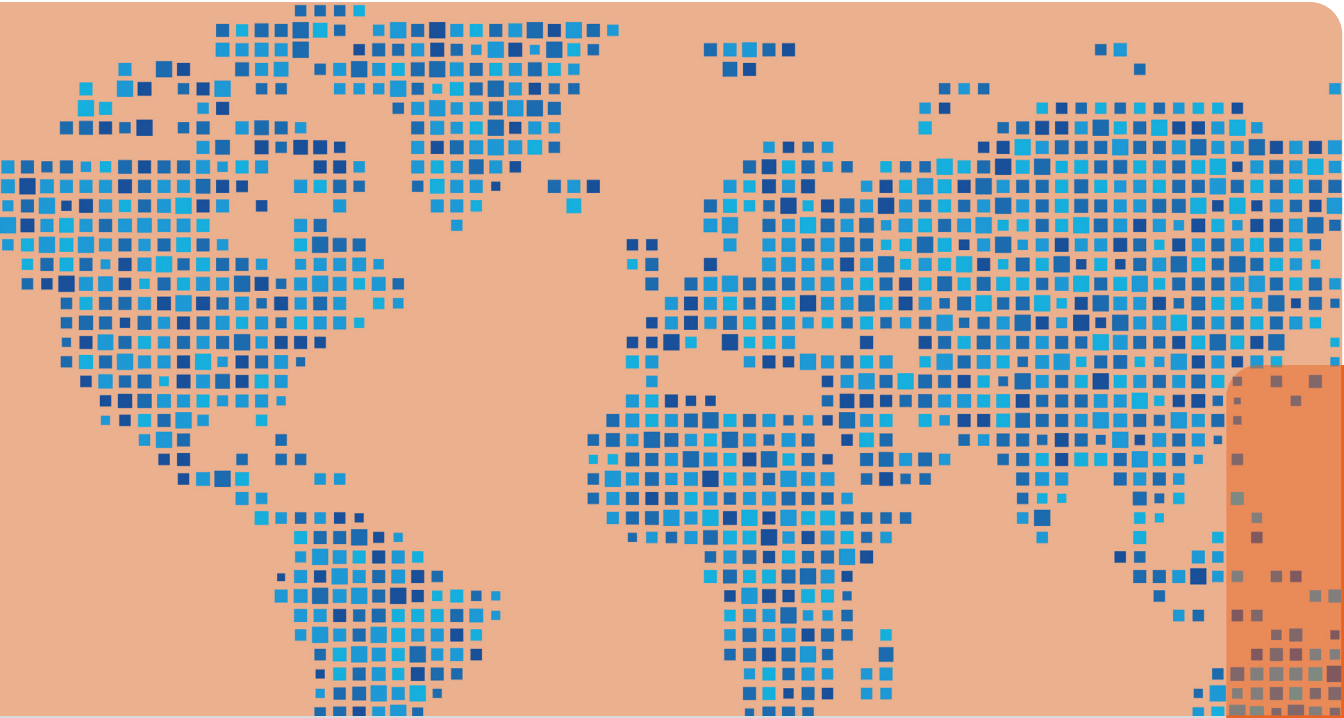


**International
Comparative
Legal Guides**



Sanctions

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Contributing Editors:

Roberto J. Gonzalez & Joshua R. Thompson
Paul, Weiss, Rifkind, Wharton & Garrison LLP

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CMS Kluge Advokatfirma AS



**Ronny
Rosenvold**



Siv V. Madland



**Rebekka
Asbjørnsen**



Sindre Ruud

1 Overview

1.1 Describe your jurisdiction's sanctions regime.

Norway maintains a variety of sanctions, ranging from comprehensive to more limited restrictions. Norway generally implements sanctions pursuant to UN and EU sanctions, and also the Organisation for Security and Co-operation in Europe (OSCE) arms embargoes. UN and EU sanctions measures must be implemented in Norwegian legislation before they can be made binding on individuals and legal entities in Norway.

However, the Norwegian Parliament may implement sanctions autonomously and may also implement UN and EU sanctions with national amendments.

Norway also generally extends the application of sanctions to overseas territories such as Svalbard and Dronning Maud Land. Norwegian sanctions do not purport to have an extra-territorial effect on actions outside Norway, although they do apply to Norwegian nationals, companies established under Norwegian law and Norwegian aircraft/vessels, wherever located.

