
CCBE OVERVIEW TABLE ON EU SANCTIONS

Updated 26.04.2022 (overview of 18 countries)

A) What are the practical issues emerging for lawyers regarding sanctions?	
1. Austria	For the moment no specific issues emerge. Lawyers have already dealt with sanctions with regard to other conflicts in the past, in this regard this is not a new topic.
2. Belgium	The vague wording of some provisions causes practical issues. A prime example is article 4 of regulation nr. 269/2014, which also figures in other European sanction regulations. In essence, the assessment of the fulfilment of the conditions to release certain frozen funds or economic resources is attributed to the national competent authorities. In Belgium, this is the General Administration of the Treasury, which falls under the Federal Public Service Finance. However, it is not clear how the Treasury will assess whether, for example, “the funds or economic resources are intended exclusively for payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services”, as it does not provide any procedural guidelines for, or criteria for assessment, of de-freezing requests. This raises a host of problems, such as, but not limited to, the free choice of a lawyer (as the Treasury might refuse to release the funds for ‘expensive’ lawyers), and lawyer-client privilege (as the lawyer will most likely have to provide information about his client when introducing a de-freezing request, which, in Belgium at least, is covered by professional secrecy).
3. Bulgaria	
4. Croatia	
5. Cyprus	Cypriot lawyers and/or LLCs are approaching the imposed sanctions as a matter of significant importance, not only for the integrity and reputation of their businesses but also for the integrity and reputation of the whole legal sector in Cyprus. The main issue is the unclarity as to the interpretation and application of the Regulations on certain matters, the most important of which is the unclarity as to whether, mainly in relation to Regulation 269/2014, there is any prohibition on providing services to designated persons and to entities owned or controlled by them, other than the general prohibition under Article 9 (non-circumvention). It is widely considered that the Regulation is not well drafted and that the opinions / clarifications given by the Commission are also not clear and, in some cases, even inconsistent with or unwarranted by the wording of the Regulation. For example, the Commission in its opinion of 29.8.2019 related to applications for derogations from asset freeze refers an “application of the service provider (for example the external third party drawing up the accounts, or ensuring the administrative management of the company), in order to be allowed to provide such services ...”. Regulation 269/2014 does not envisage and does not allow any authorization by NCAs for provision of services. It is the view of the CBA that, other than pursuant to Article 9 of the Regulation, the provision of services by lawyers and other service providers and professionals is not prohibited under Regulation 269/2014 and does not require any authorisation from the NCAs and we recommend that CCBE liaises with the

	<p>Commission for a clarifying opinion in this respect and to this effect. Some specific practical issues that some of our members are facing, are, between others: Which services and/or activities can be offered to a sanctioned person, in order to remain alive; Whether a director of a sanctioned entity can be resign from his position; Issues arise with regards to the ongoing business, such as payments etc.; Legal opinion to be given to the sanctioned person; Legal representation to Courts; Their payment for those services</p>
6. Czech Republic	<p>The first issue that was identified in connection with the introduction of sanctions was the question of whether and to what extent the provision of legal services can be subsumed under the so-called economic resources, mentioned in the relevant EC decision. This boundless interpretation is also held by the national FIU.</p> <p>A distinction must be drawn between a legal services in a contractual matters, which can be regarded to a limited extent as an economic resource, and a legal services which form part of the procedural law of the accused/sanctioned person, which is a fundamental human right and cannot be restricted, even by a rule of law such as a regulation (in both European and national contexts, it results from a higher piece of legislation, specifically from the EU Charter of Fundamental Rights, the Convention on Human Rights and, in the Czech context, the Charter of Fundamental Rights and Freedoms). Such person cannot be deprived from the right to legal aid consisting of representation before courts or other public authorities, nor may it be made subject to the consent of a state authority. However, there are difficulties of interpretation as regards the payment of this service.</p> <p>In practice, there are also two sets of problems – the speed of the sanctions being introduced and the difficulty in identifying the person being sanctioned. As regards the speed of the sanctions to be introduced, it is also the speed with which the lawyer has thorough knowledge of the newly adopted sanctions and there is no question of how to proceed if the lawyer has already concluded a contract for the provision of legal services with such an entity. In practice, there are cases of refusal of legal services to such entities, even the termination of contracts already concluded, but neither the Act on the Legal Profession nor any legal regulation provides a clear guide for dismissals.</p> <p>In practice, there are difficulties in identifying the person being sanctioned, taking into account the different types of transcription of Cyrillic-written names. So far, however, they do not arise so often that the Bar or FIU would have to deal with them. The transcription rules used by the registers and records of inhabitants are very useful in this regard.</p> <p>No distinction is made between intent, gross negligence or negligence. In case of error, punishment can be assumed.</p> <p>From the point of view of the transferability of securities pursuant to Article 5f of Council Regulation (EU) No 833/2014, the prohibition applies only to the sale of transferable securities to Russian nationals or natural persons resident in Russia or to any legal person, entity, body that is established in Russia = this Article does not apply to legal entities established in the EU owned by Russian citizens and care must be taken, to avoid circumvention of the prohibitions laid down in the Regulation, including acting as representatives of natural or legal persons, etc.</p> <p>Reporting to the Office should already take place at the moment of suspicion, but if the suspicion is not proven, this may result in the closure of the business/ cooperation, etc., which as a result for any person to whom the suspicion relates, may have a major impact and the question is to claim damages in the event of failure to prove such suspicion.</p>

	The issues also arise for lawyers in regard to practical operation of the companies with Ultimate beneficial owner when securing the payments for legal services, financial institutions pose additional informal obstacles.
7. Denmark	
8. Estonia	
9. Finland	<ul style="list-style-type: none"> – Assisting clients in defining whether a product is subject to sanctions and if so, as of which point in time. – Not having a consolidated list of persons subject to sanctions. – The lack of precedent in relation to contractual legal theories sought to be applied by parties affected by the sanctions directly or indirectly such as force majeure, hardship, change in law etc. – The main practical issues to be evaluated regarding sanctions are the following: • Is company client or private client sanctioned (listed?) • How to interpret in practice the notion of ‘control’ in situations where a listed individual is a member of board or management team of a non-sanctioned entity? • Is the beneficial owner sanctioned? • Do sectoral or geographically targeted sanctions apply? • How are sanctions interpreted? In practice, this it is quite a challenge as there is only limited practice from courts and supervisors to guide the interpretation as well as limited sector-specific guidance for lawyers. • How are sanctions taken into account and managed in our own risk assessment? • Where can I get help (e.g. regarding updating information or substance knowledge)? – Knowing which country sanctions need to be adhered to and to what extent, finding out the correct corporate structures and identify the beneficial owners that exercise control over the corporates.
10. France	<p>Difficulté principale : accès à l’information. D’un point de vue pratique, la question est d’abord celle de l’accès à l’information de l’existence d’une sanction. Cela suppose sa diffusion, son accessibilité, la clarté de son contenu et la connaissance de ses conséquences. Cette observation vaut pour les sanctions décidées par l’UE et celle prises au niveau national par les gouvernements.</p> <p>Concrètement, en ce qui concerne la France, il n’y a pas de difficultés particulières pour l’accès à l’information et connaître la liste des personnes visées par les sanctions. Le devoir de prudence (art. 1.5. RIN) impose à l’avocat plusieurs vérifications et contrôles portant sur son client qui doivent le conduire à rechercher si, par exemple, il fait ou on l’objet d’une décision de gel de avoirs.</p> <p>Conséquences à en tirer. En revanche, les difficultés surgissent pour les conséquences à en tirer : que doit-on déclarer ? à qui ? selon quelle procédure?</p> <p>Autres difficultés : bénéficiaires, contrôle/direction. Les autres difficultés sont liées :</p>

