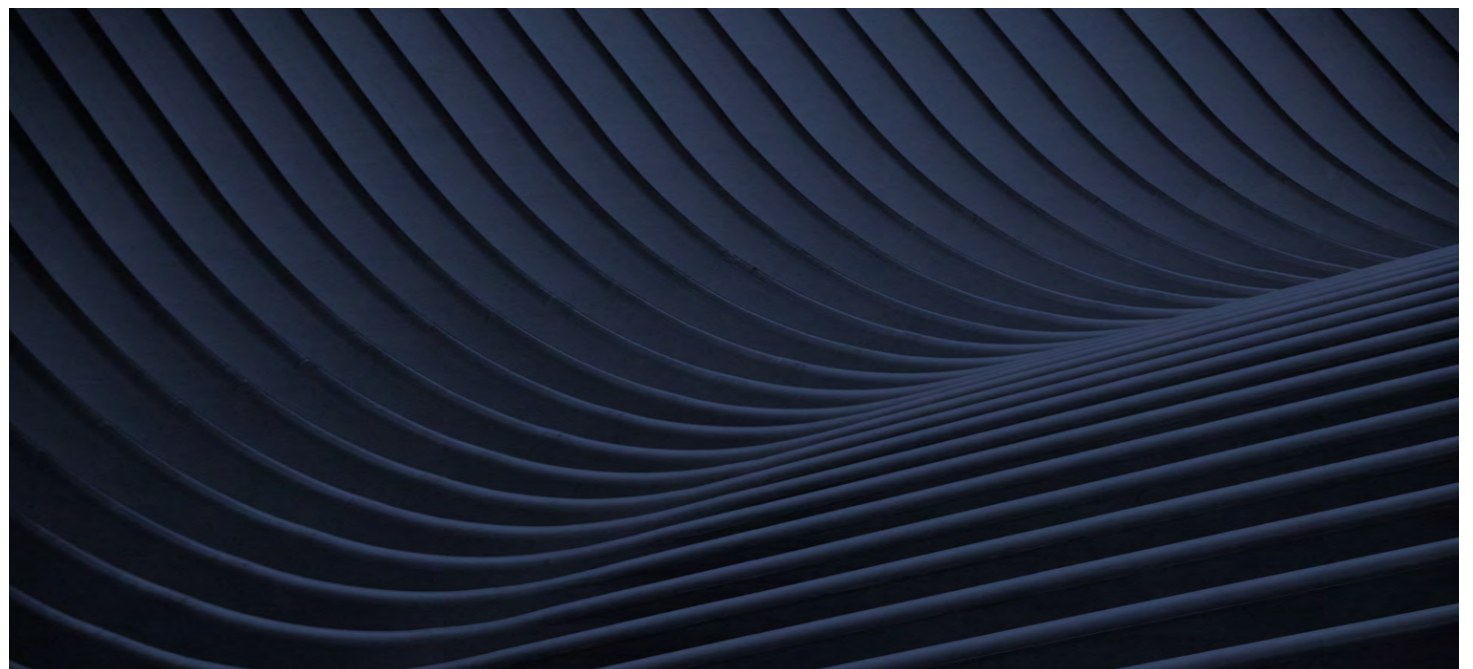
What are the consequences of circumventing sanctions?

A Polish state-owned company from Poznań specialising in precision metalworking has learned of the ramifications of sanction dodging. According to media reports, a fuel pump of Polish manufacture normally used in diesel engines designed for civilian purposes was discovered inside an Iranian Shahed 136 unmanned aerial vehicle that had been shot down over Ukraine. The manufacturer of the fuel pump, allegedly sold the part to an Iranian company producing agricultural tractors. Through this route, the fuel pumps went to Iranian factories manufacturing Shahed 126 military drones, which were then bought by Russia. The former president of the firm has pleaded guilty to the charges levelled against him and faces up to 10 years in prison.

No more preferential treatment?

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The National Revenue Administration (Krajowa Administracja Skarbowa) has stepped up its efforts against companies that attempt to circumvent sanctions. So far this year, 51 proceedings have been initiated, and penalties totalling almost PLN 21 million have already been imposed. It seems, therefore, that the period in which the often elaborate sanction provisions were not always enforced is now over.



What is new in the 14th package?

