



Royal United Services Institute  
for Defence and Security Studies

Conference Report

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RUSI Conference Report, February 2023



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# Euro SIFMANet: European Sanctions and Illicit Finance Monitoring and Analysis Network: Paris Report

**I**N JANUARY 2023, the Centre for Financial Crime and Security Studies at RUSI convened a roundtable in partnership with the Institute for International and Strategic Affairs in Paris. The discussion, held under the Chatham House rule, gathered representatives from government ministries and agencies, the private sector – including banking institutions, law firms and consulting companies – and civil society. The event is part of RUSI’s ongoing study of EU sanctions implementation and wider responses to illicit finance (Euro SIFMANet), funded by the National Endowment for Democracy.

## Sanctions Implementation in France

The roundtable opened with a description of the political and operational context within which France is currently implementing sanctions. On the one hand, while the international political discussion is regarded as having achieved consensus on the need to implement sanctions and now focuses on ensuring their effective implementation, in France there remains a debate as to whether sanctions are worth imposing, driven primarily by far-left and far-right political parties, representing only 15% of the French population and yet constituting a very vocal minority. As further testament to the political context of France, participants at the roundtable from the private sector noted that the statement by French President Emmanuel Macron on the need to keep communication channels with Russia open was ill-received abroad<sup>1</sup> but not, to the same extent, among the French population.

Regarding the operational framework for implementing sanctions, a representative from Direction générale (DG) du Trésor (French Ministry of Finance) described the Ministry of Foreign Affairs as the ‘negotiating party’ in sanctions, while DG Trésor oversees implementation. Unlike other countries in the SIFMANet project, France has not had to introduce new laws to ensure it is able to effectively implement the restrictive measures on Russia that have been introduced since February 2022, but DG Trésor has reportedly doubled the number of staff dedicated to sanctions, as well as improving its internal departmental cooperation.

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1. John Irish and Michel Rose, ‘Analysis: Macron’s Mixed Messages on Ukraine Unnerve Some Western Allies’, *Reuters*, 8 December 2022.

Underlying the confidence displayed by officials in France's ability to implement sanctions on Russia is the belief expressed by the public sector in France's strong level of knowledge and experience in implementing sanctions, built on prior experience of responding to previous UN and EU sanctions regimes, as well as national sanctions for terrorist financing. This estimation is reflected in the latest Mutual Evaluation Report of France by the Financial Action Task Force (FATF) in May 2022.<sup>2</sup> The strength of understanding of anti-money-laundering and counterterrorist-financing (AML/CFT) risks in the French financial sector, and its supervisors, is a key pillar on which the implementation of Russia sanctions relies. For example, representatives from DG Trésor highlighted the benefits they believe stem from a robust national AML/CFT system, suggesting that as trade flows largely involve financial institutions, and French banks have strong AML/CFT transaction and client monitoring systems, they are in an ideal position to also monitor for activity in breach of sanctions, and thus ensure the compliance of their clients. The French sanctions implementation system has thus placed banks on the front line of sanctions implementation, relying on their AML compliance capabilities, which require them to report any suspicious transactions to Tracfin, France's financial intelligence unit.

Yet, the unprecedented range of restrictive measures imposed by the EU on Russia now poses a new challenge for France's capabilities. As noted above, the level of knowledge and experience of the financial sector is assessed positively, but, with the introduction of sectoral sanctions, the non-financial sector – labelled by the FATF as Designated Non-Financial Businesses and Professionals (DNFBPs) – also faces the task of implementing sanctions, often for the first time. Of note in the discussion was the risk described by DG Trésor that companies often do not understand their value/supply chains in detail and thus face difficulties identifying where restrictions need to be implemented, and smaller companies face issues related to overall awareness of sanctions and capacity to absorb the extra work required. Thus, the expertise of DNFBPs is insufficient, with authorities highlighting the real-estate sector in particular. DG Trésor emphasised that it does not expect companies to have a complete understanding of the sanctions regimes from the beginning, and that it provides support to the private sector to ensure that their implementation improves over time.

One area of concern is de-risking, triggered by concerns in the private sector – particularly among banks – that they do not have sufficient information about their customers to ensure compliance with sanctions requirements. This is a longstanding problem connected with sanctions regimes and – like authorities in many other countries – DG Trésor noted that they cannot control the commercial decisions of the private sector and thus de-risking is inevitable, as private sector actors seek to manage the risks they perceive from the raft of sanctions aimed at Russia.