1.2 What are the relevant government agencies that administer or enforce the sanctions regime?

The Norwegian Ministry of Foreign Affairs (MFA) administers and enforces the sanctions regime. The MFA has broad oversight for sanctions policy in Norway. A subgroup under the MFA, the Section for Export Control, administers the applications based on Norwegian legislation.

According to the Police Act, the Norwegian Police Security Service (PST) shall prevent, investigate and prosecute violations of the sanction regimes. The Financial Supervisory Authority (FSA) has a mediating role in the work on sanctions and freezing obligations. This entails the dissemination of listing records from the UN and the EU to enterprises that are subject to supervision by the FSA. The Norwegian Customs has tasks regarding the control of goods, enforcement, prevention and investigation of the violation of export regulations.

1.3 Have there been any significant changes or developments impacting your jurisdiction's sanctions regime over the past 12 months?

In response to Russia's illegal attack on Ukraine, Norway has implemented the most comprehensive and wide-ranging sanctions at any time under Norwegian law. The sanctions against Russia are found in the Norwegian Regulation on restrictive

measures against Russia no. 1076 adopted 15 August 2014, which has been in place since Russia's annexation of Crimea in 2014.

On 27 February 2022, the Norwegian Prime Minister announced that Norway would align with the EU's sanctions on Russia and Belarus. Norway has up to this date adopted most of EU's sanctions on Russia, with some exceptions, such as the sanctions imposed on state-owned outlets RT/Russia Today and Sputnik's broadcasting. Thus, the past year has been characterised by a continuous expansion of the sanctions against Russia. The sanctions imposed are divided into financial, geographical and sectorial sanctions. As regards the financial sanctions imposed on listed individuals and entities, hereunder the freezing of assets, Norway has at the time of writing this chapter (June 2023) adopted the EU's sanction list in its entirety. In addition to several sanctions aimed at the financial sector, as well as specific sanctions directed at the areas Crimea, Donetsk, Luhansk and Sevastopol, a range of goods and services are subject to restriction of import and export. This includes, among others, goods and services related to the energy, transport and defence sector. Further, also more specific sanctions have been imposed, such as a ban on certain Russian means of transport, including a ban on vessels flying the Russian flag, with the exception of fishing vessels.

Although Norway has decided to adopt most of EU's sanctions imposed on Russia, there are some special features of such an adoption which must be emphasised. Firstly, a national decision by the government is required before the EU sanctions are adopted as Norwegian law. The EU sanctions are implemented in Norwegian, subject to national adjustments. Consequently, the English text is not binding, and one may not base a legal assessment on EU legislations. As a result of this process of implementation, new EU sanctions, other than listings of individuals and companies, will normally enter into force one to two months after they have been adopted by the EU. Secondly, as EU practice is not legally binding in Norway, local interpretation of the provisions and different policies may result in deviating practices.

Furthermore, since Norway is not a part of the EU, the requirement of an authorisation for exports or exceptions under the sanctions regulations is required to be obtained separately by a Norwegian authority, even if a product is first transferred to another EU Member State before being forwarded to Russia.

The special features of adopting EU sanctions in Norway is particularly evident in the question of whether Russian citizen using drones in Norway for recreational use can be punished. In autumn 2022, several Russian citizens were arrested and detained for flying drones in Norway. Some were suspected of flying in a no-fly zone and taking illegal photos, and others only flying drones for recreational use. The Norwegian Supreme Court concluded in 2023 that a Russian citizen's use of unregistered drones in Norway were sanctioned.

Another sanction imposed in Norway during the last 12 months was the arm embargo imposed on Haiti, as imposed by the UNSC. Norway has also imposed restrictive measures against persons responsible for actions aimed at destabilising, undermining or threatening the sovereignty and independence of the Republic of Moldova.

2 Legal Basis/Sanctions Authorities

2.1 What are the legal or administrative authorities for imposing sanctions?

The Norwegian sanctions regime is based on national legislation administered by the MFA, Section for Export Control. Sanctions that are adopted by the UN Security Council (UNSC) and EU restrictive measures and other international non-military measures with which Norway has aligned itself are implemented through regulations under the Act of 16 April 2021 No. 18 on the Implementation of International Sanctions (the Sanctions Act).