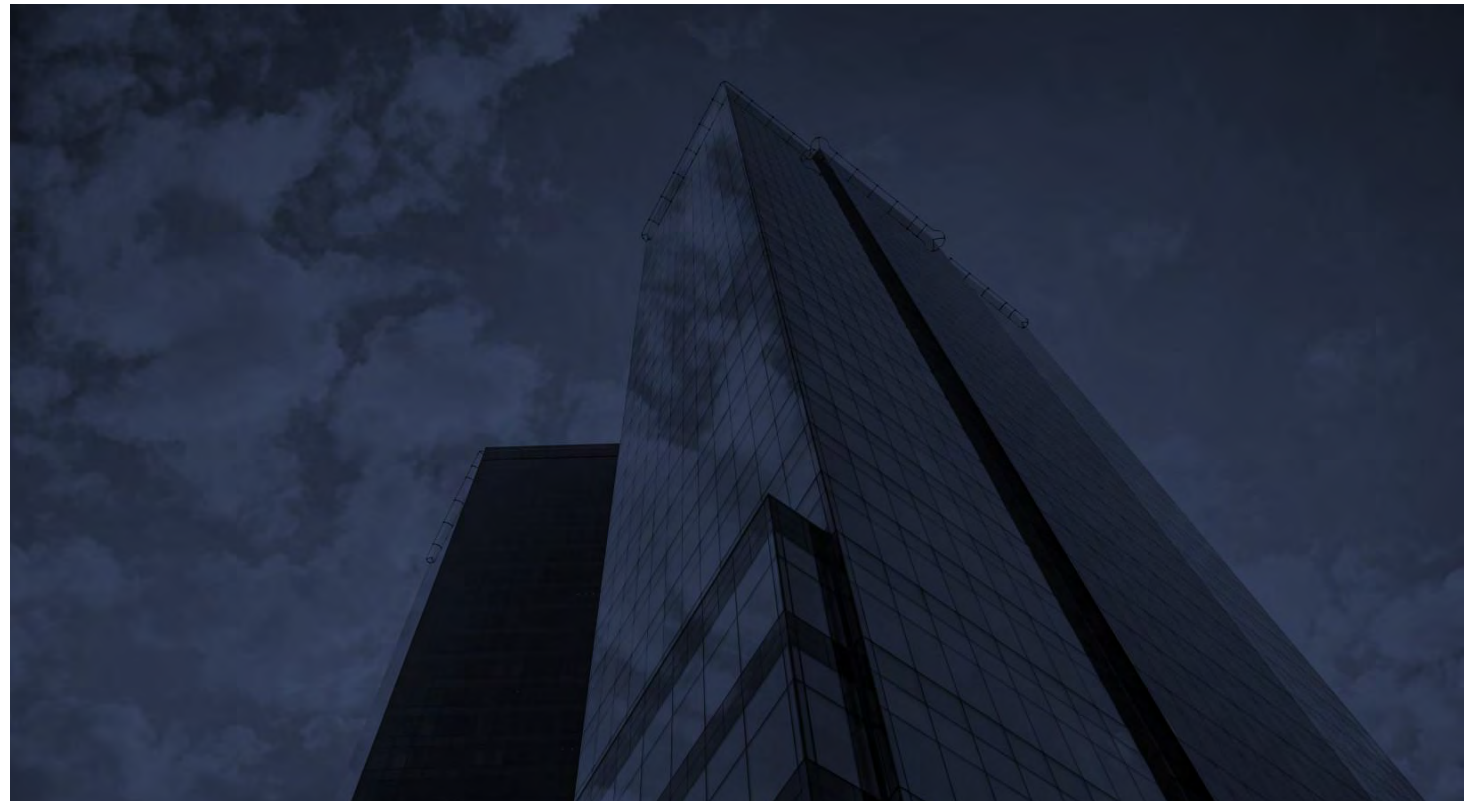
- **Due diligence requirements** – until now, EU companies could not be held liable if they did not know or had no reasonable cause to suspect that their actions might infringe EU sanctions. The EU is tightening this regime. The no-liability clause **will now not apply if EU entities/individuals cannot demonstrate that they exercised appropriate due diligence**. This includes, for example, an obligation to demonstrate that ‘publicly or readily available’ information was duly taken into account. Therefore, the implementation of sanctions involves a need to conduct simple checks or inspections of counterparties and goods and to monitor sanction-related legislation.
- **Liability for actions of non-EU subsidiaries** – previously, the sanctions mainly restricted the activities of European companies. However, the sanctions regime now also indirectly covers companies owned or controlled by EU companies. According to the 14th package, if an EU entity is in a position to exercise a decisive influence over the market conduct of its non-EU subsidiary, such EU entity may be held directly liable for the actions of that subsidiary if those actions have the effect of compromising the effectiveness of the sanctions (e.g. a recipient in Russia obtains goods, technology, financing or services of a type that is subject to prohibitions). In order not to be held liable, the regulations indicate that appropriate measures must be taken, such as, for example, the implementation of appropriate policies, controls and procedures to mitigate and manage risk effectively.