	<ul style="list-style-type: none"> – à l'identification des bénéficiaires effectifs pour les personnes morales; autrement dit, par exemple, le point de savoir vers qui remontent de manière ultime les fonds et profits générés par l'activité de la personne morale; – à la distinction entre contrôle et direction de ces personnes morales par les personnes visées par une mesure de gel de leurs avoirs.
11. Germany	
12. Greece	
13. Hungary	
14. Ireland	<p>Although not observed in Ireland yet, practical issues could emerge where sanctioned individuals wish to obtain legal services. In the UK, there is an Office of Financial Sanctions Implementation (OFSI) which can grant licences on a case-by-case basis exempting certain transactions from financial restrictions. OFSI have also issued licences that govern certain situations such as the use of legal aid payments. It may be worthwhile for the EU to develop legal-aid derogations at EU or national level. Another issue which may emerge could be challenges from sanctioned (and nonsanctioned individuals) where lawyers refuse to provide services to Russians and Russian businesses. While the issue has not yet arisen in Ireland, in the UK the Solicitors Regulatory Authority has published a guidance which the Law Society of Ireland has placed on its Sanctions Hub. Even if a client is not on the sanction list, many firms are reviewing their client lists and considering who they feel comfortable acting for. This is highly unlikely to be a regulatory matter. The general position is that firms can choose who they act for and can choose not to act for any reason (unless unlawful, for example under equalities legislation). The question of terminating a current retainer is one for the common law and turns on whether there is a 'good reason' for the termination.</p>
15. Italy	<p>Restrictive measures against natural and legal persons adopted by Council Decision No 2014/512/CFSP (legal basis Articles 21 and 23 of TEU) and completed by Council Regulation (EU) No 833/2014 adopted pursuant to Article 215(1) and (2). The Court cases (Eg Kadi and Abdulrahim) have shown that although the nature of the above mentioned acts, a judicial review is possible in view of the direct effect that those acts produce to natural and legal persons before the Court of Luxembourg. The implementation measures at national level and their interpretation before the competent Courts (of the EU or of the MS), have to be done clearly and in coherence to the principles of Rule of Law, Access to Justice and respecting the more recent guidelines (2018/1072) adopted by the Council in this field. A sensitive point is also to grant transparency and access to documents (when not covered by confidential information). Lawyers need to be in a measure to clearly understand when an activity/operation/payment is not covered by the sanctions and what is the procedure (if any) to confirm the correct interpretation in this respect. This is relevant for the correctness of the advices to clients (for instance, in case that a client asks to the lawyer if a transaction with a Russian entity is covered or not by the sanctions, clear elements to avoid elusive or circumvention activities should be available for the advice of the lawyer).</p>
16. Latvia	

17. Lithuania	To name a few issues – lack of aggregated information on implementation of sanctions and ambiguity of concepts. Also new practises arise when companies try to bypass sanctions by using partners in other countries such as Kazakhstan. These countries are being used for reorientation of logistics routes as the scope of the sanctions does not include the relocation of Russian and Belarusian companies to these countries. Therefore lawyers should thoroughly perform due-diligence on ultimate beneficial owners, however not all lawyers can afford to buy big databases like LexisNexis.
18. Luxembourg	In case a Luxembourg lawyer detects a business relationship with a person targeted by such an international sanction, he should apply – without delay – the sanction, for example by freezing the client’s assets, and by informing the Ministry of Finance. This is a criminally sanctioned obligation. The provision of funds and/or economic resources to designated persons – directly or indirectly – is prohibited. It should be noted that freezing, as defined in the Sanctions Act, is not synonymous with confiscation, transfer of ownership or seizure.
19. Malta	
20. Netherlands	
21. Poland	Firstly, lawyers when taking instructions from clients must ensure that they actually can take their instructions and provide legal services to them. To this end, lawyers need to put in place their own sanction screenings procedures and controls and adhere thereto on an ongoing basis. In this context, lawyers may face a challenge trying to obtain accurate information on the beneficial owners and/or controllers of the client who is giving them instructions. It could be helpful if there were guidelines addressed specifically to lawyers advising how they should conduct their own sanction screening, what type of information they should acquire from the client, whether it is sufficient for lawyers to rely on client’s declaration as to its owner/controller, or whether lawyers should request and acquire underlying documentation for verification purposes. Guidelines in this respect would be helpful, especially for lawyers with no or little experience with sanctions. Much more complicated issues may arise with regard to specific advice lawyers may be instructed to give. The type of work which lawyers may be asked to do may be intended to have the effect of circumventing sanctions. For example, lawyers may be asked to create corporate structures or design contractual setups which would be intended for circumvention of sanctions. Sanction-related regulations usually provide that it is prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent sanctions. Lawyers need to be mindful of the fact that it is inconsistent with the sanction regulations to “knowingly and intentionally” provide legal services whose object or effect is to evade sanctions. To this end, it would be helpful to ensure that lawyers are reminded about this duty and trained how to recognize schemes aimed at evading sanctions.
22. Portugal	

