




**ICUV** INTERNATIONAL  
CENTRE FOR  
UKRAINIAN  
VICTORY

# **EU SANCTIONS: LEGAL NATURE AND DISCRETION OVER THEIR DURATION AND RENEWAL**

**ANDRII MIKHEIEV**

International Lawyer, expert of the  
International Centre for Ukrainian Victory



# EU Sanctions: Legal Nature And Discretion Over Their Duration And Renewal

In response to the Russian Federation's unprovoked and unjustified full-scale military aggression against Ukraine in February 2022, the European Union (EU) adopted a series of restrictive measures (hereinafter, -sanctions) aimed at undermining Russia's ability to continue its violations of international law. Among these measures was the immobilization of assets belonging to the Central Bank of Russia (CBR), in an amount to nearly €200 billion, most of which are held by the Belgium-based Central Securities Depository Euroclear.

Specifically, on 28 February 2022, the European Council adopted [Decision \(CFSP\) 2022/335](#), amending [Council Decision 2014/512/CFSP](#), to prohibit any transactions related to the management of reserves and assets of the CBR. This prohibition was mirrored in Article 1a(4) of Decision 2014/512/CFSP, effectively leading to the immobilization of the relevant assets held by financial institutions within EU Member States.

In its regulations implementing sanctions, the EU has established their expiration dates and mechanisms for their periodic review. Notably, the latest version of the [Council CFSP Decision 2014/512/CFSP](#) (Article 9), provides:

*"This Decision shall apply until 31 July 2025... This Decision shall be kept under constant review. It shall be renewed, or amended as appropriate, if the Council deems that its objectives have not been met..."*

However, such an approach allows the EU sanctions policy to become a hostage of political pressure and blackmail. As currently the vector of the U.S. policy regarding Russian Federation and war in Ukraine has significantly changed, the possibility of lifting or weakening the EU sanctions against Russian Federation is growing as well. Despite the firm statement of the [EU state leaders](#) and [officials](#) that [EU will not lift sanctions](#) until Russia ends its aggression and compensates for the damage, some decision-makers privately express concern, fearing that if the Trump administration decides to lift U.S. sanctions as part of negotiations with the Russian Federation, certain EU member states might veto the next EU sanctions extension, reviewed every six months. This could happen even though none of the reasons for the sanctions application have been resolved, and the intensity of Russian crimes continues to escalate with the targeted attacks on the Kryvyi Rih residential area and the playground, on April 4, that murdered 20 people, including nine children, and the Sumy downtown on April 13, the Palm Sunday, that killed 34, being among the latest deadliest strikes on civilians.

Therefore, there is a real risk that on July 31, 2025, the fate of EU sanctions—including the immobilization of Russian Central Bank assets—will be challenged again if a member state refuses to support the extension. Then the sanctions could expire, potentially resulting in the return of the assets to the Russian Federation. Moreover, even if the issue is resolved in July, the problem will return over again in January 2026.

The political consequences of lifting sanctions—and especially of de-immobilizing Russian assets—would be catastrophic for both the EU and Ukraine. First and foremost, it would mean rewarding Russian aggression, sending a message of encouragement to the aggressor state to pursue its imperialist conquests. The return

of €200 billion to Russia's military budget would significantly escalate its war machine and aggressive ambitions. At the same time, the EU would lose a vital source of funding to repay the ERA Loan, and Ukraine would lose its only viable option to finance security and rearmament—leaving it vulnerable to renewed Russian aggression and further threats to European territory.

*This brief highlights the legal and strategic role of sanctions in maintaining peace and responding to violations of international law. It argues that sanctions should remain in place until their objectives are fully achieved and all damages are compensated, rather than being subject to political discretion, time-bound reviews, or the political blackmail of individual member states.*

*It outlines two possible paths for fortifying EU sanctions against political interference and trade-offs: either the EU Council adopts a more protective and legally grounded approach—already outlined in EU guidelines—that places the burden of proof during the regular reviews on those advocating for the lifting of sanctions, or, at a minimum, extends duration of sanctions reviews significantly, from the current 6 months to 24–36 months at least.*

*Given current geopolitical dynamics, maintaining the existing approach poses serious risks to the European Union's own security. The EU remains a strong international actor, fully committed to uphold international law and safeguard global peace and security.*

## **EU sanctions: legal nature and discretion over their duration and renewal**

### **Legal nature**

The general legal framework of the EU external actions is laid down in the articles 3 and 21 of the [Treaty on European Union \(TEU\)](#). Article 3(5) of the TEU provides that

*“In its relations with the wider world, the Union shall ... contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, **as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.**”*

In its turn Article 21 TEU provides that the EU shall be guided on the international scene with the following principles: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and **respect for the principles of the United Nations Charter and international law.**

The list of the objectives pursued by the EU in the international arena includes, among others, the following: preserve peace, prevent conflicts and strengthen international security, in accordance with the purposes and principles of the United Nations Charter, with the principles of the Helsinki Final Act and with the aims of the Charter of Paris, including those relating to external borders.

