

Legal alert

Amendment to the Sanctions Act

On February 26, 2025, the provisions of the amended Polish Sanctions Act and the Act on the National Revenue Administration, among others, will come into force.

The changes mean a number of new obligations for entrepreneurs, which are aimed at tightening the sanctions system and preventing sanctions circumvention – even if we do not directly conduct business with entities from Russia or Belarus, but only export goods to countries where there is a risk that they participate in sanctions circumvention.

What key changes will the amendment bring?

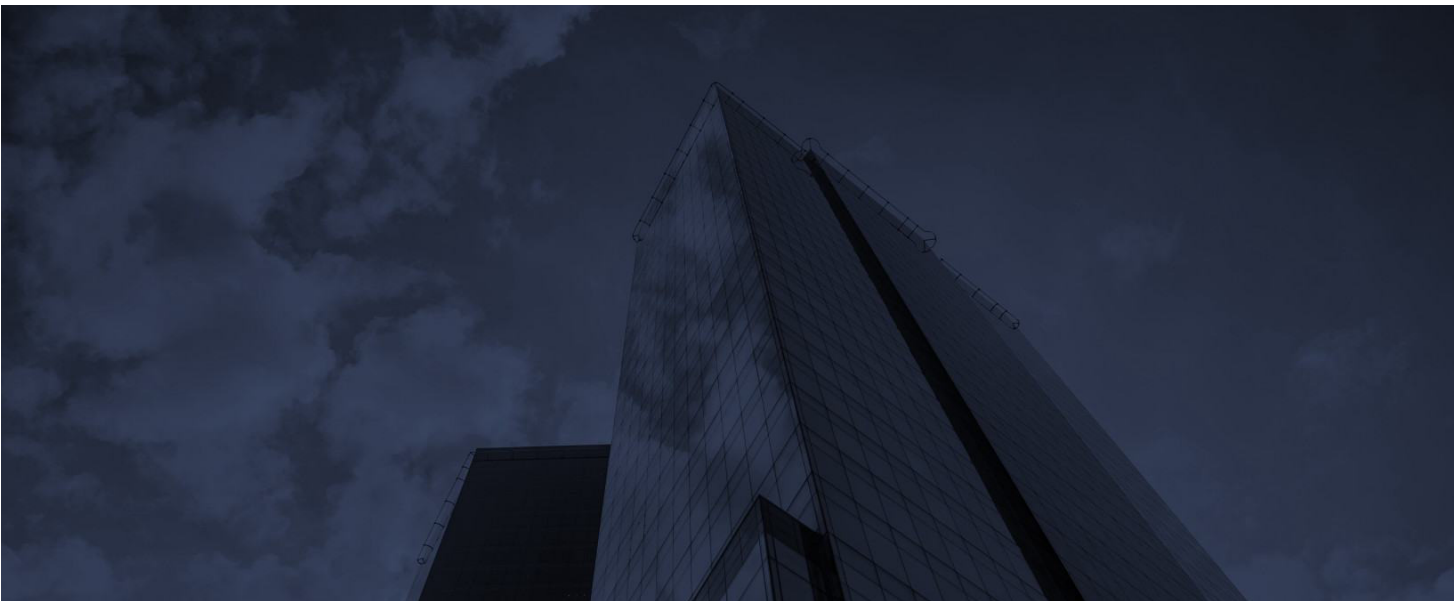
1. Custom declarations

- export sanctioned goods to countries at risk of being involved in the circumvention of sanctions, or
- transport these goods in transit through the territory of Russia or Belarus

will be obliged to attach to the customs declaration an appropriate declaration under penalty of criminal liability. The penalty for making a false declaration is 6 months to 8 years of imprisonment. The declaration should contain the following information:

- transit through the territory of Russia or Belarus is only a part of the route of transport of goods (i.e. the beginning and the end of this route is outside the territory of Russia or Belarus);
- during the transit of goods through the territory of Russia or Belarus, the goods will not be subject to resale, processing, storage or services provided by sanctioned entities; and
- the final destination of the goods is a third country other than Russia or Belarus.

Thus, the sanctions regime will also cover business entities that export goods to a group of ‘risky’ countries – although the law does not specify which countries these are.

