



Jean Monnet Centre of Excellence European Financial Resilience and Regulation

EUFIRE-RE

ERASMUS-JMO-2022-HEI-TCH-RSCH EUFIRE-RE – 101085352

NEWSLETTER ABOUT EU BANKING AND FINANCIAL REGULATION

September 2023

1. Latest news

➤ Council of the EU - Human rights violations in Ukraine : EU sanctions six individuals under Global Sanctions Regime

More information at: <https://www.consilium.europa.eu/en/press/press-releases/2023/09/08/human-rights-violations-in-crimea-eu-sanctions-six-individuals-under-its-global-sanctions-regime/>

The Council decided to impose **restrictive measures on six individuals** responsible for serious human rights violations in the Russian Federation and in the territories of Ukraine that Russia has temporarily occupied, including violations of freedom of opinion and expression.

The individuals listed today include **prosecutors and judges active in courts established by Russia's occupying force in illegally annexed Crimea**. They took part in the politically motivated court proceedings against Vladyslav Yesypenko, a journalist who was sentenced to 6 years in prison, and Nariman Dzhelyalov, a Crimean Tatar.

The Russian regime is using the judiciary of the country as a tool in numerous serious human rights violations. The justice system is not independent and is used to systematically and severely violate the human rights of individuals opposed to the ruling regime by violating their freedom of opinion and expression.

Furthermore, today's listings include two members of the **Federal Security Service of the Russian Federation (FSB)** that either took part in torturing Vladyslav Yesypenko, or conducted the investigations in his case, and those of members of the Crimean Tatar community, and of the Jehovah's Witnesses in Crimea.

EU restrictive measures under the Global Human Rights Sanctions Regime now apply to a total of **67 individuals** and **20 entities**. Those designated are subject to an **asset freeze** and EU citizens and companies are **forbidden from making funds available** to them. Natural persons are additionally subject to a **travel ban**, which prevents them from entering or transiting through EU territories.



The EU does not recognise the attempted illegal annexation by Russia of the Autonomous Republic of Crimea and the city of Sevastopol as well as parts of the Donetsk, Luhansk, Zaporizhzhia and Kherson regions of Ukraine, which violate international law including the UN Charter. The Union remains steadfast in its commitment to Ukraine's independence, sovereignty and territorial integrity within its internationally recognised borders and is dedicated to fully implementing its non-recognition policy.

The EU is concerned about the continuing deterioration of the human rights situation in the territories of Ukraine that Russia has temporarily occupied in the context of Russia's war of aggression against Ukraine.

➤ **The European Securities and Markets Authority – The European Securities and Markets Authority (ESMA), the EU's financial markets regulator and supervisor published the annual update of its Reporting Manual on the European Single Electronic Format (ESEF).**

More information at: <https://www.esma.europa.eu/press-news/esma-news/esma-updates-european-single-electronic-format-reporting-manual-0> and https://www.esma.europa.eu/sites/default/files/library/esma32-60-254_esef_reporting_manual.pdf

ESMA updated the ESEF Reporting Manual to provide technical improvements, such as:

- clarifying the formats of images embedded in the XHTML document;
- updating Data Type Registry references;
- clarifying ESMA's position on the application of Calculations 1.1 specification in the context of ESEF; and
- fixing previously identified errors.

ESMA provides additional clarifications on how the elements included in the 2023 IFRS Taxonomy update can be used on a voluntary basis by using the extension mechanism. This follows the decision to postpone to 2024 the amendment of the ESEF Regulatory Technical Standard (RTS) in order to formally incorporate the 2023 IFRS Taxonomy update.

In addition, following the first year of implementation of the block-tagging requirements, the Reporting Manual also provides further guidance on ESMA's expectation on the implementation of the block-tagging requirements and on the expected level of readability of the information extracted from a block tag.

The purpose of the ESEF Reporting Manual is to promote a harmonised and consistent approach for the preparation of annual financial reports in the format specified in the RTS on ESEF. It provides guidance on common issues that may be encountered when creating ESEF documents and explains how to address/resolve them.

➤ **Council of the EU - Trade with the United States: Council authorises negotiations on EU-US Critical Minerals Agreement**

More information at: <https://www.consilium.europa.eu/en/press/press-releases/2023/07/20/trade-with-the-united-states-council-authorises-negotiations-on-eu-us-critical-minerals-agreement/>

The Council adopted a decision authorising the Commission to open negotiations, on behalf of the EU, with the United States on a **Critical Minerals Agreement (CMA)** and the related negotiating directives.



This agreement seeks to strengthen critical minerals supply chains and mitigate some of the negative repercussions of the **US Inflation Reduction Act (IRA)** on EU industry.

