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TRANSPOSITION OF EU DIRECTIVE 2024/1226 BY EU MEMBER STATES

definition of criminal offences and penalties for violations of Union restrictive measures

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Summary

This analytical study examines the transposition of EU Directive 2024/1226 on the definition of criminal offences and penalties for violations of Union restrictive measures by EU Member States and offers recommendations for improving Ukrainian legislation on the criminalisation of violations and circumvention of sanctions in the view of European integration.

The report presents a comparative analysis of the practices of 16 EU Member States which, following the entry into force of the Directive, adopted specific implementing acts or published draft legislation (Greece, Denmark, Estonia, Spain, Cyprus, Latvia, Lithuania, Malta, Germany, Poland, Romania, Slovakia, Hungary, Finland, the Czech Republic, and Sweden). The study is structured in four sections and an annex. It examines the procedural aspects of transposition, the forms and means of implementation, the scope of criminalisation of 12 categories of violations and the circumvention of restrictive measures, the drafting methods used, the introduction of value thresholds, the system of penalties applicable to natural persons, as well as aggravating and mitigating circumstances.

Two principal approaches to the formulation of offences were identified: an abstract model (a general prohibition of “sanctions violations”) and a specific model (a detailed enumeration of eight forms of violations and four forms of circumvention of sanctions, in line with Article 3 of the Directive). Most Member States opted to amend their criminal codes, generally placing the new provisions under sections dealing with international crimes, crimes against the state, or economic crimes. In terms of penalties, Member States tend to go beyond the Directive’s minimum standards, introducing significantly stricter sanctions, with maximum prison sentences ranging from 5 to 12 years. Only a limited number of countries apply an optional monetary threshold for criminalisation, set at approximately €10,000.

For Ukraine, the study recommends a systematic update of the sanctions framework. This would include revising the Law “On Sanctions,” establishing a clear legal definition of the offence, incorporating relevant provisions into the Criminal Code as crimes against peace or the state, and introducing a monetary threshold of approximately €10,000, with administrative liability for minor breaches. It also suggests the mandatory criminalisation of negligent violations concerning military and dual-use goods, the differentiation of liability according to the gravity of the offence, and the establishment of a dedicated coordinating body to oversee sanctions policy.

CONTENT

Introduction

Sanctions are one of the most important tools for countering actions that threaten a country's national security or even the international legal order. In the context of today's challenges to international security, the role of sanctions is growing significantly, prompting constant improvement of the mechanisms for their application.

In the European context, the issue of sanctions policy has become particularly relevant since Russia's brazen invasion of Ukraine in 2014. In response to these illegal actions, in March of that year, the Council of the European Union adopted Regulation 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. This document introduced personal sanctions against Russian accomplices, in particular representatives of the occupying authorities of the Autonomous Republic of Crimea.

However, these measures were not the only manifestation of the European countries' position on Russia's illegal actions. In July 2014, Regulation No. 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine was adopted, introducing sectoral sanctions against key areas of the Russian economy. However, these measures were limited in nature and did not exert systematic pressure on the Russian economy.

The situation changed after the start of the full-scale invasion in February 2022. The scale of sanctions pressure on Russia has increased significantly. As of August 2025, the European Union alone has imposed 18 packages of sanctions, and, according to the head of the European Commission, a 19th package of sanctions is in preparation. However, sanctions pressure on Russia is not only being exerted by the EU. The United Kingdom is taking an equally active stance in this regard, systematically imposing sanctions on the aggressor state's accomplices.

Other countries in the sanctions coalition, including the United States, Switzerland and others, are also making significant contributions to the formation of sustained international sanctions pressure on Russia. As a result of the joint efforts of the international community against Russia, an unprecedented number of sanctions have been imposed – more than 23,000, making it the most sanctioned entity.

However, the application of sanctions against the aggressor and those who support it is only part of a systematic approach to achieving the goal of introducing this instrument. It is also extremely important to create effective tools to ensure compliance with sanctions and to bring violators to justice.

The experience of the European Union, which in recent years has been working particularly hard to improve the legal framework for sanctions policy, is significant in this context. In accordance with Article 83(1) of the Treaty on the Functioning of the EU, the European Parliament and the Council may, by means of directives, regulate minimum rules concerning the definition of criminal offences and sanctions for their commission in the area of particularly serious cross-border crime.

By Decision No. 2022/2332 of 28 July 2022, the Council of the EU classified violations of restrictive measures as criminal activities that meet the criteria set out in Article 83(1) of the Treaty on the Functioning of the European Union. Thus, the European Union has obtained a legal basis for establishing a minimum standard for regulating criminal liability for sanctions violations.

However, the differentiated approach of EU Member States to regulating the issue of liability for sanctions violations has led to significant differences in the definition and scope of the concept of sanctions violations, the types and severity of penalties for committed acts, as well as other compulsory measures applied to violators. This problem is also highlighted in recital 12 of EU Council Decision No. 2022/2332, which states: “The fact that Member States have very different definitions of and penalties for the violation of Union restrictive measures under their national laws contributes to different degrees of enforcement of sanctions, depending on the Member State where the infringement is pursued. This undermines the Union objectives of safeguarding international peace and security and upholding Union common values. Therefore, there is a particular need for common action at Union level to address the violation of Union restrictive measures by means of criminal law”.

That is why, on 24 April 2024, the European Parliament and the Council of the EU exercised their powers to set a minimum standard for regulating liability for sanctions violations by adopting Directive 2024/1226 on the definition of criminal offences and penalties for the violation of Union restrictive measures and amending Directive (EU) 2018/1673.

Directive (EU) 2024/1226 establishes a legal framework to ensure the effectiveness of the EU's sanctions policy and covers the following issues:

- a list of acts covered by the concept of "sanctions violations";
- forms of guilt;
- the optional criminalisation threshold;
- types of penalties applicable to natural and legal persons;
- circumstances that mitigate or aggravate penalties;
- statutes of limitations for violations committed;
- rules of jurisdiction;
- investigation tools, coordination and cooperation between the competent authorities of Member States and EU institutions;
- other criminal law measures.

Given the legal nature of the document, EU Member States are required to implement its provisions into national legislation. In this context, it is worth recalling that Article 83 TFEU only sets out ‘minimum rules’, so when implementing the provisions of the Directive, Member States may introduce stricter legislation, in particular by criminalising acts not covered by the Directive or by providing for more severe penalties for the commission of acts

The deadline for implementing Directive (EU) 2024/1226 is 20 May 2025.

However, as of August 2025, the results of the implementation of Directive (EU) 2024/1226 show significant differences among Member States. Some EU Member States have fulfilled their obligations. These countries include Denmark, Estonia, Finland, the Netherlands, Lithuania, Latvia and Slovakia.

Denmark is a good example in this context. In accordance with Article 2 of Protocol No. 22 on the position of Denmark, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, Denmark was not obliged to implement the provisions of Directive (EU) 2024/1226. Nevertheless, on 20 June 2025, it adopted the relevant legislation.

At the same time, a significant number of EU Member States have not yet completed the implementation process. As a result, on 24 July 2025, the European Commission announced that it was initiating proceedings against 18 EU Member States (Belgium, Bulgaria, the Czech Republic, Germany, Ireland, Greece, Spain, France, Croatia, Italy, Cyprus, Hungary, Malta, Austria, Poland, Portugal, Romania and Slovenia) that had not notified measures to fully implement Directive (EU) 2024/1226 into national law. This calls for a detailed analysis of Member States' approaches to implementing the provisions of the Directive and identifying best practices for implementation.

The purpose of this analytical study is to examine best practices for implementing the provisions of Directive (EU) 2024/1226 into the national legislation of Member States, as well as to formulate conclusions and recommendations for improving Ukrainian sanctions legislation regarding the criminalisation of violations and circumvention of sanctions in connection with European integration.

In view of this, ***the scope of the study*** covers only those EU Member States which, after the entry into force of Directive (EU) 2024/1226, adopted legislation containing new criminal provisions for the purpose of transposing this Directive or officially published in open access drafts of relevant acts developed for the purpose of such transposition.

The subject of the study is limited to those provisions of adopted legislative acts or published draft laws that directly relate to:

- procedural aspects of transposition, the understanding of which is a necessary initial step towards the development and adoption of the necessary legislative changes by Ukraine (section 1 of the analysis);
- the criminalisation of violations of restrictive measures, including the methods, forms and means of its implementation, and the scope of criminalisation (section 2 of the analysis);
- penalisation – ensuring compliance with the provisions of the Directive in terms of determining the punishability of violations of restrictive measures (section 3 of the analysis);

Particular attention is paid to the formulation of general conclusions and recommendations for Ukraine (section 4 of the analysis).

SECTION 1. Transposition – procedural aspects (Articles 19 and 20 of the EU Directive)

(i) Transposition of EU directives: legal basis

Treaty on the Functioning of the EU (excerpt)

Article 83.

1. The European Parliament and the Council may, **by means of directives** adopted in accordance with the ordinary legislative procedure, **establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension** resulting from the nature or impact of such offences or from a special need to combat them on a common basis.
These areas of crime are the following: terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime.
On the basis of developments in crime, the Council may adopt a decision identifying other areas of crime that meet the criteria specified in this paragraph. It shall act unanimously after obtaining the consent of the European Parliament.
2. If the approximation of criminal laws and regulations of the Member States proves essential to ensure the effective implementation of a Union policy in an area which has been subject to harmonisation measures, directives may establish minimum rules with regard to the definition of criminal offences and sanctions in the area concerned. Such directives shall be adopted by the same ordinary or special legislative procedure as was followed for the adoption of the harmonisation measures in question, without prejudice to Article 76 (...)

Article 288.

To exercise the Union's competences, the institutions shall adopt regulations, **directives**, decisions, recommendations and opinions.
A regulation shall have general application. It shall be binding in its entirety and directly applicable in all Member States.
A directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.
A decision shall be binding in its entirety. A decision which specifies those to whom it is addressed shall be binding only on them.
Recommendations and opinions shall have no binding force.

Directives are a specific type of EU act which: a) is binding on Member States; b) is binding as to the result to be achieved; c) leaves Member States free to choose the form and means of achieving the result; d) is not, with certain exceptions, directly applicable in Member States; e) has different national effects . [1]

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1. Tomášek, M., Šmejkal, V. et al. Commentary on the Treaty on the Functioning of the EU, the Treaty on European Union and the Charter of Fundamental Rights of the EU. Prague: Wolters Kluwer ČR, 2024. p. 1041.

The transposition of an EU directive can be seen as *a process* during which EU Member States implement (incorporate) the provisions of the directive into their national legislation, or as *a result* – the state of compliance of a Member State's national legislation (and subsequently its application) with the provisions of the directive.

EU directives set out the mandatory results that states must achieve, but they allow national authorities to choose the form and methods for achieving them. This ensures the consistency of member states' legislation with EU law.

Nota Bene! Article 83 TFEU provides only for a 'minimum method of harmonisation': Member States may maintain or introduce stricter legislation, *i.e.* criminalise conduct not covered by the directive, or provide for stricter penalties or other measures, but they cannot provide for a lesser degree of criminalisation or penalisation than that provided for in the relevant directive.

(ii) Transposition rules in EU Directive 2024/1226 (time limit)

EU Directive 2024/1226 (excerpt)

Article 20. Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive **by 20 May 2025**. They shall immediately inform the Commission thereof.
When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The method of making such a reference shall be laid down by Member States.
2. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.

EU Directive 2024/1226 sets 20 May 2025 as the deadline for transposition. However, this refers specifically to the entry into force of the necessary regulations, not their adoption. One year is actually quite a short period for a procedure that involves initiation, drafting, discussion and consultation, adoption, publication and entry into force. The short deadline clearly demonstrates the importance of the issue of the effectiveness of restrictive measures in the EU.

Among the Member States that did not have their legislation fully compliant with the requirements of EU Directive 2024/1226 at the time of its entry into force, only two countries, Estonia and Finland, complied with the requirements of Article 20(1) regarding the transposition deadline. Three other countries, Lithuania, Latvia and Sweden, ensured the adoption of implementing acts by 20 May 2025, but these came into force after the deadline had passed. Finally, five other countries – Slovakia, Denmark, the Czech Republic, Hungary and Cyprus – adopted the relevant acts after the deadline. It is easy to see that the Baltic and Scandinavian countries have been the most active in this regard. It should also be noted that these same countries have been among the most active in terms of concentrating their efforts and implementing various measures to combat sanctions violations during the period 2022–2025.

Table 1: Dates of adoption and entry into force of acts transposing Directive (EU) 2024/1226 (among the group of countries that have adopted specific implementation acts):

Country	Date of adoption and title of act(s)	Date of entry into force
Estonia	26 March 2025 – amendments to the Criminal Code 05 May 2025 – law on the protection of whistleblowers 15 May 2024 – amendments to the International Sanctions Act	27 April 2025 (first), 18 May 2025 (second), 17 June 2024 (third)
Finland	25 April 2025 – package of laws No. 179/2025, 180/2025, 181/2025, 182/2025	20.05.2025
Lithuania	15–22 May 2025 – package of laws No. XV-203, XV-204, XV-205, XV-206, XV-207	21.05.2025
Latvia	15 May 2025 – amendments to the Criminal Code; 22 May 2025 – amendments to the Law on International Sanctions	10.06.2025
Sweden	08 May 2025 – new International Sanctions Act (SFS 2025:327–332)	10.06.2025
Slovakia	03 June 2025 – Act No. 157/2025	01.08.2025
Hungary	11 June 2025 – Law XLIX/2025	20 June 2025 However, most criminal provisions will come into force on 01 September 2025 or later.
Denmark	20 June 2025 – Law No. 731	21.06.2025
Cyprus	10 July 2025 – Law No. 149(I)/2025 and related Laws No. 148(I)/2025 and No. 150(I)/2025	25.07.2025
Чехія	02.07.2025 – Закон № 270/2025	31.12.2025

Greece, Spain, Malta, Germany, Poland and Romania have prepared and published implementation drafts, which are currently under discussion. Public discussions and comments on them mostly indicate a positive decision on their adoption.

Italy, on the other hand, is currently significantly behind schedule with the transposition of the Directive. In June 2025, the Italian Parliament gave the Government 18 months to ensure transposition, which could mean that Italy is actually more than two years behind schedule.

iii) Forms and means of transposition

- **Form of the implementing act**

As follows from Article 288 TFEU, directives leave Member States free to choose the forms and methods/means of transposition. What matters is that they ensure proper legal force of the provisions, especially when it concerns the most severe restrictions of human rights provided for by criminal law, and their effectiveness. Obviously, in this context, it is for each state to decide on the form and content of the relevant implementing act, who should adopt it, and how many such acts should be adopted.

Member States have mostly adopted or requisite acts in the form of laws. This is natural, since the criminalisation of violations of EU restrictive measures results in the most serious restrictions on human rights characteristic of criminal law. Therefore, their adoption is, as a rule, the responsibility of parliaments – legislative bodies. The role of governments is limited to initiating, developing drafts and submitting them to parliaments.

At the same time, certain features related to the delegation of powers to executive bodies can be observed in some countries. Thus, in Romania, the criminal law enforcement of sanctions is based primarily on Government Emergency Ordinance No. 202/2008 on the implementation of international sanctions, the adoption of which was the result of the implementation of legislative powers delegated by parliament to the government, as well as on the Criminal Code, the Code of Criminal Procedure and Law 302/2004 on international cooperation in criminal matters. The new draft law prepared by the government provides for amendments to the aforementioned Government Emergency Ordinance by parliament.

A similar original method of transposition is also used in Italy. In order to harmonise its legislation with the EU acquis, the Italian Parliament annually adopts the so-called 'European delegation laws' – an annual legislative instrument through which Parliament delegates to the Government the power to transpose EU directives and implement other EU legislative acts in order to overcome existing delays and prevent new ones in the integration of EU legislation. It would seem that delegating legislative powers to the Government should be an effective and rapid means of transposition, but actual practice in Italy shows a different experience: on 13 June 2025, the Italian Parliament adopted Law 2280/2025 on European delegation 2024, Art. 5 of which contains guidelines and principles for delegating powers to the government for the detailed transposition of EU Directive 2024/1226, but Article 2 gives the government 18 months to implement these guidelines.

- **Criminal Code vs. Special Law**

✓ The transposition of EU Directive 2024/1226 shows a clear trend: the dominant approach is to amend criminal codes, while the adoption of separate special laws is, if not an exception, then a much less common way of criminalising and penalising violations of EU restrictive measures. Most countries (in particular, Estonia, Lithuania, Latvia, Slovakia, Hungary, the Czech Republic, Denmark, Spain, and Finland) have chosen to amend their criminal codes (CC) as the main instrument of implementation, although some of them allow for the adoption of laws that establish criminal liability outside the Criminal Code.

While in Lithuania, Latvia and Denmark the provisions of the codes have undergone only minor changes to the wording of existing articles on sanctions violations, the criminal codes of other Member States have undergone significant changes and additions, or such changes are planned in the relevant drafts. This clearly demonstrates that the adoption of EU Directive 2024/1226 has necessitated extensive amendments to the criminal codes of many countries – regulatory acts that are generally revised relatively rarely and tend to be conservative. Thus, five new articles were added to the Slovak code, four new articles were added to the Hungarian code, three new articles were added to the Finnish code and five more underwent significant changes, two new articles were added to the Estonian code and one was revised, two new articles were added to the Czech code and several others were revised. The draft amendments to the Spanish Criminal Code provide for the addition of a new section containing eight articles.

It is interesting to note that articles providing for liability for violations of EU restrictive measures are placed (proposed to be placed) in sections aimed at protecting different interests (values), as evidenced by the titles of the relevant sections of the special parts of the criminal codes and "neighboring" criminal offenses. Violations of restrictive measures are classified as:

- *economic crimes* – Finland (Section 46 "Crimes related to import and export");
- *international crimes* – Slovakia (Section 12(I) "Crimes against peace and humanity, crimes of terrorism and extremism"), Estonia (Section 3 "Crimes against peace"), Czech Republic (Section XIII(II) "Crimes against peace and war crimes");
- *crimes against the state* – Latvia (Section X "Crimes against the State"), Lithuania (Section XIV "Crimes against the Independence, Territorial Integrity and Constitutional Order of the Lithuanian State"),
- *crimes against the EU* – Spain (Section XXIII-bis "Crimes against the area of freedom, security and justice of the European Union"),
- *crimes against public safety* – Hungary (Section XXXI "Crimes against economic regulation based on international obligations for the purposes of public safety").

✓ Other countries have defined criminal offences or plan to define them in special laws, although each of these countries has a codified act – the Criminal Code. However, the methods of transposition in these cases may vary significantly and depend on the characteristics of national legal systems and which specific path the legislator found more appropriate. At least three types of transposition within special laws can be distinguished:

first: transposition is ensured by means of laws specifically dedicated to the issues regulated by the Directive. Three countries have adopted or are planning to adopt laws that could be called "national copies" of EU Directive 2024/1226, as they almost completely reproduce its content, structure and wording (linguistic constructions).

- Cyprus has adopted the "Law on the Definition of Criminal Offences and Sanctions for Violations of Union Restrictive Measures," which contains 15 articles devoted to the criminalisation of violations of restrictive measures;

- Greece plans to adopt a law establishing offences and penalties against natural and legal persons for violations of EU restrictive measures, transposing Directive (EU) 2024/1226 of 24 April 2024. The law contains 21 articles, 15 of which are specifically devoted to the criminalisation of violations and circumvention of sanctions.

Both cases are excellent examples demonstrating these countries' commitment to ensuring the most complete and accurate transposition possible. These acts provide definitions of terms in strict accordance with Article 2 of the Directive, define acts that constitute violations and circumvention of sanctions in the same way as the Directive, and establish penalties for natural and legal persons, other criminal measures, investigation measures, rules for cooperation between competent authorities, protection of whistleblowers and even the process of collecting and submitting statistical data.