More detailed provisions laid down by the MFA are found in regulations adopted under the Sanction Act that provide the legal authority for such measures.

In April 2018, the MFA published guidelines on financial sanctions, intended to provide information that will make it easier to understand the financial restrictions in the Norwegian regulations, which are based on UNSC sanctions and EU restrictive measures. The guidelines only provide general information and are not legally binding for the MFA in their interpretation of the current regulation.

Certain types of measures included in UN sanctions and/or EU restrictive measures are implemented under other Norwegian legislation. These include travel restrictions, which are implemented under the immigration legislation, and arms embargoes, which are often implemented under the ordinary export control legislation.

2.2 Does your jurisdiction implement United Nations sanctions? Describe that process. Are there any significant ways in which your jurisdiction fails to implement United Nations sanctions?

If the UNSC determines that an act of aggression or a breach of peace has occurred, it may decide what measures Member States must take in order to restore or maintain international peace and security. Norway is obligated under international law to implement UNSC's binding resolutions. UN resolutions do not have a direct effect in Norway and must be implemented in Norwegian legislation before they can be made binding on persons and entities in Norway. Norway's Sanctions Act enables the Government to give effect to decisions passed by the UNSC. Before a resolution is implemented, a Norwegian regulation must be drafted.

As of today, Norway has implemented the current UNSC resolutions.

2.3 Is your jurisdiction a member of a regional body that issues sanctions? If so: (a) does your jurisdiction implement those sanctions? Describe that process; and (b) are there any significant ways in which your jurisdiction fails to implement these regional sanctions?

Norway is part of the Agreement on the European Economic Area (the EEA Agreement), which brings together the EU Member States and the three EEA EFTA States (Iceland,

Lichtenstein and Norway). Foreign policy falls outside the scope of the EEA Agreement, and Norway is therefore not bound by or obligated to implement EU sanctions. When the EU adopts new restrictive measures, the MFA makes an assessment and the Norwegian Government decides whether Norway shall follow EU measures. The Government tends to follow the EU in this regard.

We emphasise that when implementing EU regulations, national adjustments are included, so the implemented regulations are not a blueprint of the EU regulations and establish Norwegian autonomous regimes.

2.4 Does your jurisdiction maintain any lists of sanctioned individuals and entities? How are individuals and entities: a) added to those sanctions lists; and b) removed from those sanctions lists?

Norway largely adopts the list contained in the corresponding UNSC resolutions and/or EU regulations, which are implemented as described under questions 2.2 and 2.3.

The list of sanctioned individuals and entities is found in Norwegian regulations. The regulations either include a list of designated parties or refer to a list updated by the UN or the EU. Previously, the national regulation included a list of individuals and entities that was updated by the MFA. With effect from 2017, the MFA revised the regulation, and it now only refers to the applicable EU consolidated list of sanctioned persons and entities. An exemption is the Norwegian Regulation of 15 December 2015 No. 2103 on restrictive measures against Venezuela where Norway has adopted a national entity list.

2.5 Is there a mechanism for an individual or entity to challenge its addition to a sanctions list?

If a person or entity considers a listing to be unlawful, it is possible to request a "delisting" (to be removed from the list).

A petitioner seeking to submit a request for delisting from the UN sanctions list can do so directly, or through a representative, by contacting the UN Office of the Ombudsperson. In Norway, the MFA may assist any listed persons with requests for the removal from the lists. Such assistance may also be provided by lawyers with relevant expertise.

The EU Council shall warn persons and entities subject to freezing restrictions or travel restrictions under restrictive measures, as well as inform such persons about the possibility of legally testing the validity of a listing. When a person or entity wants to challenge a listing measure, it can either initiate an administrative-review procedure by the Council or challenge the listing in the European Court of Justice. Several individuals and entities have, in recent years, successfully challenged the listing. Most of these court cases involved a lack of respect for procedural fundamental rights (rights of defence, due process), mostly relating to administrative and procedural deficiencies.

It can be questioned whether the listing of an individual or entity can be challenged in front of the national courts. Through its UN membership, Norway is obligated to implement the UNSC's listings. We cannot therefore see how such listings may be challenged in front of the national courts. However, the same obligation does not apply for listing from the EU. Implementations of the EU's listings of individuals or entities are based on a national decision, normally conducted by the MFA. Such a decision shall follow the ordinary rules under the Public Administration Act of 10 February 1967. If procedural rules are not followed, the decision may be challenged in front of the court.

