



20.12.2023

NOTICE TO MEMBERS

Subject: Petition No 0191/2023 by X. X. (Polish), on behalf of E100 International Trade Sp. z o.o., on the clarifications concerning sanctions against Russia

1. Summary of petition

The petitioner requests clarifications on the EU sanctions introduced by Council Regulation (EU) 2022/879 of 3 June 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, under the sixth package of sanctions. The petitioner explains that the company is an issuer of fuel cards. The company purchases fuel from fuel stations and then sells it to its customers in order to allow the customers to refuel their transport. One of the local suppliers with which the company cooperates is BTC OÜ with its registered office in Tallinn, Estonia. As part of its operations, BTC had supply contracts with Russian entities that own a network of fuel stations in the territory of the Russian Federation. Council Regulation (EU) 2022/879 introduced a ban on the purchase of petroleum products listed in Annex XXV of the Regulation (EU) No 833/2014 if they originate from Russia. Due to the sanctions, BTC and the company of the petitioner ceased the cooperation with Russian petrol station networks. According to the petitioner, BTC has provided his company with an official response from the Estonian Ministry of Foreign Affairs that BTC's cooperation with Russian fuel station networks on the territory of the Russian Federation do not violate the restrictions under Article 3m paragraph 1 of Regulation (EU) No 833/2014. The petitioner requests clarification if the purchase and resale of petroleum products in the territory of Russian Federation is prohibited according to the article 3m paragraph 1 of Regulation (EU) No 833/2014. Furthermore, the petitioner asks if the services of collecting receivables from customers from invoices issued by BTC for the purchase of fuel (falling under CN code 2710) at fuel stations located in the territory of the Russian Federation and settling the payment of these receivables shall be covered by the prohibition referred to in Article 3m paragraph 2 of Regulation (EU) No 833/2014. He also asks if the exemption from the prohibition in Article 3m paragraph 9, and consequently the exemption from the prohibition in Article 3m paragraph 2 could apply to BTC and his company, in view of the fact that customers

may be refuelling their transport using fuel card in the territory of the Russian Federation to meet their basic needs or for humanitarian projects.

2. Admissibility

Declared admissible on 26 May 2023. Information requested from Commission under Rule 227(6).

3. Commission reply, received on 20 December 2023

The Commission's observations

The EU has so far adopted eleven packages of sanctions against Russia further to its military aggression against Ukraine. These far-reaching and often novel restrictions significantly impact Russia's ability to wage war and have been adopted at unprecedented speed. The implementation and enforcement of sanctions is the responsibility of Member States. However, the Commission has dedicated significant efforts to support Member States in this task, both at technical and political level, by, among others, providing guidance and legal clarity. The Commission has also recently set up a whistle-blower tool¹, to help identify possible breaches of EU sanctions as well as circumvention or evasion thereof.

The Commission would like to draw attention to the Frequently Asked Questions published in order to clarify certain provisions of the oil import ban².

In terms of applicability of EU sanctions, in accordance with Article 13, Council Regulation (EU) No 833/2014³ ('Regulation') applies to a company constituted under the law of a Member State, no matter where it conducts its activities.

With regard to the petitioners' questions, Article 3m(1) of the Regulation prohibits, amongst others, EU natural or legal persons situated in Russia to purchase goods listed in Annex XXV of Russian origin or originating in Russia, irrespective if the purchase is into the European Union or elsewhere. Article 3m (9) of the Regulation provides for an exemption from this prohibition for essential needs of the purchaser in Russia. The Frequently Asked Questions explain that such purchases are for their own daily consumption, for instance to refuel the individual's car or to heat their home. This would typically apply to EU tourists visiting Russia, EU expats living in Russia and EU humanitarian aid providers for example. It would also apply to a branch of an EU company in Russia which would need to purchase goods for its own use. It would however not cover purchases of such goods for resale or refining for example.⁴ Consequently, the purchase and resale of such goods would not be allowed irrespective of destination, as well as intermediary services, such as brokering, as included in Art. 3m(2).

Conclusion

¹ <https://eusanctions.integrityline.com/frontpage>

² please see section on Oil imports https://finance.ec.europa.eu/document/download/66e8fd7d-8057-4b9b-96c2-5e54bf573cd1_en

³ Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, OJ L 229, 31.7.2014, p. 1–11.

⁴ More information is given in the answer to question number 4 on oil imports of the above-mentioned Frequently Asked Questions.

The assessment as to whether a specific activity constitutes a violation of EU sanctions depends on the exact circumstances of the individual case. Member States are responsible for identifying breaches, and the task of conducting investigations into potential non-compliance cases falls within the competence of the different national competent authorities. The Commission liaised with the Estonian national competent authority which shares the assessment outlined above.