The close reproduction of the provisions of the EU Directive, moreover within a single law, undoubtedly contributes not only to the fulfilment of obligations under EU law, but also minimises the risk of differing interpretations of the newly adopted provisions. At the same time, an approach that involves "copying" the directive can only be implemented in national legal systems whose terminology is fully consistent with the terminology of the directive, since otherwise legal certainty may be compromised.

Second: transposition is ensured within the framework of new or updated comprehensive "sanctions laws" – i.e. laws dedicated to regulating both the application (enforcement) and administration of sanctions, as well as liability for violations of restrictive measures:

- In Malta, there are plans to adopt a new "Law on the Power to Adopt Regulatory Acts in the National Interest". Although the main purpose and reasons for this bill are to transpose EU Directive 2024/1226 [2] into national law, it also updates the national system for regulating restrictive measures to ensure their compliance with current EU legislation (primarily regulations). The comprehensive approach consists in proposing to define in a single law not only various aspects of the criminalisation of violations and circumvention of sanctions, but also the rules for the application of restrictive measures, the content of restrictive measures, the powers of competent authorities, the obligations of sanctioned entities, banks and other financial institutions, the basis for cooperation between different authorities, etc.

- In Poland, the draft Law on Restrictive Measures proposes to create a so-called "sanctions constitution". It will be comprehensive in nature, as it will provide, among other things, for: the distribution of competences between various national authorities implementing restrictive measures and the creation of an inter-agency group for better coordination of their actions, the creation of a transparent system for the application of national restrictive measures, the implementation of Directive (EU) 2024/1226 into national law; systematisation of the implementation of EU, UN and national sanctions in the Republic of Poland (unified approach), as their application and enforcement has so far been regulated in part by different legal acts, which has hindered the effective implementation of sanctions and complicated their proper application by the entities subject to them.

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2. Justification for the sanctions law. <https://legislacja.rcl.gov.pl/projekt/12399355/katalog/13139682#13139682>

- In Romania, a draft amendment to the provisions of Government Emergency Ordinance No. 202/2008 on the implementation of international sanctions has been developed and is under discussion. The proposed draft can also be considered an example of a comprehensive approach to the implementation of the provisions of the directive, as it provides for the transfer of most of the provisions of the directive into a single legislative act. An important advantage of this draft is that the same act will contain both the main provisions on the implementation of sanctions, their administration, and liability (administrative and criminal) for violations of these sanctions.

A special case is the new Swedish Law on International Sanctions. When transposing the EU Directive, the Swedish government decided to adopt a new law on sanctions altogether. In its explanations to the draft law, the government noted that the current Law on Sanctions appears difficult to understand in some parts. Several provisions also need to be revised, in particular as a result of the adoption of the Directive. In order to make the regulation more understandable and transparent, it was decided to implement the Directive in a new International Sanctions Act, which is to apply to all international sanctions. [3] It contains provisions of criminal law and criminal procedure regarding violations of international sanctions, as well as specific provisions on how international sanctions that are not directly applicable should be implemented in Swedish law. The main criminal law provisions of EU Directive 2024/1226, set out in Articles 3 to 5 of the Directive, are transposed into national law as closely as possible to the relevant wording of the Directive. However, other provisions (Article 6 of the Directive and beyond) are reflected in the law to a lesser extent, as their effect is mainly ensured by the current Criminal Code and other acts.

As can be seen, the transposition of the EU Directive within the framework of specific comprehensive laws demonstrates not only the achievement of the goal of unifying approaches to liability for violations and circumvention of sanctions throughout the EU, but also that the EU Directive has provided an impetus for bringing order to the national sanctions legislation of individual Member States.

Third: in some cases, transposition is achieved by amending special regulatory laws in the relevant areas, due to the absence of specific laws on sanctions as such. For example, in Germany, the draft bill provides for amendments to specific laws governing foreign trade, customs and residence (stay) in Germany, respectively.

- **Comparison of other transposition methods**

Adopting a single legislative act or a package of laws is a decision left to the discretion of Member States, each of which has its own rules and traditions of law-making. To ensure the transposition of EU Directive 2024/1226, most Member States resort to adopting several separate laws that provide for amendments.

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3. New law on international sanctions. <https://www.regeringen.se/rattsliga-dokument/proposition/2025/03/prop.-202425126>

- ✓ For example, Lithuania prepared a package of draft amendments to various laws, including separate laws amending: the Criminal Code of the Republic of Lithuania and its annex (Law No. XV-204); the annex to the Code of Administrative Offences of the Republic of Lithuania (Law No. XV-205); the Law on International Sanctions (Law No. XV-203); the Law on Criminal Intelligence (Law No. XV-206); the Law on the Protection of Informants (Law No. XV-207).

- ✓ In Latvia, at least three draft laws were adopted, providing for amendments to: the Criminal Code of the Republic of Latvia (Law of 15 May 2025); the Law on the Entry into Force and Application of Criminal Law (Law of 15 May 2025); the Law of the Republic of Latvia on International and National Sanctions (Law of 22 May 2025). Overall, Latvia's regulatory framework largely complied with the requirements set out in the Directive. However, during transposition, it was concluded that amendments to the Criminal Code were necessary to define the scope of sanctions violations, the obligation to report possible criminal offences and mechanisms for cooperation in the field of sanctions enforcement . [4]

- ✓ Estonia has adopted at least three legislative acts that ensure the transposition of the Directive: the Act Amending the Criminal Code and Related Amendments to Other Acts (Act of 26 March 2025); Law on Amendments to the Law on the Protection of Whistleblowers and the Law on International Sanctions (Law of 5 May 2025); Law on Amendments to the Law on International Sanctions and Other Related Laws (Law of 15 May 2024).

- ✓ In Finland, in order to fulfil its obligation to implement the provisions of the EU Directive, a package of laws was adopted on 25 April 2025: Law amending the Criminal Code (Law 179/2025); Act amending the Act on Enforcement Measures (Act 180/2025); Act amending the Act on the Protection of Persons Reporting Violations of EU and National Legislation (Act 181/2025); Act amending the Act on the Implementation of Certain Obligations of Finland as a Member of the UN and the EU (Act 182/2025).

In some countries, the legislative solution is to adopt a single act that amends several related laws. For example, Hungary adopted the Act Amending Judicial Legislation (Act XLIX 2025), which amends not only the Criminal Code but also other legislative acts and addresses more than just the transposition of the Directive. In Slovakia, Law 157/2025 was adopted, introducing amendments and additions, in particular, to the Criminal Code, the Law on the Protection of Whistleblowers and the Law on Criminal Liability of Legal Persons. In the Czech Republic, Act No. 270/2025 of 02.07.2025 amended the Criminal Code, the Criminal Procedure Code, the Act on International Judicial Cooperation in Criminal Matters, the Law on Criminal Liability of Legal Entities and other laws (only part of which concerns the transposition of EU Directive 2024/1226).

In August 2025, the German government presented a draft law on the adaptation of criminal offences and sanctions for violations of EU restrictive measures, which serves to implement the EU directive and amends several laws at the same time, in particular: the Foreign Trade and Payments Act (AWG), the Foreign Trade Ordinance (AWV), the Residence Act (AufenthG) and the Customs Investigation Service Act (ZFdG).

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4. Administrative liability is also envisaged for sanctions violations. <https://www.lvportals.lv/skaidrojumi/371958-par-sankciju-parkapumiem-paredz-noteikt-ari-administrativo-atbildibu-2025>

The need to adopt a package of laws or to amend various laws in a single act is due to the fact that the provisions of EU Directive 2024/1226 do not only concern criminal law. They also create obligations for Member States in the areas of investigation procedures (criminal proceedings), procedures for reporting offences and protecting whistleblowers, etc. In addition, the criminalisation of certain violations and circumvention of sanctions requires prior amendment of the legislation on the application of sanctions, in particular with regard to the obligation to report and notify, harmonisation of terminology, etc.

At the same time, a number of Member States, primarily those that are adopting or updating comprehensive special laws, have adopted or plan to adopt a single act (law) that reproduces the provisions of EU Directive 2024/1226 as closely as possible (in particular, Greece, Malta, Poland, Romania).

iv) reference to EU Directive 2024/1226

When adopting the relevant regulations, Member States ensured that a reference to the Directive was included and/or accompanied their official publication with such a reference.
As a rule, a direct reference was provided in national legislation: a reference to EU Directive 2024/1226 is provided in the text of the adopted national law. This reference is usually contained in the preamble, the explanatory (introductory) part of the regulatory act, which explains the purpose of the law, especially when it comes to laws amending other acts. In other cases, a separate article of the law, its final provisions or special annexes contain a list of EU acts (directives, regulations, decisions) whose provisions are implemented in such a law.

For example, paragraph 2 of the preamble to Hungarian Law XLIX of 2025 on amendments states that "the amendments to the legislation ensure the fulfilment of Hungary's international and legal obligations to the EU, in particular the implementation of Directive (EU) 2024/1226, which provides for the criminalisation of violations of international economic sanctions." In turn, Section 465 of the Criminal Code ("Compliance with European Union legislation"), as well as a number of other laws, includes a reference to the Directive, confirming its implementation into the relevant act. The transposition of the Directive is mentioned in Article 1 of the Maltese draft law, which describes the purpose of the law. In the new Swedish Law on International Sanctions, the reference to the implementation of EU Directive 2024/1226 is contained in Article (§) 1 of the law.

Another example is Slovak Law 157/2025, which ensures transposition by amending the Criminal Code and two other laws by adding a reference to the Directive in the annexes to these laws. These annexes contain a list of all EU acts transposed into the relevant act. The same reference in a separate article of the annex to the Criminal Code is also provided for in the relevant Lithuanian law on amendments.

In some cases, the reference to EU Directive 2024/1226 is already included in the title of the relevant act. For example, the full title of the Greek draft law is "Establishment of criminal offences and sanctions against natural and legal persons for violations of European Union restrictive measures, implementation of 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 and other provisions."

Accompanying documents (e.g. explanatory notes, impact assessments or official reports) often contain explicit references to EU Directive 2024/1226, explaining how the national law complies with or transposes the provisions of this Directive. Member States also create and often publish a special transposition table or overview document accompanying the national legislation. This document compares the provisions of the EU Directive with those of national legislation, showing how each point of the Directive has been transposed into national law. For example, good examples of comparative tables can be found in Lithuania ("Table of correlation between Directive (EU) 2024/1226 and national legislation and draft legislation"), Poland ("Table of alignment with the Directive"), the Czech Republic ("Tables of compliance with EU legislation").

Another example is the Minister of Justice and Security of the Netherlands, who announced through an official publication that Directive (EU) 2024/1226 had been implemented through the introduction of existing regulations, adding a transposition table as confirmation.

v) assessment of the degree of implementation of the Directive

As noted above, two months after the transposition deadline (and 14 months after the Directive entered into force), the European Commission initiated proceedings against 18 of the 27 EU Member States as they had not notified the Commission of measures to fully implement Directive (EU) 2024/1226 into national law. Some of the states that missed the deadline have already adopted legislative acts for transposition, and some of them managed to do so even before the European Commission's announcement (e.g., Cyprus, the Czech Republic, and Hungary). At the same time, these facts do not yet mean that these countries have fulfilled their obligations, as each of them has so far only conducted an internal (national) assessment of the implementation of the directive.

According to Article 19(1) of EU Directive 2024/1226, by 20 May 2027, the European Commission must submit a report to the European Parliament and to the Council, assessing the extent to which the Member States have taken the necessary measures to comply with this Directive. Therefore, the final assessment of whether each Member State has fully implemented the provisions of the Directive into its legislation will take place a little later, based on an external analysis by the Commission and the actual practice of applying the newly adopted provisions.

SECTION 2.Criminalising violations of Union restrictive measures (Articles 3 and 4 of the EU Directive)

(i) General content and meaning of Article 3 of the EU Directive

Paragraph 1 of Article 3 contains provisions that can be considered a "mini-directive" within the Directive. These provisions are central and play a systemic role for the other provisions of the Directive.

EU Directive 2024/1226 (excerpt)

Article 3.
Violation of Union restrictive measures

1. Member States shall ensure that, where it is ***intentional*** and in violation of a prohibition or an obligation that constitutes a Union restrictive measure or that is set out in a national provision implementing a Union restrictive measure, where national implementation is required, the following conduct constitutes a criminal offence:

(a) making funds or economic resources available directly or indirectly to, or for the benefit of, a designated person, entity or body in violation of a prohibition that constitutes a Union restrictive measure;

(b) failing to freeze funds or economic resources belonging to or owned, held or controlled by a designated person, entity or body in violation of an obligation that constitutes a Union restrictive measure;

(c) enabling designated natural persons to enter into, or transit through, the territory of a Member State, in violation of a prohibition that constitutes a Union restrictive measure;

(d) entering into or continuing transactions with a third State, bodies of a third State or entities or bodies directly or indirectly owned or controlled by a third State or by bodies of a third State, including the award or continued execution of public or concession contracts, where the prohibition or restriction of that conduct constitutes a Union restrictive measure;

(e) trading, importing, exporting, selling, purchasing, transferring, transiting or transporting goods, as well as providing brokering services, technical assistance or other services relating to those goods, where the prohibition or restriction of that conduct constitutes a Union restrictive measure;

(f) providing financial services or performing financial activities, where the prohibition or restriction of that conduct constitutes a Union restrictive measure;

(g) providing services other than those referred to in point (f), where the prohibition or restriction of that conduct constitutes a Union restrictive measure;

(h) circumventing a Union restrictive measure by:

(i) using, transferring to a third party, or otherwise disposing of, funds or economic resources directly or indirectly owned, held, or controlled by a designated person, entity or body, which are to be frozen pursuant to a Union restrictive measure, in order to conceal those funds or economic resources;

(ii) providing false or misleading information to conceal the fact that a designated person, entity or body is the ultimate owner or beneficiary of funds or economic resources which are to be frozen pursuant to a Union restrictive measure;

(iii) failing by a designated natural person, or by a representative of a designated entity or body, to comply with an obligation that constitutes a Union restrictive measure to report to the competent administrative authorities funds or economic resources within the jurisdiction of a Member State, belonging to, owned, held, or controlled by them;

(iv) failing to comply with an obligation that constitutes a Union restrictive measures to provide the competent administrative authorities with information on frozen funds or economic resources or information held about funds or economic resources within the territory of the Member States, belonging to, owned, held or controlled by designated persons, entities or bodies and which have not been frozen, where such information was obtained in the performance of a professional duty;

(i) breaching or failing to fulfil conditions under authorisations granted by competent authorities to conduct activities, which in the absence of such an authorisation amount to a violation of a prohibition or restriction that constitutes a Union restrictive measure;

In view of the content of Article 3(1), the following conclusions can be drawn about the provisions of the Directive on the criminalisation of violations of Union restrictive measures:

- Article 3(1) generally contains nine specific types (forms) of acts that are recognised as restrictive measures (points (a) to (i)), which are characterised by a common feature – these acts are not punishable per se, but only if they violate prohibitions, restrictions or obligations that: (a) constitute a Union restrictive measure, or (b) are established by national provisions implementing a Union restrictive measure;
- among these nine types of acts, circumvention of a restrictive measure (point (h)) is clearly distinguished, which in turn is divided into four subtypes:
  - transactions involving frozen assets (point (h)(i)),
  - misrepresentation of the real owner of the assets (point (h)(ii)), and
  - breach of the obligation to report assets by a designated person (point (h)(iii)) or
  - reporting of assets by a professional entity (point (h)(iv)).

As a result, one can distinguish 8 forms of sanctions violations (clauses (a) – (g) and (i)) and 4 forms of circumvention (clauses (h)(i) – (iv));

- violations of restrictive measures provided for in paragraphs 3(1)(a) – (d) are formulated in such a way that they criminalise violations not so much by a designated person (sanctioned entity) but rather by other entities – professionals (in particular, employees of financial institutions) and third parties: providing assets to a designated person, facilitating their entry or transit, not freezing their assets, and entering into agreements with a sanctioned state. However, in reality, due to the provisions on complicity, designated persons also fall under these rules;
- violations of restrictive measures provided for in paragraph 3(1)(e) – (g), (i) literally apply to any entities (designated persons, professionals, third parties): carrying out various trade operations with goods, providing services or carrying out financial activities that are prohibited or restricted by sanctions, as well as performing actions in violation of the terms of the authorisation. In these cases, the provisions on complicity are also applicable;

- given the "minimum rules" standard in the Directive, the focus is on intentional violations of sanctions, although there is a noticeable positive attitude towards prosecution for negligent violations (see below).

Ensuring the implementation of the principle of proportionality, EU Directive 2024/1226 provides that not all violations of EU restrictive measures must necessarily be subject to criminal liability. Violations for which there is no requirement for criminalisation are:

- intentional violations of EU restrictive measures that fall under the value exception (up to €10,000) provided for in Article 3(2), with the exception of "military goods";
- intentional violations of EU restrictive measures not covered by Article 3(1);
- negligent violations of EU restrictive measures, except for the mandatory exemption for "military goods" provided for in Article 3(2).

Member States have discretion regarding these acts: they may choose not to consider them criminal offences and provide for administrative (civil) measures or no liability at all, or they may ultimately define them as criminal offences.

(ii) Scope of criminalisation:

One of the most important consequences of the adoption of EU Directive 2024/1226 is to ensure criminal liability for violations and circumvention of sanctions throughout the Union. The goal of ensuring a uniform approach to defining criminal offences and penalties for them cannot be achieved if several Member States do not have a specific provision providing for criminal penalties specifically for violations and circumvention of sanctions. In this sense, because of the Directive, three countries have begun the process of criminalising the respective actions for the first time (criminalisation "from scratch"):

- ✓ Thus, the Criminal Code of Slovakia, Law 157/2025 on amendments and additions to the Criminal Code and on amendments and additions to certain laws, in addition to minor changes to existing articles, was also supplemented with six new articles. The significance of the changes resulting from the implementation of the provisions of the Directive was primarily due to the fact that previously, only administrative liability for violations of sanctions existed in Slovakia.
- ✓ Spain is also one of the countries where violation or circumvention of an EU restrictive measure is not a separate (independent) criminal offence. Therefore, on 25 March, the Spanish Council of Ministers approved the preliminary draft of the Organic Law amending the Criminal Code to transpose Directive 2024/1226 EU, which proposes significant changes to the Spanish Criminal Code: in addition to the amendments to Article 301, the Criminal Code is supplemented by a new Section XXIII-bis, which contains as many as 8 new articles.
- ✓ After analysing the provisions of EU Directive 2024/1226 in relation to the national legal framework in Romania, it became clear that a new draft legislative act was needed to ensure the transposition of the Directive: the violation of international sanctions in Romania does not have a clearly defined separate offence in the Criminal Code, but may be covered by a number of articles on other general offences depending on the nature of the act (influence peddling, abuse of power, etc.). The draft amendment to Government Emergency Ordinance No. 202/2008 on the implementation of international sanctions provides for the implementation of the provisions of the Directive by supplementing the Emergency Ordinance with Section V on (administrative) offences, which is proposed to be linked entirely to the condition of "no evidence of a crime", with a separate section V-1 "Crimes", which provides for 7 new articles.

This means that these states have implemented (or plan to implement) the most comprehensive criminalisation of acts in the sense that all acts defined in Article 3(1) of the Directive are transformed from non-punishable (or only administratively punishable) to criminal, with the exception of certain acts covered by classic general criminal provisions.