- **No re-export to Russia clause updates** – the requirement to implement a “No Russia” clause in contracts with counterparties in third countries, which clause prohibits re-exportation to Russia and re-exportation for use in Russia of certain goods, has been in force since 20 March of this year. As of 26 December 2024, however, **these clauses must also be extended to prohibit the use of intellectual property rights, business secrets or other information** insofar as they relate to what are referred to as high-priority products (e.g. lathes, machine tools, bearings, equipment for automatic data processing machines, machinery and apparatuses for the production of semiconductor components or electronic integrated circuits). In the future, we can expect the scope of the “No Russia” clauses to widen further, so it is worth preparing for this in advance.
- **Extension of the ban on road transport companies** – the new sanctions will also affect road transport companies. Thus far, the bans have applied to transport companies based in Russia; however, the restrictions will now also apply to EU-based road transport companies that are 25% or more owned by a Russian individual (unless he or she is also an EU citizen), entity or body. This shows just how far the European sanctions can go. Currently, such **a company can be subject to restrictions not only when individuals are included on sanctions lists, but even when only a 25% interest therein is held by a Russian citizen or entity.** Reliable verification of individual entities will therefore be even more difficult.
- **Ban on the registration of intellectual property rights by Russians or Russian entities** – although this ban will now primarily affect Russians, European companies with a continued presence in the Russian market may begin to fear **similar counter-sanctions** from Russia.
- **Ban on providing certain services to Russian subsidiaries** – although the ban on European parent companies providing certain services (e.g. accounting, legal, IT and advertising) to Russian subsidiaries was supposed to come into force as early as June 2024, **the deadline was ultimately extended to 30 September.** This is therefore the last call to properly separate the activities of group companies and/or apply for relevant authorisation.



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- **Possibility to divest from Russia** – analogous to services, the possibility to apply for approval for certain transactions that are necessary to divest from Russia or liquidate businesses in Russia **has been extended until 31 December**. This is therefore the last moment to think about “getting rid” of businesses in Russia if they involve the transfer of sanctioned goods (e.g. certain mechanical, electrical and even... coffee machines).



What actions do I need to take?

This further extension of the sanctions shows that if you sell goods outside the EU, or have subsidiaries outside the EU, you need to address the risks of circumventing sanctions. Actions to consider are:

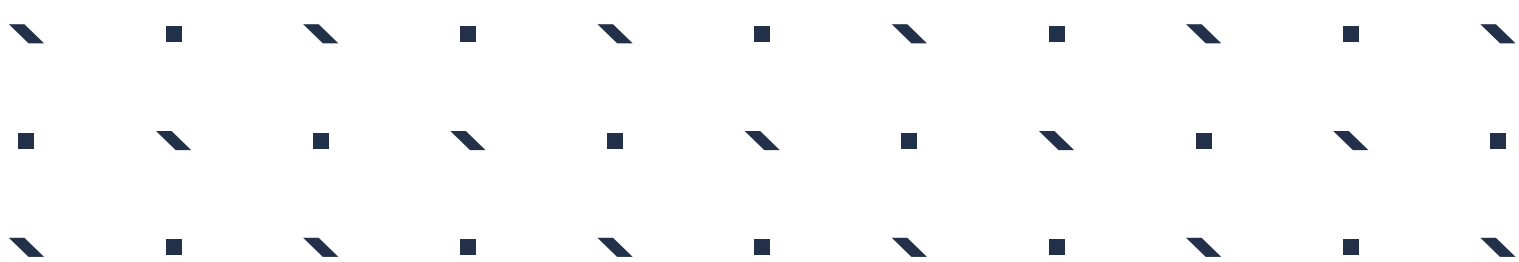
- **reviewing the scope of existing or implementing due-diligence processes** so as to be able to demonstrate a lack of knowledge in case of an inadvertent violation of the sanctions legislation;
- **creating or revising sanction procedures** – especially in companies based outside the EU, so as not to be exposed to a ban on providing services to Russian entities or to be held liable for the actions of subsidiaries;
- **adding or verifying contractual sanction clauses** in contracts not only with clients and suppliers, but also with non-EU subsidiaries – to ensure that certain goods are not re-exported to Russia;
- **screening counterparties** – to ensure that your chain of suppliers or customers does not include sanctioned entities;
- **verifying goods** – to ensure that exported goods are not subject to restrictive measures; and
- **monitoring sanctions legislation** – to ensure that subsequent amendments to sanctions legislation are not overlooked.

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We invite you to contact us!

If you have any questions or would like to receive up-to-date information on the amendments to the sanctions legislation, please feel free to contact us directly by email.

If you are interested in learning more about the sanctions, we would like to invite you to our free webinar on this topic, which we are planning to hold at the beginning of September. We promise to provide a wealth of practical information and solutions. We will announce the exact date and agenda via our social media channels.



Contact:



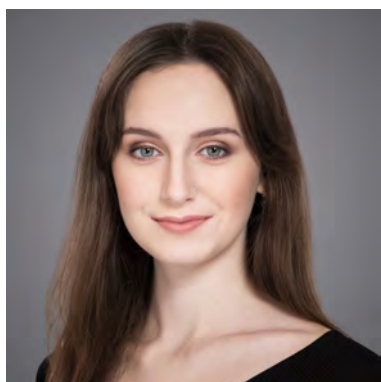
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