

Year in review 2023

Sanctions

ARZINGER 20 YEARS

DECREES OF THE PRESIDENT OF UKRAINE ON THE APPLICATION OF SANCTIONS

In 2023, the President of Ukraine issued **39 decrees on the application of sanctions**. Those included 3 decrees on the application of sectoral sanctions, as well as 36 decrees to apply personal sanctions to 3,740 individuals, 3,964 legal entities and 3 individual entrepreneurs.

OVERVIEW OF COURT CASES on the application of sanctions in the form of appropriation of assets of sanctioned persons to the State

In 2023, the mechanism for appropriation of assets of sanctioned persons to the State benefit under claims of the Ministry of Justice of Ukraine became fully operational. In Ukraine, such type of sanction was introduced in May 2022. It provides for the appropriation of assets belonging to a sanctioned individual or legal entity as well as assets in respect of which the sanctioned person may directly or indirectly (through other individuals or legal entities) perform actions identical in content to the exercise of the right to disposal.

Thus, the High Anti-Corruption Court issued **26 decisions and imposed a sanction** – appropriation of assets to the State benefit – to, among others, Arkady Romanovich and Igor Arkadyevich Rotenberg, Oleg Vladimirovich Deripaska, Leonid Ivanovich Babashov, Vladimir Vasilyevich Saldo, the Ministry of Defence of the Republic of Belarus, Sergey Viktorovich Kalashnik, and other sanctioned persons.

AMENDMENTS TO THE LEGISLATION

Amendments to the Law of Ukraine "On Sanctions"



Law of Ukraine No. 2997-IX of 21 March 2023, has amended the Law of Ukraine "On Sanctions". Thus, the following restrictive measures have been added to the list of types of sanctions:

- prohibition of activities on the territory of Ukraine.
- refusal to grant or revocation an immigration permit, permanent or temporary residence permit in Ukraine.
- forced return or forced expulsion from Ukraine.
- prohibition of demonstration and use of symbols of terrorist organizations and groups, propaganda of ideas and program goals of such organizations (groups), blocking access to information resources used for the above purposes.



On 29 July 2024, Law of Ukraine No. 3223-IX "On Amendments to Certain Legislative Acts of Ukraine on the Application of Sanctions" entered into force.

The Law provides for the establishment of the State Register of Sanctions to provide public access to up-to-date and reliable information on all entities subject to personal sanctions.

Amendments to bylaws and regulations on sanctions policy

Resolution of the Cabinet of Ministers of Ukraine dated **10 March 2023**, No. 213 has amended Resolution of the Cabinet of Ministers of Ukraine No. 187 dated March 3 2022, No. 187 "On Ensuring the Protection of National Interests in Future Claims of the State of Ukraine in Connection with the Military Aggression of the Russian Federation" and has supplemented the list of persons related to the aggressor state by legal entities established **under the laws of a foreign state**, with the ultimate beneficial owner, member or participant (shareholder) with a share of 10 per cent or more in the authorized capital held by the Russian Federation, a citizen of the Russian Federation, except for those legally residing in Ukraine.

On 19 September 2023, the Cabinet of Ministers of Ukraine adopted **Resolution No. 1011** "On Approval of the Methodology for Determining the Ultimate Beneficial Owner by a Legal Entity". This methodology creates an effective system for disclosing information about the ultimate beneficial owners and improves the process of determining the ultimate beneficial owners by legal entities, in particular, for the purpose of its application in the appropriation of sanctioned persons' assets to the State.

The Cabinet of Ministers of Ukraine adopted **Resolution dated 21 November 2023** No. 1233 "Some Issues of Managing Assets Forfeited by the State", which has approved the procedure for the State Property Fund's management of assets in respect of which a court decision was made to impose a sanction in accordance with the Law of Ukraine "On Sanctions", as well as the sale of such assets.

On 11.05.2023, the Board of the National Bank of Ukraine adopted **Resolution No. 65** "On Approval of the Regulation on the Implementation of Special Economic and Other Restrictive Measures (Sanctions)", which, in particular, regulates the following issues of sanctions implementation:

- establishes the implementation specifics of each sanction, including the newly revised asset freeze sanction.
- clarifies the implementation requirements for sanctions in the course of transactions using payment instruments, including electronic payment instruments, and sets requirements for acquiring institutions.
- determines the procedure for the sanctioning entity to act in the event that certain data of a client and/or other participant in a financial transaction coincide with the data of a sanctioned person and there is insufficient information in the sanctions lists or payment instruction details, etc.
- determines the procedure for implementing sectoral sanctions.
- determines the procedure for sanctions implementation by non-banking institutions.