Among the controls exercised by the authorities in France, the French Prudential Supervision and Resolution Authority (ACPR) checks how designation measures are implemented in the banking sector. The ACPR has conducted onsite inspections at banks to check their systems,

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2. Financial Action Task Force, 'Anti-Money Laundering and Counter-Terrorist Financing Measures – France', Mutual Evaluation Report, February 2022, <<http://www.fatf-gafi.org/publications/mutualevaluations/documents/mer-france-2022.html>>, accessed 18 January 2023.

looking at the use and effectiveness of the private vendor screening systems on which they rely heavily. Representatives from DG Trésor noted that financial institutions can have varying degrees of risk sensitivity and set their systems accordingly. This results in differing outcomes in the effectiveness of banks' sanctions screening efforts.

Overall, DG Trésor contended that a combination of a strong national AML/CFT framework, rigorous implementation of that framework by financial institutions, and a robust supervisory regime provides confidence that sanctions are being properly implemented in France. Exceptions exist, however. For example, representatives from DG Trésor noted that the agency supervising the real-estate sector has also conducted inspections, with less encouraging results.

In relation to enforcement against sanctions circumvention, customs authorities are legally charged with monitoring circumvention, which is a criminal offence in France under the French Customs Code, and the same authorities are active in the freezing and management of assets other than real estate, such as yachts and artwork. A representative from DG Trésor estimated that assets frozen in France now amount to around €1 billion.<sup>3</sup>

In contrast to the positive picture painted by the public sector, representatives from civil society noted that there is still a lack of data transparency to assess whether sanctions are being well implemented. In this regard, the discussion also addressed the recent ruling by the European Court of Justice (ECJ) limiting public access to beneficial ownership registries,<sup>4</sup> which some participants from both public and private sectors admitted disagreeing with. A remaining weakness of the company registries in France is found in the lack of beneficial ownership information for companies registered before 2017. While companies registered in the last five years had to provide information on this, companies registered before that date have still not submitted it. The problem of multiple registries existing in the country was intended to be solved with the introduction of a new unified registry in January 2023 that would integrate all registries into a unique resource.<sup>5</sup> At the time of the roundtable, this new registry was closed to public access in accordance with the ECJ ruling. However, on 19 January 2023, the day after the roundtable, France reopened its registries to the public until such time as a new framework is implemented that will give access to those with legitimate interest, which will include civil society and journalists.<sup>6</sup>

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3. *Reuters*, 'France Says it has Frozen More Than 800 Million Euros Worth of Russian Oligarch Assets', 23 March 2022.

4. *WM v Luxembourg Business Registers*, 'Judgement of the Court (Grand Chamber)', Joined Cases C-37/20 and C-601/20, European Court of Justice, Luxembourg, 22 November 2022, <<https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62020CJ0037>>, accessed 20 January 2023.

5. Ministère de l'Économie, des Finances et de la Souveraineté Industrielle et Numérique, 'Ordonnance n° 2021-1189 du 15 septembre 2021 portant création du Registre national des entreprises', <<https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000044044119>>, accessed 23 January 2023.

6. Ministère de l'Économie, des Finances et de la Souveraineté Industrielle et Numérique, 'Registre des bénéficiaires effectifs: Maintien de l'accès au grand public', 19 January 2023, <<https://presse.economie.gouv.fr/19012023>>, accessed 23 January 2023.

## International Challenges

Despite the overall agreement among participants at the roundtable on France's capabilities to implement sanctions, concerns were raised by all participants across both sectors about the ongoing implementation challenges at EU and international levels. Consistent with previous SIFMANet country visits, there was a consensus among participants that lack of harmonisation among member states at EU level poses a major challenge to the effective implementation of sanctions. The fact that sanctions are adopted at EU level but implemented by member states leads to a divergence in implementation as a function of political will, national legal frameworks and private sector interpretation. An example shared by a representative from the French Ministry of Foreign Affairs (MFA), not related to Russia, involved a sanctioned bank in Myanmar that owned the majority of shares in a subsidiary. In this case, some member states believed it acceptable to do business with the subsidiary bank, while others did not.

The MFA representative also described the asymmetries between the EU and the US in implementing sanctions. Before February 2022, sanctions were said to be a source of transatlantic tension, but this changed after the Russian invasion of Ukraine, with ensuing close coordination of mission across the Atlantic, although designations and implementation are not fully aligned. Despite this broad alignment of purpose, the failure of the EU to match the vigour with which the US implements sanctions is notable and represents a systemic vulnerability in the Western response to Russia's invasion of Ukraine.