Objections may also be raised against the banks that are freezing assets. Objections may be brought in front of the court, e.g. on the basis that a bank has frozen assets that are not covered by the regulation.

2.6 How does the public access those lists?

There are no consolidated versions of listed persons and entities. The MFA do, however, keep an updated list with references to current legislation on their webpage: <https://www.regjeringen.no/no/tema/utenrikssaker/Eksportkontroll/sanksjoner-og-tiltak1/sanksjoner-og-tiltak/id2008477/> (in Norwegian only).

The EU Sanctions Map, including both EU restrictive measures and UN sanctions, is a useful source of information, since Norway essentially has similar sanction rules: <https://www.sanctionsmap.eu/> but we do, however, emphasise that it is the Norwegian regulations that apply in case of differences.

2.7 Does your jurisdiction maintain any comprehensive sanctions or embargoes against countries or regions?

Norway maintains comprehensive sanctions against countries and regions, such as Crimea, Donetsk, Luhansk, North Korea, Russia and Sevastopol.

In addition to the comprehensive sanctions, Norway also maintains an arms embargo for 18 countries.

2.8 Does your jurisdiction maintain any other sanctions?

Norway is currently maintaining sanctions against 27 different nations, geographical areas and terrorist organisations. In response to the consequences of comprehensive sanctions on civilians, “targeted” or “smart” sanctions are more often used. These targeted sanctions are conceived to directly affect political leaders or those responsible for human rights violations. Properly targeting sanctions, it is hoped, can eliminate civilian suffering while putting significant pressure on the Government itself, thus bringing sanctioned regimes into compliance with human rights and humanitarian law and increasing their chances of success.

Targeted financial sanctions are most commonly used in Norwegian legislation. This includes freezing the assets of persons or entities listed under national sanctions regulations. Listed persons may also be subject to travel restrictions. Norway also applies trade restrictions on goods, normally those such as arms, dual-use goods and goods which could be used in enrichment-related activities, such as oil, natural gas, petrochemical and petroleum products.

2.9 What is the process for lifting sanctions?

In Norway, the lifting of national sanctions can be quite straightforward. If the sanctions were imposed by a national regulation under the Government’s authority, they can be lifted quickly under that same authority. If sanctions are imposed, in whole or in part, on the basis of an act passed by Parliament, the sanctions must be lifted by Parliament and that will normally take longer. It also requires that the majority of parliament accepts to lift the sanctions.

The sanctions which are imposed by the UNSC are binding for Norway under international law. Lifting such sanctions can only be carried out when the UNSC resolution is lifted, otherwise it will be a breach of Norway’s obligations as a member of the UN.

2.10 Does your jurisdiction have an export control regime that is distinct from sanctions?

Norway has an export control regime applicable to the export of military and dual-use equipment. The export control regime is applicable even when it is exported to “friendly” countries like those in the EU or NATO allies. Such items cannot be exported without a licence from the MFA.

The MFA is the authority responsible for the control of exports of military equipment, dual-use items and relevant technology and services from Norway. The law governing export control is the Act of 18 December 1987 relating to Control of the Export of Strategic Goods, Services, Technology, etc. (the Export Control Act). The Export Control Act provides the authority to regulate exports of all goods, services and technology that may be of significance for another country’s development, production or utilisation of products for military use. It also regulates goods, services and technology that may directly serve to develop a country’s military capability, including goods and technology that can be used to carry out terrorist acts.

More detailed provisions laid down by the MFA are found in the regulation dated 19 June 2013 relating to the export of defence-related products, dual-use items, technology and services (the Export Control Regulation). The Export Control Regulation provides the operational legal framework for the MFA’s implementation of export controls, including licensing requirements.

The control lists form part of the Export Control Regulation and specify the goods and technology for which an export licence is required. The two lists are for defence-related products (List I) and dual-use items (List II). Control of technology also includes control of intangible transfers of technology. In practice, the lists are the result of negotiations in the multilateral export control regimes of which Norway is a member. The lists are regularly maintained. Products that are listed require a licence prior to export.

The Export Control Regulations also provide a regulatory basis to require the MFA’s permission to export unlisted items when there is a reason to believe such items are intended for such as biological and nuclear weapons, but it may also cover other purposes of end-use (“catch-all clauses”).

