

The Risks of Draft Law No. 12406 and Recommendations for Alignment with the Best International Standards and EU Requirements

Policy brief

Index

Executive Summary

Introduction

Development of the draft law on criminalisation of sanctions violations and circumvention

Current version of the draft law and identified shortcomings:

- 1. Limitation of criminal liability to intentional violations only*
- 2. Creating a "loophole" for the withdrawal of assets of sanctioned persons with the help of lawyers*
- 3. Absence of a mechanism for providing licences to carry out actions prohibited by sanctions*

Amendment regarding the impossibility of imposing sanctions on Ukrainian citizens and Ukrainian legal entities

Conclusions and recommendations

Executive Summary

Draft law No. 12406, which provides for the criminalisation of sanctions violations and circumvention, is a critically important document for Ukraine, designed to ensure compliance of national legislation with EU requirements, in particular Directive (EU) 2024/1226, and to strengthen the fight against sanctions violators. However, the changes made during the preparation for the second reading create three key risks:

1. Non-alignment with EU requirements – limiting liability to intentional violations only is contrary to Directive (EU) 2024/1226, which requires the criminalisation of negligent violations as well.
2. Risk of sanctions circumvention – an insufficiently clear exemption mechanism for legal services could create a loophole for asset withdrawal.
3. Human rights violations – the lack of a mechanism for providing licences to carry out actions prohibited by sanctions may lead to blocked access to medical, educational and other essential services.

Significant risks to sanctions policy effectiveness are also posed by an amendment that makes it virtually impossible to impose sanctions on Ukrainian citizens and legal entities. Despite the fact that it was not included in the draft law prepared for the second reading, MPs continue to discuss the possibility of its inclusion in the final version of the draft law.

To ensure the effectiveness of the draft law, it is necessary to: provide for criminal liability for negligent violations, clarify restrictions on legal fees, introduce a system for providing licences to carry out actions prohibited by sanctions, and abandon the idea of limiting the subjects to whom sanctions may be applied.

Incorporating these recommendations will enable Ukraine to establish an effective system for countering sanctions violations that adheres to the best international practices.

Introduction

Sanctions are one of the most important tools for countering individuals whose behaviour threatens national security and international legal order. Since the start of full-scale aggression, through the joint efforts of the sanctions coalition countries and the civil society, Russia has become [the most sanctioned](#) country in the world¹. Moreover, sanctions have become a powerful tool capable of significantly weakening the aggressor's ability to wage war and depriving its accomplices of the opportunity to lead a carefree lifestyle.

However, it is important not only to impose sanctions, but also to ensure compliance with them and to hold violators accountable. For this purpose, the legislation of a significant number of countries [contains provisions](#) on liability for sanctions violations and circumvention². Some international associations have gone even further, creating minimum standards for the criminalisation of such acts. For example, in order to overcome the fragmentation of the system for ensuring the sanctions effectiveness, the European Union adopted [Directive 2024/1226](#)³, which establishes minimum standards for the criminal prosecution of sanctions violators. EU Member States had to implement the corresponding provisions into national legislation by 20 May 2025. As a candidate country for EU membership, Ukraine is obliged to bring its national legislation into line with EU law, in particular Directive 2024/1226. This follows from both Article 7 of [the Association Agreement between the European Union and Ukraine](#)⁴ and the recommendations of the European Commission provided in its reports on Ukraine's progress within the EU Enlargement Package. In particular, in its [2024 Report](#), the European Commission emphasised the necessity of amending the Criminal Code by the introduction of a new article criminalising circumvention of restrictive measures, as sanctions evasion is still not a criminal offence in Ukraine⁵.

Development of the draft law on criminalisation of sanctions violations and circumvention

With the aim of strengthening Ukraine's national security and fulfilling its European integration commitments, an interdepartmental working group coordinated by the think tank "Institute of Legislative Ideas", together with the Ministry of Justice of

¹ Consolidated Russia Sanctions Data Dashboard – Castellum.AI: <https://www.castellum.ai/russia-sanctions-dashboard?fbclid=IwAR2PKBo3ek1XMzawKhU66LuBHSISs29Sld-cZmxOlureEa6TV2DOHJX8ZfY>

² Overview of the current regulation of liability for sanctions evasion: state of play and prospects: <https://izi.institute/en/analysts/5/>

³ Directive (EU) 2024/1226 of the European Parliament and of the Council of 24 April 2024 on the definition of criminal offences and penalties for the violation of Union restrictive measures and amending Directive (EU) 2018/1673: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024L1226>

⁴ Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part: <https://www.kmu.gov.ua/storage/app/sites/1/uploaded-files/ASSOCIATION%20AGREEMENT.pdf>