As sanctions implementation challenges have grown in the EU, the question of a centralised EU sanctions authority has increasingly arisen. Representatives from the MFA pointed to the coordination of implementation and enforcement achieved in the US via the role of the US Treasury's Office of Foreign Assets Control (OFAC). They also noted the extent to which US sanctions can have extraterritorial application, as well as the US's ability to impose secondary sanctions on third countries that engage with sanctioned entities, thus providing a far greater reach and degree of deterrence than EU sanctions.

In line with what has been revealed in the transatlantic dialogue on Iran sanctions, most participants in the roundtable, from both the public and private sectors, expressed concern about the implications of US secondary sanctions, but did acknowledge that the EU could make greater use of its existing tools, for example the size and reach of its economy, and legal provisions that do allow for extraterritorial reach of EU sanctions.

There was less agreement among participants on the utility of creating an EU-level body designed in the style of OFAC, in charge of implementing sanctions in a uniform manner across the EU.

In a description of the wider international context, a participant from the private sector presented a study that found that two-thirds of the world's population lives in countries that are

neutral or positive towards Russia and have not condemned its invasion.<sup>7</sup> Thus, some countries embrace approaches that support the avoidance and evasion of EU and allied country sanctions. Examples include countries seeking opportunities to ‘de-dollarise’,<sup>8</sup> and the emergence of alternatives to the SWIFT payments messaging system, such as the People’s Bank of China’s Cross-Border Interbank Payment System.

In terms of sanctions evasion, representatives from the MFA noted that Russian circumvention networks operate at a very low level and are often difficult to identify. They agreed that smuggling networks that enable countries like North Korea or Belarus to evade sanctions are not big enough to support the significantly larger size of the Russian economy. However, participants from both the public and private sectors noted that Russia can obtain the know-how from Iran on how to evade sanctions, particularly related to energy.

## Next Steps for the EU

As noted above, roundtable participants were not convinced that establishing an OFAC-style body in the EU would be an appropriate step forward, and judged that such a move might be met with resistance from those who increasingly call for greater sovereignty of member states.

Participants considered that an intermediate step might be the creation of an EU High Representative on Sanctions to facilitate coordination (it is worth noting that the US State Department has long had an Office of Sanctions Coordination headed by an ambassador). In this sense, the appointment of former EU Ambassador to the US David O’Sullivan as International Special Envoy for the Implementation of EU Sanctions was regarded as a positive step at EU level, to improve the dialogue with third countries regarding Russian circumvention of sanctions.

There was also agreement that the EU must make more use of its economic heft to promote compliance in the world. A consensus of views from both the public and private sector described the oil price cap as a successful tool in getting third countries to support measures to restrict the funding of the Russian war machine, as it allows such countries to support the West while at the same time bringing benefit to themselves through their compliance. Participants from both the public and private sector agreed that the EU still has tools to leverage in this regard. For example, Regulation 269/2014 was amended several times in 2022 and now allows the EU to sanction non-EU companies for engaging in business with EU-sanctioned companies and facilitating the circumvention of sanctions;<sup>9</sup> and the EU also has a collection of ‘high-risk’

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7. Economist Intelligence Unit, ‘Russia Can Count on Support from Many Developing Countries’, 30 March 2022, <<https://www.eiu.com/n/russia-can-count-on-support-from-many-developing-countries>>, accessed 19 January 2023.

8. Zoltan Pozar, ‘Great Power Conflict Puts the Dollar’s Exorbitant Privilege Under Threat’, *Financial Times*, 20 January 2023.

9. Council of the European Union, ‘Council Regulation (EU) 2022/1905 of 6 October 2022 Amending Regulation (EU) No. 269/2014 Concerning Restrictive Measures in Respect of Actions Undermining



lists that it can use to indicate heightened financial crime risk (specifically related to money laundering and tax evasion).

However, the roundtable unanimously concluded that the EU must persist in improving the effectiveness of its sanctions regime by defining and clarifying designations and being consistent – that is, ensuring harmonisation of sanctions enforcement across all member states. As a participant remarked, ‘2022 was the year for designing sanctions; 2023 is the year to implement them and close loopholes’.

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or Threatening the Territorial Integrity, Sovereignty and Independence of Ukraine’, *Official Journal of the European Union* (L 259/1 76, 6 October 2022).