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#### NOTE

From:	Presidency
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a Directive of the European Parliament and of the Council on the definition of criminal offences and penalties for the violation of Union restrictive measures - Progress report

#### Background

On 2 December 2022, the Commission submitted the proposal for a Directive on the definition of criminal offences and penalties for the violation of Union restrictive measures.<sup>1</sup> The purpose of the proposal is essentially to ensure an effective application of Union restrictive measures by the introduction of common minimum crime definitions and sanctions. The proposal should be seen in the context of the Union's efforts to fight impunity in relation to the Russian war of aggression against Ukraine.

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<sup>1</sup> 15653/22.

## Activities of the Swedish Presidency

The proposal has been examined in the Working Party on Judicial Cooperation in Criminal Matters (COPEN) or by JHA Counsellors during five meeting days: on 13 December 2022, on 16-17 January, on 8 February and on 27 February 2023. The competent working party completed the first examination of the full text of the proposal on 17 January 2023.

The examination showed that the Member States strongly support the aim of the proposal and largely also the substance of the envisaged provisions. Nonetheless, it was also made clear that some aspects of the said provisions will need to be examined and developed further. The Presidency has proposed a few tentative redrafts, which are under examination in the competent working party<sup>2</sup>.

The main substantive issues under discussion concern the definitions and descriptions of the relevant offences (Articles 2 and 3 in the proposal). The exact formulation of these provisions has been the object of some rather technical discussions, involving in particular how they should relate to concepts and substantive provisions in Union instruments on restrictive measures. Discussions have also concerned *inter alia* the question of whether there should be an obligation to criminalise acts committed through serious negligence. The Presidency will continue its efforts to produce a text that ensures that these provisions provide the basis for a clear and legally sound criminalisation of the acts targeted by the proposal.

In addition, technical discussions are still ongoing on the exact content of a few other provisions. This includes, in particular, the provisions on sanctions for legal persons (Article 7), freezing and confiscation (Article 10), jurisdiction rules (Article 11) and whistleblowers (Article 14).

## The way forward

The Presidency is confident that compromise solutions to all open issues, agreeable to delegations, will be found in a relatively near future and that it will be possible to submit a general approach for approval by Member States at the very latest at the next meeting of the Council (JHA) in June.

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<sup>2</sup> The most recent Presidency text can be found in document 6335/23.