⁵ Ukraine 2024 Report: https://enlargement.ec.europa.eu/document/download/1924a044-b30f-48a2-99c1-50edeac14da1_en?filename=Ukraine%20Report%202024.pdf

Ukraine and with the participation of more than 10 representatives of other state agencies and bodies, spent more than a year developing a draft law on the criminalisation of sanctions violations and circumvention. As a result, on 14 January 2025, the President of Ukraine submitted to the Verkhovna Rada of Ukraine a draft law “On Amendments to the Criminal Code of Ukraine and the Criminal Procedure Code of Ukraine and the Law of Ukraine “On Sanctions” to establish liability for violation of special economic and other restrictive measures (sanctions)” (hereinafter referred to as draft law [No. 12406](#)⁶).

On 3 June 2025, draft law No. 12406 on the criminalisation of sanctions violations and circumvention was adopted as a basis by the Verkhovna Rada of Ukraine. This document has become an important foundation for reforming Ukraine’s sanctions policy and creating a legal framework for effectively combating sanctions violations. With targeted improvements, it will be able to incorporate the requirements of the recently adopted Directive (EU) 2024/1226 and [international best practices](#)⁷. The draft law is currently being prepared for voting in the second reading.

Current version of the draft law and identified shortcomings

On 9 July 2025, the Verkhovna Rada Committee on Law Enforcement [approved](#) the draft law No. 12406 for the second reading⁸. In general, most of the amendments supported by MPs improve the quality of the draft law, while a number of provisions were introduced that moved away from achieving this objective, worsened its quality and reduced the prospects for its effectiveness.

The think tank “Institute of Legislative Ideas” has analysed the comparative table of amendments supported by the Committee and emphasises the most significant shortcomings that should be eliminated to preserve the logic of the law, ensure compliance with EU requirements and align with the best international practices.

1. Limitation of criminal liability to intentional violations only

Liability is established **only for intentional** failure to comply with or obstruction of the sanctions, whereas the previous version provided for liability also for negligent sanctions violations.

Directive (EU) 2024/1226, Article 3 (3), clearly states that “Member States shall ensure that the conduct listed in paragraph 1, point (e) of this Article, constitutes a criminal offence also if committed with **serious negligence...**”, and recital 4 of the preamble

⁶ Draft law No. 12406: <https://itd.rada.gov.ua/billinfo/Bills/Card/55621>

⁷ Best approaches to criminal prosecution of sanctions violations: Ukrainian and international context: <https://izi.institute/en/analysts/37/>

⁸ Comparative table for the draft Law of Ukraine “On Amendments to the Criminal Code of Ukraine and the Criminal Procedure Code of Ukraine and the Law of Ukraine “On Sanctions” to establish liability for violation of special economic and other restrictive measures (sanctions)”(second reading): <https://itd.rada.gov.ua/billinfo/Bills/pubFile/2983826>

states “Certain conduct should constitute a criminal offence also if carried out with serious negligence”.

Thus, the proposed approach would directly contradict the EU Directive.

The Council of Europe experts, in their conclusions on the draft law for the first reading, positively evaluated Ukraine’s efforts to criminalise negligent violations as well.

Furthermore, the absence of criminal liability for negligent sanctions violations will significantly complicate the process of proving violations and will make Ukrainian legislation one of the weakest among the sanctions coalition countries. For instance, negligence is criminalised in Germany, Austria, Sweden, Denmark, Croatia, Norway, and Switzerland. Recently, [Lithuania](#), in implementing the Directive, also established liability for negligent violations⁹.

Therefore, we propose establishing liability for both intentional and negligent sanctions violations by removing the qualifying word “intentional” from the provision. The absence of such specification would mean criminalisation of sanctions violations irrespective of the form of culpability.

2. Creating a “loophole” for the withdrawal of assets of sanctioned persons with the help of lawyers

It is proposed to supplement the Law of Ukraine “On Sanctions” with an “exception” from sanctions, which will apply to the conclusion and execution of a contract for the provision of legal assistance with a sanctioned person, while the payment procedure for such services and the method of calculating the amount of remuneration for lawyers will be established at the sub-legislative level. Overall, such changes are necessary in the context of ensuring the right of individuals to professional legal assistance, but it should be explicitly specified that the “exception” applies only to services that correspond to the legally defined amount of remuneration. If the legal fee exceeds this amount, it should be classified as a sanction violation.

3. Absence of a mechanism for providing licences to carry out actions prohibited by sanctions

The proposed version of the draft law **lacks the possibility of obtaining a licence** to carry out actions that are prohibited by sanctions.

The lack of a licensing system was explicitly mentioned during the last screening of legislation for compliance with the EU acquis. Therefore, Ukraine should establish such a licensing system similar to those already in place in the EU, the US, the UK and other sanctions coalition countries.