Other EU Member States already had specific criminal provisions criminalising violations of restrictive measures at the time EU Directive 2024/1226 entered into force. In view of this, the scope of criminalisation in such states varies depending on the extent to which their existing provisions already covered the acts referred to in Article 3(1). Thus, in the context of the transposition of Article 3(1) of the Directive (i.e. in terms of criminalisation), Article 110c of the Danish Criminal Code was amended with regard to "military goods", while Article 123-1 of the Lithuanian Criminal Code was amended only with regard to negligent violations of sanctions and violations in the form of facilitating the entry or transit of a designated person through Lithuanian territory. A broader scope of criminalisation can be seen, in particular, in the draft legislative changes developed in Germany and Poland.

Some Member States have declared full compliance with regard to the criminalisation of sanctions violations. For example, in its public communication on Article 3(1) (as well as on other articles of the Directive), the Netherlands noted that violations of the prohibitions and obligations set out in Union acts on the application of sanctions are already punishable, even more broadly (more severely) than required by the Directive. It is possible that a number of other states against which the Commission has initiated proceedings for failure to notify transposition measures already have an adequate level of criminalisation and other compliance with the Directive.

iii) conflicts of criminal provisions

Criminalization often leads to conflict between different provisions of criminal law. As a result, the same behavior may be treated under various articles of criminal law, leading to inconsistent application of the law in similar circumstances or to unjustified treatment under the rule on cumulative offenses.

This problem is exacerbated in cases of 'criminalisation from scratch'. In Spain, the current regulatory framework provides for fragmented coverage of sanctions for different violations of restrictive measures: violations of certain EU measures fall under more general criminal or civil (administrative) offences, such as smuggling or money laundering.[5] In Romania, Article 26 of the current Emergency Ordinance No. 202/2008 provides for a fine for violations of certain provisions of the ordinance, provided that such an act is not a crime. At the same time, in the Criminal Code, violation of international sanctions does not constitute a separate offence, but may be covered by a number of articles on other general offences, depending on the nature of the act: abuse of office (if an official facilitates the circumvention of sanctions or fails to fulfil their duties regarding their implementation), trading in influence (when sanctions are circumvented through corruption schemes or the use of personal connections), document forgery, violation of export control regime, fraud or money laundering.

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5. Spain Approves Draft Bill Transposing EU Directive on the Criminalisation of Sanctions Violations. <https://sanctionsnews.bakermckenzie.com/spain-approves-draft-bill-transposing-eu-directive-on-the-criminalization-of-sanctions-violations/>

The draft laws in Spain and Romania that plan to adopt rules on criminal violations of sanctions provide for the creation of special rules. In this case, they may compete with more general rules. The draft laws do not contain any special provisions that could resolve this issue, which means that traditional principles developed by criminal law doctrine will apply. The general rule for resolving conflicts is well known – lex specialis derogat legi generali (a special law takes precedence over a general law) – but this does not exclude the rule on multiple offences. In this regard, the explanatory memorandum to the Spanish draft law recognises the possibility of conflicts or classification under the rule of ideal concurrence as a result of the transposition of the EU Directive, since general criminal provisions on smuggling, disobedience or money laundering still remain applicable. However, it is assumed that special provisions will apply. [6]

The Finnish Criminal Code, which covers the entire spectrum of crimes, contained a very general provision prior to transposition: Section 46 on crimes related to import and export contained the universal crime of "Violation of established rules" (§ 1), paragraphs 1 and 9 of which provided that anyone who violates or attempts to violate, in particular, legislation on the fulfilment of certain obligations of Finland as a member of the UN and the EU, or legislation in the field of the EU's common foreign and security policy on the basis of Article 215 TFEU on the termination of economic/financial relations with a third country or on the application of restrictive measures provided for in regulations or on the basis of the aforementioned normative acts, shall be punished by a fine or imprisonment for up to two years. The new Act added four new articles to this section with special provisions on "Violation of sanctions" (§ 3a), "Aggravated violation of sanctions" (§ 3b), "Negligent violation of sanctions" (§ 3c) and "Minor violation of sanctions" (§ 3d). To avoid conflict between general and special provisions, the "general" paragraphs 1 and 9 were deleted. In addition, a conflict provision was added to § 4 ("Smuggling") stating that a violation of the provisions or regulations on import or export specified in §§3a–3d is not considered smuggling.

In Greece, liability for violations of EU restrictive measures is currently provided for in Article 142-A of the Criminal Code (Law 4619/2019) and the Law on the Prevention and Suppression of Money Laundering and Terrorist Financing (Law 4557/2018). The Greek Criminal Code already contains a rule to overcome potential conflicts, as it provides for imprisonment of up to two years for intentional violation of restrictive measures, provided that no other provision provides for a more severe penalty. Therefore, if the government's draft law on the transposition of the Directive is adopted, the new provisions of the law will be specific to Article 142-A of the Criminal Code.

Poland, in turn, has also only partially ensured the compliance of its legislation with EU Directive 2024/1226 through the existing provisions of the Criminal Code and Article 15 of the Act on Specific Measures to Counter Support for Aggression against Ukraine and to Protect National Security, which provide for criminal offences for violations of EU regulations on restrictive measures against Russia, Belarus and the Donetsk and Luhansk regions (Law of 13 April 2022).

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6. Report on the Draft Organic Law amending Organic Law 10/1995 of 23 November on the Criminal Code, for the transposition of Directive (EU) 2024/1226 of the European Parliament and of the Council of 24 April 2024, on the definition of offences and sanctions for the violation of Union restrictive measures. P.18. <https://www.poderjudicial.es/portal/site/cgpj/menuitem.65d2c4456b6ddb628e635fc1dc432ea0/?vgnextoid=d57b856a223c6910VgnVCM1000004648ac0aRCRD&vgnextchannel=824f1b6adf5d9210VgnVCM100000cb34e20aRCRD&vgnextfmt=default&vgnextlocale=en&perfil=1&lang_choosen=en>

The provisions of this Law have a narrower scope than those of the Directive, which covers not only violations of restrictive measures imposed in connection with the war in Ukraine, but also all EU legal acts on restrictive measures. The explanatory notes to the draft law state that the "special law" adopted in connection with Russian aggression against Ukraine will remain in force in view of the exceptional international situation, the specific nature of the current regulation and the number of cases being considered under it. However, its criminal provisions (Article 15) are proposed to be amended or repealed in order to bring them into line with the new general law. Due to the fact that the "special law" will not be repealed in its entirety, the new draft law has been criticised, as the harmonisation will only be partial – the provisions on sanctions will continue to be scattered. [7]

iv) corpus delicti

Article 3(1) does not refer to the causing of property damage or other harm by acts defined as violations or circumvention of restrictive measures. In other words, the corpus delicti of the criminal offence proposed by EU Directive 2024/1226 is a conduct crime (or so-called "victimless crime"). In other words, the Directive requires Member States to recognise a person's conduct as a violation of a restrictive measure based solely on the act itself, even if it did not cause any specific property damage or other harm.

An analysis of the transposition shows that the conduct crime approach prevails among Member States: most states recognise the violation or circumvention of sanctions as punishable, regardless of the actual consequences.

However, Article 123-1 of the Criminal Code of Lithuania defines a criminal offence as a violation of international sanctions in force or established in the Republic of Lithuania that has caused significant damage. This "general" type of violation of sanctions therefore is a result crime, i.e. it requires the occurrence of a consequence in the form of significant damage.

In the comparative table to the draft law, the Lithuanian government's arguments regarding the result-crime approach are based on the desire to avoid unjustified expansion of the criminalisation of unlawful conduct. According to the government, the criterion of "significant damage" is evaluative and will be of a mixed nature, as it can be both property-related (direct losses, expenses, lost profits) and non-property-related (physical, moral, organisational and other types of damage), which was previously interpreted by the Supreme Court of Lithuania in a comparative aspect in a case concerning abuse of power (Article 228 of the Criminal Code). The evaluative nature of the criterion means that the amount of damage will be assessed taking into account the circumstances of the specific case: the nature of the committed actions, the interests violated, the number of victims, the duration of the criminal act, the importance of the person's current situation, the resonance in society, the authority of the state, etc. In its explanations, the government notes that even a significant amount in the context of a violation of restrictive measures would be interpreted in financial terms as a sum of money exceeding €10,000, although at the same time it would be possible to bring persons to criminal responsibility for violating international sanctions when the amount does not reach €10,000 but significant damage has been caused to state interests (non-material damage).

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7. What national restrictive measures does the major sanctions bill introduce? <https://cowprawiepiszczy.com/2025/07/jakie-krajowe-srodki-ograniczajace-wprowadza-duza-ustawa-sankcyjna/>

Certainly, Article 3(2) of EU Directive 2024/1226 allows Member States to set a value threshold for funds, economic resources, goods, transactions and services in respect of which the acts specified in Article 3(1) are committed. However, their value is not equivalent to the damage caused: committing acts even in relation to assets or services worth more than €10,000 does not necessarily cause property damage at all or property damage of the same value. One thing is certain: the Directive requires the criminalisation of violations and circumvention of sanctions regardless of any damage. Moreover, even among the list of aggravating circumstances provided for in Article 8 of the Directive, there are none relating to the amount of damage. Thus, it is unlikely that Lithuania's approach, based on the mandatory proof of significant damage from the violation, meets the requirements of Article 3 of the Directive.

v) ways of describing the actus reus (specification of ways of violating sanctions)

Prior to the adoption of EU Directive 2024/1226, the criminal laws of EU Member States provided for a predominantly general (abstract) formulation of the act: "violation of restrictive measures/prohibitions, restrictions, obligations...", "anyone who has violated an international sanction...".[3] The transposition of the Directive initiated the opposite trend – many Member States took the path of specification, outlining several forms of violations of restrictive measures. The source of the trend towards specifying the forms (types) of behaviour that constitute violations of sanctions is Article 3(1), which contains an exhaustive list of acts.

In general, two main ways of formulating *actus reus* can be distinguished when Member States define types of violations of Union restrictive measures:

the first is an abstract (unspecified, vaguely specified) method: it involves the most generalised (unspecified) formulation of an act, which in terms of content only indicates its unlawful nature, but does not allow the actual content of the act to be ascertained. Along with such an act, certain specific types of violations may also be envisaged, but in general the content of the act remains rather general than specific:

- ***Estonia:*** the previous version of Article 93-1 of the Criminal Code, "Violation of international sanctions and sanctions of the Government of the Republic", provided for the most general wording to describe an unlawful act – "failure to comply with an obligation or violation of a prohibition". With the adoption of the transposition law, unlawful behaviour has not been defined more specifically. The added Article 93-2 also contains the most general wording possible, but for negligent violation of sanctions – "failure to comply with an obligation or violation of a prohibition established in a legal act that applies international sanctions or establishes sanctions of the Government of the Republic through negligence".
- ***Denmark:*** in §110-c of the Danish Criminal Code, the act remains broadly defined even after transposition, without any specification, as a violation of Council measures contained in or issued pursuant to regulatory acts and which are aimed at interrupting or restricting, in whole or in part, financial or economic relations with one or more countries, or at imposing restrictive measures on individuals, groups of individuals or legal entities. At the same time, separate paragraphs defined violations of legislation on weapons and explosives, if the violation concerns restrictive measures, as well as trade, import, export, sale, purchase, transfer, transit or movement of military and dual-use goods (hereinafter referred to as "military goods"). However, the penalties for these specific types of violations are identical to those for general violations, which calls into question the rationale for establishing specific rules.

- ***Latvia:*** prior to the amendments, there was no specification of the act, and in general, the actions of a person violating the sanction were punishable, i.e. the act was formulated in the most generalised way possible. After transposition, only partial specification took place. As a result, the current version of Article 84(1) of the Latvian Criminal Code provides for one specific type of violation of sanctions – through the purchase, sale, moving goods subject to sanctions across the state border, providing intermediary services, technical assistance or other services related to goods, or performing any other prohibited actions with these goods, if this was done on a significant scale (special type), and one general type – other violations of sanctions. Paragraph 2 of Article 84 contains another special type of violation, which concerns military and dual-use goods.
- ***Czech Republic:*** even before the law implementing the Directive came into force, the Czech Criminal Code already contained a special article – § 410 on violations of international sanctions. Taking into account the amending law, the Czech Criminal Code also provides for a general, unspecified provision on violations of international sanctions in §410 (1). At the same time, two special types are now distinguished: violations by allowing a sanctioned person to enter or transit through the Czech Republic (§410(2)), and violations relating to "military goods" committed with gross negligence, regardless of the value of the goods (§410a).

The list of countries that use the general term “violation” is likely to be much longer, taking into account other EU Member States, which are not analysed in this study because they did not adopt specific criminal provisions after the Directive came into force.

The main advantage of an abstract (unspecified) approach to the formulation of an act is that the legislator demonstrates foresight and criminalises future innovative methods of violation and circumvention, so to speak, in advance, preventing gaps in the law. This also ensures that regulatory sanctions legislation and legislation on liability for violations keep pace with each other. Sanctions legislation is progressing, the types and content of restrictive measures are constantly expanding, and criminal law is changing post facto, as a result of which serious violations of restrictive measures may remain unpunished for a long time.

The main drawbacks of the most general wording, such as "sanctions violation," are a significantly lower degree of legal certainty and the risk of potential inconsistency with the provisions of the Directive on the definition of criminal offences. Since the latter, in Article 3, provides an exhaustive list of eight types of violations and four types of circumvention, it is not clear that all 12 types of acts will be recognized under the national law of a Member State as criminal offences. The greatest doubts in this case arise as to whether such wording ensures the criminalisation of circumvention of sanctions, since failure to report or declare funds and economic resources is not so much a consequence of a violation of a restrictive measure as a failure to comply with additional obligations provided for by acts (including regulations) in connection with the application of restrictive measures. According to another interpretation, this approach may be overly broad, i.e. violate the principle of proportionality, since the wording "violation of sanctions" can cover any, even minor (technical) provisions of the adopted acts (including regulations).

Ultimately, overly broad wording does not promote differentiation of liability, whereas Article 5 of EU Directive 2024/1226 provides for varying degrees of punishment for different types of violations and circumvention of sanctions. The generalized wording “violation of sanctions,” which covers different types of violations at the same time, negates the varying degrees of punishment. In such circumstances, the discretion of law enforcement agencies is expanded.

The ***second*** is a concrete (casuistic, typified) approach: it provides for the definition of specific types (kinds) of acts by listing them in the text of the law, usually leaving the list of violations exhaustive (not open-ended).

- ***Sweden:*** the repealed law previously provided for fairly general formulations of acts – "violation of the prohibition..." and "violation of the decision...". This was a reference norm that referred to other norms of the same law, which generally listed possible types of restrictions. The new law provides a much more specific description of acts, which is as close as possible to the literal reproduction of the provisions of Article 3 of the EU Directive: §3 and §4 provide for eight forms of violations corresponding to points (a) to (g) and (i) of Article 3(1) of the Directive, and § 5 contains four forms of circumvention of sanctions specified in points h(i)-(iv) of Article 3(1) of the Directive.
- ***Slovakia:*** as a result of transposition, the current Criminal Code of Slovakia provides an exhaustive list of violations of restrictive measures, which corresponds to the forms of violation and circumvention of sanctions defined in Article 3 of the Directive – all 12 types are defined in §§417a – 417d, most of which are listed in §417a. The wording of these types of violations is as close as possible to that contained in the Directive.
- ***Poland:*** The special law on sanctions in connection with the Russian Federation's aggression against Ukraine currently in force in Poland provides for the most casuistic and difficult to understand formulation of a criminal law prohibition, which is strictly linked in blanco to specific provisions of EU regulations that provide for certain restrictions, prohibitions and obligations (a sample excerpt from this law is provided in the Appendix to this analysis). The strict link to specific provisions of EU regulations is an example of excessive specificity, which leads both to problems with the general understanding of the criminal law prohibition and to the need for constant changes to criminal provisions: the expansion of sanctions and the emergence of new restrictions and obligations constantly necessitate amendments to criminal provisions. In this regard, the draft law proposes to adopt a descriptive definition of the conduct of persons and organisations that leads to criminal and administrative liability by adopting provisions that typify specific violations of sanctions in accordance with Article 3 of the Directive and, as a result, eliminate the need for permanent amendments. The draft defines the following types (forms) of acts: 8 forms of sanctions violations, which are reflected in Article 3(1)(a) – (g) and (i) of the Directive, are covered by Articles 30 – 35 of the draft and, in terms of content and wording, ensure maximum compliance; 4 types of circumvention of sanctions, which are reflected in Article 3(1)(h) of the Directive, are covered by Article 36 of the draft with maximum consistency with the relevant provisions of the Directive.
- ***Cyprus:*** the repealed Law of 25 April 2016 No. 58(I)/2016 contained in Article 4 a brief provision providing for an abstract formulation of the offence – criminal liability arose for violation of any of the provisions of EU Council decisions and regulations, without a list of specific forms of violations. The new Law provides an exhaustive list of specific forms of violation of restrictive measures, which corresponds as closely as possible in terms of content and wording to Article 3 of the Directive (a copy of its provisions): it distinguishes between 8 types of violations and 4 types of circumvention of restrictive measures, as in points h(i) – h(iv) of the Directive.

✓ ***Greece:*** the current Criminal Code provides for the most abstract formulation of the act – anyone who deliberately violates sanctions or restrictive measures applied to states, institutions or organisations, or natural or legal persons by Union regulations is punishable. The draft law provides an exhaustive list of specific forms of violation of restrictive measures, which corresponds as closely as possible in terms of content and wording to Article 3 of the Directive (in fact, it is a copy of it): it identifies 8 types of violations and 4 types of circumvention of restrictive measures.

✓ ***Malta:*** The current law punishes any person who acts in a manner that violates the rules adopted in accordance with this law, the EU Council Regulation or the UN Security Council Resolution, i.e. the wording of the act is clearly abstract. The draft law provides an exhaustive list of specific forms of violation of restrictive measures, which corresponds as closely as possible in terms of content and wording to Article 3 of the Directive (in fact, it is a copy of it): it identifies 8 types of violations and 4 types of circumvention of restrictive measures. At the same time, it is not clear from the published draft whether a violation or failure to comply with the conditions set out in the permits for activities, which in the absence of such a permit would constitute a violation of a restrictive measure, is an independent type of violation or a separate type of circumvention.

✓ ***Spain:*** the draft amendments to the Spanish Criminal Code provide for an exhaustive list of specific forms of violation of restrictive measures, which corresponds as closely as possible in terms of content and wording to Article 3 of the Directive: the eight types of violations and four types of circumvention defined in the Directive are proposed to be included in three articles of the Spanish Criminal Code, which is quite original:

- Article 604-2 provides for acts corresponding to the 7 forms of violations defined in points (a), (b), (d) – (g) and (i) of Article 3 (1) of the Directive, and 2 forms of circumvention defined in points (h) (i) – (ii) of Article 3 (1) of the Directive;
- Article 604-3 criminalises allowing a sanctioned entity that violates sanctions to enter or transit through Spanish territory (paragraph (c) of Article 3(1) of the Directive);
- Article 604-4 criminalises two forms of circumvention of sanctions relating to the obligation to notify/report (points (h) (iii) – (iv) of Article 3(1) of the EU Directive).

✓ ***Romania:*** the draft proposes a new Article 27-1 "Offences", which reproduces Article 3(1) of the Directive, with points (a) – (g) providing for eight forms of violation and points (h) to (k) providing for four forms of circumvention of sanctions (evasion).