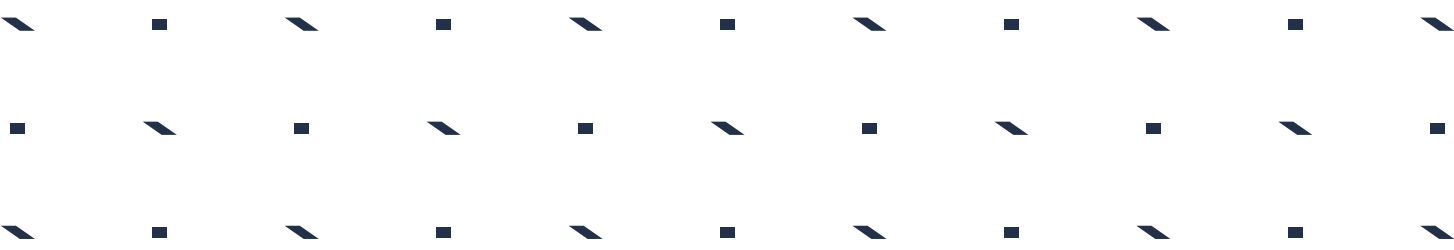


2. Confirmation of customs clearance

Business entities will also be obliged to submit to the head of the customs and revenue office a document confirming the customs clearance of goods from the country of destination within 45 days of the date on which the goods were brought out of the customs territory of the European Union. Failure to comply with this obligation carries the risk of a fine of up to PLN 500,000.

3. Seizure and forfeiture of goods

If an infringement of the sanction provisions with regard to the export of goods or their carriage under the transit procedure is found, the head of the customs and fiscal office may also seize the goods and apply for their forfeiture to the State Treasury.



Extension of the scope of criminal liability

The Polish Sanctions Act has not been comprehensively amended since its adoption in 2022, while the European Union has since adopted 10 sanctions packages. Therefore, the Act has not incorporated the majority of the new provisions of the EU sanctions regulations, which is finally about to change. This means that all banned exports, imports, sales, and services will be subject to a sanction. Depending on the type of violation, this will be:

- imprisonment for a term of not less than 3 years or, in cases of lesser gravity, imprisonment from 3 months to 5 years; or
- a fine of up to PLN 20,000,000.

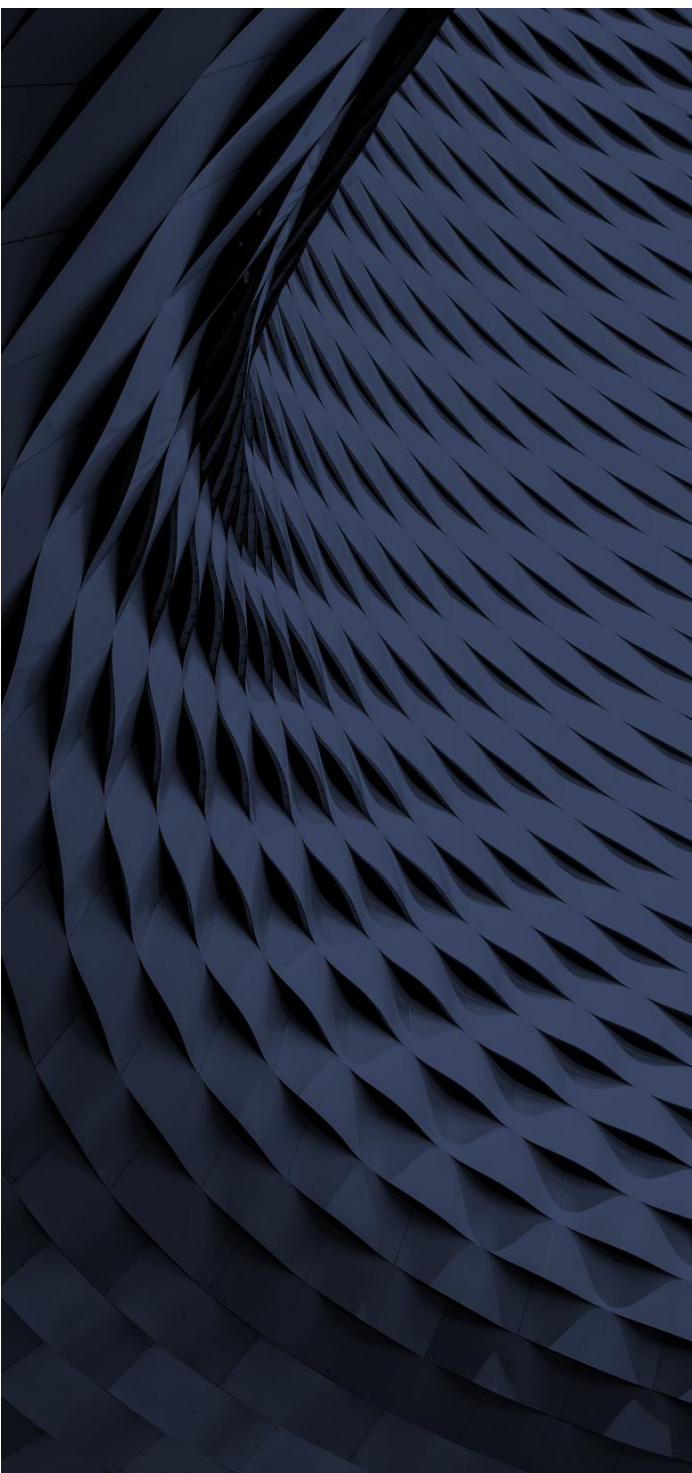
In particular, we draw attention to Article 5n of Regulation 833/2014 – according to which it is prohibited to provide certain services to Russian entities – including inter-group services.

