



# Sanctions Against Russia: Application in the Romanian Jurisdiction

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Russian officials, banks, companies, and even individual businesspersons are subject to several packages of international sanctions which have been recently imposed by the EU, USA, UK and others.<sup>1</sup>

Romania, as part of the EU, has started to implement the sanctions imposed to Russia by the EU bodies. To this end, while the regulations and decisions adopted by the EU bodies are directly effective in Romania, the Romanian authorities need to take certain steps in order to ensure the practical implementation of particular sanctions.

This brief will present in summary (I) the legal framework for adopting the sanctions against Russia at the EU level, (II) the legal framework for implementing the sanctions in Romania at a national level, (III) the steps taken by Romanian authorities, and finally (IV) the current status of implementing the sanctions in Romania.

## **I The EU Legal Framework for Adopting the Sanctions**

Under Article 215 of the Treaty on the Functioning of the European Union, the EU may adopt restrictive measures aimed at the interruption or reduction, in part or completely, of economic and financial relations with one or more third countries.

So far, the EU has adopted four packages of restrictive measures against Russia, through a series of regulations and decisions.

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<sup>1</sup> See, for example, the list of restrictive measures adopted by the European Union in response to the crisis in Ukraine - <https://www.consilium.europa.eu/en/policies/sanctions/restrictive-measures-ukraine-crisis/history-restrictive-measures-ukraine-crisis/> (last accessed on 18 April 2022)

The first package of sanctions was adopted on 23 February 2022 and includes, for example:

- Freezing all funds and economic resources belonging to, owned, held or controlled by 336 members of the Russian State Duma;<sup>2</sup>
- Restrictions to trading and other dealings with transferrable securities by Russia, the Russian Government, the Russian Central Bank, or by any person acting on their behalf;<sup>3</sup>
- Import bans and restrictions to investments from the areas of the Donetsk and Luhansk not controlled by Ukraine.<sup>4</sup>

The second package of sanctions was adopted on 25 February 2022 and includes, for example:

- Freezing all funds and economic resources belonging to, owned, held or controlled by certain Russian officials, as well as travel bans on the EU territory;<sup>5</sup>
- A prohibition to trade with any Russian person or entity, or to provide technical or financial assistance in respect of certain goods which may be used for military purposes;<sup>6</sup>
- Financial sector sanctions for credit institutions or entities controlled by them, Russian nationals or natural persons residing in Russia, or legal entities or bodies established in Russia.<sup>7</sup>

The third package of sanctions was adopted from 28 February to 9 March 2022 and includes, for example:

- Flight restrictions to, from and over the EU for any Russian air carriers or aircrafts;<sup>8</sup>
- Excluding several Russian banks from the SWIFT messaging system;<sup>9</sup>
- Freezing the assets of certain businesspersons involved in key economic sectors of the Russian Federation.<sup>10</sup>

The fourth package of sanctions was adopted on 15 March 2022 and includes, for example:

- Asset freezing and travel bans for certain Russian individual and entities;<sup>11</sup>
- Trade restrictions for iron, steel and luxury goods originating in Russia or exported from Russia.<sup>12</sup>

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<sup>2</sup> Council Implementing Regulation (EU) 2022/261 of 23 February 2022, published in the Official Journal of the EU L042I of 23 February 2022.

<sup>3</sup> Council Decision (CFSP) 2022/264 of 23 February 2022, published in the Official Journal of the EU L042I of 23 February 2022.

<sup>4</sup> Council Regulation (EU) 2022/263 of 23 February 2022, published in the Official Journal of the EU L042I of 23 February 2022.

<sup>5</sup> Council Implementing Regulation (EU) 2022/332 of 25 February 2022, published in the Official Journal of the EU L053 of 25 February 2022; Council Decision (CFSP) 2022/329 of 25 February 2022, published in the Official Journal of the EU L050 of 25 February 2022.

<sup>6</sup> Council Regulation (EU) 2022/328 of 25 February 2022, published in the Official Journal of the EU L053 of 25 February 2022.

<sup>7</sup> Council Decision (CFSP) 2022/327 of 25 February 2022, published in the Official Journal of the EU L048 of 25 February 2022.

<sup>8</sup> Council Regulation (EU) 2022/334 of 28 February 2022, published in the Official Journal of the EU L057I of 28 February 2022.

<sup>9</sup> Council Decision (CFSP) 2022/346 of 1 March 2022, published in the Official Journal of the EU L063 of 2 March 2022.

<sup>10</sup> Council Implementing Regulation (EU) 2022/396 of 9 March 2022, published in the Official Journal of the EU L080 of 9 March 2022.