✓ ***Finland:*** prior to transposition, the Finnish Criminal Code contained a general formulation – "anyone who violates or attempts to violate the legislation on..." (§ 3, section 46). After the addition of four new articles to the section of the Criminal Code (Violation of sanctions (§ 3a), Aggravated violation of sanctions (§ 3b), Negligent violation of sanctions (§ 3c) and Minor violation of sanctions (§ 3d)), the legal certainty of the criminal prohibition was significantly strengthened by listing all forms of violations provided for in Article 3 of the Directive, to a certain extent projecting its wording into the terminology adopted in Finland. The Finnish example of transposition of Article 3(1) of the Directive has two important features:

1) among the forms of infringements, those that are not literally mentioned in Article 3(1) were also highlighted, in particular, infringement of a restrictive measure through the activities of a legal person, as well as by operating a means of transport or allowing it to enter or leave a territory or place (paragraphs 7 and 8, §3a);

2) the list of forms (types) of violations remains non-exhaustive, as paragraph 10 §3a provides for acts of open content – violations in other ways, acting contrary to the prohibition imposed by a restrictive measure or sanction, or a notification or other obligation having an equivalent effect. In this form, not only are two forms of circumvention of sanctions (failure to comply with the obligation to notify and report) criminalised, but the list of serious violations is also left open. The other two forms of circumvention are listed in a separate paragraph of §3a.

The Finnish government based this approach on, on the one hand, the need for a general formulation, since it is impossible to describe all forms of violations exhaustively, and, on the other hand, the need to ensure legal certainty. Thus, despite the incompleteness of the list, it was possible to list the most common forms of violations/circumvention and avoid decriminalising acts that could fall outside the scope of criminal law if the government had proposed an exhaustive list of violations as outlined in Article 3(1) of the Directive.[8]

✓ ***Germany:*** The draft proposes to significantly differentiate and expand the catalogue of criminal offences under Article 18(1) of the Foreign Trade and Payments Act (AWG). On the one hand, the list of acts is supplemented with new ones (e.g., violations of prohibitions on transfer and trade, prohibitions on transactions with state-owned companies, and prohibitions on concluding contracts with a third country or organisations or institutions of third countries). On the other hand, the wording of some existing acts is made more specific or, conversely, more general. The new rules proposed in the draft reflect the forms of circumvention of sanctions defined in Article 3(1)(h) of the Directive; criminal liability for breaches of reporting obligations has been extended. In fact, it is proposed that a significant number of violations, which are currently administrative, be converted into criminal offences. While the current list of acts differs significantly from those proposed in Article 3(1) of the Directive, the approach proposed in the draft brings it much closer to the pan-European model, although it does not make it identical. While Article 3(1) of the Directive provides for 12 types of acts, the draft version of Article 18(1)(5a)(6a) provides for at least 25 types. In general, Article 18 of the Law significantly exceeds Article 3 of the Directive in scope and is perceived as rather complex and casuistic (detailed).
A separate amendment to the Residence Act provides for the criminalisation of granting entry or transit permits to persons subject to sanctions.

✓ ***Hungary:*** although Hungarian criminal law criminalised violations of EU restrictive measures even before the Directive entered into force, due to Article 327 of the Criminal Code on violations of international economic prohibitions, the requirements of the Directive are much more detailed, which the current Hungarian regulation did not meet due to the overly general wording of the offence, which did not cover all typical offences, and the absence of negligent violation of sanctions. The new Act has specified criminal offences at a higher level of regulatory clarity, in more detail, as defined by the Directive. The Act shifts the focus from general conduct related to the violation of a restrictive measure to specific forms of conduct leading to the violation of a restrictive measure, as defined in Articles 327–327/D of the Criminal Code:

- Article 327 defines 'classic' violations of economic sanctions (conclusion of agreements, economic activities, financial, economic or other services, intermediary activities), violations of permit conditions and two types of circumvention;
- Article 327/A defines violations of the obligation to freeze assets;
- Article 327/B covers assistance in violating entry bans;
- Article 327/C provides for two other types of circumvention (evasion) – violations of notification/reporting obligations;

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8. Government proposal HE 202/2024 vp. <https://www.eduskunta.fi/FI/vaski/HallituksenEsitys/Sivut/HE_202+2024.aspx>

- Article 327/D contains interpretative provisions (definitions of terms).

At the same time, the types of acts, taking into account the possibilities of interpretation, substantively reflect the relevant forms of violations and circumvention provided for in Article 3 of the Directive. In terms of wording, the Hungarian legislator did not resort to completely copying the forms of violations and circumvention of sanctions, but modified them to suit national terminological features. In this regard, for example, Article 327 provides, among other things, for such acts as: concluding a prohibited transaction, carrying out economic activities (paragraph 1(a) of Article 327); carrying out intermediary activities (paragraph 2 of Article 327); concealing the origin of property subject to freezing, rights to property, location of property (para. 4 of Article 327).

With regard to such a form of violation as "failure to comply with the terms of the permit," the explanatory note to the draft law states that such a violation definitely requires an official permit to have been issued, the limits of which are exceeded by the offender or the obligations contained therein are not fulfilled. In the absence of an official permit, including cases where a permit exists but relates to activities other than those under consideration, another violation of sanctions unrelated to non-compliance with the permit is committed. In addition, it is emphasized that this must be a substantive, not a formal, violation of the authorization (the violation of the authorization must substantially violate the EU restrictive measure). [9]

✓ ***Lithuania:*** as a result of transposition, the current version of Article 123-1 of the Lithuanian Criminal Code provides for two alternative acts:
1) the first is very general in content and form – "violation of international sanctions in force or established in the Republic of Lithuania, which caused significant damage". However, the content of such a general formulation is disclosed in detail by maximally approximating the content and form of the acts defined in Article 3(1) of the Directive. Such detail is provided in a blanket manner, i.e. by defining an exhaustive list of violations in another act – the Law on International Sanctions. The Law was supplemented by Article 13-1, which provides a list of 10 forms of violations (7 forms of sanctions violations defined by the Directive, grouped into 6 forms, and 4 more forms of circumvention transposed directly);
2) the second act is a special type of violation provided for in Article 3(1)(c) of the Directive – creating conditions for a person to enter the Republic of Lithuania or transit through its territory in violation of the prohibition established by a restrictive measure (conduct crime – significant damage is not required).

The advantages of a typified definition of forms of violations, apart from the obvious one – a higher degree of legal certainty – are well illustrated in the Report of the General Council of the Judiciary of Spain on the Spanish draft law, which notes that in defining various crimes, it was decided, as far as possible, adhere to the literal translation of the qualifying characteristics contained in the Directive, as the latter contributes to ensuring the effectiveness of restrictive measures as an instrument for promoting the objectives of the EU's common foreign and security policy by:

- reducing the risk of discrepancies between the national norm implementing the Directive and the European norm;

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9. 2025. évi XLIX. törvény indokolás. <https://njt.hu/jogszabaly/2025-49-K0-00>

– strengthening guarantees for the application of interpretation techniques that comply with the Directive and, consequently, the establishment of common approaches that are understandable to all Member States, which was the main objective of the Directive.[10]

The shortcomings of the typified approach boil down to the fact that, firstly, due to the development of sanctions legislation and the emergence of new forms of circumventing sanctions, criminal law may need to be amended in order to eliminate loopholes. Secondly, defining a violation of sanctions by specifying its exhaustive types (forms) in countries that previously used abstract wording of the act leads to de facto decriminalisation of acts that are not covered by the specified types of violations.

Thus, the transposition of the provisions of Article 3 of EU Directive 2024/1226 indicates the range of means and methods used by Member States for this purpose. In terms of how the acts defined in Article 3 of the Directive are reflected in national laws, there are both the most general formulations (e.g. Estonia) and the most casuistic ones (e.g. Cyprus and Greece). In an attempt to specify the forms (types) of conduct that constitute violations of sanctions, some Member States reiterate the acts defined in Article 3 verbatim in their national law (Cyprus, Greece, Malta), while others deviate to a greater or lesser extent from the literal transfer, although they maintain the appropriate level of criminalisation (e.g. Germany, Hungary).

Finland can be considered a good example of striking a balance between the need to ensure legal certainty (specification) and the problem of potential loopholes due to criminal provisions lagging behind the progressive development of restrictive measures and obligations.

The abstract formulation of an act as a "violation of rules/prohibitions/restrictions/obligations, etc." (Denmark, Estonia, Latvia, Czech Republic), as well as the concrete approach, which involves the formation of a non-exhaustive list (Finland), indicate broader criminalisation than proposed by the Directive.

vi) focusing on the circumvention of a restrictive measure

As noted above, Article 3(1) of EU Directive 2024/1226 formally refers to circumvention of restrictive measures as a separate type of violation of restrictive measures, but the directive specifically distinguishes four subtypes of circumvention, and Article 5 also sets out specific rules on the punishability of circumvention.

In some EU Member States, circumvention is not structurally and textually separated into an independent type of act. This applies primarily to countries whose criminal provisions provide for a fairly abstract formulation of the act (Denmark, Latvia, Estonia, Czech Republic). It should be noted that in these countries, circumvention of sanctions is recognised as a type of violation, but is not separated through legislative technique.

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10. Report on the Draft Organic Law amending Organic Law 10/1995 of 23 November on the Criminal Code, for the transposition of Directive (EU) 2024/1226 of the European Parliament and of the Council of 24 April 2024, on the definition of offences and penalties for the violation of Union restrictive measures. Pp. 11-12. <https://www.poderjudicial.es/portal/site/cgpj/menuitem.65d2c4456b6ddb628e635fc1dc432ea0/?vgnextoid=d57b856a223c6910VgnVCM1000004648ac0aRCRD&vgnextchannel=824f1b6adf5d9210VgnVCM100000cb34e20aRCRD&vgnextfmt=default&vgnextlocale=en&perfil=1&lang_choosen=en>

Thus, the explanatory part of the Czech Republic's Draft Law 270/2025 states: "Violation of international sanctions also includes circumvention of international sanctions (violation of international sanctions is a category that also includes circumvention). The Sanctions Directive lists actions that constitute violations of Union restrictive measures and clearly classifies their circumvention as a violation of Union restrictive measures if such actions violate a prohibition or obligation constituting a Union restrictive measure or a national provision implementing a Union restrictive measure when national implementation is required". [11]

In countries that have provided a greater degree of specificity, the four forms of circumvention defined in Article 3(1)(h) of the Directive are often listed among other violations without indicating that they constitute circumvention of sanctions (e.g., Finland, Lithuania). It should be noted that in Lithuania, the initial draft amendments to the Criminal Code and the draft amendments to the Law on International Sanctions provided for the identification of two super-types of acts – violations of sanctions (6 forms) and circumvention of sanctions (4 forms), which corresponded to their division in Article 3 of the Directive. However, in the end, the legislator classified all these acts as violations of sanctions.

In countries that have chosen to reproduce the provisions of Article 3(1) of the Directive as closely as possible, circumvention is logically mentioned among sanctions violations and its 4 forms are distinguished (Cyprus, Greece, Malta, Romania).

In the draft amendments to the Spanish Criminal Code, two types of circumvention are recognised as separate types of violations of restrictive measures in Article 604-2, while the other two types of circumvention concerning the violation of the obligation to report/disclose assets and economic resources are structurally separated and defined in Article 604-4. Similarly, in the draft Law on Restrictive Measures of Poland, four forms of circumvention of sanctions are structurally separated in Article 36, while other violations are contained in Articles 30-35. It should be noted that Articles 22 and 23 of the same draft propose to establish administrative liability for two types of acts: eight forms of sanctions violations (Article 22) and four forms of circumvention (Article 23).

In other cases, the relevant acts are structurally highlighted in separate articles, but are not referred to as circumvention. Thus, in the Swedish International Sanctions Act, all four forms of circumvention are structurally highlighted in a separate paragraph (§5). In the Criminal Code of Slovakia, two forms of circumvention are described within the general article on violations of restrictive measures (§ 417a), while the other two forms, which relate to the specific obligation to report/notify assets and economic resources, are defined in a separate article (§ 417c).

vii) types of restrictive measures, the violation of which is criminalised

Given that EU Directive 2024/1226 concerns the definition and punishability of violations of Union restrictive measures, it is clear that the requirements it imposes on Member States are limited to the criminalisation of violations of EU restrictive measures. However, different sanction regimes may exist in EU Member States:

- "Union restrictive measures" – restrictive measures adopted by the Union on the basis of Article 29 of the EU Treaty or Article 215 TFEU;
- sanctions imposed by a UN Security Council resolution;

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11. EXPLANATORY REPORT. Obecná část. P.57. <https://www.zakonyprolidi.cz/media2/file/2411/File71610.pdf?attachment-filename=7850111-2024-10-30-duvodova-zprava-7951318.pdf>

- sanctions imposed by other international organisations;
- national sanctions – domestic sanctions applied by an individual state.

Despite the limited scope of the Directive in terms of EU restrictive measures, when transposing its provisions, Member States generally sought to ensure a unified approach to defining violations and punishability of violations not only of EU restrictive measures:

- Thus, although Article 110c of the Danish Criminal Code provides for liability for violations of both UN and EU sanctions, the changes affected not only the increase in penalties for violations of EU restrictive measures, but also for violations of UN sanctions (the term of imprisonment was increased from 4 months to 5 years, and in aggravating circumstances – to 8 years).
- Article 123-1 of the Lithuanian Criminal Code, as well as §93-1 and §93-2 of the Estonian Criminal Code, criminalise violations of international sanctions and national restrictive measures, respectively.
- According to §410 of the Criminal Code of the Czech Republic, violations of orders, prohibitions and restrictions that the Czech Republic is obliged to comply with as a result of its membership in the UN or the EU, or which it has introduced in accordance with its own Sanctions Act, are punishable. Similarly, Article 9 of the draft Maltese law proposes to criminalise violations of EU, UN Security Council and domestic restrictive measures.
- Paragraph 2 of the Swedish International Sanctions Act defines international sanctions as restrictive measures adopted or recommended by the UN Security Council in accordance with the UN Charter, or adopted in accordance with specific provisions on common foreign and security policy in the EU Treaty or the TFEU. Restrictive measures of the UN Security Council and the EU are also mentioned in the newly adopted amendments to the Criminal Code of Finland and the draft Polish Law on Restrictive Measures.
- Article 84 of the Latvian Criminal Code refers to sanctions imposed by the UN, the EU, other international organisations or the Republic of Latvia. It should be noted that it was initially proposed to separate liability for violations of EU sanctions from Article 84 of the Criminal Code into a new Article 84.1, and to leave in Article 84 liability for violations of sanctions imposed by the UN or other international organisations, or violations of national sanctions.[12] However, in the end, it was decided to unify liability for violations of different sanctions regimes.

At the same time, in many countries, the transposition focused exclusively on criminalising violations of Union restrictive measures:

- Article 137b of the Slovak Criminal Code stipulates that for the purposes of the Criminal Code, a restrictive measure means an order, prohibition or restriction resulting from an international sanction in accordance with the Regulation on the implementation of international sanctions adopted by a legally binding EU act.
- The articles of the draft amendments to the Spanish Criminal Code refer only to violations of Union restrictive measures or regulatory provisions adopted for their implementation.
- The newly adopted Cypriot law, the Hungarian amendments to the Criminal Code and the Greek draft law also criminalise only violations of EU restrictive measures.
- In the draft amendments to the Romanian Emergency Ordinance, designed to apply both EU sanctions and UN Security Council sanctions, criminalisation only applies to violations of the Union's international sanctions.

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12. Draft Law 24-TA-2018. Amendments to the Criminal Law. <https://tapportals.mk.gov.lv/structuralizer/data/nodes/3e67e5f7-8375-4f28-9bcb-855cb84191e0/preview>

It should be noted that, as a rule, UN Security Council sanctions are also imposed by the European Union, so the absence of a reference in the laws of some Member States to the criminalisation of UN sanctions can hardly be regarded as a loophole.

The adoption of EU Directive 2024/1226 has thus contributed not only to the unification of liability for violations of EU restrictive measures, but also for violations of other sanctions regimes in force in Member States.

viii) minimum value threshold and distinction from non-criminal violations

Paragraph 4 of the Preamble to EU Directive 2024/1226 states that Member States should be able to decide that violations of Union restrictive measures relating to funds, economic resources, goods, services, transactions or activities amounting to less than EUR 10,000 are not criminal offences.

EU Directive 2024/1226 (excerpt)

Article 3.
Violation of Union restrictive measures
2. Member States may provide that the following conduct does not constitute a criminal offence:
(a) conduct listed in paragraph 1, points (a), (b) and (h) of this Article, where that conduct involves funds or economic resources of a value of less than EUR 10 000;
(b) conduct listed in paragraph 1, points (d) to (g) and (i) of this Article, where that conduct involves goods, services, transactions or activities of a value of less than EUR 10 000.

The Directive, which ensures the implementation of the principle of proportionality, thus provides that not all violations of EU restrictive measures are necessarily subject to criminal liability. The Directive provides for the possibility that violations of Union restrictive measures relating to funds or economic resources or goods, services or transactions worth less than EUR 10,000 may be assessed at the discretion of each Member State individually: consider them criminal or non-criminal (administrative) or not punishable at all (e.g. if they are minor).

Thus, for all violations of the Union's restrictive measures, except for granting entry or transit to a specific person (point (c) of Article 3(1)), which is essentially unrelated to value characteristics, an optional value threshold for criminalisation of the act has been established.

NB!
The value threshold for criminalisation is the minimum monetary value of assets, benefits or damage established by law, the attainment or exceeding of which makes certain acts criminally punishable.

Given the optional nature of this rule, Member States have taken different approaches to setting the value threshold. Some states have rejected this option and, given the seriousness of the objectives of the restrictive measures (protection of peace, international law and order, EU values), the reasons for their application and established traditions, have retained the possibility of bringing criminal proceedings for violations of sanctions that do not even reach this threshold. This most likely does not mean that any (even the smallest) violations automatically entail criminal liability in such countries, since the principle of proportionality applies in the national legal systems of the Member States of the Union, which allows criminal provisions not to be applied in the case of violations that do not cause significant damage and could not have caused it. At the same time, the absence of a value threshold means that violations amounting to less than €10,000 may also be criminally punishable.

The value threshold was not established prior to transposition and is not mentioned in the laws adopted to transpose the directive, in particular in countries such as Denmark, Cyprus, Hungary, Poland, Germany, Romania, Sweden, Finland, and Lithuania (the latter with certain reservations). Among the EU Member States that have not adopted specific amendments to criminal provisions after the entry into force of EU Directive 2024/1226 (and which are not covered by this analysis), it is likely that the absence of thresholds is widespread. This is confirmed by a statement from the Dutch government, which notes in particular that current Dutch national legislation does not provide for the exception specified in Article 3(2) of the Directive.

- The Polish draft law does not introduce an optional provision regarding the threshold for criminalisation: a model of full criminalisation of violations of EU restrictive measures has been adopted, while at the same time applying the privileged approach of "lesser severity" (an evaluative concept, taking into account the specific circumstances of the case) familiar to the Polish system in relevant situations. According to the drafters, this model of liability will better fulfil its preventive and punitive (judicial) role, while preserving all the guarantees provided for by criminal procedure. [13]
- The explanatory notes to the German draft law regarding the absence of a value threshold note that such thresholds are unknown to the Foreign Trade and Payments Act and cannot be implemented given that the threshold itself:

1) from the point of view of proportionality, is neither suitable nor appropriate for distinguishing between punishable and non-punishable behaviour;
2) it can lead to random results, where exceeding the threshold by just €1 would help to distinguish between criminal and non-criminal behaviour;
3) in the area of sanctions, the low cost of goods does not automatically indicate how vital the goods are, particularly for military efforts (e.g., a single low-cost chip may be an important component of a military facility).