Also, Article 23 of the TEU provides that all the EU external actions shall be guided by the principles and pursue the objectives above.

The case law of the General Court of the European Union (GCEU) in this regard is also clear and specific. For example, in the [GCEU Judgement](#) in the case *République bolivarienne du Venezuela v Council of the European Union*, the Court again confirmed that the EU's CFSP decisions in that case and in general are taken

*“...inter alia, to ensure (i) fulfilment of the erga omnes parties obligations to respect the principles derived from general international law and international instruments of a universal or quasi-universal nature, in particular Article 1 of the United Nations Charter, (ii) respect for fundamental rights, in particular the prohibition of torture, (iii) respect for democratic principles and (iv) protection of the rights of the child.*

If considering on particular examples, related to immobilizing Russian assets, [Decision \(CFSP\) 2022/335](#), amending [Council Decision 2014/512/CFSP](#) as all the other corresponding EU acts have been taken in virtue of preceding [European Council's Conclusions](#) of 24 February 2022, where the European Council condemned Russian actions as “grossly violating international law and the principles of the UN Charter and undermining European and global security and stability” and stressed that “...Russia bears full responsibility for this act of aggression and all the destruction and loss of life it will cause.” The text of the CFSP decisions as well directs to the violations of international law by the Russian Federation and clearly indicates that these measures have been taken in response to them.

Therefore, the general conclusion is that the EU sanctions in such cases are not time-bound and subjectively used political tools but instruments of legal redress and strategic deterrence, essential for the maintenance of peace and security in Europe and beyond its borders and serve as the response to the gross violation of international law. They have not been invoked just ‘in favor of Ukraine’ or ‘because of Ukraine’ and are not just the instrument of political pressure. They should be left in force until such violations stop and all the losses and damages are compensated.

### **Duration of sanctions and their renewal**

The temporal scope of EU restrictive measures is governed primarily by [Article 28\(1\) TEU](#), which provides the following:

*“... Where the international situation requires operational action by the Union, the Council shall adopt the necessary decisions. They shall lay down their objectives, scope, the means to be made available to the Union, **if necessary** their duration, and the conditions for their implementation.*

***If there is a change in circumstances** having a substantial effect on a question subject to such a decision, the Council shall review the principles and objectives of that decision and take the necessary decisions”.*

Therefore, the text of this core document, explicitly provides that the mere indication of the limited duration of measures is **dispositive, non-mandatory**. Moreover, paragraph 2 of this article envisages that actually the **change in circumstances** is the major and required criterion for the EU authorities to change its decision, including decision on imposition of sanctions and unless this criterion is satisfied, such decision should not be reviewed.

However, the TEU provision is not the only instrument regulating the issue of duration and reviewing EU decisions on sanctions. In 2004, the Political and Security Committee of the Council elaborated [Basic principles on the use of the restrictive measures](#) further supported by the [EU Guidelines on Implementation and Evaluation of Restrictive Measures](#) and [Best Practices for the effective implementation of restrictive measures](#) which have been subsequently adopted by the Council. These documents are considered as the ruling instructions on imposing sanctions by the EU and impose all the necessary explanation, interpretation and even model wordings for the EU authorities to use when drafting the respective decision.

The most remarkable part of the Basic principles on the use of the restrictive measures is principle 9 providing the following:

*“In all cases, our objectives should be clearly defined in the enabling legal instruments. Sanctions should be regularly reviewed, **in order to ensure they are contributing towards their stated objectives. Sanctions should be lifted according to their objectives being met.** In any case, the Council retains the possibility to decide on the amendment of sanctions. Their termination will be in accordance with the provisions of the EU Guidelines”.*

The wording of this Basic principle again refers to the requirement to meet the objective for lifting the sanction.