23. Romania	In Romania, assets seizure and attachment are subject to a freezing order approved by the court of justice. the execution of the order is a competence of a bailiff, who exercises public power and is considered under national law to be a public official. Bailiffs in Romania are law school graduated. Lawyers can assist or represent clients in front of bailiffs. Or, if the freezing order lacks any legal or factual basis, the lawyer will dress an appeal against enforcement, in front of the competent Court Yard. In the appeal against enforcement, that is a trial, the role of the lawyer is plenary. According to sanctions against Russia, lawyers may advice their corporatist clients to respect them. If a lawyer notice that such a restriction is not applied, he will dress a complaint in front of the court to obtain annulation of the contract who breaks the sanctions.
24. Slovakia	Difficulties in identifying beneficial owners (to verify if these are covered by sanctions), especially in case of offshore companies. Moral dilemma as under the sanction are no general ground for refusal of provision of legal services to any Russian entity Payment of fees from Russian/Belarusian clients. If you have employees coming for countries covered by sanctions or offices abroad (IT systems, flow of data, financing, etc.)
25. Slovenia	Slovenian Bar has not detected any issues for lawyers regarding sanctions so far.
26. Spain	
27. Sweden	Like all other professionals, lawyers are affected by an EU regulation on sanctions. What this means in more detail for the lawyer depends on the purpose of the sanction and in order to be able to assess whether a certain mandate can be accepted or continued, the lawyer has to primarily seek information in the current sanction regulation/ordinance and set the sanction provisions against the prevailing or prospective assignment. The preconditions for a lawyer to be able to assist a person who is on a sanction list are in principle: In case of a mandate for a client sanctioned in a way that the financial means of the client are frozen, the competent Swedish public authority (depending on the type of client) has to grant an exemption from the freezing decision and give the lawyer permission to assist a listed client in a certain way and to obtain remuneration for the legal services from the frozen assets of the client (which presupposes that the lawyer has obtained the listed client's consent regarding the disclosure of the identity of the client prior to the public authority's examination of possible exceptions). The legal assignment for a sanctioned client may normally only concern the sanction issue itself and related issues or other general legal advice not intervening with the purpose of the sanction itself. Hence the assignment may not consist of performing various types of business transactions (sale and purchase of real and personal property, etc.). Hence, the lawyer must not act in a way that would mean evasion from the sanction and its purposes, or an unlawful enablement of a transaction not permitted according to the imposed sanction (circumvention or evasion of sanctions imposed). The lawyer must be able to assess whether a mandate in long terms could risk to be in violation with the sanction and therefore be considered to be unlawful. This can often be very hard to establish.
B) What are the needs of lawyers so that they can ensure compliance with their legal obligations?	
1. Austria	For the moment no specific needs, see above.
2. Belgium	See previous question. Therefore, lawyers need detailed procedural guidelines and assessment criteria.

3. Bulgaria	
4. Croatia	
5. Cyprus	Further to the announcements of the EU Commission, our members are generally seeking for practical guidance, rather than the theoretical approach that such announcements provide, so as to ensure full compliance with their legal obligations regarding sanctions.
6. Czech Republic	<p>Automated completion of sanction lists with persons/activities; clear notification of changes.</p> <ul style="list-style-type: none"> – There must be well-established communication between the Bars and individual lawyers, and as much information as possible about sanctions and their interpretation must be shared. – Allowing sanctions lists to be shared across the EU, or to have a single one (unified), updated through automated mechanisms. – The absence of a single (unified) sanction screening to check the issued lists of sanctioned entities. – The existence of a very complex structure of foreign companies through a number of jurisdictions, their very frequent change, the existence of “white horses” (i.e. persons used as the cat’s paw), iterant transfers of property and other disguising practices. – The obligation to report the fact to the FAU (it does not have to be only a lawyer, but anyone) that someone has property to which international sanctions are applied is followed by the obligation of the reporting person not to dispose of this property other than for the purpose of protection against loss / depreciation / destruction or other damage. There is no mechanism for fulfilling this obligation of administration or for providing asset protection. – The existence of two groups of European regulations, namely the Council Decision and the Council Regulation, where the Decision binds the Member States, i.e., they do not impose prohibitions or obligations on the public (typically a ban on the entry of marked FOs into the territory of the EU), while the Regulations are directly binding on all EU countries and all affected entities. – The EU sanctions map, through which it is possible to find out information about current sanctions and which is only an informative source for people to find out basic information and details are in a separate regulation. In addition, the sanctions map does not take into account the so-called national sanctions of EU Member States. We would very much appreciate one centralized source of information.
7. Denmark	
8. Estonia	
9. Finland	<ul style="list-style-type: none"> – Understanding who the counterparties are in a contractual chain. – We have not taken any clients – Lawyers need to make sure that they don’t give illegal advise by e.g. advising on how to circumvent sanctions. This requires e.g. careful assessment of the business operations in question. – Clear, practical instructions on what sanction lists to follow, how to deal with sanctioned entities.
10. France	<p>Deux besoins peuvent déjà être identifiés :</p> <ul style="list-style-type: none"> – Des informations claires quant au droit positif et aux conséquences des mesures de gel des avoirs ; – Un registre des bénéficiaires effectifs au niveau européen serait utile
11. Germany	

12. Greece	
13. Hungary	
14. Ireland	Lawyers working in large firms will already have access to commercial screening solutions which helps ensure compliance with sanctions. Sole practitioners and small to medium firms need a cost-neutral solution which is made possible by the EU's consolidated list of sanctions which Law Societies and Bar Associations in different member states can frame national information around. For example, the Law Society of Ireland has developed a 5-step recommended approach for small practices which explains to lawyers in Ireland how they can harness the power of the EU's consolidated list.
15. Italy	It is fundamental to notice that in order to be able to comply with their legal obligations lawyers need to be able to represent the client in the interest of the Justice and so by been covered by all rules concerning, for example, the legal privilege, including the protection of the confidentiality of the information and conversations with the client. This principle can have some minor differences from a Member State to another, but it is crucial that no dis-proportioned measures should be adopted in view of limiting the importance of this principle. Another mean to ensure the compliance of the lawyer with their legal obligations is the access to documents, which should only be limited for safety and public order reasons and other limited exceptions. A point that proves important for the correct execution of a lawyer's duty and obligations is the contradictory principle and therefore counting on the same weapons and be on equal terms in all the phases of the proceeding. Also, to keep independence and in order to be able to perform the required duties, it is important to further enhance a system that permits the lawyers to receive their fees even when the client is unable to pay due to the measures provided by the EU acts.
16. Latvia	
17. Lithuania	Easy accessible databases (free of charge for use).
18. Luxembourg	It is imperative to consult the texts in force and to comply without delay with the legal provisions concerning, in particular, (i) the freezing of funds, assets and economic resources; (ii) the prohibition on making funds, assets and economic resources available, directly or indirectly; (iii) the notification of the said freezing to the Ministry of Finance; and (iv) the obligations of prior notification and/or authorisation for any proposed disposal. A guide containing non-exhaustive and general recommendations on the implementation of financial sanctions is available on the website of the Ministry of Finance, International Financial Sanctions section. Lawyers have tools to check the list of persons and entities subject to EU restrictive measures related to actions against the territorial integrity of Ukraine. However, it is questionable whether European lawyers should limit themselves to the EU list, or whether the list of e.g. the US should also be taken into consideration.
19. Malta	
20. Netherlands	