⁹ The Lithuanian Seimas has tightened liability for violations of international sanctions: <https://confiscation.com.ua/en/news/0054/>

Without such a provision, criminalisation leads to violations of fundamental human rights (e.g., inability to obtain medical care, payment for educational services, etc.), reputational damage to Ukraine, and multimillion-dollar compensation payments in the future as a result of complaints to the European Court of Human Rights, and the law itself risks being declared unconstitutional.

Regulating the procedure for providing licences with open information about applicants and licences issued will make the state sanctions policy predictable, transparent and flexible. This will contribute to the protection of national security and, at the same time, enable a rapid response to economic challenges and needs.

Amendment regarding the impossibility of imposing sanctions on Ukrainian citizens and Ukrainian legal entities

Separate attention should be paid to a widely discussed MP amendment¹⁰ which, although not included by the Committee in the draft law prepared for the second reading, is actively supported in some parliamentary circles. The amendment remains a subject of debate and may be put to a vote as a separate proposal. It provides for a virtual ban on sanctions against Ukrainian citizens and legal entities.

The problem of such an approach lies in the contradiction with the doctrine of “enemy character”, according to which the main criterion for imposing sanctions on individuals is not citizenship, but actual residence or business activities in the territory belonging to or occupied by the aggressor¹¹. In our opinion, the decisive criterion indicating the possibility and necessity of imposing sanctions on a subject should be its actions that pose a threat to national security or the international legal order.

The current practice of the sanctions coalition countries confirms the possibility of applying sanctions both to their own citizens and to legal entities registered or conducting business activities in the territory of the state. For example, in December 2024, EU sanctions were imposed on [a Dutch citizen](#) for trading in Russian oil¹². In May 2025, the United Kingdom imposed sanctions on [its own citizen](#) for links to the Russian shadow fleet¹³. Moreover, sanctions can also be applied to domestic legal entities. For example, Poland’s [national sanctions list](#) includes a significant number of such entities, including Beloil, 1C-Poland, and Faberlic Europe¹⁴.

¹⁰ Amendment No. 350 proposed by Hryhorii Mamka

¹¹ This approach was actively used during World War I and World War II and is described, in particular, in the decisions of British courts (Porter v Freudenberg; Re von Hellfeld; Kraut v Dumler [1915] 1 KB 857; Sovfracht (V/O) v Van Udens’s Scheepvaart en Agentuur Maatschappij N.V. [1943] KB.)

¹² Dutch Oil Trader Niels Troost Faces EU Sanctions Over Russia Ties: <https://regtechtimes.com/dutch-oil-trader-niels-troost-faces-eu-sanctions/>

¹³ Financial Sanctions Notice. Russia. 20/05/2025:

https://assets.publishing.service.gov.uk/media/682c444f256994af4172ac35/Notice_Russia_200525.pdf

¹⁴ List of persons and entities subject to sanctions: <https://www.gov.pl/web/mswia/lista-osob-i-podmiotow-objetych-sankcjami>

The complete exclusion of Ukrainian citizens or Ukrainian legal entities from the sanctions regime would create a legal loophole for persons who are actually acting in the interests of the aggressor while residing in the occupied territories or in third countries. We recommend maintaining the possibility of imposing sanctions on Ukrainian citizens and legal entities registered or conducting business in Ukraine, while clearly defining the grounds for such application and the appeal procedures. This will reduce the risk of arbitrary sanctions and ensure proper legal protection.

Conclusions and recommendations

Draft law No. 12406 is an important step in developing an effective system for countering sanctions violations in Ukraine. Despite significant progress achieved during the drafting and adoption at first reading, changes made during the preparation for the second reading create risks of inconsistency with international standards and reduced effectiveness of law enforcement.

In light of these risks, the think tank "Institute of Legislative Ideas" considers it critically important to incorporate the following changes before voting in the second reading:

- 1. Ensure compliance with Directive (EU) 2024/1226 by including criminal liability for negligent sanctions violations;*
- 2. Clarify the mechanism for legal aid exemptions to prevent the withdrawal of assets of sanctioned individuals through lawyers;*
- 3. Introduce a mechanism for providing licences to carry out actions prohibited by sanctions that may be justified by humanitarian, medical or other objective needs.*
- 4. Reject the idea of completely excluding Ukrainian citizens and Ukrainian legal entities from sanctions.*

Successful implementation of these changes will enable Ukraine not only to fulfil its European integration commitments, but also to establish an effective system for countering sanctions violations, that will align with the best practices of the sanctions coalition countries and will contribute to further increasing pressure on the aggressor and its accomplices.