



Adaptations brought to the law on financial restrictive measures

On May 21st 2019, the [law of May 2nd 2019](#) laying down various financial provisions has been published in the Belgian Official Journal. This law implements among others the following changes as regards the financial restrictive measures:

1. The assets freeze measures laid down by the UN Security Council must be immediately implemented in Belgium and they do not need to be confirmed by a ministerial decree.
2. The implementation of the Council Regulation 2271/96, which is also called “Blocking statute”, in order to protect the European enterprises against among others the effects of extra-territorial application of new measures taken by the United States against Iran,
3. It has been specified that the General Administration of the Treasury of the FPS Finance is competent in order to look for and to record any breach of the financial restrictive measures.

The new regulation has come into force on May 31st 2019.

You will find below a detailed explanation of these adaptations.

Immediate implementation of the assets freeze measures determined by the United Nations Security Council

The United Nations Security Council has passed many resolutions imposing sanctions on governments, persons or entities. These [UN sanctions](#) are transposed into European law by the European Union, which make them immediately applicable in Belgium.

Within the framework of these sanctions, the UN Security Council regularly adds names to lists of persons and entities whose assets must be frozen. In order for this asset freezing measure to be efficient, the assets freeze must be implemented without delay, failing which the persons and entities concerned would have the possibility to protect their assets.

In the past, after each registration of a person or an entity on a UN sanctions list, the Minister of Finance issued a ministerial decree which froze the assets of this person or entity in Belgium as from the date of the decision of the UN Security Council till the date of the adaptation of this decision into European law.

This approach not only required a lot of administrative management, but also, in a follow-up report of the Financial Action Task Force (FATF), it has been considered as still not efficient enough as regards the observance of the international obligation to implement immediately the assets freeze measures of the UN Security Council in Belgium.

Title VIII (Articles 235 to 240) of the law of May 2nd 2019 laying down various financial provisions solves this problem by repealing the system of ministerial decrees (Article 238) and by stipulating that the assets freeze measures passed by the UN Security Council should be implemented as from the date of their passing (Article 236).

Even if, in the past, ministerial decrees already imposed the obligation to immediately implement the UN asset freezing measures, this new regulation increases the legal security. It is therefore no longer necessary to wait for the publication of the ministerial decree in order to be completely sure that this UN asset freezing measure should immediately be applied.

Any breach of the obligation to immediately implement the UN assets freeze measures is punished with a prison sentence from eight days to five years and a fine from 25 to 25,000 EUR (Article 237).

Finally, article 5 of the [law of May 11th 1995](#) has been adapted in order to specify that the General Administration of the Treasury of the FPS Finance is competent to investigate and identify any breach of the financial restrictive measures (Article 240).

In order to be informed of any name added to the list of persons and entities whose assets must be frozen pursuant to the sanctions implemented within the context of the fight against terrorist financing or proliferation of weapons of mass destruction, you can subscribe to the newsletter of the Treasury via the following e-mail address quesfinvragen.tf@minfin.fed.be

Implementation of the Council Regulation 2271/96 (“Blocking Statute”)

Last year, president Trump has announced that the authorities of the United States will withdraw from the Joint Comprehensive Plan of Action, the so called “Iran nuclear deal”. He also said that some sanctions against Iran will again apply. Some of these measures have extra-territorial effects, which can affect European enterprises. Therefore, the European Commission has decided to update the former Council Regulation 2271/96 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom (so called “Blocking Statute”) in order to protect the European enterprises.

Pursuant to this Regulation (EC) No. 2271/96, the EU enterprises can avoid the extra-territorial effects of sanctions imposed by third countries (in this context, the sanctions imposed by the United States against Iran and Cuba) and they are entitled to claim damages further to these sanctions to the person which caused them through a European court of justice. Rulings of foreign courts on the basis of these sanctions will be nullified as regards their application in the EU.

Title VII (Articles 230 to 234) of the law of May 2nd 2019 laying down various financial provisions introduces a number of provisions allowing the proper implementation of the Regulation 2271/96 in Belgium.

- The General Administration of the Treasury (FPS Finance) and the FPS Economy, S.M.Es, Self-employed and Energy are the competent authorities in order to ensure the observance of the obligations mentioned in the Regulation 2271/96. The FPS Foreign Affairs is designated as competent authority for transmitting to the European Commission relevant information as regards the implementation of the Regulation. The decision to grant an exception can only be taken by the European Commission itself (Article 230).
- Pursuant to Article 9 of the Regulation (EC) No. 2271/96, Article 231 determines the administrative fines applicable in the event of any breach of this Regulation. In concrete terms, these fines amount to:
 - For legal persons: a minimum of 10,000 EUR and a maximum of 10% of the net yearly turnover of the previous accounting year.
 - For the natural persons: a minimum of 250 EUR and a maximum of 5,000,000 EUR.

More information about the Blocking Statute available on the website of the European Commission.

Modifications of the law of May 13th 2003 on the implementation of restrictive measures taken by the European Union

The [law of May 13th 2003](#) gives to the King the power to take the necessary measures for the implementation of restrictive measures taken by the European Union. Besides, this law provides for criminal sanctions for any breach of these measures and designates the competent authorities in order to look for and to record these breaches.

The law of May 2nd 2019 laying down various financial provisions implements, besides a quantity of technical corrections, the following changes to the law of May 13th 2003.

- In addition to the already mentioned criminal sanctions (prison sentence from eight days to five years and a fine from 25 to 25,000 EUR), the possibility to impose administrative sanctions for any breach of the restrictive measures imposed by the EU is also provided. This allows the competent minister to impose an administrative fine from 250 to 2,500,000 EUR without a criminal procedure being instigated in this regard (Article 233).
- As in the law of May 11th 1995, it is specified that the General Administration of the Treasury of the FPS Finance is competent to look for and to record any breach of the financial restrictive measures (Article 234).

More information about the restrictive measures taken by the European Union available on [the website of the European Commission](#) and the [EU sanctions map](#).