21. Poland	Sanctions are imposed using several different legal instruments and are changed and updated on a regular basis. There is a shortage of reliable and updated resources aggregating sanctioned entities. Hence, when screening current or potential clients based on a sanction list, lawyers may need to review several instruments. It would be helpful to give lawyers access to a free database containing a comprehensive and up-to-date list of sanctions. The EU Sanction Map is addressing this issue to some extent. However, the database is not updated “in real time” and lags usually several days behind new sanction packages.
22. Portugal	
23. Romania	
24. Slovakia	Access to tools allowing the identification of beneficial owners (registration of beneficial owners with D27public registries).
25. Slovenia	Slovenian Bar has not detected any issues so far in this regard.
26. Spain	
27. Sweden	Clear guidance from the Commission and from competent national authorities (in relation to lifting of frozen assets) on the practical implementation of EU-sanctions as well as basic guidance from national bars and law societies (in relation to above).
C) Have there been any issues regarding lawyer client privilege?	
1. Austria	Not to the knowledge of the Austrian Bar.
2. Belgium	(Inter)national sanction regimes generally impose an obligation to report any information which would facilitate compliance with those regimes, as well as an obligation to cooperate with the competent authorities in the verification of such information. Article 8 of regulation nr. 269/2014 serves as a prime example. This obligation to report and to cooperate is also applicable to lawyers, which stands at odds with lawyer-client privilege. Nonetheless, article 8, and similar articles in other sanction regimes, generally seem to imply that the obligation to report and to cooperate is not applicable when lawyer-client privilege applies. This is not certain, however, as the different language versions do not unequivocally provide that lawyer-client privilege trumps the obligation to report and to cooperate. Instead, they use terms such as “without prejudice to/”sans prejudice de”/“unbeschadet”/“onverminderd”, etc., which are notoriously susceptible to differing interpretations. In Dutch, the use of the term “onverminderd” would imply that lawyer-client privilege would co-exist with the obligation to report and to cooperate, which would place lawyers in a dilemma. Instead of “onverminderd”, “onder voorbehoud van” should be used, as it implies a hierarchical relation between two normative provisions.
3. Bulgaria	

4. Croatia	
5. Cyprus	No.
6. Czech Republic	Not yet. Confidentiality pursuant to Section 38 of the AML Act applies only to the filing of a suspicious transaction report, where a lawyer may inform the client that his property is subject to sanctions, may take over his representation in proceedings on a decision of the FIU or on an appeal against it and represent him in the proceedings. On the other hand, the lawyer is obliged to maintain confidentiality about all facts that he has learned in connection with the provision of services on the basis of the Act on the Legal Profession.
7. Denmark	
8. Estonia	
9. FinlandN	<ul style="list-style-type: none"> - No - We have not observed particular issues related to sanctions. Any possible issues regarding lawyer cli-ent privilege may perhaps be related more on the KYC side of client intake process. - No. For example, despite lawyer client privilege we have made the required notices to the Finnish Bureau of Investigation in cases we have suspected money laundering.
10. France	Aucun problème spécifique n'a été remonté aux instances de la profession sur le secret avocat-client à ce jour.
11. Germany	
12. Greece	
13. Hungary	
14. Ireland	The Society is not aware of any privilege, confidentiality or professional secrecy concerns arising yet for solicitors in Ireland.
15. Italy	As outlined above under the answer sub b), the issues regarding lawyer-client privilege, as protected also by Art 8 of ECHR, are linked to the limits and exceptions that each Member States can pose, and how those limitations can interfere on the correct development of the defence duties placed upon the lawyer as well as the client.
16. Latvia	
17. Lithuania	We are not aware of that (yet).

18. Luxembourg	
19. Malta	
20. Netherlands	
21. Poland	<p>So far we have not encountered or heard of any issue regarding attorney-client privilege in the context of sanctions. We imagine that lawyers may be requested to disclose privileged information or documents in the context of enforcement activities. While the authorities lack powers to force a waiver of the attorney-client privilege in the context of administrative procedures, the issue is less certain in the context of criminal investigations and trials. It is the position of the authorities that the attorney-client privilege (not related to the defense privilege) can be waived in specific circumstances in criminal investigations or trials (i.e. when information cannot be obtained by any other channel and its disclosure is in the interest of justice). While the waiver does not relate to privileged information of a defense counsel, it could relate to attorney advice on corporate, regulatory or contract issues. The position of local bars is that the authorities should not be in a position to waive the attorney-client privilege at all. However, in reality, we see cases when a waiver is granted by courts and is complied with.</p>
22. Portugal	<p>In our Delegation, so far we have no knowledge of any consequences for Portuguese Advogados, within these confidential issues. Nothing to report, regarding possible professional prerogatives' threats.</p>
23. Romania	<p>In Romania, based on the Law no. 129/2019 for the prevention and combating money laundering and terrorism financing, the lawyers, as well, have the obligation to report all transactions of their clients who exceeds the amount of 10.000 Eur. Lawyers needs on-line trainings with all sanctions imposed by EU to Rusia, updated, or short information about the topic. That preview may infringe the lawyer client privilege, but the crime-fraud is an exception to the privilege, a client's communication to his attorney isn't privileged if she made it with the intention of committing or covering up a crime or fraud, according to Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU.</p>
24. Slovakia	
25. Slovenia	<p>Slovenian Bar has not detected any issues regarding lawyer client privilege so far. Article 6 of the Slovene Attorneys Act states that attorneys shall respect the confidentiality of all information entrusted to them by their clients and there are no exceptions provided. Regarding the lawyer client relationship, we would like to point out that according to Attorneys Act and Code of professional conduct attorneys are primarily bound by the principle of confidentiality. Attorneys shall respect the confidentiality of all information entrusted to them by their clients and there are no exceptions provided. Attorneys should under no circumstances be obliged to report their clients to the authorities.</p>
26. Spain	

27. Sweden	Confidentiality (legal privilege) must always be upheld and protected. If the lawyer needs to disclose the identity of a client in order to plead for exemptions from a decision to freeze assets of the client in order to pay for the lawful legal services, this must be approved by the client first. Issues related to professional confidentiality can also arise in legal mandates for delisting of a client from sanctions imposed, according to the principle of access to justice.
D) What guidance from the Commission would be useful – e.g. is the Commission website helpful?	
1. Austria	For the moment no specific needs, see above.
2. Belgium	
3. Bulgaria	
4. Croatia	
5. Cyprus	Commission's website is very informative and gives a holistic view of the measures and issues arises. A section specialized on the practical point of view, cases or problems that may arise for their existing or prospective clients, will provide to lawyers guidance on how to act on such cases. It would be very useful for the Commission to share its views and experiences on methods used to violate or circumvent the sanctions. And give practical examples of non-easily recognised violation of the sanctions and guidance on identifying red flags and alerts in recognising potential violation or circumvention of the Sanctions (and in so doing maybe amend the Regulations to close loopholes).
6. Czech Republic	We believe that there is enough information, most of the Czech legal profession uses sources in the Czech language, specifically the website of the Czech Bar Association, Financial Analytical Office (national FIU) and the Ministry for Trade and Industry website in relation to the interpretation of the subject of sanctions.
7. Denmark	The Commission webpage is relevant and helpful
8. Estonia	
9. Finland	<ul style="list-style-type: none"> – Anticipated legislation and dates when they are likely to enter into force, consolidated lists of all persons/companies affected, any jurisprudence on sanctions related case law from Member States – It would be useful to have more commentaries / guidelines on how to interpret sanctions instead of list of FAQ's. – A search tool with information on who has been added, when, and according to what decision. For example OFAC's sanctions search is rather useful https://sanctionssearch.ofac.treas.gov/ In addition, practical guidance on how to apply sanctions in practice.
10. France	Pas d'opinion des instances de la profession concernant sur ce point à ce stade.