The Resolution also requires entities entitled to sanctions implementation to approve internal documents on implementing sanctions within three months and to set up internal monitoring systems to ensure that financial transactions on the sanctions lists are verified before they are carried out.





QUASI-SANCTIONS FROM THE NATIONAL AGENCY FOR THE PREVENTION OF CORRUPTION

Register of international sponsors of war

In 2023, the National Agency for the Prevention of Corruption (the NACP) added 33 foreign companies to the list of International Sponsors of War, including, in particular, Procter & Gamble (P&G), PepsiCo, Mars, Auchan Holding (France), the Austrian banking group Raiffeisen Bank, Xiaomi Corporation (China), the Bermuda company Bacardi Limited, two leading global tobacco companies Philip Morris International and Japan Tobacco International.

In addition, the NACP has also removed companies from the list of International Sponsors of War subject to certain conditions namely Peninsula Petroleum Limited, Shree Ramkrishna Exports (SRK) and the British Mondri Group.

Also, following the negotiations on the termination of cooperation with the Russian Federation, the NACP suspended 5 Greek shipping companies – Dynacom Tankers Management (DTM), Delta Tankers LTD, Thenamaris Ships Management Inc., Minerva Marine, TMC Tankers LTD and Hungarian OTP Bank – from the list of International Sponsors of War.

New sections of the NACP portal

1. Candidates for sanctions

The section is designed to help identify potential candidates for sanctions both in Ukraine and in the countries of the sanctions coalition, as well as to offer a list of justifications and evidence base to make the application of sanctions more quick and efficient.

2. War and Sports

The section contains a list of athletes, sports federations, associations, clubs, sponsors and other sports organizations from different countries who directly or indirectly support Russia. They can do this by inviting Russians to sports competitions, buying/sponsoring Russian sports teams, receiving funding from Russians, or directly declaring support for the aggressor.

3. Foreign Components in Weapons

Currently, the database contains information on foreign components found in Russian and Iranian weapons used by Russia during a full-scale invasion of Ukraine. It already includes more than 2,000 components made in the United States, Taiwan, Belgium, Switzerland and other countries, which are used by Russia and Iran in various types of UAVs, missiles, electronic warfare systems, and many other types of weapons and military equipment.

4. War and Art

This section should help track sanctions violations in global art market transactions.

Part of this section is the [Stolen Heritage](#) project, which currently includes 318 objects of art and historical heritage of Ukraine stolen by Russians, as well as the circumstances of their theft.

DOCUMENTS OF THE INTERNATIONAL WORKING GROUP ON SANCTIONS AGAINST RUSSIA

During 2023, the International Working Group on Sanctions Against Russia, known as the Yermak-McFaul Group, adopted the following important documents shaping the policy of the sanctions coalition:

Document No.11
dated 24 April 2023
“Action Plan 2.0. Strengthening Sanctions Against the Russian Federation” defines the key principles and approaches to the development of sanctions policy in 2023.

Document No.12
dated 3 July 2023
“Strengthening Sanctions to Stop Western Technology from Helping Russia’s Military Industrial Complex” contains references to the facts of Western technology being found in weapons used by the Russian Federation. The document also provides detailed recommendations on how to ensure that critical missile components originating from democratic states do not reach Russia.

Document No.13
dated 23 August 2023
“Strengthening Sanctions on Foreign Components in Russian Military Drones” contains recommendations for reducing the presence of components manufactured in the sanctions coalition countries in Russian drones, namely to expand export control, introduce verification procedures and increase the responsibility of companies for circumventing sanctions.

Document No.14
dated 4 September 2023
“Using Energy Sanctions to Shorten the War” defines the importance of introducing new energy sanctions against Russia and the need to control their circumvention.

Key expectations for 2024:

- We expect that Ukraine will continue to expand the list of sanctioned persons.
- At the same time, given that the number of sanctioned persons is in the thousands, it would be logical to revise the existing sanctions lists. In particular, it is worth reviewing the existing lists both to eliminate errors and to de-list those individuals who no longer need sanctions. After all, sanctions are not a form of punishment, but rather an incentive for a person to change their behavior.
- We expect further implementation of such sanctions as the recovery of assets of sanctioned persons to the state. We would like to remind you that such recovery is carried out exclusively through the court.
- It is possible to introduce criminal liability for violation of sanctions. The relevant draft law has been developed but is not currently on the agenda.