In Norway, some of the technology used for oil and gas production and exploration is controlled. However, the Export Regulation considers the continental shelf as a part of Norway and there is no need to apply for a licence when sending technology or equipment from the mainland to installations offshore. A licence is needed when it leaves the Norwegian economic zone. The geographical scope of the export control regulations was expanded in 2021 and now also applies to Svalbard and Jan Mayen.

2.11 Does your jurisdiction have blocking statutes or other restrictions that prohibit adherence to other jurisdictions’ sanctions or embargoes?

Norway does not have blocking statutes, for example, such as you find in the EU, which are intended to hinder the application of a law made by a foreign jurisdiction.

2.12 Does your jurisdiction impose any prohibitions or threaten any sanctions consequences for transactions that do not have a connection to that jurisdiction (sometimes referred to as “secondary sanctions”)?

Norway does not impose secondary or extraterritorial sanctions which target non-Norwegian entities or persons that transact with sanctions targets outside the Norwegian jurisdiction.

3 Implementation of Sanctions Laws and Regulations

3.1 What parties and transactions are subject to your jurisdiction's sanctions laws and regulations? For example, do sanctions restrictions apply based on the nationality of the parties involved? Or the location where the transactions take place?

Generally, the Norwegian sanctions regulations apply:

- within the territory of Norway, including Norwegian airspace;
- on board any aircraft or vessel under Norwegian jurisdiction;
- vis-à-vis* all Norwegian nationals irrespective of their location;
- vis-à-vis* all legal persons, entities and bodies established in accordance with Norwegian law; and
- vis-à-vis* all legal persons, entities and bodies with regard to the business activities they conduct wholly or partly in Norway.

The type of transactions covered by the sanctions regulations are specified in each regulation, which generally corresponds with the UN sanctions and EU restrictive measures.

3.2 Are parties required to block or freeze funds or other property that violate sanctions prohibitions?

Under the Norwegian economic sanction regime, individuals and legal entities are obliged to block and/or freeze funds or other assets which directly or indirectly belong to or are under the control of persons, units or groups listed in the specific sanctions regulations. Generally, these Norwegian regulations correspond with the UN sanction lists and EU restrictive measures. The Norwegian Penal Code also regulates the seizure of assets belonging to individuals or legal entities involved in terrorist acts.

3.3 Are there licences available that would authorise activities otherwise prohibited by sanctions?

In addition to the export licences issued by the MFA as described under question 2.10, the Norwegian regulations generally provide the MFA with a right to grant exemptions from the sanction's regulations in accordance with the relevant UN sanctions or EU restrictive measures. The MFA may also grant exemptions in special cases where the regulation has a clear unintended effect, provided that the exemption does not conflict with Norway's international law obligations or the motives behind the measures.

3.4 Are there any sanctions-related reporting requirements? When must reports be filed and what information must be reported?

Credit institutions shall report on deposits exceeding EUR 100,000 held by Russian persons or entities.

Under the Norwegian export control and licensing regime, exporters and other persons assisting in the trade of certain goods and services must report certain information regarding its transactions to the MFA in order to obtain an export licence (for instance: the type of goods; the quantity and value; transfer date; the name and address of the supplier and the consignee; and the end-user and end-use of the goods, etc.). Furthermore,

suppliers are also obliged to report on all exports and transfers of listed military/defence-related goods. The reports shall be sent to the MFA on a prescribed form each quarter.

Additionally, for some of the sanctions imposed on Russia, a wind-down period for existing contracts applies, provided that the MFA has been notified within a time limit in advance of the fulfilment of the contract.

3.5 How does the government convey its compliance expectations? Are certain entities required to maintain compliance programmes? What are the elements of a compliance programme required (or recommended) by the competent regulator(s)?

Generally, legal entities are not required by law to maintain a compliance programme. The exceptions are banks, insurance companies, investment funds, accountants and other financial institutions which are required to have a compliance programme that must include internal regulations on screening customers and customer databases against persons, units or groups listed in the sanctions regulations (know-your-customer requirements).