11. Germany	The German delegation welcomes regularly updated information provided by the Commission on all sanctions. We think that would be of great support for lawyers. We do not support any guidance by the commission on how lawyers should deal with their clients regards sanctions, though. Lawyers advising their clients on how to avoid sanctions is a matter for criminal law.
12. Greece	
13. Hungary	We believe that it would be useful to have such an initiative of CCBE or the European Commission to issue a practical guide for lawyers, which could then be translated into national languages (Hungarian), so that we could give practical guidance to lawyers in Hungarian on how to proceed with case identifications and ongoing cases, so that we do not run into a case that could lead to sanctions. Obviously, it would also be useful to have a handbook or a leaflet, that lawyers could use to help their clients so that they do not run into these problems. It goes without saying that producing such a leaflet by each individual lawyer would be a waste of time and energy, such a leaflet could be produced 'centrally'. The EU website is very useful, but it is very difficult reading for a practising lawyer, and probably not many lawyers will bother to look it up.
14. Ireland	The EU's Consolidated list is very helpful. See also the Society's response at 'a' above in relation to legal aid derogations – EU-wide or national legal aid derogations from sanctions may be an important next step to ensure the rule of law and access to justice is preserved.
15. Italy	The Commission's website is very helpful as well as the website of the Council. More precise information on the Rights of physical people subject to sanction would be useful to expand the knowledge available on the website. Moreover, as said above under answer a), a clear procedure to permit legal operations can be foreseen.
16. Latvia	
17. Lithuania	It would be more useful if information could be provided in all languages.
18. Luxembourg	
19. Malta	
20. Netherlands	
21. Poland	In our view, the form of 'frequently asked questions' is very useful and, therefore, subsequent topics covered by the guidelines could be developed along the same lines.
22. Portugal	
23. Romania	Timeline: measures adopted in 2022, Overview of sanctions in place, Export-related restrictions and Prohibition to access EU ports Intellectual property rights, are few of the most useful guides.
24. Slovakia	

25. Slovenia	Slovenian Bar believes the Commission's website is helpful and transparent.
26. Spain	
27. Sweden	See b). Commission guidance on sanctions in relation to which mandates and activities of a lawyer that in practise can be considered lawful mandates and activities. Guidance on how a lawyer can avoid becoming an unconsciously unlawful enabler, i.e. which practical actions should a lawyer take in order to avoid circumvention or evasion of sanctions imposed. How should the core principles of the legal profession be uphold in lawful legal mandates for sanctioned clients.
E) Has/Will your Bar and Law Society be issuing Guidelines on any aspect of the sanctions?	
1. Austria	The Bar will continue to closely monitor the situation in order to react if necessary.
2. Belgium	We have drawn the attention of lawyers to the sanctions imposed on Russia as a result of the invasion of Ukraine. While stressing the importance of compliance with the sanctions, we have also highlighted that individuals targeted by sanctions still have to right to contest them in court and that lawyer-client privilege trumps the obligation to report and to cooperate with the Treasury.
3. Bulgaria	
4. Croatia	
5. Cyprus	From the very first moment of the crisis and the imposition of sanctions, CBA published relevant announcements in order to inform immediately our member regarding the sanctions imposed. Additionally, the Circular E01/2022 has been published accompanied by a handbook in the form of Q&A, aiming to provide answers to the frequently asked questions and inquiries of our members. This handbook will be regularly updated. Through the above-mentioned publications, the CBA provides all the relevant information regarding sanctions to our members and their reporting duties to the CBA, as their Competent Authority.
6. Czech Republic	<p>The Bar is not authorized to issue instructions in this area. Basic guidelines on the lawyer's procedure have been published and are updated as necessary. https://www.cak.cz/scripts/detail.php?id=25635.</p> <p>The following interpretation problems were identified, where the Commission's opinion could help: Article 3h of Regulation 833/2022</p> <p>Restrictions apply not only to restrictions on the sale, transfer, etc. of luxury goods to any natural or legal person, entity or body in Russia, but also to their <u>use in Russia</u>. What approach/level of due diligence is expected of retailers selling luxury goods in the EU? On the one hand, sales to Russian citizens in EU stores can easily end up using luxury goods in Russia, on the other hand, retailers cannot be expected to ask each customer for proof of identity and examine the place of future use of the product.</p>

	<p>Article 5aa of Regulation 833/2022</p> <p>Point (c) of that provision refers to a legal person, entity or body acting on behalf of or at the direction of an entity referred to <u>in point (a) or (b) of this paragraph</u>. This wording is clearly different from other similar restrictions, e.g., Article 5(b). (c) Regulation 833/2014, which refers to a legal person, entity or body acting on behalf of or at the direction of an entity referred to <u>in point (b) of this paragraph or listed in Annex III</u>. There is a reference to the Annex in both points (a) of Articles 5 and 5aa, but only Article 5 refers to the relevant Annex in its point (c). The question is whether this different wording is deliberate and, if so, what the consequences would be, or whether it is rather a mere inaccuracy.</p>
7. Denmark	
8. Estonia	
9. Finland	<ul style="list-style-type: none"> – Do not know – We are not aware of this – The Finnish Bar Association has included some guidelines on sanctions in their AML guidelines.
10. France	<p>Oui. Les informations relatives au gel des avoirs depuis le début de l’invasion de l’Ukraine ont été relayées :</p> <ul style="list-style-type: none"> – par le Conseil national des barreaux auprès de tous les avocats français ; <ul style="list-style-type: none"> o Une page internet existait déjà pour centraliser les informations mises à disposition des avocats sur le gel des avoirs de manière générale : lien o Un exemple de newsletter, celle-ci en date du 25 février – par le barreau de Paris auprès de ses avocats ; <ul style="list-style-type: none"> o Ressources Avocats – Sanctions, gel des avoirs et conformité (lien – accès réservé aux avocats du Barreau) : informations régulièrement mises à jour relatives aux sanctions économiques et au gel des avoirs à la suite du conflit russo-ukrainien. Elles sont mises à disposition aux avocats depuis leur espace professionnel en ligne (espace e-CARPA, dans la section LCB-FT). o Gel des avoirs (lien) : Transmissions aux avocats du barreau du message du gouvernement « Message de la plus haute importance diffusé par la Direction générale du Trésor en matière de Gel des avoirs dans le cadre des sanctions financières internationales (Article L562-2 CMF) ». o Spécial Russie : gel des avoirs (Lien). – par la Conférence des bâtonniers <ul style="list-style-type: none"> o une communication a été assurée auprès des bâtonniers le 24 mars 2022 pour exposer la problématique, rappeler les textes et obligations de vigilance et de contrôle qui s’imposent et renvoyer vers les outils mis en place par l’UNCA au profit des CARPA afin d’assurer l’efficacité de ceux-ci (services de confrontation des données). – par l’UNCA auprès des 119 CARPA. <p>Enfin, une partie du guide LCB-FT publié par le Conseil national des barreaux porte sur le gel des avoirs et son articulation avec la problématique de la lutte contre le blanchiment.</p>