The **EU Guidelines on Implementation and Evaluation of Restrictive Measures (last update in 2018)** which the abovementioned Basic principles refer to develop much more explicitly in this regard. Paras. 33,34 of the section G of Guidelines concentrate again on the necessity to fulfil the objective established and stipulates the following:

*“Where it is considered appropriate, **specific criteria that have to be met for repeal of the restrictive measures can be set out in the legal instrument, but normally proper definition of the specific objective of the measure will be sufficient.. When the criteria or specific objectives of the measure have not been met the restrictive measures should continue, except in cases where the Council decides otherwise.** The CFSP legal instrument should therefore either have an expiration date **or** a review clause, as decided by the Council, so as to ensure that the need for renewal of restrictive measures is discussed within an appropriate period of time. The expiration or review date could be decided taking into account relevant facts and considerations ... “*

Para. 35 also provides that:

*“To be effective restrictive measures **should be lifted when their objectives have been met.** The time limit therefore would be an occasion to revisit the restrictive measures regime and **to assess whether the objectives have been met”.***

Finally, para. 37 explicitly establishes that:

*“It is, therefore, preferable to have the Regulation **continue in force, until it is repealed”.***

Finally, section J of the Guidelines provide for two options of wordings on the expiry/review clauses.

Standard wording for an expiration clause in the case of EU autonomous sanctions could read:

*“This Decision shall apply for a ... period. It shall be kept under constant review. It shall be renewed, or amended as appropriate, if the Council deems that its objectives have not been met»*

**However, the second option is the standard wording for a review clause** in the case of EU autonomous sanctions could read:

*“This Decision shall be reviewed ... after its adoption and every ... thereafter. **It shall be repealed if the Council deems that its objectives have been met”***

Therefore, the conclusion from the above shall be the following: the guiding Council’s documents on imposing sanctions **directly establish that the respective decision on sanction should lose effect only in case the established objective is reached**. Although, it provides the Council with the broad discretion to regulate the duration of the restrictive measure either through establishment of the expiration date and subsequent review or by reviewing decision through the paradigm of **whether the objective criterion was established and whether the decision should be repealed**, the document explicitly states that the latter option is **preferable**. Thus, the reasoning for the Council to make the CFSP decision in a way that provides for the expiration date and necessity of the subsequent renewal may not be covered by other reasons than political ones.

The difference in these wordings is huge. The exact language decides on which question shall be on vote during review of the decision.

In the first case, when the wording is “...It shall be renewed, or amended as appropriate, if the Council deems that its objectives have not been met” the Council shall take the decision **whether the objectives have not been met**. Considering the requirement of the unanimity of votes, in case just one state votes against such a decision, it shall not be taken and sanctions will expire.

In the second option the question on the table shall be **whether the objectives have been met**. In this case all states should vote for such a decision and actually, in the case of the Russian Federation, the respective states who are interested in lifting sanctions shall **bear the burden of proof** to all other Member States that the situation changed in a way that Russia should not be sanctioned anymore.

This scenario is much more protective for the interests of the EU and Ukrainian security and this model does not require any extraordinary inventions in the legal field - they are already prescribed in the EU manuals and are even **designated as preferable**.

**However, in case the EU authorities** find such a way of amending the review clause of the existing Council Decision 2014/512/CFSP to be too radical, the EU still has tools to extend the duration of sanctions for much longer and reasonable terms. It is incomprehensive currently why has the EU applied the lowest standard of sanctions’ review against Russia which launched the full-scale aggression, killing thousands of civilians and nullifying Ukrainian cities, applying the same rules as against private persons whose violations are of certainly lower level. It is also remarkable that the original (2014) version of the same CFSP decision prescribed [1 year duration of measures](#).

## **Conclusions**

Therefore, the solution to protect sanctions against Russia in general and immobilization of the €200 billion assets of the Russian Central Bank in particular, the following policy decisions are available within the existing authority of the European Council and would fully correspond with the current EU legislation:

- change the paradigm of sanctions duration, moving from reviewing their extension after expiry to reviewing the possibility of their lifting. That would mean voting for *whether the decision should be extended to whether the objective criterion was established and whether the decision should be repealed*,
- or at least, significantly extend the duration of the sanctions revision from existing 6 months to minimum 36 months. In case Russia ceases aggression and agrees to compensate for the damage earlier, the European Council could always make a review and decide to lift sanctions ahead of schedule.

With the current geopolitical dynamics, maintaining the existing approach poses serious threats to the European Union's security. Regardless of today's political fluctuations, the EU remains the only actor in international affairs with both the influence and resources to uphold international law and safeguard global peace and security.

EU sanctions are among the few tools capable of curbing Russian aggression and limiting the escalation of its military expansion. Therefore, these measures should remain in force, and the acts implementing them should be amended to ensure their continuation until their objectives are fully achieved—fully in line with the existing EU legal instruments that allow for such an approach.

[ukrainianvictory.org](http://ukrainianvictory.org)

2025