To this end, the German legislator operates with provisions of the Criminal Procedure Code that provide law enforcement agencies with tools to respond to offences that are not in the public interest, taking into account the specific circumstances of the case. [14]

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13. Table of conformity with Directive 2024_1226. <https://legislacja.rcl.gov.pl/projekt/12399355/katalog/13139682#13139682>
14. Draft law on the adaptation of criminal offences and sanctions for violations of restrictive measures of the European Union: Draft bill of the Federal Ministry for Economic Affairs and Energy. <https://www.bundeswirtschaftsministerium.de/Redaktion/DE/Artikel/Service/Gesetzesvorhaben/20250822-entwurf-eines-gesetzes-zur-anpassung-von-straftatbestaenden-und-sanktionen-bei-verstoessen-gegen-restriktive-massnahmen-eu.html>

- The articles of the new Swedish Act containing criminal provisions do not mention any value threshold for criminalisation. At the same time, according to § 7, if a crime is considered minor in view of the circumstances of its commission, including its value, it is still punishable as a criminal offence (misdemeanour), but the maximum term of imprisonment is reduced to 6 months, and a fine is an alternative. Whereas under the previous (repealed) law, the minor nature of the offence excluded its criminal punishment.
- According to the Romanian draft amendments to the Emergency Ordinance, which supplements it with new articles on criminal violations of sanctions, no minimum threshold is set. At the same time, Article 26 of this decree is reworded, according to which administrative liability for violations of certain restrictions and obligations arises if such violations are not recognised as criminal. The draft does not contain any direct provisions on how criminal and non-criminal violations are distinguished.
- Following the transposition of the Directive, the new articles of Section 46 of the Finnish Criminal Code provide for liability for simple (ordinary) violations of sanctions (§3a), serious (§3b) and minor (§3d) violations. A serious violation of sanctions occurs if the value of the assets/economic resources, services or transactions was significant. This significant amount is not defined in the article, but the government's explanations refer to the practice of considering such a threshold to be €17,000. In other words, this part of §3a (simple violations) effectively provides for liability for criminal violations of sanctions against objects whose value may be less than €10,000, potentially indicating broader limits of criminalisation than those established by the Directive. The line between significant and minor violations is therefore subject to assessment within the framework of judicial practice.
  It has already been noted that Lithuania's approach, based on the mandatory proof of significant damage from the violation (result crime approach), is unlikely to meet the requirements of Article 3 of the Directive, and the value characteristic of the damage caused and the value of the assets, economic resources, services and operations in respect of which the violation is committed are not always the same. In view of this, "significant damage" as an element of *corpus delicti* cannot serve as a value criterion in the context of Article 3(2) of the Directive. Therefore, although not without doubt, Lithuania can also be classified as one of the countries that have not taken advantage of the optional possibility to establish a value threshold for criminalisation.
- It should be noted that Article 515 of the Lithuanian Code of Administrative Offences also provides for liability for violations of international sanctions, but without reference to the causing of significant damage. In view of this, the distinction between criminal and non-criminal offences is based on the criterion of the value of the damage, rather than on the criterion of the value of funds, services, etc. Thus, the issue of the potential coverage of sanctions violations in excess of €10,000 by administrative penalties has not been resolved by legislation and depends on actual judicial practice.

Other Member States have taken advantage of the possibility provided for in Article 3(2) of the Directive and have legislatively established a value threshold for criminalisation of EUR 10,000 (for all or the most common forms of violations). The main reasons for introducing a value threshold are to reduce the workload of investigative authorities so that they can focus on serious cases, and to ensure the principles of proportionality and legal certainty.

- Latvia has established a value threshold and introduced administrative liability in order to reduce the workload of investigative authorities and achieve proportionality: firstly, the Law on the Entry into Force and Application of the Criminal Code states that liability for a criminal offence under Article 84 of the Criminal Code committed on a large scale arises if the value of the goods or services is not less than EUR 10,000 or if the service is provided in relation to goods whose value is not less than EUR 10,000; secondly, the Law on International and National Sanctions of the Republic of Latvia establishes that administrative liability arises for smaller amounts – a fine is imposed on the natural person. This approach is based on the increase in the number of criminal proceedings in the field of sanctions violations, which complicates the timely investigation of criminal offences with a view to achieving a swift and effective fair settlement of criminal law relations and punishment of the guilty person. [15]
- Estonia has introduced a partial value threshold and differentiation of liability for criminal offences and misdemeanours: 1) if, in the case of a violation of sanctions in the form of a ban on the import and export of goods or cash, their value does not exceed €10,000, the act is considered a misdemeanour and is punishable by a fine, in accordance with Article 36-1 "Minor violation of sanctions" (International Sanctions Act); 2) however, regardless of the value of the goods/cash, violations committed repeatedly or by a group of persons, or if they relate to "military goods", will continue to be punished as a criminal offence. At the same time, this threshold literally applies only to the import and export of goods and cash, while for other forms of violations/circumvention of sanctions, such as the provision of funds or economic resources to a sanctioned entity, their non-freezing or use, transfer to a third party or disposal, this threshold does not formally apply. In other words, Estonia actually provides for broader limits of criminalisation than those established in Article 3(2) of the Directive.

The explanatory note to the draft law stated that in the event of violations of the ban on the import or export of goods, the responsible investigating authority does not have the necessary human resources to combat the mass violations of sanctions recorded after 24 February 2022. The organisation of the competent authority's work also does not allow for the consideration of such a large number of sanctions violations. In addition, there are many minor violations among the sanctions violations that do not warrant criminal punishment (for example, attempting to smuggle a single bottle of motor oil or alcohol across the border).

Such a selective approach may create uncertainty about the line between punishable and non-punishable behaviour. This issue is particularly acute in relation to the catalogue of "administrative" offences listed in the International Sanctions Act. For example, § 35 of this Act provides for violations such as "Failure to report the identification of a financial sanctioned entity or a transaction or action that violates a financial sanction, and the application of a financial sanction, as well as the submission of false information," and § 35-7 provides for "Violation of reporting obligations." These offences are punishable by a fine or arrest, the latter being, according to the Estonian Criminal Code, a short-term imprisonment of up to 30 days. In this regard, it is doubtful whether these provisions comply with the requirements of the Directive regarding the mandatory punishability of these forms of circumvention of sanctions, at least when the relevant value threshold is reached.

- Slovakia has not exceeded the value threshold recommended in Article 3(2) of the Directive and has set it at EUR 10,000.

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15. Administrative liability is also envisaged for sanctions violations. <https://lvportals.lv/skaidrojumi/371958-par-sankciju-parkapumiem-paredz-noteikt-ari-administrativo-atbildibu-2025>

- The draft amendments to the Spanish Criminal Code propose to set the threshold for criminalisation specified in Article 3(2) of the Directive at EUR 10,000 if the violations concern funds, economic resources, goods, transactions, services or activities (i.e. violations under Article 604-2). At the same time, no such threshold is envisaged for breaches of the reporting/disclosure obligation (Article 604-4), which currently indicates a broader scope of criminalisation compared to the EU Directive and partial consideration of the possibilities offered by Article 3(2) of the Directive.
- The draft Maltese law establishes a clear threshold for actions related to assets, economic resources, services, transactions and activities: from €10,000 – a criminal offence; less than €10,000 – an administrative offence.
- Based on the provisions of the published Greek draft law and the government's analysis of the regulatory impact, the issue of the value threshold for criminalising violations of restrictive measures is addressed in the article on penalties for individuals. Article 4 of the draft, which provides an exhaustive list of punishable violations, does not contain any thresholds. On the other hand, paragraph (1) of Article 5 of the draft, which contains a list of penalties for violations of restrictive measures against natural persons, provides for penalties for all violations, except for granting entry or transit to a specific person (paragraphs α), β), δ) – θ), provides for penalties if the violations relate to assets, services, transactions or activities worth at least €100,000. On the other hand, paragraph (2) of Article 5 of the draft provides for penalties for the above violations if they relate to funds, financial resources, goods, services, transactions or activities worth between EUR 10,000 and EUR 100,000. A systematic interpretation of these provisions leads to the conclusion that the draft proposes to establish the value threshold specified in Article 3(2) of the EU Directive. At the same time, it should be noted that Article 142-A of the Greek Criminal Code provides for a general rule on sanctions violations, which provides for imprisonment for up to two years and may likely be applicable even in cases of violations of lesser value, unless the effect of this article is repealed.

The method of transposition of Article 3(2) of the Directive chosen by the Czech legislator is unique. Section 410 of the Czech Criminal Code does not specify a specific value threshold directly, but states that the violation of sanctions must be of a significant amount (paragraph 1), a considerable amount (paragraph 2) or a large amount (paragraph 3). According to § 410b, these provisions are interpreted on the basis of demonstrative criteria: significant (or, respectively, considerable and large) damage caused, or benefit to be obtained, or the importance of the subject of the international sanction or the service or activity to which the sanction applies. With regard to the damage caused, as one of the potential criteria for assessing the threshold, the provisions of §138 of the Criminal Code define "significant amount" as at least CZK 100,000 (approximately EUR 3,500), "considerable amount" as at least CZK 1 million (approximately EUR 35,000), and "large amount" as at least CZK 10 million (approximately EUR 350,000).

Thanks to the cumulative consideration of these criteria, it is not only the value of the item or the amount of the transaction that is decisive, but also the significance of the actions themselves. Thus, the explanatory note to the draft law emphasises: "if the violation of international sanctions consisted, for example, in the provision of a service that is prohibited by international sanctions, and this service had greater value, although it did not include a material object or property of such value that would fall within the scope of the concept of an object of international sanctions, the condition for committing a crime in a significant amount under Article 410b(1)(c) of the Criminal Code will be fulfilled."

Thus, the Czech Criminal Code ensures compliance with the minimum requirements of the directive and even provides for broader criminalisation.

With regard to the offence of facilitating the entry or transit of a specific person (§410(2)), the explanatory memorandum to the draft law notes that "the possible low level of social harm will have to be taken into account on a case-by-case basis when assessing whether the behaviour is so socially harmful that the application of liability under another legal norm is insufficient (in this context, liability under another legal norm should be understood, in particular, as liability for an offence under the Law on the Implementation of International Sanctions), and whether it is necessary to apply criminal liability, or when considering the type and severity of punishment." [16]

ix) Criminalisation of serious negligence

EU Directive 2024/1226 (excerpt)

Article 3.
Violation of Union restrictive measures
3. 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, at least where that conduct relates to items included in the Common Military List of the European Union or to dual-use items listed in Annex I and IV to Regulation (EU) 2021/821.

Paragraph 4 of the preamble to EU Directive 2024/1226 notes the following regarding these provisions: “Certain conduct should constitute a criminal offence also if carried out with serious negligence. With regard to the criminal offences defined in this Directive, the notion of ‘serious negligence’ should be interpreted in accordance with national law, taking into account relevant case law of the Court of Justice of the European Union.”

The provisions of the Directive require Member States to criminalise only the trade, import, export, sale, purchase, transfer, transit or transport of military and dual-use goods (hereinafter referred to as "military goods") committed with serious negligence, as well as the provision of brokering services, technical assistance or other services related to these goods, if the prohibition or restriction of such conduct constitutes a restrictive measure of the Union. In other words, the requirements of the Directive are limited in terms of the type of acts and their subject matter. The punishment of other violations of restrictive measures committed through serious negligence is at the discretion of the Member States. The words "at least where that" openly hint that broader criminalisation of negligent violations is only welcome, but they do not create an imperative command.

The "serious negligence" is not actually common in the national criminal law doctrines of EU Member States, but it has been used for the purpose of uniform interpretation, which is ensured, as noted, by reference to the practice of the CJEU. In view of this, some states have directly borrowed this term, while others use terms specific to their national law, in particular the broader term "carelessness".

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16. EXPLANATORY MEMORANDUM. Obecná část. P.59. <https://www.zakonyprolidi.cz/media2/file/2411/File71610.pdf?attachment-filename=7850111-2024-10-30-duvodova-zprava-7951318.pdf>

The requirement to criminalize violations committed through serious negligence is ensured by reference to point (e) of Article 3(1) of the Directive, in respect of which Article 3(2) establishes a clause on the optional nature of the value threshold for criminalization. In view of this, it is not clear whether the optional nature of the value threshold also applies to offences provided for in point (e) but committed with serious negligence. The preamble to the Directive does not contain any clarification on this point. In case of ambiguous application, only the Court of Justice of the European Union can settle this issue. Currently, there are cases where Member States either provide for a value threshold for the specified violations (e.g., Slovakia) or do not establish it (e.g., Denmark, Sweden).

Given the optional nature of broader criminalisation of violations committed through serious negligence, EU Member States have taken different approaches. Of the countries whose legislation was analysed, most have limited themselves to criminalising only those acts and items specified in Article 3(3) of the Directive.

- In Slovakia, a violation of a restrictive measure committed with serious negligence is punishable only if: 1) the subject of the violation was relevant military or dual-use goods, 2) the violation consisted of trade, import, export, sale, purchase, transfer, transit, transport, provision of services, and 3) the minimum threshold of EUR 10,000 was met. In other words, negligent violations are criminalised only within the minimum requirements of the Directive.

At the same time, the legislator even resorted to defining a special type of negligence in the general part of the Criminal Code – serious negligence (§ 16(2)): "A criminal offence is committed with serious negligence if the offender has been particularly indifferent or has grossly violated the usual caution, care or duty arising from generally binding legal norms, and this violation has led to a threat or violation of the interests protected by this law."

- In Cyprus, Finland and Hungary, acts committed with gross negligence are criminalised only in relation to: 1) violations consisting of prohibited commercial transactions, trade, import, export, sale, purchase, transfer, transit, transport, provision of services, 2) only if the subject matter was relevant military or dual-use goods, 3) regardless of the value of the subject matter of the violation. Similarly, it is proposed to criminalise acts committed with serious negligence in Greece, Spain, Poland and Romania.

The Finnish government explained the inappropriateness of broader criminalisation of negligent violations of sanctions as follows: *"Establishing other negligent types of violations as criminal offences would significantly expand the obligations of persons to exercise due care. When preparing the proposal, it was recognised that this would be questionable in terms of the clarity and proportionality of the regulation. Sanctions legislation provides for several types of obligations aimed at ensuring compliance with sanctions. Violations of these obligations are and will continue to be criminalised. Thus, criminal liability can be considered sufficient even without extending the criminalisation of liability for causing harm."*

The term "serious negligence" is unknown in Polish criminal law. The comparative table on the alignment of the draft with the EU Directive states that the only equivalent of serious negligence in the Polish criminal system is an unintentional (careless) type of crime (Article 9 §2 of the Criminal Code). The explanatory notes to the Hungarian draft law also state that "serious negligence" is not a recognised concept in Hungarian criminal law, so this provision has been transposed through the negligent form of guilt, whereby the Hungarian legislator adheres to the minimum harmonisation nature of the EU Directive.

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- In Malta, it is proposed to criminalise only those violations committed with serious negligence that consisted of prohibited commercial operations, trade, import, export, sale, purchase, transfer, transit, transport of goods, as well as the provision of related services. However, there is currently no requirement for the goods in question to be military or dual-use goods: in this sense, the draft law provides for a broader framework for the criminalisation of negligent violations than the Directive.
- In the Czech Republic, any violation relating to military or dual-use goods committed with gross negligence has been criminalised, regardless of the value of the goods (§410a), i.e. the Czech legislator has gone beyond the minimum requirements of Article 3(3) of the Directive.
- In Germany, reckless (careless) violations of restrictions on military goods are already punishable under Section 17(5) of the current Foreign Trade and Payments Act. This means that the minimum requirements of the Directive are already met. The draft does not go beyond them. The concept of "serious negligence" in this sense is reflected in the word "reckless" (careless). The commission of the vast majority of other violations through carelessness is currently and under the draft considered an administrative offence (monetary fine).

Some Member States have retained or reproduced a broader approach to the criminalisation of serious negligence during transposition.

- Denmark has gone beyond the minimum rules on negligence (not only the actions involving military goods or services are criminalised).
- In Lithuania, a new law criminalises negligent violations of sanctions, but in a much broader sense than the minimum rules of the EU Directive, as it applies to both forms of acts defined in Article 123-1 (1) of the Criminal Code (i.e. virtually any type of violation). The concept of "serious negligence" does not appear explicitly in the Criminal Code of the Republic of Lithuania, so the legislator used the broader term "negligence". In this regard, the comparative table to the draft law states that in Lithuanian criminal law doctrine and the Criminal Code, the concept of negligence also includes the concept of gross negligence.
- In Estonia, the criminalisation of negligence goes beyond the minimum required by the Directive: the new law introduces criminal liability for virtually any negligent violation of sanctions (new §93-2); including separate liability for negligent prohibited transport of strategic goods or provision of services related to prohibited strategic goods (new §421-4).
- In Sweden, the provisions of §§3–5 of the new Law criminalise both intentional and grossly negligent violations and circumvention of sanctions.
- The Latvian Criminal Code does not contain specific provisions that directly indicate intent or serious negligence (carelessness). The absence of any mention of the form of guilt in Article 84 of the Criminal Code, even in relation to "military goods", indirectly indicates that the term "violation" covers both intentional and negligent violations. If this is the case, then Latvia has also exercised its right to depart from the minimum requirements of the Directive and establish a broader framework for the criminalisation of sanctions violations in terms of forms of guilt.

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17. 2025. évi XLIX. törvény indokolás. <https://njt.hu/jogszabaly/2025-49-K0-00>

x) Special provisions on attorney-client privilege

EU Directive 2024/1226 (excerpt)

Article 3.
Violation of Union restrictive measures
4. Nothing in paragraph 1 shall be understood as imposing an obligation on legal professionals to report information that they receive from, or obtain on, one of their clients in the course of ascertaining the legal position of that client or performing the task of defending or representing that client in, or concerning, judicial proceedings, including providing advice on instituting or avoiding such proceedings.

Paragraph 18 of the preamble to EU Directive 2024/1226 provides further clarification on this provision:
1) since there is a clear risk of abuse of lawyers' services to circumvent Union restrictive measures, legal professionals, as defined by Member States, should be subject to this Directive, including the obligation to report breaches of Union restrictive measures, when providing services in the context of professional activities such as legal, financial and commercial services;
2) However, there should be exceptions to any obligation to report information they receive from or about one of their clients in the course of ascertaining that client's legal position or performing a task of defending or representing that client in, or concerning, judicial proceedings, including providing advice on infringing or avoiding such proceedings;
3) i.e. legal advice should remain subject to professional secrecy, except where the lawyer is knowingly involved in the infringement of Union restrictive measures, where the legal advice is given for the purpose of infringing Union restrictive measures, or where the lawyer knows that the client is seeking legal advice for the purpose of infringing Union restrictive measures.

Most EU Member States considered it sufficient to limit themselves to the existing provisions of national law, which establishes procedural and other guarantees for legal professionals. Thus, the report of the General Council of the Judiciary on the Spanish draft law notes that the protection of lawyers' professional secrecy provided for in Article 3(4) of the Directive is sufficiently covered by existing legislation. The comparative table to the Polish draft law notes that the provisions on the protection of lawyer-client privilege (Article 3(4) of the Directive) are not specifically provided for in the draft, as they are already implemented in the laws on the bar, legal advisers and, in general, in Polish criminal law doctrine. The comparative table to the Lithuanian draft law only notes in general terms that confidential communication between a lawyer and a client is not criminalised by the Criminal Code and therefore no additional implementation measures are necessary.

On the other hand, some countries have transposed these provisions of the Directive despite the guarantees for the activities of legal professionals existing in their legal systems. This primarily concerns countries that implement most of the provisions of the Directive almost verbatim into special laws (Cyprus, Greece, Malta).

Thus, Article 5(3) of the Cypriot Law provides that the provisions of Article 5(1) shall not be construed as imposing on persons providing legal services, in accordance with the provisions of the Law on Lawyers, an obligation to disclose information obtained or acquired from or about their client that is covered by attorney-client privilege under the law.