11. Germany	
12. Greece	
13. Hungary	
14. Ireland	See information about the Society's Sanctions Resource Hub launched on 8 March which is now being continuously updated.
15. Italy	No, for the moment we have not planned to issuing guidelines because the national rules and deontology are both comprehensive, covering all relevant aspects.
16. Latvia	
17. Lithuania	No.
18. Luxembourg	Finally, it is recalled that the Bar Association, since the entry into force of the Sanctions Act, has also been given increased powers of supervision and sanction. In this respect, the competent bodies within the Bar ensure effective monitoring of the implementation of financial restrictive measures by lawyers and take the necessary measures to that effect. The adjustments relating to the powers of the supervisory authorities and self-regulatory bodies are made in parallel with the AML 2004. In this context, if lawyers were to notify the Ministry of Finance of a freeze, they would have to inform the Bar Association (aml@barreau.lu) in accordance with Article 6 of the Sanctions Act.
19. Malta	
20. Netherlands	
21. Poland	Local bars have not yet issued any guidelines regarding sanctions.
22. Portugal	
23. Romania	Yes, will issue and update regularly an overview of sanctions in place.
24. Slovakia	No.
25. Slovenia	Slovenian Bar has not decided yet to issue any guidelines in this matter.

26. Spain	
27. Sweden	Yes, see in annex a short list of practical recommendations to Swedish lawyers issued by the Swedish Bar Association.
F) Would you like the CCBE Secretariat to organise an information event, for example, a webinar for lawyers on sanctions?	
1. Austria	Such an event could be useful if in a virtual format in order to allow participation for all interested lawyers and if provided in the near future in order to ensure an added value.
2. Belgium	Yes.
3. Bulgaria	
4. Croatia	
5. Cyprus	Definitely. A seminar specialized on sanction would help the lawyers to acquire a better understanding on how to fully comply with their duties us a lot in order to be more concrete in our guidance and/or support towards our members.
6. Czech Republic	The contacted experts expressed their interest in such event.
7. Denmark	Yes, a webinar could be relevant for CCBE to offer, especially if it is available on the webpage to watch at a later time, in order to reach a broader audience.
8. Estonia	
9. Finland	<ul style="list-style-type: none"> - This might be useful, yes. - Yes, this would be beneficial, although we have had national sanctions events provided by the Finnish Bar Association.
10. France	L'initiative du CCBE pourrait être utile.
11. Germany	
12. Greece	
13. Hungary	

14. Ireland	It may be helpful to run an online event for bar associations and law societies about the type of information lawyers in their countries will need on sanctions e.g., who are the competent authorities, what is relevant Member State's legislation containing criminal offences for failing to comply with sanctions, how do national derogations from sanctions operate etc. It is a novel area because the bar association will not be the regulator of sanctions (this tends to be the Central Banks and Departments of Trade) and, therefore, the role of bars and law societies is much more informational than guidance. They are especially limited in the extent of guidance they can provide about specific individual sanctions – this is essentially the role of Member State competent authorities and possibly independent legal advice. Every member state will likely have different rules for disengagement/ceasing to act when providing legal services and it may be difficult to develop a uniform one size fits all approach to ceasing to act when sanctions hits occur. Separate to the manner in which lawyers must comply with sanctions, seminars about how to provide legal advice to clients who are subject to sanctions may be of assistance or even information about the issues which arise for clients subject to sanctions – sanctions may become a niche area of legal practice. Legal practice may also evolve with regard to the potential rights of family and employees of sanctioned individuals to frozen assets. Information about legal aid provision for sanctioned individuals and non-sanctioned individuals affected by sanctions may be helpful.
15. Italy	We do not think it is necessary for the moment, because, as previously mentioned, although implementation rules can be different in each MS, the legal framework is clear enough.
16. Latvia	
17. Lithuania	That would be appreciated as lawyer might be not have knowledge to the same extent. A seminar would be welcomed, but certain published guide which could be afterwards translated for the lawyers too.
18. Luxembourg	Where the CCBE could be useful for lawyers as well, is to offer a consolidated and regularly updated version of the directly applicable Regulations. There have been many changes or additions to the original Regulations in recent times. It would also be useful if the CCBE secretariat could organise an information webinar.
19. Malta	
20. Netherlands	
21. Poland	All sanction-related resources addressed specifically to lawyers would be beneficial to building awareness and expertise, and as a result to enhancing sanction compliance.
22. Portugal	
23. Romania	Yes, such an event would be timely and useful.
24. Slovakia	Yes.
25. Slovenia	Slovenian Bar is of the opinion that an information event would be useful.

26. Spain	
27. Sweden	Yes.
G) What do CCBE members/lawyers see as key methods of sanctions evasion by targeted persons, and if CCBE members/lawyers are concerned about any legislative loopholes?	
1. Austria	The Austrian Bar cannot speak to whether a method is a “key method”. It seems logical, however, that mostly situations where the real beneficial owner is unclear/ concealed, are challenging for the application and enforcement of sanctions. In Austria, a register of beneficial ownership exists (WiReG)
2. Belgium	
3. Bulgaria	
4. Croatia	
5. Cyprus	CBA did not witness any sanctions’ evasion so far.
6. Czech Republic	<p>Czech lawyers are very cautious in this area. So far, we have not come across any major efforts in this direction. However, two possible scenarios might be considered: Establishment of shelf companies, even more complex structures, even more sophisticated concealment of the true origin of funds.</p> <p>A possible loophole can be considered the possibility of concluding a contract between a Czech company and another party that is on the EU sanctions list, but this person is “only” prohibited from entering the EU and it is not stated what impact the conclusion of a contract may have if a person is placed on the EU sanctions list not only for entry into the EU.</p> <p>Another possible gap can be seen in the absence of a subsequent solution in the event that a contractual relationship is concluded between a Czech company and a person who has frozen property in the EU. No settlement of the contract for the future is outlined in case the sanctions are lifted.</p> <p>We also see problems in different approach to registration in the registers of beneficial owners across the EU Member States – some registers are not accessible to public, etc.</p>
7. Denmark	
8. Estonia	

9. Finland	<ul style="list-style-type: none"> – Transfer of rights to local members practically controlled by persons listed – Written risk assessment is the main tool to determine and guide work related to sanctions. We are not concerned about loopholes. – Key evasions – creating complex corporate structures to hide e.g. sanctioned owners Legislative loopholes – Not all country sanctions are applicable to all and thus, e.g. if sanctioned in the US and not in the EU, legally those US sanctions would not be applicable.
10. France	Un problème particulier peut se poser avec les fiducies/trust/Anstalt et autres instruments équivalents.
11. Germany	
12. Greece	
13. Hungary	
14. Ireland	There may be a risk that people who are not sanctioned will fraudulently hold assets for sanctions individuals and then seek to use lawyers to move these assets however this risk may be well mitigated by the usual AML source of funds/assets checks. Dealers in high value goods and virtual currency service providers may be more vulnerable to sanctions evasion than the legal sector.
15. Italy	As mentioned, clear information and a procedure to confirm the correctness of a legal advice, including a dialogue with EU and National Institutions, can prevent from possible evasion or circumvention's activities.
16. Latvia	
17. Lithuania	
18. Luxembourg	
19. Malta	
20. Netherlands	
21. Poland	We are concerned that sanctions are being evaded in one or more of the following ways: use of corporate vehicles (i.e. legal entities, such as shelf companies, and legal arrangements) to obscure ownership or financing source; use of third parties to shield the identity of sanctioned persons and/or PEPs seeking to hide the origin or ownership of funds, for example, to hide the purchase or sale of real estate; conducting business in high-risk countries; use of crypto currency. In Poland, the enforcement of sanctions is not effective because of legislative loopholes (generally no penalties for sanction non-compliance with the exception of financial institutions and specific sanction programs) and limited resources (no specialized bodies or task forces; we are not aware of any sanction-specific training of the law enforcement authorities, etc.). Only recently did the Polish government announce the commencement of work on a new legislative instrument which aims at strengthening sanction enforcement. However, this bill has not yet been enacted and also it is limited to sanctions against the Russian Federation and Belarus (Bill on Specific Solutions to Countering Support for Aggression against Ukraine and Protecting