<sup>11</sup> Council Implementing Regulation (EU) 2022/427 of 15 March 2022, and Council Decision (CFSP) 2022/429 of 15 March 2022, published in the Official Journal of the EU L087I of 15 March 2022.

<sup>12</sup> Council Regulation (EU) 2022/428 of 15 March 2022, published in the Official Journal of the EU L087I of 15 March 2022.

The fifth package of sanctions was adopted on 8 April 2022 and includes, for example:

- A ban of imports of coal and other solid fossil fuels if they originate in Russia or are exported from Russia;<sup>13</sup>
- A prohibition to transport goods by road in the territory of the EU for any road transport undertaking established in Russia, as well as a prohibition to provide access to ports in the EU to any vessel registered in Russia (or which has changed its registration from Russia to another state after 24 February 2022);<sup>14</sup>
- A prohibition to award or continue the execution of public or concession contracts falling under the EU public procurement legislation, with Russian nationals, entities and bodies, including their affiliates;<sup>15</sup>
- A prohibition to provide a registered office, business or administrative address, management services, a trust or other such arrangements to Russian nationals, entities and other related bodies;<sup>16</sup>
- A prohibition to accept deposits from, or provide crypto-asset wallets to, Russian nationals, entities, banks and other related bodies;<sup>17</sup>
- Freezing the assets of further 216 individuals (including businesspersons and officials) and 18 entities from Russia.<sup>18</sup>

It has been reported that a sixth package of sanctions against Russia is currently in development at the EU level, which would target banks, in particular Sberbank, as well as oil.<sup>19</sup>

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<sup>13</sup> Council Regulation (EU) 2022/576 of 8 April 2022 and Council Decision (CFSP) 2022/578 of 8 April 2022, published in the Official Journal of the EU L111 of 8 April 2022.

<sup>14</sup> Council Regulation (EU) 2022/576 of 8 April 2022 and Council Decision (CFSP) 2022/578 of 8 April 2022, published in the Official Journal of the EU L111 of 8 April 2022.

<sup>15</sup> Council Regulation (EU) 2022/576 of 8 April 2022 and Council Decision (CFSP) 2022/578 of 8 April 2022, published in the Official Journal of the EU L111 of 8 April 2022.

<sup>16</sup> Council Regulation (EU) 2022/576 of 8 April 2022 and Council Decision (CFSP) 2022/578 of 8 April 2022, published in the Official Journal of the EU L111 of 8 April 2022.

<sup>17</sup> Council Regulation (EU) 2022/576 of 8 April 2022 and Council Decision (CFSP) 2022/578 of 8 April 2022, published in the Official Journal of the EU L111 of 8 April 2022.

<sup>18</sup> Council Implementing Regulation (EU) 2022/581 of 8 April 2022, published in the Official Journal of the EU L110 of 8 April 2022.

<sup>19</sup> <https://www.reuters.com/business/finance/new-eu-sanctions-russia-target-sberbank-commission-head-tells-paper-2022-04-16/> (last accessed on 18 April 2022)

## **II The Romanian Legal Framework for Implementing the Sanctions**

The legal framework for the application of sanctions in Romania is underpinned by the Government Emergency Ordinance No. 202/2008 on the application of international sanctions (the “**GEO No. 202/2008**”). The scope of the GEO No. 202/2008, as provided under Art. 1 thereof, is to regulate the method of applying, at a national level:

- A. The international sanctions of a mandatory nature, as instated by (I) the resolutions of the UN Security Council or other instruments adopted under Art. 41 of the UN Charter and (II) regulations, decisions, common positions, common actions and other legal instruments of the EU; and
- B. the international sanctions which are not mandatory for Romania.

Notably, GEO No. 202/2008 further provides the following rules with respect to the application of sanctions in Romania:

- the instruments issued by the UN and the EU on international sanctions are mandatory for all public authorities and institutions in Romania, as well as for Romanian natural or legal persons or those situated on the territory of Romania;
- if required for the implementation of mandatory sanctions adopted through directly effective instruments (such as EU Regulations and Decisions), the domestic instruments necessary for the application of the sanctions, as well as for the purpose of incriminating the failure to observe the sanctions, if the case, shall be adopted;
- the Romanian public authorities and institutions have the obligation to take the necessary measures to ensure the implementation of the mandatory international sanctions, in their respective area of competence. For example:
  - the National Agency for Tax Administration (ANAF) is the relevant authority in charge of sanctions pertaining to the freezing of funds or economic resources;
  - the National Office for Prevention and Control of Money Laundering is the relevant authority in charge of sanctions pertaining to restricting certain transfers of funds and financial services having as purpose the prevention of nuclear proliferation.
- the asset freezing measures are imposed through an Order issued by the President of ANAF, which is communicated without delay to the persons in question and is published in the Official Gazette of Romania within 3 days from the issuing date. The orders may be challenged according to the administrative disputes procedure provided by Law no. 554/2004. Moreover, when maintaining the measure is no longer justified, ANAF must revoke it either upon request or *ex officio*;
- there is an identification and reporting obligation incumbent on all natural or legal persons that have the obligation to report suspicious transactions according to money laundering / terrorism financing regulations, to apply KYC measures in order to establish if the clientele includes sanctioned persons/entities or if the its operations otherwise involve goods related to the sanctioned persons/entities;
- there is also a reporting obligation incumbent on any person holding data and information regarding the sanctioned persons/entities, their goods, or the transactions connected to the sanctioned persons/entities or their goods.

In addition to GEO No. 202/2008, the implementation of sanctions in Romania is done through various instruments such as:

- Regulation No. 28/2009 of the National Bank of Romania on overseeing the enforcement of international sanctions imposing the freezing of funds;
- Order No. 340/2010 of the National Bank of Romania establishing the reporting template for frozen funds and economic resources;
- Order No. 1984/2019 of the National Agency for Tax Administration on approving the Procedure regarding the method of fulfilling the powers of the National Agency for Tax Administration in the field of international sanctions;
- Order No. 594/2009 of the Ministry of Transport and Infrastructure on approving the Procedure regarding the overseeing of the domestic implementation of international sanctions mandatory for Romania, in the field of activity of the Ministry of Transport and Infrastructure.

On 7 April 2022 the Prime Minister of Romania issued the Decision no. 269/2022 on establishing the Inter-ministerial Committee for applying international sanctions.<sup>20</sup> According to the Decision the Committee's objective is to identify solutions for the compliance and harmonization of decisions necessary for the effective implementation of international sanctions imposed by the UN and the EU.

Romania has so far not enacted normative instruments specifically regulating the implementation of the sanctions imposed on Russia.

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<sup>20</sup> Published in the Official Gazette no. 345 of 7 April 2022.

### III Steps Taken by the Romanian Authorities to Implement the Sanctions

Against the backdrop of the sanctions imposed at the EU level, and within the existing framework of the Romanian legislation, the Romanian authorities have started implementing certain measures at a national level. For example, with respect to the economic sanctions, the following steps were taken to this end:

- On 5 March 2022 it was reported that representatives of ANAF, the competent authority in charge of applying the mandatory economic sanctions, have confirmed that the agency was in the process of conducting investigations concerning the Russian businesspersons and companies targeted by the sanctions instated at the EU level.<sup>21</sup>
- A preliminary result of such investigations has been announced on 7 March 2022 by the Romanian Prime Minister, in the sense that three entities and two natural persons had been identified as financing the Russian government, and thus subjected to asset-freezing sanctions.<sup>22</sup>
- In the implementation of the asset-freezing sanctions adopted at the EU level, the President of ANAF has recently taken measures for the freezing of the funds and/or the economic resources as follows:
  - ordered the freezing of the funds held by Aeroflot within certain bank accounts in Romania (Order No. 420/16.03.2022);<sup>23</sup>
  - ordered the freezing of the funds and economic resources under Romanian jurisdiction which are held by three companies allegedly controlled by TMK Steel Holding Limited (CY), i.e. TMK Artrom SA, TMK Assets SRL and TMK Europe GmbH. (Orders nos. 466/24.03.2022, 467/24.03.2022 and 468/24.03.2022);<sup>24</sup>
  - ordered the freezing of a certain letter of credit issued by EximBank SA to the benefit of Metalinvest Trading AG (Order no. 495/30.03.2022);<sup>25</sup>
  - ordered the freezing of certain letters of credit issued by EximBank SA to the benefit of MMK Metalurji Sanayi Ticaret ve Liman Isletmeciligi A.S. (Order no. 496/30.03.2022 and no. 727/13.04.2022).<sup>26</sup>

In the meantime, certain entities targeted by asset freezing sanctions in Romania have challenged in court the Order of the President of ANAF implementing such measures,<sup>27</sup> and have engaged in talks with the Romanian Government seeking derogations from the measures in order to facilitate business operations.<sup>28</sup>

<sup>21</sup> <https://observatornews.ro/eveniment/fiscul-a-inceput-verificarea-comaniilor-rusesti-cum-ar-putea-ramane-mii-de-romani-fara-locuri-de-munca-461579.html> (last accessed on 18 April 2022).