Article 4(2) of the Greek draft law states that lawyers and notaries are not obliged to report information they receive or learn from or about their client while clarifying their legal position or performing their defence duties, or when representing them in or in relation to court proceedings, including advice on initiating or avoiding such proceedings, which are covered by confidentiality.

According to Article 9(3) of the Maltese draft law, the provisions of the law shall in no way be interpreted as obliging lawyers to report information obtained from or about one of their clients in the course of ascertaining the legal position of such a client or in the course of performing the task of defending or representing that client in or in relation to legal proceedings, including advice on initiating or avoiding such proceedings.

According to Article 27-7 of the Romanian draft law, which is specifically dedicated to the protection of attorney-client privilege, the provisions of the article defining violations of restrictive measures do not affect attorney-client privilege and the confidentiality of communications between an attorney and their client.

In Germany, the draft law provides for the introduction of an extended version of the exception for the protection of attorney-client privilege: according to paragraph 13 of Article 18, no penalty shall be imposed on any person who, as a lawyer, legal adviser, patent attorney, notary, auditor, certified public accountant, tax advisor or tax representative fails to disclose, disclose correctly, disclose completely or disclose in a timely manner information that has been entrusted to them or that has become known to them in this capacity.

xi) Humanitarian exceptions

EU Directive 2024/1226 (excerpt)

Article 3.
Infringement of Union restrictive measures
5. Nothing in paragraphs 1, 2 and 3 shall be understood as criminalising humanitarian assistance for persons in need or activities in support of basic human needs provided in accordance with the principles of impartiality, humanity, neutrality and independence and, where applicable, with international humanitarian law.

These provisions of the Directive are based on the fact that Union restrictive measures are an important tool for achieving the objectives of the Common Foreign and Security Policy (CFSP). These objectives include protecting the values, security, independence and integrity of the Union, strengthening and supporting democracy, the rule of law, human rights and the principles of international law, as well as preserving peace, preventing conflicts and strengthening international security in accordance with the objectives and principles of the UN Charter.

Most EU Member States considered it sufficient to limit themselves to the existing provisions of international humanitarian law and national legislation, which establish relevant humanitarian exceptions. Thus, the explanatory memorandum to the Finnish draft law stated that, in accordance with international humanitarian law, which is binding on Finland (Additional Protocol I to the Geneva Conventions), the unimpeded and rapid passage of humanitarian aid must be permitted and facilitated. Humanitarian aid is also provided in situations other than conflicts, such as natural disasters. According to the Finnish government, these provisions can be considered to correspond to the exemption from criminal liability provided for in Article 3(5) of the Directive. The comparative table to the Lithuanian draft law notes that the provision of humanitarian aid is not criminalised by the Criminal Code and therefore no additional measures are needed for its implementation.

At the same time, some countries have transposed these provisions of the Directive despite the guarantees for humanitarian aid existing in their legal systems. This primarily concerns countries that have implemented most of the provisions of the Directive almost verbatim into special laws (Cyprus, Greece, Malta, Romania).

Article 604-7 of the proposed amendments to the Spanish Criminal Code, which is specifically dedicated to this issue, states that acts defined as violations of restrictive measures are not subject to prosecution if their purpose is to provide humanitarian assistance to persons in need, or if they are activities aimed at meeting basic human needs, carried out in accordance with the principles of impartiality, humanity, neutrality and independence and, where necessary, in accordance with international humanitarian law.

The German draft amendment proposes to supplement §18 of the Foreign Trade Act with paragraph 11, according to which an act is not punishable if it is carried out as: a) humanitarian aid to a person in need, or b) an activity aimed at supporting basic human needs in accordance with the principles of impartiality, humanity, neutrality and independence, as well as international humanitarian law.

xii) Inciting, aiding and abetting, and attempt

EU Directive 2024/1226 (excerpt)

Article 4.
Inciting, aiding and abetting, and attempt

1. Member States shall take the necessary measures to ensure that inciting, and aiding and abetting the commission of an offence referred to in Article 3 is punishable as a criminal offence.
2. Member States shall ensure that an attempt to commit offences referred to in Article 3(1), point (a), points (c) to (g), and points (h)(i) and (ii), is punishable as a criminal offence.

These provisions of EU Directive 2024/1226 are intended to ensure that criminal liability also arises in cases where:

a) the person did not directly commit the objective element of the corpus delicti (actus reus), but incited or facilitated the commission of a criminal offence (complicity in a crime). This refers to the requirement to ensure the punishability of complicity in any form of violation or circumvention of an EU restrictive measure;

b) the person attempted to violate the restrictive measures. In this case, the Directive allows EU Member States not to establish criminal liability for attempts to commit certain forms of violation and circumvention: non-freezing of funds/economic resources, violation of the conditions of authorisations and circumvention in the form of a violation of the obligations to notify or report on assets. With regard to preparation for a criminal offence as a separate stage, the Directive does not contain any specific rules on its punishability, leaving this to the discretion of Member States (as is the case with the punishability of attempts in the above-mentioned cases).

The transposition of Article 4 of the Directive regarding the punishability of accomplices (paragraph 1) and attempts (paragraph 2) is ensured automatically in most Member States – it is a natural consequence of recognising certain violations of EU restrictive measures as criminal offences. This does not depend on whether criminalisation is envisaged by amending criminal codes or whether it is carried out within the framework of special laws, since such special laws containing criminal provisions do not operate in isolation, but are based on the general provisions of the relevant criminal codes and operate in a coordinated manner.

For example, according to §21 of the Danish Criminal Code, actions aimed at facilitating or causing the commission of a crime may be punished as an attempt if these actions were not carried out to completion. However, unless otherwise specified, an attempt is punishable only if the offence is punishable by more than four months' imprisonment. At the same time, the attempt to commit all forms of violations of restrictive measures is punishable, not only those specifically required by Article 4 of the Directive (broader criminalisation compared to the Directive). In addition, according to §23 (1) of the Danish Criminal Code, anyone who, by encouragement, advice or action, has contributed to the violation of a specific criminal law provision may be punished. Similarly, the provisions of Articles 10 and 14 of the Hungarian Criminal Code and Articles 13 and 18 of the Polish Criminal Code already provided for such content, which indicates automatic compliance with Article 4 of the Directive.

Another example is that, according to Section 5(5) of the Finnish Criminal Code, any person who intentionally incites another person to commit an intentional crime or a punishable attempt to commit such a crime shall be punished for incitement to commit a crime in the same way as the perpetrator, while aiding and abetting is punishable under Section 6(5). Since incitement is punishable for all intentional crimes, the Directive does not require any legislative changes in this regard for Finland, except to ensure the certainty of the intentional offences provided for in Article 3(1) of the Directive.

In some countries, the punishability of an attempt to commit a criminal offence is subject to a mandatory specific reference to this in the relevant articles describing the criminal act. This necessitates the introduction of appropriate amendments, although the basic provisions on attempts are located in the general sections of the criminal codes. Thus, according to §10 of the Swedish Act, an attempt to commit a criminal offence, including a serious criminal offence, is punishable under Chapter 23 of the Criminal Code.

In countries that are following the path of maximum literal reproduction of the provisions of the Directive in their special laws, the provisions on the punishability of incitement, aiding and abetting, and attempted offences are reflected in separate articles, for example: Article 6 of the Cypriot Law, Article 10 of the Maltese draft law. At the same time, the degree of punishability varies. Thus, the Cypriot Law provides for the criminalisation of attempts to commit only those forms of violations of restrictive measures required by the Directive, while the Maltese draft law refers to attempts to commit any violation of a restrictive measure that is recognised as criminal. In Romania, the proposed amendments to the Emergency Ordinance, Article 27-1 (8), also provide for the punishment of attempts to commit only those violations and circumventions recommended by Article 4(2) of the EU Directive (compliance with minimum requirements only).

Another approach is demonstrated in the Finnish Criminal Code. According to §1 of Section 5 of the Criminal Code, an attempt is punishable only if the attempt is punishable under the provisions defining intentional crimes. An act constitutes an attempt to commit a crime when the perpetrator has begun to commit the crime and has created a risk of its completion (or when such a risk does not arise, if the risk did not arise solely due to accidental causes). However, the Finnish legislator has effectively equated a completed criminal offence with an attempt to commit it in the disposition of §3a of Chapter 46 of the Criminal Code, which defines the act, by using the following wording: "Anyone who violates or attempts to violate a restrictive measure...". In this case, it is a matter of implementing the requirements of the Directive by constructing a "truncated" corpus delicti, in which an attempt is equated with a completed act. This also ensures broader criminalisation than required by Article 4 of the Directive.

The previous (repealed) Swedish Act on International Sanctions contained a special rule on non-liability for incitement to or aiding and abetting a violation of sanctions (§8). The new Act does not contain such a provision, which indicates that complicity in a crime is punishable under the general provisions of criminal law.

SECTION 3. Penalties for natural persons (Articles 5, 8 and 9 of the EU Directive)

(i) Main requirements of the Directive regarding the punishability of natural persons

EU Directive 2024/1226 (excerpt)

Article 5.
Penalties for natural persons

1. Member States shall ensure that the criminal offences referred to in Articles 3 and 4 are punishable by effective, proportionate and dissuasive criminal penalties.
2. Member States shall take the necessary measures to ensure that the criminal offences referred to in Article 3 are punishable by a maximum penalty of imprisonment.
3. Member States shall take the necessary measures to ensure that:

(a) the criminal offences covered by Article 3(1), points (h)(iii) and (iv), are punishable by a maximum term of imprisonment of at least one year where those criminal offences involve funds or economic resources of a value of at least EUR 100 000 on the date when the offence was committed;

(b) the criminal offences covered by Article 3(1), points (a), (b) and points (h)(i) and (ii), are punishable by a maximum term of imprisonment of at least five years where those criminal offences involve funds or economic resources of a value of at least EUR 100 000 on the date when the offence was committed;

(c) the criminal offence covered by Article 3(1), point (c), is punishable by a maximum term of imprisonment of at least three years;

(d) criminal offences covered by Article 3(1), points (d) to (g), and point (i), are punishable by a maximum term of imprisonment of at least five years where those criminal offences involve goods, services, transactions or activities of a value of at least EUR 100 000 on the date the offence was committed;

(e) where the criminal offence covered by Article 3(1), point (e) of this Regulation, involves items included in the Common Military List of the European Union or dual-use items listed in Annexes I and IV to Regulation (EU) 2021/821, such criminal offence is punishable by a maximum term of imprisonment of at least five years irrespective of the value of the items involved.

Paragraph (1) of Article 5 of EU Directive 2024/1226 contains guidelines on the punishability of violations of Union restrictive measures. The requirements for the minimum type and severity of punishment provided for in paragraphs 2 and 3 of the same article are considered to be a priori consistent with these guidelines, i.e. effective, proportionate and dissuasive. This means that Member States cannot deviate from these requirements for punishment "no less severe than" However, when they set more severe prison terms than those proposed as a minimum in the Directive, or regulate minimum prison terms (without violating the rule on maximum terms) or alternatives to imprisonment, they must be guided by these principles.

Paragraphs (2) and (3) of Article 5 establish sentencing requirements in a manner that requires only the maximum term of imprisonment to be specified, provided that this term is not less than that specified in the Directive. This means that if a term of imprisonment is set according to the scheme "from [minimum term] to [maximum term]":

- the maximum term of imprisonment may be higher (at the discretion of the Member States);
- the minimum term of imprisonment is left to the discretion of the Member States;
- there is no objection to Member States providing for less severe alternative penalties in addition to imprisonment.

Paragraphs (2) and (3) are interrelated. Paragraph 2 establishes a general rule – the most severe penalty for violating a restrictive measure cannot be less severe than imprisonment, without setting requirements for its duration. In fact, this rule applies to cases that do not fall under paragraph 3, which provides for special rules on setting a maximum term of imprisonment not lower than a certain limit.

Table 2. Summary of the rules of Article 5(2)(3) of the Directive on the punishability of violations

Type of offence	Value threshold	Requirements for maximum term of imprisonment
Criminal offences covered by points (a), (b), (d) to (g) and (i), as well as points (h)(i) and (ii) of Article 3(1)	not less than EUR 100,000	Not less than 5 years
	less than EUR 100,000 (including between EUR 10,000 and EUR 100,000 where the threshold is set in accordance with Article 3(2) of the Directive)	– (rule of Article 3(2))
criminal offence referred to in Article 3(1)(c)	–	at least 3 years
criminal offences covered by points (h)(iii) and (iv) of Article 3(1)	not less than EUR 100,000	at least 1 year
	less than EUR 100,000 (including between EUR 10,000 and EUR 100,000 if the threshold is set in accordance with Article 3(2) of the Directive)	– (rule of Article 3(2))
an intentional criminal offence covered by Article 3(1)(e) and relating to ‘military goods’	regardless of value	at least 5 years
committed with gross negligence a criminal offence covered by Article 3(1)(e) and relating to 'military goods'	–	– (rule of Article 3(2))

(ii) transposition of the provisions of Article 5(2)(3) of the Directive

EU Member States that have adopted specific criminal provisions transposing the Directive after its entry into force have established penalties for new (criminalised) acts, increased penalties for violations of Union restrictive measures and, as a rule, significantly differentiated penalties by providing for different prison terms for different forms (types) of violations (or are attempting to do so in the case of states where only relevant draft legislation has been developed). If we compare the penalties for violations that were (are) criminalised before transposition with their penalties after transposition (planned transposition), we can see that most Member States have, to a greater or lesser extent, increased penalties, both to comply with the Directive and to take into account the current agenda. However, some Member States had already demonstrated partial compliance with the requirements of Article 5(2)(3) of the Directive prior to transposition.

- ✓ Thus, according to §110c of the Danish Criminal Code, the maximum term of imprisonment for a basic (simple) violation of sanctions has been increased from 4 months to 4 years, and for particularly aggravating circumstances – from 4 years to 8 years. The punishment for negligent violations has been increased to 3 years' imprisonment (previously it was up to 2 years).
- ✓ In Latvia, the maximum term of imprisonment for basic violations of sanctions has been increased from 4 to 5 years (Article 84 of the Latvian Criminal Code).
- ✓ In Estonia, the maximum term of imprisonment for a basic (simple) violation of sanctions after transposition remained at the same level (up to 5 years), but there was a differentiation of liability with an increase in the upper limit of imprisonment to 6 years (§ 93-1(2) of the Estonian Criminal Code).
- ✓ Under the draft new Maltese law, the maximum terms remain at the same level as those established by the current Law No. XX of 1993. This is because Maltese law currently provides for the most severe penalties among EU Member States for violations of restrictive measures: anyone who violates an EU restrictive measure is subject to imprisonment for a term of 12 months to 12 years or a fine of not less than €25,000 and not more than €5,000,000, or even both imprisonment and a fine. The draft of the new law, on the contrary, ensures compliance with the principle of proportionality by distinguishing administrative offences in cases where the value threshold does not reach €10,000. However, it is proposed that the punishment for criminal offences remain as severe. The fact that any violation or circumvention of a restrictive measure can result in imprisonment for up to 12 years may indicate insufficient differentiation of liability, which is likely to be overcome by taking into account the severity of specific violations and individualising punishment.
- ✓ The repealed Cyprus Law of 2016 provided for imprisonment of up to 2 years for violations of restrictive measures. The new 2025 Law establishes a penalty of no less than 3 years, or 5 years (if the value of the item reaches €100,000). The only exception is circumvention of a restrictive measure in the form of a breach of the reporting obligation, for which imprisonment for a term of no more than 1 year is provided.

Table 3 summarises the map of compliance with the minimum requirements of the Directive regarding penalties for violations by natural persons.

The table clearly shows that, in terms of the punishability of violations by natural persons, Member States significantly deviate from the minimum requirements of the Directive regarding the maximum term of imprisonment, moving towards its strengthening (increase). Countries such as Latvia, Malta and Romania provide for stricter maximum prison terms than those provided for in the Directive for all types of violations of restrictive measures, while the Czech Republic, Sweden, Poland and Hungary do so for the vast majority of them. Cyprus, Germany, Slovakia, Finland, Lithuania, Denmark and Estonia, on the contrary, tend to adhere to the upper limit of imprisonment set by the Directive more often than the above-mentioned countries.

Doubts about compliance with this ceiling are raised by certain provisions of Article 604-2(2) of the draft amendments to the Spanish Criminal Code, according to which, if the value of funds, economic resources, goods or services is between €10,000 and €100,000, the offence is punishable by less severe penalties. But the draft does not contain provisions specifying what these penalties may be. Doubts are also raised by §3a of Chapter 46 of the Finnish Criminal Code, which provides for imprisonment of up to two years for violating the sanction by granting entry or transit to a specific person. Since the value threshold does not apply to this type of violation, the provisions of §3a of Section 46, which increase the term of imprisonment to 5 years based on estimated value characteristics, cannot be applied. As a result, this is unlikely to fully comply with the Directive's requirement to punish this type of violation with imprisonment for a term of not less than 3 years.

The laws (or draft laws) in Denmark, Estonia, Lithuania and Germany provide for a five-year prison term as universal – it is defined in relation to the absolute majority of violations of restrictive measures, with only a few exceptions (both in terms of increasing and decreasing the penalty), which mainly concern the criminalisation of violations committed through serious negligence (Denmark, Estonia, Germany), granting entry or transit permission to a specific person (Germany), circumvention in the form of a breach of the obligation to notify/report (Germany) or the commission of prohibited acts with ‘military goods’ (Estonia).

The Directive does not establish a rule on the possible minimum term of imprisonment (lower limit of punishment), leaving this to the discretion of Member States. In this regard, the range between the minimum and maximum limits of imprisonment is often quite wide, for example: from 1 to 12 years (Article 11 (1) of the draft law in Malta), from 6 months to 5 years (§417a(2) of the Criminal Code of Slovakia), from 4 months to 5 years (§3b section 46 of the Criminal Code of Finland), from 1 to 5 years (Article 27-1 of the draft Emergency Ordinance in Romania), from 3 months to 5 years, from 6 months to 8 years or even from 1 to 10 years (Articles 30-33 of the draft Law on Restrictive Measures in Poland). In most cases, the minimum term of imprisonment is not set at all and is therefore determined on the basis of general criminal provisions (e.g. Denmark, Lithuania, Latvia, Estonia, Germany).

The maximum prison terms often significantly exceed the minimum requirements set by the Directive. The most striking example in this regard is Malta (imprisonment for up to 12 years is proposed for all types of violations). The same 12-year upper limit is also set for a number of violations of restrictive measures in Latvia, when the value of the subject of the violation reaches €100,000. In Estonia and Poland, intentional violations involving "military goods" can also result in up to 12 years' imprisonment. The value of the subject of the violation (€100,000 or its equivalent – significant/large amount) serves as the basis for setting a 10-year prison sentence ceiling in Greece and an 8-year ceiling in Hungary and the Czech Republic.

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For most types of offences, Article 5(3) of the Directive sets a value threshold of €100,000, which requires a maximum term of imprisonment of at least 5 years. Some Member States try to ensure compliance with this rule by directly specifying a value threshold of at least €100,000 (e.g. Slovakia, Cyprus, Greece, Malta, Spain). At the same time, Cyprus and Slovakia have ensured an easily traceable and unified gradation for most forms of violations: relevant violations that do not reach the threshold of €100,000 are punishable by imprisonment for up to 3 years, and those that do reach it are punishable by imprisonment for up to 5 years.