	National Security). Penalties for non-compliance are to entail administrative fines of up to EUR 4.3m and criminal liability. It is yet to be seen whether this bill will enter into force. It is also to be seen whether the government would put the necessary resources to enforce sanctions, in particular whether its personnel would get sufficient training.
22. Portugal	
23. Romania	
24. Slovakia	
25. Slovenia	Members of the Slovenian Bar have not raised any concerns about possible legislative loopholes to this point.
26. Spain	
27. Sweden	The EU-sanctions are not applicable in Russia, why loopholes may occur with subsidiary companies situated in Russia. Arbitration cases involving Russian clients/companies may perhaps be used as loophole.
H) What are the views of CCBE members/lawyers on the risks (and most common scenarios) for EU clients to unwittingly get involved in evasion schemes, despite acting in good faith?	
1. Austria	See answer under (g).
2. Belgium	
3. Bulgaria	
4. Croatia	
5. Cyprus	Non-professionals and enterprises outside the financial sector are not well aware or acquainted with the sanctions and would probably not question or investigate whether a counterparty is sanctioned, or a transaction is prohibited. The risk of violation is, however, considered low since in significant transactions lawyers and other professional advisors are involved. The risk is significant in relation to very small transactions – leasing of a house, provision of housekeeping services etc.
6. Czech Republic	Tax avoidance is not part of the issue of tax penalties and financial services are not part of the legal practice. In view of the fact that for any violation (intent / negligence / gross negligence) can be imposed a fine or penalty, it can be assumed that criminal prosecution against these persons can be initiated. Proving good faith in the current situation will be very difficult.
7. Denmark	

8. Estonia	
9. Finland	<ul style="list-style-type: none"> – We have identified the following characteristics, which may implicate client’s intention to dodge sanctions by blurring the circumstances: <ul style="list-style-type: none"> • Circumstances change after the initial client intake process. • Client is not describing the “big picture” and the background of the matter, client is just asking a restricted answer to a legal problem. • New requests arise on a hurried schedule without a clear reason. • Complex organization obscures who is the beneficiary of the transaction. – For example taking on a client which has hidden its true ownership behind complex corporate structures and not realising that one is in fact dealing with a sanctioned entity.
10. France	Pas de réflexion de la délégation française en l’état sur ce point.
11. Germany	
12. Greece	
13. Hungary	
14. Ireland	This is difficult to predict, and we haven’t become aware of evasion schemes affecting the legal sector to date – dealers in high value goods and virtual currencies may be at particular risk more so than the legal sector.
15. Italy	As lawyers, it is within our duties to always act in good faith. However, existing Guidelines and common interpretation on rules and on deontology can be useful to generate more awareness on the subject.
16. Latvia	
17. Lithuania	
18. Luxembourg	
19. Malta	
20. Netherlands	
21. Poland	EU clients may be “used” as intermediaries in orchestrated complex transactions aimed at evading sanctions.
22. Portugal	

23. Romania	
24. Slovakia	
25. Slovenia	
26. Spain	
27. Sweden	See d).
I) Whether CCBE members/lawyers have ideas on how to cope with sanctions evasion?	
1. Austria	It seems to be of utmost importance to gather information on sanctioned persons and entities and update the relevant lists regularly.
2. Belgium	
3. Bulgaria	
4. Croatia	
5. Cyprus	CBA, through its announcements and circular, asked all its obliged entities to provide all the relevant information about their clients that fall under the sanction regime. Also, close cooperation with the other regulatory bodies is of crucial importance, mainly for the exchange of sensitive information in order to prevent any potential sanctions' evasion.
6. Czech Republic	<p>We are not able to comment on this at the moment, because sanctions can be currently circumvented by simply stating that persons didn't know about them at all. For lawyers, in order to fulfil their AML duties, it is essential to know which natural persons and entities come under the sanctions. List of sanctioned people (entities) must be easily accessible and clear to understand.</p> <p><i>Additional remarks:</i></p> <p>We have learnt, that among other things, a general ban on the participation of Russian companies in public procurement in all Member States of the European Union would be applied. In this respect, the Czech government is going to prepare a clear methodology in this area. This was announced by the Ministry of Regional Development which also added that the methodology will be elaborated jointly with the representatives of the Ministry of Finance,</p>

	<p>including the Financial Analytical Office, as well as representatives of the Ministry of Foreign Affairs. Minister for Regional Development is responsible for public procurement regulations.</p> <p>As for Russian entities and their participation in contracts, according to the Minister, a distinction should always be made between a company owned by a person on the European sanctions list (where there are now about a thousand names) or a “regular” company owned by other Russian citizens.</p> <p>In the first case, the regime should be tougher, and, in principle, it will mean a complete ban.</p> <p>“If the company is controlled by more than 50 per cent by Russian citizens, it cannot win over-the-counter contracts, and from a certain date, this also applies to currently running contracts. For companies controlled by more than 50 per cent by persons on the EU sanctions list, this restriction probably applies to all types of contracts” said the Minister of the Regional Development.</p> <p>At the same time, according to the Government, it is necessary to assess the real influence of Russian oligarchs in companies, while he expects that some will try to circumvent the sanction rules with the help of “white horses”. The Government also anticipates that the Financial Analytical Office (national FIU) and also the Ministry for Regional Development should assist the contracting authorities in complicated cases, as the current contracting authority often does not have the tools to objectively evaluate the links with the Russian and Belarusian oligarchs.</p> <p>Minister’s department also wants to cooperate with the Ministry of Justice in this matter, so that the contracting authorities are always helpful to the register of beneficial owners (ESM), which lists the final owners of companies.</p> <p>In several recent cases, however, the ESM has proved to have loopholes. Sometimes it contains outdated data, or the final owners are not listed at all.</p>
7. Denmark	
8. Estonia	
9. Finland	<ul style="list-style-type: none"> – The key points for coping with sanctions evasion are the following: <ul style="list-style-type: none"> • Training for lawyers to understand what the key elements are to consider. • In big law firms, it would be most efficient to set up a centralized function to screen and ana-lyse the data related to sanctions. • Documenting the outcome and considerations carefully. • Updating risk assessment regularly and creating clear internal policies on how to operate if there are or might be sanctions is question. – For example adding sanctions screening as part of the KYC process to ensure that all clients are screened for sanctions.
10. France	Pas de réflexion de la délégation française en l’état sur ce point.
11. Germany	

