

FOR Communication 17/2022: Non-European Sanctions Act - a Chilling Threat to Political Decisions

The Act on Special Measures to Prevent and Counteract Aggression against Ukraine and to Safeguard National Security [hereinafter: the Sanctions Act] signed by the President was intended as a Polish complement to EU actions and sanctions against Russian oligarchs. However, a closer analysis of the content of the Act leads to the conclusion that it may only constitute a sham, which will ricochet off other entities. The main problem is that the procedure for including new entities on the asset-freezing blacklist is extremely short and threatens to be extremely arbitrary. Also, the rules of possible international cooperation, apart from the type of sanctions applied, have not been specified. An additional issue is also the lack of a realistically effective verification procedure prior to the making an entry onto the list, which in turn is characterized by its immediate enforceability.

Synthesis:

- The sanctions law signed by the President may lead to arbitrary and political decisions to freeze the assets of companies and individuals.
- An administrative decision with immediate enforceability containing a one-sentence justification may be the basis for blacklisting entities subject to selected sanctions.
- The Minister of the Interior is authorised to limit the scope of the justification provided for reasons of state security or public order - this threatens to harm the interest of the entity applying for such a decision.
- The Sanctions Act does not provide for in-depth international cooperation and excludes the obligation to inform other member states and the European Commission about the sanctions applied on the basis of the Act.

Contact to the author:

Eliza Rutynowska, lawyer at FOR