Entities who are exposed to different sanctions regimes on a more regular basis are, however, expected to have internal guidelines, instructions, training, checks or other measures in place to ensure compliance with the sanctions regulations. This follows on from the fact that the use of such measures is considered when assessing the size of a financial penalty (see question 4.4 below). The Norwegian authorities have also issued non-binding guidelines regarding the obligation to block and freeze funds or other property that violate sanctions prohibitions. The Government has also published guidance regarding which standards apply for the due diligence assessment required for persons and entities to comply with the sanctions regime.

4 Enforcement

4.1 Are there criminal penalties for violating economic sanctions laws and/or regulations?

A violation of economic sanction laws and regulations is punishable by imprisonment (of up to three or five years), financial penalties and/or confiscation. A legal entity found guilty of violating economic sanctions can also lose the right to operate its business, or may be prohibited from operating in certain forms. Depending on the act, a violation of economic sanction laws and regulations could also be covered by sections of the Norwegian Penal Code with higher maximum penalties.

4.2 Which government authorities are responsible for investigating and prosecuting criminal economic sanctions offences?

The PST is responsible for investigating and prosecuting criminal economic sanctions offences. Criminal sanction cases are often referred to the PST by the MFA.

4.3 Is there both corporate and personal criminal liability?

In accordance with Norwegian criminal law, both legal entities and individuals may be found liable for breach of economic sanctions regulations.

4.4 What are the maximum financial penalties applicable to individuals and legal entities convicted of criminal sanctions violations?

There are no fixed maximum levels of financial penalties for individuals or legal entities convicted of criminal violation of sanctions. The financial penalties are set by a court of law based on an overall assessment.

The main factors in assessing the size of financial penalties are: the preventative effect; the severity of the offence; proportionality; and the individual or entity's financial situation or capacity. Further, for legal entities, the following circumstances shall be taken into consideration as part of the overall assessment:

- a) whether the entity could have prevented the offence by use of guidelines, instruction, training, checks or other measures;
- b) whether the offence has been committed in order to promote the interests of the legal entity;
- c) whether the legal entity has had or could have obtained any advantage by the offence;
- d) whether other sanctions arising from the offence are imposed on the legal entity or a person who has acted on its behalf, including whether a penalty is imposed on any individual person; and
- e) whether agreements with foreign states prescribe the use of enterprise penalties.

4.5 Are there other potential consequences from a criminal law perspective?

Yes. An example is withdrawal of proceeds from criminal action.

4.6 Are there civil penalties for violating economic sanctions laws and/or regulations?

In Norway, violations of economic sanction laws and regulations are penalised through criminal penalties and the criminal justice system (*cf.* questions 4.1–4.4 above). There is no civil enforcement institute in Norway. There are, however, certain consequences that are not considered criminal penalties under Norwegian law:

- The MFA may revoke, suspend or restrict an already issued export licence if the licence is abused, the terms of the licence are breached and/or in case of violation of the export control regulations. A breach of the economic sanctions regulations can also affect a company's ability to obtain another export licence.
- The MFA may issue a daily fine if a legal entity or person does not comply with the duty to provide information to the MFA.
- A court of law may also seize goods that have been exported, imported or sought to be exported/imported in violation of the UN sanctions regulations. The same applies to means of payment and securities used. If the goods, funds or securities cannot be confiscated, the value may be seized.

4.7 Which government authorities are responsible for investigating and enforcing civil economic sanctions violations?

This is not applicable in Norway.

4.8 Is there both corporate and personal civil liability?

This is not applicable in Norway.

4.9 What are the maximum financial penalties applicable to individuals and legal entities found to have violated economic sanctions?

This is not applicable in Norway.

4.10 Are there other potential consequences from a civil law perspective?

This is not applicable in Norway.

4.11 Describe the civil enforcement process, including the assessment of penalties. Are all resolutions by the competent authorities public?

This is not applicable in Norway.

4.12 Describe the appeal process. Have companies challenged penalty assessments in judicial proceedings?

In Norway, if you wish to appeal a criminal conviction handed down by the district court, the appeal should be submitted within one month after the judgment. A judgment made by the court of appeal may be appealed to the Supreme Court. The Supreme Court cannot evaluate the evidence as to the question of the accused's guilt; here the court of appeal has the final say.

4.13 Are criminal and civil enforcement only at the national level? Is there parallel state or local enforcement?

Criminal enforcement of economic sanctions laws and regulations is handled at a national level by the PST, the MFA and the Norwegian Customs.