12. Greece	
13. Hungary	
14. Ireland	The provision of information to the legal profession about how to check sanctions lists without the need to sign up to commercial screening providers especially given the EU's free consolidated list. It is important for small/medium enterprise in all sectors, not just the legal profession, to not become a target for the financial benefit of commercial screening providers when free resources such as the EU's excellent free consolidated list are available. It may become important to place an emphasis on the need for access to justice and legal representation for Russian people living in the EU, especially for legal services not subject to AML-regulation, while at the same time ensuring robust AML compliance systems are in place with regard to funds where the source is/was Russia.
15. Italy	Beside with already said above, for the moment we do not have further proposals on how to cope with sanctions' evasion. However, as the current situation is still to be assessed, the evolution of legal framework is to be monitored.
16. Latvia	
17. Lithuania	
18. Luxembourg	
19. Malta	
20. Netherlands	
21. Poland	Sanctions evasion is usually achieved through creation of multi-level, complex corporate structures / contractual setups. In essence, the transaction or set of transactions are meant to look on the surface to be in compliance with sanction legislation, whereas its intention and effect is to evade sanctions and go ahead with the prohibited transaction. Methods to reduce the risk of sanctions evasion are as follows: 1/ Put in place an enforcement mechanism (penalties for non-compliance) and task the enforcement to a specialized body (at least a special task force); 2/ Put in place leniency programs. Those businesses which have not complied or learn that they may have not complied should be able to disclose it and benefit from the leniency program (eliminated or reduced liability) in exchange for disclosing all relevant information, engaging in further cooperation and undertaking to strengthen compliance and control in the future. 3/ Put in place a law making it mandatory at least for certain businesses to introduce sanction screening programs. 4/ Create and make available an online tool which would make it possible to check any name against a sanction list. The check should be made against aggregated and updated list of all sanctioned entities. The tool should make it possible to record the result, for example to rely on it in coming forth with due diligence defence. The tool should safeguard full privacy of the users and their search terms (no tracking) with the view to promote its use. To the maximum extent possible, the tool should be also able to feed data from European corporate registers and suggest whether the examined entity might be associated with a sanctioned entity. 5/ Create and make available guidelines and training programs on sanction screening, sanction screening

	compliance programs, etc. 6/ Put in place a mechanism/platform to exchange information on sanction evasion between lawyers / enforcement professionals. That would strengthen their capabilities in recognizing schemes aimed at evasion and taking appropriate action.
22. Portugal	
23. Romania	
24. Slovakia	
25. Slovenia	In the opinion of the Slovenian Bar a strong mechanism should be in place to oversee the respect of the sanctions.
26. Spain	
27. Sweden	Avoid mandates for sanctioned clients or for clients likely to be sanctioned.

ANNEX 1

Sanctions

Law, Practice and Guidance

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By Maya Lester QC & Michael O'Kane

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BVI court rejects application for firm to come off the record for VTB – “even pariahs have rights”

April 7th, 2022 | Maya Lester QC



In *JSC VTB Bank v Alexander Katunin and others*, BVIHC (COM) 2014/0062, the Eastern Caribbean Supreme Court sitting in the BVI refused an application by Ogier to come off the record for VTB. The judgment says:

- Sanctions on VTB do not mean that a firm can't act for or represent a sanctioned party, although they restrict dealing in money and assets of a sanctioned person. Licenses are available.
- Without a licence payment to a sanctioned party of a judgment debt would not be permitted.
- The fact that a firm can end a retainer with a client doesn't mean the court must allow them to come off the record.
- Sanctioned entities retain rights of access to court and to litigate.
- "It is precisely when [sanctioned parties] are stigmatised as a pariah" that they "need the best endeavours of their legal representatives to advise them and to advocate in court on their behalf", this is "a vital safeguard for ensuring the rule of law... even pariahs have rights".

The judgment also concerns sanctions and receivership orders. Jack J gave leave to appeal.

Russia

British Virgin Islands, Russia



Retrieved from: <https://www.europeansanctions.com/2022/04/bvi-court-rejects-application-for-firm-to-come-off-the-record-for-vtb-even-pariahs-have-rights/>

ANNEX 2: SWEDISH BAR ASSOCIATION

Lawyers' ability to provide legal services to a Russian client on a sanction list

The possibility of assisting a person or company put on a sanction list depends entirely on the wording and content of the imposed sanction. In principle, however, it can be said that a Swedish lawyer normally can assist a sanctioned person in pure legal matters (access to justice as regards legal advice in relation to ascertain legal situation, de-listing, etc.), but the lawyer cannot participate in or assist with any business transactions that involve money or property going to or from the sanctioned person. The assignment must also not mean that the lawyer's legal advice enables evasion from the sanction; i.e. the lawyer must not risk becoming an unlawful enabler, despite acting in good faith.

Furthermore, the following must be considered at mandates for sanctioned clients:

- Each assignment and legal advice requires a thorough individual assessment based on the circumstances of the individual case. As regards the question of assisting a client on a sanctions list, the precautionary principle implies that a lawyer should be very thorough in assessing the individual situation, where a client's right to access to justice must be weighed against the fact that a lawyer must not promote injustice.
- **Who is the client?** – It requires a careful assessment of who the client really is and if the client has any connection to any interests that may be illegal (cf. the AML-legislation).
- **What is the legal mandate?** It is not obvious that a client is not entitled to the assistance of a lawyer if the legal assignment concerns, for example, the issue of sanctions itself and related issues or other general legal advice to ascertain the client's legal position. However, if the legal advice involves business transactions or other advice that could result in circumvention or evasion of sanctions imposed, the lawyer should not assist the client and resign from the mandate.
- **What kind of sanctions are imposed on the client?** There are a variety of sanctions or restrictive measures. The lawyers must always carefully scrutinize all sanction lists applicable and fully understand what a sanction listing means for the client. The European Commission has compiled information on the sanctions in response to the aggression against Ukraine on a dedicated [website](#), which always should be consulted. However, it should be borne in mind that sanctions can change very quickly and that the information is not always up to date in real time.
- Make a careful assessment of whether the sanctions may affect the mandate in any way. Does the legal assignment risk implying circumvention or violation of sanctions imposed?

- Ongoing cases normally require a more comprehensive and thorough assessment, than when taking on a new client/mandate. In general, however, the same considerations should be made in assessing the continuation of an ongoing mandate as in the adoption of a new one.
- Assisting a sanctioned client in violation of the sanction-list in question, can have very extensive negative consequences for both the individual lawyer and the law firm. A comprehensive and thorough assessment is therefore necessary before accepting or continuing a mandate for a sanctioned client. However, a lawyer must in some cases be able to represent a sanctioned client where such a mandate does not in any way affect the purpose of the imposed sanction.