<sup>22</sup> <https://stirileprotv.ro/stiri/actualitate/ciuca-trei-comanii-si-doua-persoane-fizice-din-rusia-identificate-in-romania-care-finantau-moscova-supuse-sanctiunilor-ue.html> (last accessed on 18 April 2022).

<sup>23</sup> [https://static.anaf.ro/static/10/Anaf/sanctiuni\\_internationale/Ordin420\\_Aeroflot\\_17032022.pdf](https://static.anaf.ro/static/10/Anaf/sanctiuni_internationale/Ordin420_Aeroflot_17032022.pdf) (last accessed on 28 March 2022). (last accessed on 18 April 2022). The Order was published in the Official Gazette no. 262 of 17 March 2022.

<sup>24</sup> The three orders were published in the Official Gazette no. 287 of 25 March 2022.

<sup>25</sup> [https://static.anaf.ro/static/10/Anaf/sanctiuni\\_internationale/OpANAF\\_495\\_31032022.pdf](https://static.anaf.ro/static/10/Anaf/sanctiuni_internationale/OpANAF_495_31032022.pdf) (last accessed on 18 April 2022). The Order was published in the Official Gazette no. 318 of 31 March 2022.

<sup>26</sup> [https://static.anaf.ro/static/10/Anaf/sanctiuni\\_internationale/OpANAF\\_496\\_31032022.pdf](https://static.anaf.ro/static/10/Anaf/sanctiuni_internationale/OpANAF_496_31032022.pdf) (last accessed on 18 April 2022); [https://static.anaf.ro/static/10/Anaf/sanctiuni\\_internationale/ordin\\_727\\_13042022.pdf](https://static.anaf.ro/static/10/Anaf/sanctiuni_internationale/ordin_727_13042022.pdf) (last accessed on 18 April 2022). Order no. 496 was published in the Official Gazette no. 318 of 31 March 2022 and Order no. 727 was published in the Official Gazette no. 370 of 13 April 2022.

<sup>27</sup> <https://www.zf.ro/eveniment/tmk-artrom-dat-judecata-anaf-presedintele-anaf-blocarea-conturilor-20713704> (last accessed on 18 April 2022).

<sup>28</sup> [https://economie.hotnews.ro/stiri-finante\\_banci-25483980-autoritatile-discutat-sindicatete-tmk-artrom-rusul-dmitry-alexandrovich-pumpyansky-conturile-blocate-anaf.htm](https://economie.hotnews.ro/stiri-finante_banci-25483980-autoritatile-discutat-sindicatete-tmk-artrom-rusul-dmitry-alexandrovich-pumpyansky-conturile-blocate-anaf.htm) (last accessed on 18 April 2022).

## **IV** Current Status

Whilst the Romanian authorities appear to be in the process of implementing the current international sanctions imposed by the EU, government officials have announced the adoption of even more measures aiming to both implement sanctions and counteract the possible effects of such sanctions.

On the one hand, there are currently signs that the Romanian Government is preparing to adopt additional measures against Russian entities.<sup>29</sup> The Romanian Prime Minister declared that Romania is fully committed to observe all sanctions imposed at an international level by the organisations which Romania is a part of.<sup>30</sup>

On the other hand, the Government adopted the Government Emergency Ordinance no. 36 of 6 April 2022 on establishing certain social security measures of employees,<sup>31</sup> providing that the Government shall cover the technical unemployment of certain employees, calculated at 75% of the base salary (and capped at 75% of the average gross salary). The beneficiaries of this measure are employees of companies affected directly or indirectly by the impossibility to perform commercial transactions with Ukraine, Russia or Belarus, including those of companies which were targeted by international sanctions, if certain conditions are met. This measure will last until 31 December 2022.

<sup>29</sup> High ranking politicians have recently expressed discontent with regard to the rate at which the Government is sanctioning Russian companies in Romania and urged it to increase the productivity – <https://evz.ro/florin-citu-vrea-sanctionarea-firmelor-rusesti-de-pe-teritoriul-romaniei-daca-intarzie-guvernul-vom-face-acest-lucru-in-parlamentul-romaniei.html> (last accessed on 18 April 2022).

<sup>30</sup> <https://www.agerpres.ro/politic/2022/04/04/ciua-sanctiuni-economice-impuse-rusiei-romania-va-respecta-toate-deciziile-exact-cum-si-le-a-asumat-896927> (last accessed on 18 April 2022).

<sup>31</sup> Published in the Official Gazette no. 340 of 7 April 2022.

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