It is also important to highlight, that if the prohibited act was committed within the scope of a business entity's activity, the person responsible for concluding the commercial transaction is deemed to be the perpetrator.

Controversy surrounding the amendment

There is no shortage of sceptical voices around the amendment of the Sanctions Act. While it is undoubtedly intended to tighten up the sanctions regime, numerous questions have been raised as to whether the obligations imposed by it can be implemented in practice. These relate primarily to:

- the lack of a list of countries in the Sanctions Act that may be involved in circumventing sanctions – which may result in uncertainty as to when to declare exported or transited goods;
- the high penalties for breaking the law (criminal liability when declaring, a fine of up to half a million zlotys for not confirming clearance);
- practical difficulties in obtaining end-user declarations for products – especially in the case of complex supply chains where there are many intermediate links between entities;
- the short timeframe (45 days) for providing a proof of customs clearance from the country of destination – especially in case of distant destinations, sea transport or the need to reload goods during transport; and



- the lack of clarification as to which document confirming customs clearance from the country of destination will be sufficient for the Polish customs authorities.

How to effectively prepare for the amended regulations?

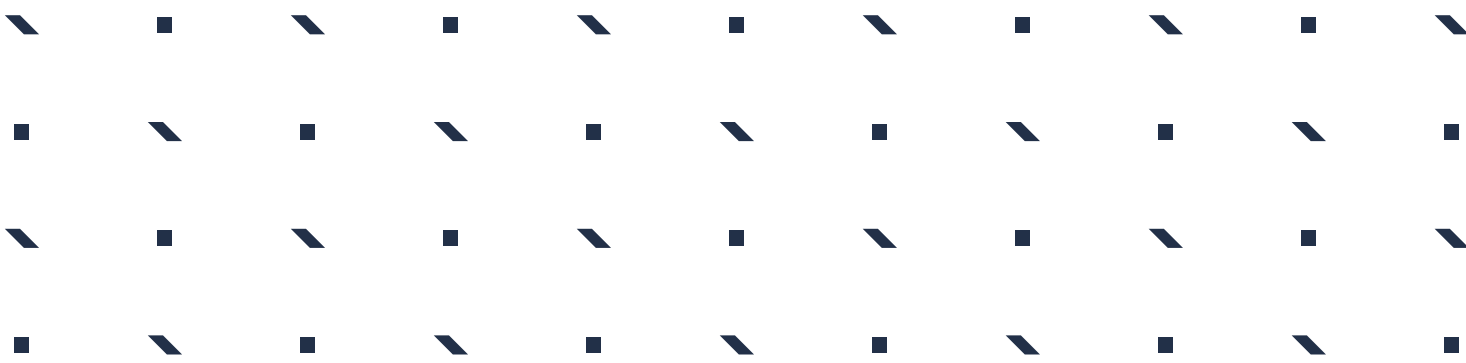
The new regulations undoubtedly require business entities to adapt quickly to the changing legal reality. In our opinion, the most important things will be:

- determining which goods exported or transiting through Russia or Belarus are subject to sanctions – i.e. in relation to which goods it will be necessary to make declarations and provide documents, particularly as these goods are often common goods (including luxury goods worth more than EUR 300, certain construction elements (e.g. pipes, fittings, glass), electronic goods and even packaging).
- analysing the routes of transport of goods subject to sanctions;
- setting up internal procedures for verifying counterparties in supply chains – in terms of the risk of circumventing sanctions;
- establishing internal rules for the signing of customs documents;
- incorporating appropriate provisions in trade agreements regarding the need to complete and deliver customs documents as required by Polish law; and
- updating the system for the storage of customs documents – in particular their collection and archiving in the event of inspections.

If you have any questions or concerns regarding the impact of the amended Sanctions Act on your business, please do not hesitate to contact members of the Compliance, Forensic & ESG team.

[1] Law of 13 April 2022 on special solutions to counter support for aggression against Ukraine and to protect national security

[2] Act of 16 November 2016 on the National Fiscal Administration



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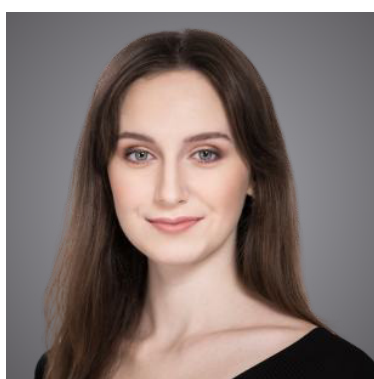
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