Key elements of the decision

According to the directives for negotiation, the CMA should:

- contain provisions on strengthening **international supply chains** of critical minerals and related sectors
- be fully consistent with **World Trade Organization** rules and fully in line with the objectives pursued in the EU **Critical Raw Materials Act**, in terms of ensuring the EU's access to a secure and sustainable supply of critical raw materials, and with the European Battery Alliance
- strengthen the **trade** in and **diversification** of international supply chains of critical minerals and promote the adoption of electric vehicle battery technologies by formalising the shared commitment to facilitate trade, and promote fair competition and market-oriented conditions for trade in critical minerals
- promote high levels of **environmental protection and protection of workers** in the critical minerals sector and encourage corporate social responsibility across critical minerals supply chains
- aim to **prevent distortive and protectionist practices** in critical minerals supply chains
- encourage cooperation on international standards for critical minerals **lifecycle assessment, extraction, labelling, recycling and transparency**, with a view to supporting sustainable supply chains, and help to prevent future barriers to EU-US trade.

2. News for practitioners

- [Court of Justice of the European Union](#) – Judgment of the Court in Case C-216/21 | Asociația 'Forumul Judecătorilor din România'

Rule of law in Romania: the promotion of judges to a higher court, based on an assessment, by members of that court, of their work and conduct, is compatible with EU law

More information at: <https://curia.europa.eu/jcms/upload/docs/application/pdf/2023-09/cp230137en.pdf>

In 2019, the Superior Council of Magistracy (SCM) of Romania approved a reform of the procedure for the promotion of judges to higher courts. The 'Forum of Judges of Romania' Association and a private individual are contesting that reform before the Court of Appeal, Ploiești (Romania).

The applicants in the main proceedings submit that replacing the old written exams with an assessment, by (i) the president and (ii) members of the higher court concerned, of candidates' work and conduct makes the promotion scheme subjective and discretionary. The Court of Appeal, Ploiești, is questioning the Court of Justice as to the compatibility of such a reform with the principle of the independence of judges. In its judgment, delivered today, the Court rules that a piece of national legislation relating to the scheme for the promotion of judges is required to ensure compliance with the principle of the independence of judges. In that context, the Court also rules that EU law does not preclude, in principle, the promotion of judges to a higher court being based on an assessment, by a board composed of (i) the president and (ii) members of that higher court, of their work and conduct. However, the substantive



conditions and procedural rules governing the adoption of decisions relating to promotion must be such that they cannot give rise to reasonable doubts, in the minds of individuals, as to the independence and the impartiality of the judges concerned, once they have been promoted. The Court observes that the procedure for the promotion of judges serving in the lower courts in Romania consists of two stages. The first stage, which enables a judge to be promoted 'on the spot' without a change of post, is based on a written competitive procedure designed to assess both the theoretical knowledge and the practical skills of candidates. The second stage, known as 'effective promotion', enables candidates who have already been promoted 'on the spot' to be effectively assigned to a higher court. It is only in the context of that second stage that the assessment is to be carried out by a board composed, at the level of each court of appeal, of (i) the president of that court and (ii) four of its members, who are to be appointed by the Section for Judges of the SCM. Even if the reform of the second stage is, according to the Court of Appeal, Ploiești, likely to lead to power being concentrated in the hands of certain members of the assessment board and, in particular, its president, it nevertheless cannot be regarded as being, as such, incompatible with EU law. It is for the Court of Appeal, Ploiești, to ascertain whether that concentration of power, taken in isolation or combined with other factors, is liable to offer, in practice, the persons on whom it is conferred the ability to Communications Directorate Press and Information Unit curia.europa.eu Stay Connected! influence the decisions of the judges concerned, and thus create a lack of independence or an appearance of partiality on their part likely to prejudice the trust which justice in a democratic society governed by the rule of law must inspire in individuals. According to the Court, the case file does not contain any material capable of establishing that that potential concentration of power could, in itself, confer, in practice, such an ability to influence; nor does it point to any other factor which could, combined with that concentration of power, produce effects which would be such as to give rise to doubts, in the minds of individuals, as to the independence of the judges who have been promoted. Regarding the substantive conditions governing the adoption of decisions relating to effective promotion and, in particular, the assessment of candidates' work and conduct, that assessment is to be based on criteria which appear to be relevant for the purpose of assessing the professional merits of those candidates. Those criteria seem to be the subject of objective assessments based on verifiable information. As for the procedural rules governing the adoption of those decisions, they also do not appear to be such as to jeopardise the independence of the judges who have been promoted. Indeed, the assessment board must provide reasons for its findings and the candidate concerned may contest those findings before the Section for Judges of the SCM.

3. News for academia and students

- **Online Course: "EU Law Resources Online – Find the EU Info You Need in a Couple of Clicks", October 3 (EIPA, Maastricht)**

More information at: <https://www.tepsa.eu/agenda>

This hands-on, practical and interactive online course has as an aim to provide its audience with a chart on the most useful and practical EU information resources, and demonstrate to them which tools to use to quickly obtain official documents, publications, statistics, open data and legal information about EU, how to intervene in EU consultations and express and voice interests in the making of EU legislation.