Other countries use evaluative concepts. Thus, according to §8 of the Swedish International Sanctions Act, if the violation is intentional and serious, the punishment for a serious offence is imprisonment for a term of two to six years. When assessing the severity of the offence, it must be taken into account whether the act concerned property of very significant value, military goods, or products that can be used for both civilian and military purposes, or was otherwise particularly dangerous. If the offence is not severe, it is punishable by imprisonment for up to 3 years. According to §410 of the Czech Criminal Code, a penalty of not less than five years' imprisonment is ensured by indicating that the offence was committed on a significant (paragraph 3) or large (paragraph 4) scale. In §3b of Chapter 46 of the Finnish Criminal Code, this threshold is reflected in the rule on serious violations of sanctions, which recognises, in particular, violations where the value of the assets was significant.

In Denmark, Lithuania, Latvia, Poland, Estonia and Germany, this threshold has not been set, given that imprisonment for a term of not less than five years is already provided for in the basic (ordinary) composition of the offence (for committing any of the violations, the person faces at least such punishment). In Article 27-1 of Romania's draft Emergency Ordinance, this threshold serves only as a means of increasing the penalty (up to 7 years), while failure to reach this threshold is punishable as required by the Directive in the event of its attainment.
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If we analyse the upper limit of imprisonment by type (form) of violation of restrictive measures, the most frequent and significant deviation from the provisions of the Directive towards increasing the severity of punishment is demonstrated, for obvious reasons, by intentional violations relating to "military goods" provided for in Article 3(1)(e) of the Directive: most countries have significantly exceeded the ceiling set by the Directive. Conversely, less frequent deviations can be observed with regard to the punishment of circumvention in the form of a breach of the notification/reporting obligation provided for in Article 3(h)(iii)(iv) and a breach in the form of granting entry or transit authorisation to a specified person (Article 3(1)(c)).

With regard to intentional violations involving "military goods" as provided for in Article 3(1)(e), Article 5(3)(e) of the Directive establishes a mandatory requirement that the punishability of these violations be independent of the value of the goods. In this regard, given the specific wording of § 410(3)(a) of the Czech Criminal Code, it is not possible to conclude unequivocally whether the requirements of Article 5(3)(e) of the EU Directive are met, according to which intentional violations involving military and dual-use goods must be severely punished regardless of the value of the goods. This is because § 410(3)(a) provides for the punishment of intentional infringements involving these goods in direct relation to the content of the act defined in § 410(1), which refers to a significant amount (significant scale).

Paragraphs (2) and (3) of Article 5 of the Directive formulate rules on ensuring the limits of punishment for violations of Union restrictive measures only on the basis of such a basic punishment as imprisonment. The possibility of establishing penalties alternative to imprisonment (but not instead of it, but alongside it) is not excluded by the Directive. On the contrary, this is in line with Article 5(1) of the Directive in terms of ensuring the proportionality and effectiveness of penalties. Therefore, some Member States have established penalties alongside imprisonment.

- ✓ The most common form of such alternative punishment is a fine. It has been established (or is planned to be established) alongside imprisonment in countries such as Denmark, Lithuania, Latvia, Estonia, Finland, Cyprus, Greece, Malta, Spain, Germany and Romania. However, in serious cases (where there are aggravating or particularly aggravating circumstances), the alternative of a fine is often excluded. According to §7 of the Swedish International Sanctions Act, a fine as an alternative main punishment is only imposed if, given the value of the property or other circumstances of the offence, the violation is considered minor.
- ✓ According to Article 123-1 of the Criminal Code of Lithuania, a violation of a restrictive measure may be punished not only by imprisonment or a fine, but also by restriction of liberty or arrest. In Article 84 of the Criminal Code of Latvia, an alternative to imprisonment is not only a fine, but also such alternative main punishments as temporary deprivation of liberty, probationary supervision and community service.
- ✓ In Slovakia, the Czech Republic, and according to the proposed drafts in Poland and Hungary, the sanctions of the articles that directly define violations of restrictive measures do not mention fines, but this does not mean that they cannot be applied in a specific case, given the severity of the offence, on the basis of the general provisions of criminal law on the imposition of penalties.

Table 3. Compliance with the requirements of Article 5(2)(3) regarding the punishability of violations by natural persons

Type of violation – Article of the Directive		**Maximum term of imprisonment (by country), years****															
		Directive	**GRC[1]**	**DNK**	**EST**	**ESP[2]**	**CYP**	**LVA[3]**	**LTU**	**MLT**	**DEU**	**POL[4]**	**ROU[5]**	**SVK[6]**	**HUN[7]**	**FIN**	**CZE[8]**	**SWE**
1	**3(1)(a)**	imprisonment*	1	5	5	–	3	5	5	12	5	8	5	3	3	2	3	3
	≥ €100,000	5	5	5	5	6	5	12	5	12	5	10	7	5	5/8	5	5/8	6
2	**3(1)(b)**	imprisonment*	1	5	5	–	3	5	5	12	5	8	5	3	3	2	3	3
	≥ €100,000	5	5	5	5	6	5	12	5	12	5	10	7	5	5/8	5	5/8	6
3	**3(1)(c)**	3	3	5	5	4	3	5	5	12	3	5	5	3	3	2	3	3
4	**3(1)(d)**	imprisonment*	1	5	5	–	3	5	5	12	5	8	5	3	3	2	3	3
	≥ €100,000	5	10	5	5	6	5	12	5	12	5	8	7	5	5/8	5	5/8	6
5	**3(1)(e)**	imprisonment*	1	5	5	–	3	5	5	12	5	5/10	5	3	3	2	3	3
	≥ €100,000	5	10	5	5	6	5	12	5	12	5	12	7	5	5/8	5	5/8	6
6	**3(1)(e) & 5(3)(e)**	5	10	5	12	6	5	8/12	5	12	5	5/10/12	5/7	8	5/8	5	5	6
7	**3(1)(f)**	imprisonment*	1	5	5	–	3	5	5	12	5	8	5	3	3	2	3	3
	≥ €100,000	5	10	5	5	6	5	12	5	12	5	8	7	5	5/8	5	5/8	6
8	**3(1)(g)**	imprisonment*	1	5	5	–	3	5	5	12	5	5	5	3	3	2	3	3
	≥ €100,000	5	10	5	5	6	5	12	5	12	5	5	7	5	5/8	5	5/8	6
9	**3(1)(i)**	imprisonment*	1	5	5	–	3	5	5	12	5	5	5	3	3	2	3	3
	≥ €100,000	5	10	5	5	6	5	12	5	12	5	5	7	5	5/8	5	5/8	6
10	**3(1)(h)(i)(ii)**	imprisonment*	1	5	5	–	3	5	5	12	5	8	5	3	3	2	3	3
	≥ €100,000	5	5	5	5	6	5	12	5	12	5	8	7	5	5/8	5	5/8	6
11	**3(1)(a)(iii)(iv)**	imprisonment*	1	5	5	2	0.5	5	5	12	1	5	5	0.5	1	2	3	3
	≥ €100,000	1	2	5	5	2	1	12	5	12	1	5	7	1	1	5	5/8	6
12	**3(3)**	imprisonment*	1	3	3	2	5	8/12	5	12	3	5	3	5/8	3	1.5	1/3	3

Compliance with the minimum requirements of the Directive:

complies
exceeds

100,000 € – if the value of assets/services/transactions is at least 100,000 euros.

* In these cases, the Directive requires imprisonment, but without setting a maximum term, so setting a maximum term of imprisonment of up to 1 year inclusive in this table is considered to comply with its provisions.
** This table takes into account maximum terms based solely on the value threshold. Other qualifying characteristics (e.g. repeat offences or offences committed by public officials) have not been taken into account.

Notes:
(1) – According to Article 5(2) of the Greek Draft Law, if the value of the acts referred to in points (a), (b) and (d) – (i) of Article 3(1) of the Directive is between €10,000 and €100,000, the term of imprisonment shall be at least one (1) year. Therefore, in this case, the minimum term is established, rather than the maximum.

(2) – according to Article 604-2(2) of the Draft Amendments to the Spanish Criminal Code, if the value is between €10,000 and €100,000, the act is punishable by less severe penalties, but the draft does not specify which ones.

(3) – with regard to the offences provided for in Article 3(3) of the Directive: it remains unclear whether negligent offences relating to prohibited activities involving 'military goods' are also covered by Article 84(2) of the Latvian Criminal Code; with regard to violations provided for in Article 3(3) and 3(1)(e) & 5(3)(e) – under Article 84(4) of the Latvian Criminal Code, a violation committed on a large scale is punishable by imprisonment for up to 12 years.

(4) – with regard to violations provided for in Article 3(1)(a)(b) of the Directive: according to Articles 30(2) and 31(2) of the Polish Draft Law on Restrictive Measures, if the act concerns property of significant value, the maximum term of imprisonment is increased to 10 years; for violations under Article 3(1)(e) of the Directive: according to Articles 34 of the Polish Draft Law on Restrictive Measures, the act is punishable by a maximum term of imprisonment of 10 years, but if it concerns property of significant value, the maximum term of imprisonment is increased to 12 years, and in less serious cases, it is reduced to 5 years.

(5) – for infringements under Articles 3(1)(e) & 5(3)(e) of the Directive, the maximum term of 7 years is set if the value of the 'military goods' is at least EUR 100,000.

(6) – for infringements under Article 3(3) of the Directive: the maximum term of 8 years is set if the value of the "military goods" exceeds EUR 100,000.

(7) – for infringements under Article 3(1)(a), (b), (d) – (g), (i) and (h)(i)(ii) of the Directive: according to §327 and §327/A of the Hungarian Criminal Code, if the value is significant, the maximum term of imprisonment is increased to 5 years, and if it is particularly significant, to 8 years; for infringements under Article 3(1)(e) & 5(3)(e) Directives – according to §327 of the Hungarian Criminal Code, if the value of the 'military goods' is significant, the maximum term of imprisonment is increased to 8 years.

(8) – for violations under Article 3(3) of the Directive: according to § 410a of the Czech Criminal Code, if the value in cases of serious negligence is significant, the maximum term of imprisonment is increased to 3 years; for violations under Articles 3(1)(a), (b), (d) – (g), (i) and (h) of the Directive: according to § 410 (4) of the Czech Criminal Code, if the violation is committed on a large scale, the maximum term of imprisonment is increased to 8 years.

(iii) provisions on a series of identical acts

EU Directive 2024/1226 (excerpt)

Article 3.
Violation of Union restrictive measures
Member States shall take the necessary measures to ensure that the threshold of EUR 10 000 or more may be met through a series of conduct listed in paragraph 1, points (a), (b), and (d) to (i) of this Article, that is linked and of the same kind, where that conduct is carried out by the same offender.
Article 5.
Penalties for natural persons
4. Member States shall take the necessary measures to ensure that the threshold of EUR 100 000 or more may be met through a series of offences covered by Article 3(1), points (a), (b) and points (d) to (i), that are linked and of the same kind, where those offences are committed by the same offender.

These provisions of the Directive are intended to ensure that offences of the same type committed repeatedly by the same person, but each of which does not in itself reach the value thresholds referred to in Articles 3(2) and 5(4) of the Directive, can be assessed as related episodes of the same criminal offence, which would allow this threshold to be reached and, accordingly, such conduct to be criminalised and the rule on the upper limit of imprisonment for it to be applied. For this rule to apply, it is mandatory to establish a set of conditions:

- several (two or more) violations of the restrictive measure have been committed, with the exception of those provided for in Article 3(1)(c) of the Directive;
- they are violations of the same type, i.e. they are covered by the same point of Article 3(1) of the Directive;
- they were committed by the same person;
- they are interrelated, indicating both an objective (short time intervals, similarity of schemes, etc.) and a subjective connection (united by a single intention of the person).

Most of the EU Member States analysed, when reviewing their legislation for compliance with these requirements of the Directive, proceeded from the assumption that these requirements did not require amendments and additions to their laws, as they were already provided for by the doctrine of national criminal law and were actually implemented in broad judicial practice. The implementation by Member States of the provisions of Articles 3(2) and 5(4) of the Directive provides a clear example of how some requirements of directives do not always need to be inserted in one way or another directly in the text of a particular normative act (code, law, resolution, etc.). Their actual transposition can be ensured by unwritten rules and traditions of national criminal law doctrine, the validity of which is confirmed by settled judicial practice.

For example, the explanatory note to the Lithuanian law on amendments to the Criminal Code notes that the provisions of the Directive under consideration are consistent with the characteristics of a single and continuous criminal offence established in criminal law theory, which consists of several interrelated identical criminal acts aimed at achieving a common goal, if they are covered by the common intent of the guilty person, and therefore, when considered as a whole, they constitute a single criminal offence (Article 23(3) of the Latvian Criminal Code). Therefore, a person who commits several criminal acts, the sum of which does not reach the threshold of EUR 10,000, but from the circumstances of the case it can be concluded that the acts are interrelated, aimed at achieving a common goal and covered by a single intent of the guilty person, then liability should arise for a criminal offence, instead of multiple administrative liability. The same will apply if several persons (accomplices) commit separate criminal acts, the sum of which does not reach the threshold, but from the factual and legal circumstances it can be concluded that the acts are not separate offences but joint actions of the accomplices. [7]

The explanatory notes to the draft law amending the Finnish Criminal Code note that the Directive does not define more precisely what is meant by a series of related similar crimes, so this issue can be considered subject to clarification in national legislation: in Finnish law, this issue is linked to the general principles regarding the combination of crimes.

At the same time, some countries have decided to make sure their national laws are exactly in line with Articles 3(2) and 5(4) of the Directive at the regulatory level:

- ✓ Article 7(2) of the Cypriot Law states that the €100,000 covers repeated criminal offences referred to in points (a), (b) and (d) to (i) of Article 5(1), which are related and similar, when the offences are committed by the same offender.
- ✓ According to Article 5(4) of the Greek draft law, the minimum threshold of €10,000 and the maximum threshold of €100,000 specified in paragraphs 1 and 2 of this article apply to repeated criminal offences specified in paragraphs a), b) and d) – i) of paragraph 1 of Part 1 of Article 4, which are related and similar, if they are committed by the same person.
- ✓ According to Article 9(2) of the Maltese draft law, in determining whether the threshold of €10,000 has been reached or not, with regard to the acts referred to in points (a), (b) and (d) – (i), any series of acts related to the person who committed the offence and of the same nature shall be taken into account.
- ✓ According to paragraphs 2 and 3 of Article 604-2 of the proposed amendments to the Spanish Criminal Code, in order to determine the thresholds set at EUR 10,000 and EUR 100,000 respectively, the total amount of the acts committed by the same person shall be taken into account, provided that these actions are related and of the same nature.

iv) additional penalties

EU Directive 2024/1226 (excerpt)

Article 5.
Penalties for natural persons

5. Member States shall take the necessary measures to ensure that natural persons who have committed the criminal offences referred to in Articles 3 and 4 may be subject to accessory criminal or non-criminal penalties or measures which may include the following:

(a) fines that are proportionate to the gravity of the conduct and to the individual, financial and other circumstances of the natural person concerned;

(b) withdrawal of permits and authorisations to pursue activities that resulted in the relevant criminal offence;

(c) disqualification from holding, within a legal person, a leading position of the same type used for committing the criminal offence;

(d) temporary bans on running for public office;

(e) where there is a public interest, following a case-by-case assessment, publication of all or part of the judicial decision that relates to the criminal offence committed and the penalties or measures imposed, which may include the personal data of convicted persons only in duly justified exceptional cases.

Modern penalty systems in the domestic criminal law of the Member States of the Union provide for a range of measures that may be applied to a person found guilty of a criminal offence. Therefore, Article 5(5) of EU Directive 2024/1226 obliges Member States to also provide in their legislation for the possibility of applying, where necessary, additional penalties or measures to persons guilty of violating restrictive measures. At the same time, the interpretation of this paragraph allows the following conclusions to be drawn:

- the paragraph directly provides only an indicative list of examples of such measures ("may include the following"), i.e. in order to fulfil the obligations provided for in this paragraph, additional penalties or measures may be of a different kind than those specified therein. This provision leaves it to the Member States to determine the types of additional penalties or measures and the conditions for their application (the need in each specific case);
- this paragraph refers to criminal and non-criminal penalties and measures, which is due to the different approaches among Member States to determining their legal nature. In some countries, these measures are provided for in criminal law and are included in the list of penalties, or they may relate to measures of a different nature, such as "security measures", "preventive measures" or "additional consequences of a crime". In others, they are established by special laws governing a particular area of activity and fall within the scope of civil, commercial, administrative or constitutional law.

This point requires that the possibility of applying additional measures to the offender be ensured, but the forms and methods of doing so are chosen by the State at its discretion, the main thing being that such a possibility is real. In this regard, the explanatory notes to the Finnish draft law on amendments to the Criminal Code state that even in legal systems where only one scale of punishment is directly provided for a crime, the legal conditions for determining the measure of punishment are established, for example, by the general provisions of the criminal code, judicial practice or legal principles. Therefore, given the result to be achieved by the Directive, it is irrelevant whether the conditions for imposing punishment are determined according to the severity of the offences, judicial practice, general provisions of the criminal code or other legal conditions.

With this in mind, most EU Member States do not directly mention penalties additional to imprisonment when determining the punishment for violations of Union restrictive measures in the relevant article of their criminal codes or special laws. They rely on the general provisions of criminal law (general parts of criminal codes or special acts, taking into account doctrine and judicial practice), which already establish the possibility of applying a wide range of criminal or non-criminal measures for criminal offences in addition to the penalties established directly in the articles defining these offences. Therefore, in most cases, the very fact of defining an offence as criminal automatically activates the possibility of applying such provisions.

At the same time, some Member States, in particular those that have chosen an approach based on almost verbatim reiteration of the provisions of the Directive, have directly transposed (or plan to transpose) the provisions of Article 5(5) of the Directive when adopting the relevant implementing acts.

- ✓ According to Article 7(3) of the Cypriot Law, in addition to any penalty imposed on a natural person (which is imprisonment or a fine), the court may impose one or more of the four punitive measures, which reproduce the content of subparagraphs (b) to (e) of Article 5(5) of the Directive. A fine is not included in the list, as it is an alternative to imprisonment as the main penalty.
- ✓ According to Article 5(6) of the Greek draft law, the court may, in addition to any punishment imposed on a natural person, impose additional punishments provided for in Articles 60 "Disqualification from holding office", 65 "Prohibition from engaging in certain activities" and 67 "Publication of the conviction" of the Criminal Code, regardless of whether the conditions of the duration and type of punishment, the term of prohibition from engaging in certain activities or the victim's request for publication of the decision have been met. The fine is not included in the list for the same reasons (it is an alternative main punishment along with imprisonment).
- ✓ A more detailed list of measures is proposed in paragraph 4 of Article 11 of the Maltese draft law, according to which, without prejudice to any other punishment that may be provided for by this Law, the court may, at the request of the prosecution, order: (a) the suspension or revocation of any licence, permit or other authorisation to carry out any trade, business or other commercial activity; (b) the withdrawal of permits and authorisations to carry out the activity that led to the commission of the offence; (c) the temporary or permanent closure of any establishment that may have been used to commit the offence; (d) the compulsory liquidation of a legal entity; (e) deprivation of the right to receive state payments or assistance; (f) deprivation of access to state funding, including tender procedures, grants and concessions; (g) deprivation of the right to engage in entrepreneurial activity; (h) establishment of judicial supervision over a legal entity by appointing a temporary administrator.