4.14 What is the statute of limitations for economic sanctions violations?

The statute of limitations for criminal enforcement of economic sanctions violations depends on the maximum statutory penalty prescribed. The limitations period is five years when the maximum statutory penalty is imprisonment for three years. The limitation period is generally calculated from the day the offence ceased. If a person or legal entity has committed several offences of the Norwegian Penal Code through the same act, the longest limitation period applies to all the offences.

5 General

5.1 If not outlined above, what additional economic sanctions-related measures are proposed or under consideration?

The Norwegian sanctions regime generally corresponds with the UN sanctions list and EU restrictive measures. There are currently no indications that the Norwegian Government will propose any unilateral sanctions.

5.2 Please provide information for how to obtain relevant economic sanctions laws, regulations, administrative actions, and guidance from the Internet. Are the materials publicly available in English?

The Norwegian Government has prepared a list of relevant sanction laws and regulations on their website (<https://www.regjeringen.no/no/tema/utenrikssaker/Eksportkontroll/sanksjoner-og-tiltak1/sanksjoner-og-tiltak/id2008477/>). The sanction laws and regulations are available in Norwegian on the Norwegian public database for legal resources – <https://www.lovdatab.no>

The Norwegian sanctions regime is, however, largely based on EU restrictive measures and the UN sanctions regime. The EU web portal (<https://www.sanctionsmap.eu/#/main>), which provides a visual overview of EU and UN restrictions, is therefore recommended as a useful source of information. The MFA also issues an annual white paper to the Norwegian Parliament on Norwegian Exports of Defence-related Products, Export Control and International Non-proliferation Cooperation. A summary of this paper is available in English at https://www.regjeringen.no/globalassets/departementene/ud/dokumenter/rapporter/meldst14_20212022_eng.pdf

Useful information regarding the Norwegian export control regime is also available at the following government website: <https://www.regjeringen.no/en/topics/foreign-affairs/eksportkontroll/id754301/>



Ronny Rosenvold is an experienced lawyer dedicated to providing legal assistance within the field of export control and sanctions regulations. Mr. Rosenvold is one of few Norwegian lawyers who have significant experience within international trade, sanctions and export control. He has considerable experience representing individuals facing restrictive measures, as well as corporations requiring compliance and litigious advice arising from the enforcement of sanctions.

Rosenvold also has broad experience as a legal advisor for Norwegian and international companies in complex cases within different areas of EU/EEA law.

His practice includes different sectors, but particularly in the fields of technology, industry, energy and defence.

CMS Kluge Advokatfirma AS
Bryggegate 6
0250 Oslo
Norway

Tel: +47 908 96 993
Email: ronny.rosenvold@cms-kluge.com
URL: www.cms.law/en/nor



Siv V. Madland has her core competence from the energy business (oil & gas) with 20+ years of experience from the industry. Mrs. Madland has specialised expertise in contract law, in all types of offshore projects within the entire value chain advising both suppliers and operators. She has thorough experience from advising clients on regulatory framework conditions applicable for the energy sector, and hereunder assisting clients affected by sanctions and export control.

CMS Kluge Advokatfirma AS
Olav Kyrres gate 21 (Herbarium)
NO-4005 Stavanger
Norway

Tel: +47 920 30 473
Email: siv.madland@cms-kluge.com
URL: www.cms.law/en/nor



Rebekka Asbjørnsen is an associate who specialises in Norwegian energy law. Ms. Asbjørnsen assists Norwegian and international clients with legal advice within the energy sector, as well as providing legal assistance within the field of sanctions, contract law and general corporate law.

CMS Kluge Advokatfirma AS
Olav Kyrres gate 21 (Herbarium)
NO-4005 Stavanger
Norway

Tel: +47 930 30 765
Email: rebekka.asbjornsen@cms-kluge.com
URL: www.cms.law/en/nor



Sindre Ruud is an associate who primarily works with corporate/M&A, private equity, and banking and finance. Mr. Ruud advises clients on national and international M&A and private equity transactions, both sell and buy side, and domestic and cross-border financing transactions, as well as sanctions, general corporate and contract law.

CMS Kluge Advokatfirma AS
Bryggegate 6
0250 Oslo
Norway

Tel: +47 481 08 017
Email: sindre.ruud@cms-kluge.com
URL: www.cms.law/en/nor

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