- ✓ Article 604-9 of the draft amendments to the Spanish Criminal Code proposes that, in the event of a conviction for any of the offences provided for in the proposed section, if there is an interest, the court should be able to order its publication at the expense of the convicted person.
- ✓ According to Article 27-1 of the Romanian draft Emergency Ordinance, criminal violations of sanctions are punishable, in addition to imprisonment, by the deprivation of certain rights, as specified in the sanctions of the article defining the offence.

v) Aggravating circumstances

EU Directive 2024/1226 (excerpt)

Article 8.
Aggravating circumstances

To the extent that the following circumstances do not form part of the constituent elements of the criminal offences referred to in Articles 3 and 4, Member States shall take the necessary measures to ensure that one or more of the following circumstances can, in accordance with national law, be regarded as an aggravating circumstance:

(a) the offence was committed in the framework of a criminal organisation as defined in Framework Decision 2008/841/JHA;

(b)the offence involved the use by the offender of false or forged documents;

(c) the offence was committed by a professional service provider in violation of the professional obligations of such professional service provider;

(d) the offence was committed by a public official when performing his or her duties or by another person performing a public function;

(e) the offence generated or was expected to generate substantial financial benefits, or avoided substantial expenses, directly or indirectly, to the extent that such benefits or expenses can be determined;

(f) the offender destroyed evidence, or intimidated witnesses or complainants;

(g) the natural or legal person had previously been convicted by a final judgment of offences covered by Articles 3 and 4.

Paragraph 27 of the preamble to EU Directive 2024/1226 specifies that Member States must ensure that at least one of these aggravating circumstances is provided for as a possible aggravating circumstance in accordance with the rules in force in their legal system regarding aggravating circumstances. In any case, the judge or court must have the right to determine whether to increase the penalty, taking into account the specific circumstances of each individual case. The concept of "aggravating circumstances" should be understood either as facts that allow a national judge or court to impose a more severe penalty for the same offence than the penalty that would normally be imposed without such facts, or as the possibility of considering several criminal offences together in order to increase the level of punishment.

Based on the content of the first sentence of Article 8 of the Directive, Member States may provide for all or some of the aggravating circumstances as constituent elements (signs) of a criminal offence defined in law (or other act). In this case, aggravating circumstances become qualifying characteristics, ensuring differentiation of liability at the level of the legislator, rather than the court. There is no need to additionally ensure that they are taken into account by the court when sentencing the guilty party; moreover, this would threaten the principle of non bis in idem (the prohibition of being tried twice for the same offence). Some countries, where legislative differentiation of liability is part of the legislative tradition, have provided for separate qualifying characteristics directly in the articles devoted to the definition of violations of restrictive measures.

- ✓ Paragraph 4 of Article 84 of the Criminal Code of Latvia defines the commission of a violation by an organised group as an aggravating circumstance (punishable by imprisonment for up to 12 years). Paragraph 2 of §93-1 of the Criminal Code of Estonia provides for an increase in the term of imprisonment to 6 years in the case of repeated violations. Violation of sanctions within the framework of an organised criminal group aggravates liability under §3b of Chapter 46 of the Criminal Code of Finland. According to §§417(a) – 417(d) of the Criminal Code of Slovakia, sanctions are significantly aggravated if committed by a public official, and if committed as part of a dangerous group, they are punishable by imprisonment for up to 8 years. Similarly, paragraph 4 of §410 of the Czech Criminal Code increases the penalty to up to 8 years' imprisonment if the violation is committed by an organised group operating in several countries.
- ✓ In some cases, there are even aggravating circumstances that are not mentioned in Article 8 of the Directive. For example, paragraph 3 of Article 84 of the Latvian Criminal Code states that offences committed by a group of persons acting in concert or by a public official or responsible employee of an enterprise (company) or organisation are considered to be significantly aggravating circumstances (punishable by imprisonment for up to 10 years). Paragraph 2 of §93-1 of the Estonian Criminal Code provides for an increase in the term of imprisonment to 6 years in the case of a violation committed by a group of persons. According to §3b of Section 46 of the Finnish Criminal Code, a violation is considered serious if it is established that the guilty person intended to obtain significant economic benefit or that the violation was committed with particular intent. According to §§417(a) – 417(d) of the Criminal Code of Slovakia, the punishment is increased if the offence is committed for a specific reason or in a crisis situation (in the latter case, the term of imprisonment reaches 8 years). A prison term of up to 8 years is possible under §410 of the Criminal Code of the Czech Republic if the offence poses a serious threat to the international position of the Czech Republic or if such an act significantly contributes to the violation of international peace and security, measures aimed at protecting human rights and freedoms, combating terrorism, complying with international law or promoting democracy and the rule of law.

Some Member States, in particular those that have opted for an approach close to the verbatim reiteration of the provisions of the Directive, have directly transposed (or plan to transpose) the provisions of Article 8 of the Directive when adopting legislative acts.

- ✓ Cyprus has ensured the transposition of all aggravating circumstances listed in Article 8 of the Directive into Article 10(1) of the new Law, which provides for a list of aggravating and mitigating circumstances. Similarly, Article 5(3) of the Greek draft law demonstrates a literal reproduction of these provisions of the Directive.

- ✓ According to Article 11(7) of the Maltese draft law, the penalty for any violation of restrictive measures is increased by one or two levels if any of the aggravating circumstances listed in Article 8 of the Directive apply.
- ✓ According to Article 604-5 of the draft amendments to the Spanish Criminal Code, violations of sanctions are punishable in accordance with the punishment provided for their commission, but at the upper limit if any of the aggravating circumstances listed below are present, which, although not verbatim, fully reflect the circumstances listed in Article 8 of the Directive.

The additional clarifications contained in the recitals, in conjunction with the provisions of Article 8 of the Directive, allow Member States to ensure that their national legislation complies with Article 8 of the Directive in a manner that, as a rule, does not require additional amendments or additions in this regard. An analysis of the regulations adopted by Member States and the draft laws developed in connection with the transposition of the Directive shows that in most cases, specific rules to ensure compliance have not been adopted or are not planned to be adopted. This is due to two main reasons:

1) the general provisions of criminal law on sentencing rules contained in the criminal codes or other legislation of EU Member States (taking into account doctrine and case law) already provide for the possibility or even the obligation of the court to take such circumstances into account when imposing a sentence in each specific case. Therefore, the fact that a violation of restrictive measures is recognised as a criminal offence is, as a rule, sufficient for the automatic application of the general provisions of criminal law to cases of such violations. For example, Article 60 of the Criminal Code of Lithuania and Article 48 of the Criminal Code of Latvia provide for such aggravating circumstances as the commission of an act by a certain group (a group of persons or an organised group) or through abuse of official position, recidivism or serious consequences of the offence.

2) The provisions of the Directive are considered to be complied with even if one or more of the circumstances listed in Article 8 may in themselves constitute elements of another criminal offence and thus lead to the imposition of a penalty under the rule on the concurrence of criminal offences, which allows for a more severe final penalty than that provided for the individual offences included in the concurrence. Thus, participation in a criminal organisation (Article 8(a)) may in itself constitute a crime against public safety (creation of and participation in criminal associations). The use of false or forged documents by an offender (paragraph (b) of Article 8) may be classified as a crime against public trust (forgery of documents and other criminal acts involving them). The commission of an offence by a professional service provider in breach of professional duties or by a public official in the performance of their duties or by another person performing a public function (paragraphs (c) and (d) of Article 8) may constitute official (official) offences (e.g. abuse of power or trading in influence). And the destruction of evidence or intimidation of witnesses or complainants (Article 8(f)) may in itself be considered an offence against justice or the judiciary, or even against the person (in terms of threats or coercion).

vi) mitigating circumstances

EU Directive 2024/1226 (excerpt)

Article 9.
Mitigating circumstances
Member States shall take the necessary measures to ensure that, in relation to the relevant criminal offences referred to in Articles 3 and 4, one or more of the following circumstances can, in accordance with national law, be regarded as a mitigating circumstance:
(a)
the offender provides the competent authorities with information they would not otherwise have been able to obtain, helping them to identify or bring to justice the other offenders;

(b)
the offender provides the competent authorities with information they would not otherwise have been able to obtain, helping them to find evidence.

Paragraph 28 of the recitals of EU Directive 2024/1226 states that In the assessment of mitigating circumstances, it should remain within the discretion of the judge or the court to determine whether to decrease the sentence, taking into account the specific circumstances in each individual case. Those circumstances could include the nature, timing and extent of the information provided and the level of cooperation provided by the offender. The provisions of the Directive require the mandatory transposition into national law of only one of the mitigating circumstances listed in Article 9.

As in the case of aggravating circumstances, the general provisions of criminal law on sentencing rules contained in the criminal codes or other legislation of EU Member States generally already provide for the possibility or obligation of the court to take mitigating circumstances into account when imposing a penalty, and therefore the mere fact of criminalising a violation of restrictive measures is sufficient to automatically activate these rules regarding punishable sanctions violations. Thus, Article 47 of the Criminal Code of Latvia provides that among the circumstances that the court takes into account as mitigating are those consisting in actively assisting in the disclosure and investigation of a criminal offence committed by oneself or another person. In turn, Article 59 of the Criminal Code of Lithuania recognises as mitigating circumstances the fact that the guilty party has admitted to committing an act provided for by criminal law and sincerely repents of the act or has helped to investigate this act or the persons who participated in it; the court may also recognise other circumstances not listed in this article as mitigating.

In its explanations to the draft law on amendments to the Finnish Criminal Code, the government notes the existing compliance with the provisions of Article 9 of the Directive and justifies this by the fact that although there is no doctrine of so-called "crown witnesses" (i.e. witnesses who testify only in exchange for a reduction in their sentence), however, according to paragraph 3 of Article 6 of Chapter 6 of the Criminal Code and similar provisions of the Law on Criminal Procedure and the Law on Pre-trial Investigation, an effort by the perpetrator to assist in the investigation of a criminal offense is considered a mitigating circumstance.

At the same time, a number of EU Member States have opted for an approach that reflects the provisions of Article 9 of the Directive, notwithstanding existing general criminal provisions.

- ✓ Article 11(8) of the Maltese draft law states that the penalty imposed for a breach of a restrictive measure may be reduced by a maximum of two degrees if the offender provides the Maltese police with information that the police would not otherwise be able to obtain to help identify or prosecute other persons who have committed the breach or to help find evidence.
- ✓ According to Article 604-6 of the draft amendments to the Spanish Criminal Code, the court may impose a penalty for a violation of sanctions that is one or two degrees lower than that provided for the corresponding violation if the person voluntarily ceased their criminal activity, turned to the authorities, confessed to their actions, and actively cooperates with them to prevent the commission of a crime, or effectively assists in obtaining decisive evidence to identify or apprehend other responsible persons or to prevent the activities or development of organisations or associations to which they belonged or with which they cooperated.
- ✓ According to Article 5(5) of the Greek draft law, if it is proven that the offender has provided the competent authorities with information that they could not have obtained otherwise, helping them to identify and prosecute other offenders or to obtain evidence, they shall be given a more lenient sentence in accordance with Article 83 of the Criminal Code on more lenient sentences.
- ✓ Article 10(2) of the new Cypriot Law and Article 27-2 of the Romanian draft Emergency Ordinance literally reproduce the provisions of Article 9 of the Directive.

SECTION 4. Conclusions and recommendations for Ukraine

On 23 June 2022, Ukraine was granted candidate status for accession to the European Union. According to Article 288 of the Treaty on the Functioning of the EU, the directive is binding on each Member State. Given that the formal level of a candidate country's approximation to EU membership is largely determined by the degree of adaptation of its legislation to the EU acquis, Ukraine's national legislation is in fact subject to harmonisation with the Directive, which is one of the key conditions for accession.'

Although Ukraine's official partners do not explicitly require the criminalisation of sanctions evasion, there is an obvious conflict: on the one hand, Ukraine actively advocates strengthening the sanctions regime, preventing its evasion and using the confiscated assets for the benefit of Ukraine; on the other hand, the domestic legal system still lacks provisions establishing legal liability for such violations. This creates the impression that compliance with sanctions legislation is optional and relies solely on the good faith of designated entities and other persons, even though sanctions issues directly affect fundamental national interests.

The issue of establishing legal liability for violations of sanctions legislation arose back in 2014 with the adoption of the Law of Ukraine "On Sanctions". The latter establishes the mandatory enforcement of decisions on the application of sanctions after they come into force, but does not provide for any liability for their violation. Acts codifying the norms of criminal and administrative law – the Criminal Code of Ukraine and the Code of Ukraine on Administrative Offences – also do not contain provisions on circumventing sanctions.

The first serious legislative step was taken only on 14 January 2025, when the head of state submitted to parliament a Draft Law on amendments to the Criminal Code of Ukraine, the Criminal Procedure Code of Ukraine and the Law of Ukraine "On Sanctions" regarding the establishment of liability for violations of special economic and other restrictive measures (sanctions) (Draft Law 12406). The Draft Law was adopted in the first reading (adopted as a basis) on 3 June 2025.

The Draft Law 12406 is a temporary measure aimed at overcoming the existing glaring gap that allows impunity for encroachment on Ukraine's fundamental national interests in the context of the ongoing large-scale War for Ukraine's Independence. Its adoption, taking into account the amendments, can be seen as a kind of test that will allow new criminal law provisions to be tried out, shortcomings to be identified and ways to remedy them to be developed.

However, the adoption and entry into force of this Draft Law, even with the amendments insisted upon by experts, will not be considered as Ukraine's fulfilment of its obligation to transpose all EU directives, including Directive 2024/1226, as its provisions do not take into account all the requirements set out in that Directive. This is due, first and foremost, to two factors.

Firstly, Draft Law 12406 is based on the current criminal and sanctions legislation, which, for obvious reasons, forms its basis, but this legislation itself requires systemic changes, without which it does not seem possible to fully implement the requirements of the Directive.

Secondly, as a candidate for EU membership, Ukraine will need to ensure the full transposition of EU directives, including the one under consideration, before it officially becomes a member of the EU. Obviously, given that EU Directive 2024/1226 refers to the criminalisation of violations of EU restrictive measures, the implementation of which will become an obligation for Ukraine only after it becomes a member, such laws (these laws) should only come into force at that point. At the same time, these acts themselves must be adopted before that (with a suspensive condition regarding their entry into force), and they should be developed now. On the other hand, Draft Law 12406 concerns exclusively the criminalisation of violations of Ukraine's national sanctions, since until Ukraine becomes a member of the EU, the criminalisation of violations of EU sanctions is currently de jure impossible. This argument also emphasises the need to criminalise violations of national sanctions as soon as possible.

In this regard, it is no coincidence that this analysis focuses on examining the relevant legislative acts or draft laws of those EU Member States that, after the Directive came into force, adopted amendments or developed draft amendments for the purpose of transposition, as Ukraine will have to follow the same path. This analysis aims to demonstrate the different variations in the set of tools for transposition that EU Member States have used to fulfil their obligations and which will be useful for Ukraine.

When developing legislative changes to ensure the transposition of EU Directive 2024/1226, the experience of these countries should be taken into account. The criminalisation and penalisation of violations of restrictive measures should be based on the following key provisions:

- for Ukraine, the deadline for transposing the Directive is the date on which it acquires the legal status of an EU Member State;
- Ukraine may choose the forms and means of transposition at its own discretion, but they must ensure the real (not feigned) and effective implementation of the minimum set of rules formulated in the Directive;
- given the principle of monism of sources of domestic criminal law, the relevant criminal provisions should be placed within the Criminal Code of Ukraine, ideally substantially and systematically updated, or within a newly adopted code. At the same time, it should be noted that most EU Member States have several to many legislative acts containing criminal
- law provisions (multiple sources), and the regulation of criminal liability within the framework of special laws that operate in accordance with the provisions of criminal codes has proven to be effective;
- most EU countries classify this criminal offence as offence against the peace or offence against the state.
- the criminalisation and penalisation of violations of restrictive measures is directly linked to a number of other criminal and procedural provisions (in particular, on extended confiscation of property, on the liability of legal entities, on the system of additional penalties, on the protection of whistleblowers, etc.), which also require coordinated parallel or combined changes in a single package;

- Ukraine's sanctions legislation needs to be systematically updated to ensure its full compliance. This concerns both the Law "On Sanctions" and other laws that define the rights, obligations and powers of various entities in the field of imposing and actually applying sanctions, as well as a number of subordinate regulatory acts that provide details of the general provisions of the laws. The main priorities include: reviewing the types of sanctions and formulating them in a way that is understandable to law enforcement agencies and other interested parties, in particular with regard to whom they are addressed and who is responsible for ensuring their implementation, formulating prohibitions on violations of sanctions, establishing accessible procedures for appealing sanctions, introducing and regulating the issue of permits (licences) and expanding exceptions to sanctions restrictions; introducing and regulating the duty to report/disclose the assets by both sanctioned persons and professional entities in the financial, registration and other spheres, without which it is impossible to implement the provisions of the Directive on the criminalisation of sanctions circumvention; the designation of a coordinating body in the field of sanctions policy (e.g. this could be a new executive body – the Sanctions Policy Bureau, a specific Interdepartmental Group or the National Security and Defence Council) and the establishment of effective cooperation between all authorities involved in the implementation of sanctions policy;
- When choosing how to describe the actus reus in the disposition of the article, Ukraine can rely on approaches that have already been developed in the practice of EU member states:
  a) it could be a more general wording, such as "violation/non-compliance with a restrictive measure," which would require a separate definition in the operative part, including circumvention, since certain types of the latter do not constitute a violation of a restrictive measure; Draft Law No. 12406 is more in line with this approach, although the proposed alternative wording of "obstructing the enforcement of a sanction" is unlikely to be consistent with Article 3 of the EU Directive;
  b) Another option is to transpose the typified acts provided for in Article 3(1) of the Directive, either by aligning them as closely as possible with the wording of the Directive or by adapting them to domestic terminology.
  A literal or almost-literal reiteration of the provisions of the Directive in this sense has its advantages and disadvantages.
  Advantages: 1) legal certainty – clear reiteration ensures maximum compliance with EU requirements, reduces the risk of infringement and contributes to the accessibility of the text of the law; 2) rapidity of transposition – minimal adaptation costs, as the text is translated and transferred to national legislation; 3) unification of practices: identical wording in different countries facilitates cooperation between law enforcement agencies and courts.
  Disadvantages: 1) lower level of national adaptation – risk that the law may not take into account the specifics of the domestic legal system; 2) problems in law enforcement: “transplanted” concepts may be difficult for national courts to interpret; 3) low flexibility or potential loopholes: if new types of violations and circumventions need to be taken into account, the exhaustive list of acts characteristic of Article 3(1) of the Directive does not allow sufficient room for modification and creates potential loopholes and the need for permanent changes to the law.

- Criminalisation requires the simultaneous resolution of conflicts between provisions within the Criminal Code itself (e.g. regarding the crossing of state borders or transactions involving military or dual-use goods) and provisions of other laws, such as those providing for unhindered humanitarian aid or the protection of attorney-client privilege.
- The composition of a criminal offence should be defined as conduct crime (the occurrence of property or other damage is not a constituent element). At the same time, serious damage may be an aggravating circumstance.
- the future draft law should take into account the existence of different sanction regimes – national, European and international (at the level of UN Security Council resolutions). A unified approach seems more appropriate, whereby violations of sanctions under different sanction regimes would be subject to the same rules and penalties;
- it is worth setting a value threshold for criminalisation close to that recommended by the EU Directive (10,000 euros in national currency equivalent). At the same time, for violations that do not reach this threshold, administrative liability should be introduced, as has been done by a significant number of EU Member States (e.g. Malta). However, this threshold should not apply to military and dual-use goods.
- it is mandatory to criminalise negligent violations of sanctions, at least those related to transactions involving military and dual-use goods. Draft Law 12406 does not provide for this, which has attracted serious criticism;
- full compliance with the Directive must be ensured in terms of maximum prison terms not lower than those set by the Directive (Draft Law 12406 complies with Article 5 of the Directive in this respect);
- differentiating liability based on the value threshold (the value of the subject of the violation) and other criteria (form of complicity, repetition, special subject) will serve to comply with the principles of criminalisation enshrined in Article 5(1) of the Directive.

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